

SUPREME COURT OF INDIA

The Life Insurance Corporation of India

Vs.

Sri Kalappa M.Sankad

C.A.No.10574 of 2018

(Abhay Manohar Sapre and Indu Malhotra,JJ.,)

12.10.2018

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(C)No.19953 of 2015

1. Leave granted.
2. This appeal is filed against the impugned final judgment and order dated 13.02.2015 passed by the High Court of Karnataka at Bengaluru in Writ Appeal No. 3120 of 2014(S-RES) whereby the High Court dismissed the appeal filed by the appellant.
3. The issue involved in the appeal is short. It would be clear from the facts mentioned herein below.
4. Mr. Kalappa M. Sankad was the original respondent herein. He died pending appeal and, therefore, represented by his legal representatives as respondents to continue the Us.
5. Mr. Kalappa was working with the appellant - Life Insurance Corporation (LIC) since 1988. He joined as an Apprentice Development Officer at Gulbarga office and then at Bijapur office.
6. The appellant (LIC) terminated the services of Mr. Kalappa by order dated 10.4.2013. Mr. Kalappa felt aggrieved and filed departmental appeal against his termination. It was dismissed. He then filed writ petition in the High Court of Karnataka challenging his termination order on several grounds.
7. By order dated 21.11.2014, the learned Single Judge allowed the writ petition and set aside the termination order. The LIC (appellant herein) felt aggrieved and filed intra court appeal before the Division Bench.

8. By impugned order, the Division Bench dismissed the appeal and upheld the order of learned Single Judge, which gives rise to filing of the present appeal by way of special leave to appeal in this Court.

9. Heard Mr. Guru Krishna Kumar, learned senior counsel for the appellant and Mr. R. Basant, learned senior counsel for the respondent(s).

10. Having heard the learned counsel for the parties and on perusal of the record of the case, we are not inclined to interfere in the impugned order and dispose of the appeal as indicated below for ensuring its compliance by the appellant.

11. We have perused the order of the learned Single Judge and the impugned order, which resulted in quashing Mr. Kalappa's termination order resulting in directing his reinstatement in service.

12. Having gone through the orders, in the facts of this case, we do not find any good ground to uphold the termination order and set aside the impugned order.

13. In our view, the two courts below rightly set aside the termination order, which does not call for any interference in this appeal.

14. Since Mr. Kalappa expired during pendency of this litigation, the question of his reinstatement in the services of LIC does not arise. It is not now possible.

15. The only question, which now survives for consideration, is in relation to payment of back wages payable to the present respondents (legal representatives of Mr. Kalappa) as a result of setting aside of the termination order of Mr. Kalappa.

16. On this issue, we have heard both the learned counsels who gave their respective calculations. We have perused their statements. We may consider it apposite to mention that this matter did not arise from Labour Tribunal but arose from the writ petition filed in the High Court.

17. It is for this reason, the parties did not adduce any evidence on the question as to whether Mr. Kalappa, after termination of his services from LIC, was gainfully employed anywhere or not. There was neither any pleading, nor evidence much less finding either way on this issue in these proceedings.

18. It is for this reason and keeping in view all facts and circumstances of the case, we have examined the question of total payment of back wages payable to the respondents.

19. Mr. Kalappa was entitled for gross arrears of salary and CMD/TR GR/PLE DIFF for the period from - April 2013 to August 2016. Keeping in view his last drawn salary which was calculated by the appellant in their statement on the basis of his revised basic pay scale, the

total arrears towards salary is worked out to Rs.20,21,250.18 plus Rs. 35,857 i.e. Rs. 20,57,107. 18.

20. It is not in dispute that there were certain recoveries also which were to be made from Mr. Kalappa under specific heads by the appellant such as (1) Provident Fund contribution-Rs.1,69,771.00 (2) Income Tax-Rs.4,00,000.00 and (3) recovery against loans & advances availed of by Mr. Kalappa while he was in service-Rs. 2,28,023.00 totalling to Rs. 12,59,313.18.

21. In our view, taking into account the overall factual scenario brought on record by the parties arising in the case coupled with what we have observed supra, the respondents are held entitled to claim back wages amounting to Rs. 20,57,107.18 minus Rs. 12,59,313.18.

22. In other words, after deducting Rs. 12,59,313.18 from Rs.20,57,107.18, the balance amount be paid to the respondents after making proper verification and calculation, if need be.

23. We make it clear that we have not accepted the claim made by the respondents for arrears of salary, which we find was essentially based on several pay rise and notional promotion etc. In our view, it is not legally sustainable in the facts of this case.

24. Let the aforementioned amount be paid to the respondents by the appellant (LIC) within 3 months as an outer limit after again making proper calculation under all the heads mentioned in their statement.

25. In view of the forgoing discussion, the appeal stands accordingly disposed of finally.