

Court No. - 39

Case :- SPECIAL APPEAL No. - 280 of 2020

Appellant :- Saurabh Kumar Verma

Respondent :- Life Insurance Corporation Of India And 2 Others

Counsel for Appellant :- Krishna Dutt Tiwari, Akhilesh Kumar Dwivedi, Brajesh Shukla, Shashi Bhushan Mishra

Counsel for Respondent :- Siddharth Singhal, Pramod Kumar Dubey

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Sri Shashi Bhushan Mishra, learned counsel for the petitioner- appellant and Sri Priyansh, Advocate holding brief of Sri Pramod Kumar Dubey, learned counsel for the respondent- Life Insurance Corporation.

2. Present intra Court appeal has been preferred by the petitioner- appellant against the order dated 09.01.2020 passed in Writ - A No. - 58532 of 2012 (Saurabh Kumar Verma Vs. L.I.C. of India Thru. its Chairman And Others) by which the learned single judge has dismissed that writ petition.

3. Facts giving rise to the present appeal are, the petitioner- appellant was appointed on the post of Apprentice Development Officer against the appointment letter dated 14.05.2011. Perusal of the appointment letter clearly indicates that the engagement offered to the petitioner was on probationary basis for a period of 12 months. For the purpose of confirmation, the petitioner- appellant was required to meet certain objective criteria being engagement of 30 agents, sale of 500 life insurance policies and premium target of Rs. 11 lakhs.

4. Upon detailed hearing and examination of original records, the learned single judge has found that against required target of 30 agents, the petitioner- appellant was able to engage only 3 agents. Against 500 number of lives to be covered, the petitioner- appellant was able to achieve the target of 53. Lastly, against the premium target of Rs. 11 lakhs, the petitioner- appellant was able to achieve target of Rs. 0.16 lakh only. Thus, the target met by the petitioner- appellant was woefully short of the requirement.

5. Here clause 2 of the appointment letter dated 14.05.2011 may be noted, which reads as below:-

"Probationary Period:

You shall be on probation initially for a period of twelve months from the date of your joining duties as a probationer, but the Corporation may, in its sole discretion, extend your probationary period, provided that the total probationary period including the extended probationary period shall not exceed 24 months counted from the commencement of the probationary appointment. During the probationary period (which includes extended probationary period, if applicable) you shall be liable to be discharged from the services of the Corporation without any notice and without any cause being assigned."

6. Seen in that light, the submission of learned counsel for the petitioner- appellant that the petitioner could not meet the desired target for the reason of his illness in January, 2012, does not carry much weight. In the first place, illness occurred almost 8 months after engagement was offered. In other words illness occurred in the last 4 months of the probationary period. Then the application dated 30.01.2012 being set up by the petitioner- appellant is not shown to have been received by the respondent- Corporation. In any case, it only makes out a case of illness suffered but not of

target being met. The second communication being an email communication referred to by the learned counsel for the petitioner- appellant may be such as may have been received by the respondent- Corporation, it only reads as below:-

"Show full headers View blocked images in the message

Dear Sir,

This mail is on behalf of my son Saurabh Verma. He is not well since 27th Jan 2012. As Saurabh has communicated to you over phone, he is not in condition to come to the office. We will send you all medical documents later on."

7. At no stage, the petitioner- appellant appears to have made any application to seek extension of his probationary period and at no stage of the proceedings, petitioner appears to have offered any assurance to the respondent- Corporation to meet up the target required. The only applications moved by the petitioner- appellant appear to be for leave. While the petitioner- appellant may have been entitled to leave and that may have been granted, it would not result *ipso facto* in extension of the probationary period.

8. Thus, though it may be true that it may have been open to the employer to *suo motu* extend the probationary period, but in the facts of the present case, it appears, that discretion was not exercised considering the performance record of the petitioner-appellant for 8 months prior to his illness.

9. Therefore, the action taken by the respondent- Corporation in doing away with the service of the petitioner- appellant for reason of non fulfillment of target requirements, can not be described as either contrary to the law or arbitrary or unreasoned. In any case, the entire facts of the case having been examined by the learned

single judge. Discretionary relief was declined in the facts proven on record. Once the learned single judge has refused to exercise discretion, we do not find any error in principle committed by the learned single judge as may allow any interference in the present intra court appeal.

10. Accordingly, in absence of any error of principle committed by learned single judge, we find no merit in appeal. It is dismissed. No order as to costs.

Order Date :- 1.11.2023

SK Srivastava

(Shiv Shanker Prasad,J.) . . . (S.D. Singh,J.)