

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.27699 OF 2008

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the action of the 3rd respondent in issuing final order, dated 30.10.2006, and the 2nd respondent in issuing consequential proceedings, dated 14.06.2007, as arbitrary and illegal and consequently set aside both the proceedings and direct the respondents to pay the commission amount due to the petitioner and to continue the petitioner as an agent of the organization.

The case of the petitioner is that he was appointed as an agent in the respondents Life Insurance Corporation of India and was attached to the Miryalaguda Branch, Nalgonda District vide proceedings, dated 22.10.1990. Since 1990 the petitioner has been giving crores of business to the corporation in the capacity of an Agent. While so, the

3rd respondent issued show cause notice, dated 02.08.2006, to the petitioner to show cause as to why his agency should not be terminated on the ground of some misdeeds committed by him. The petitioner submitted his explanation on 22.08.2006 and 20.09.2006. The

3rd respondent passed final order, dated 30.10.2006, terminating the petitioner's agency and forfeiting the renewal commission accrued, to the petitioner in terms of Rule 16(1)(a), (b) & (d) and Rule 10 (6) of LIC of India (Agents) Rules, 1972 and Regulation 8 (1) (f) & (g) of IRDA Regulations, 2000. Aggrieved over the same, the petitioner filed an appeal to the Appellate Authority on 15.12.2006 and the same was rejected by an order, dated 14.06.2007. Challenging the said orders, this writ petition is filed.

Heard the learned counsel for the petitioner, learned counsel for the respondents and perused the record.

The question that remains to be considered in this petition is whether the impugned orders passed by the respondents are based on the Rules framed by the authorities concerned.

The 3rd respondent issued the show cause notice to the petitioner stating that the person, who took two insurance policies through the petitioner, died within a period of four years from the date of taking the policies and the financial status of that person was not truly placed by the petitioner and that the petitioner gave false information knowingly and fraudulently with a malafide intention. The 3rd respondent passed the final order, dated 30.10.2006, without conducting any enquiry into the matter, but only taking into consideration the reply submitted by the petitioner. The petitioner challenged the same in the appeal before the appellate authority i.e. 2nd respondent. But the said appeal was rejected.

Admittedly, the person, who took two policies through the petitioner, had paid the premiums continuously for four years. The stand taken by the respondents that the petitioner has not properly enquired about the financial status of the insured person, is not substantiated by any document. The respondents also failed to place any material on which basis they came to the conclusion that the petitioner has not placed the real facts regarding the financial position of the person concerned. Insofar as the policy of the insured person concerned, after obtaining the medical certificates of that person, the petitioner recommended his case.

Considering the entire material available on record and hearing the arguments of the learned counsel for both sides, this Court is of the view that without due enquiry, the respondents have passed the

impugned orders, which are arbitrary in nature and also against the principles of natural justice.

Accordingly, the Writ Petition is allowed and order, dated 30.10.2006, passed by the 3rd respondent and the consequential order, dated 14.06.2006, passed by the 2nd respondent are set aside and the respondents are directed to continue the petitioner as an agent of the Corporation and also to pay the commission amount due to him.

There shall be no order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

-

RAJA ELANGO, J

February 19, 2015.

KTL