

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.37307 of 2015

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DATED : 19.11.2015

Between :

Smt K. Nazima Begum W/o.A.S.Ummer Javid Ali,
Aged about 45 yrs, Occu : Assistant, LIC of India,
Branch Office Kurnool,
Kurnool District, A.P.

.. Petitioner

and

Life Insurance Corporation of India,
Divisional Office, "Jeevan Prakash",
Kadapa, YSR Kadapa District,
Rep., by its Senior Divisional Manager & 3 others.

.. Respondents

This court made the following :

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ORDER :

With the consent of learned counsel for the petitioner as well as learned Standing Counsel for the respondent-Corporation this writ petition is disposed of at the admission stage.

2. Petitioner is working as Assistant in Life Insurance Corporation of India (LIC) in Kurnool Branch since the year 1990. Disciplinary proceedings were initiated against the petitioner alleging that she disobeyed the instructions of higher officials and that her action amounts to misconduct. The charge sheet was communicated to the petitioner vide proceedings dated 31.08.2015, enquiry officer was appointed and enquiry has commenced. During the course of enquiry, petitioner requested for engaging the services of Sri S.A. Lateef Basha who is working as AAO, Branch office, Gadwal of Hyderabad Division as her defence assistant. The said request of the petitioner was rejected by the 2nd respondent by his order dated 13.11.2015. Aggrieved by the same, this writ petition is filed.

3. Learned counsel for the petitioner submits that the rejection is *ex-facie* illegal. There is no restriction of engaging any serving employee as defence assistant, whereas rejection appears to be on the ground that the proposed defence assistant is not working in Kurnool town or in a near by Office. Learned counsel also submits that the petitioner is entitled to have defence assistant as a matter of right and if defence assistant is not provided, great prejudice would be caused to the petitioner. The petitioner is not well versed with legal aspects of the enquiry and not capable of defending herself, and therefore, requires an experienced person to assist her in the disciplinary proceedings. She not only needs an experienced person but trust is also very important. Since the petitioner has lot of confidence in Sri S.A.Lateef Basha, a request was made to spare his services as defence assistant.

4. Learned Standing counsel for the respondent-Corporation, on instructions, submits that though reasons are not specifically assigned in the impugned Order, the request of the petitioner was rejected only on the ground that Sri S.A. Lateef Basha is far away from the place where enquiry is now being conducted and there are several other persons working within the area, where the enquiry is now being conducted and petitioner ought to have chosen a person who is working in that area.

5. Learned Standing counsel circulated copy of Circular dated 23.06.1980 to contend that in terms of the said Circular, the services of Sri S.A.Lateef Basha cannot be spared.

6. The Circular dated 23.06.1980, provides that participation of an employee in the enquiry as defence assistant, will be treated as "on duty", provided an authorization is given to him on a prior application and that he participates as defence assistant in the same station.

7. A plain reading of the said Circular would mean that if a person accepts as defence assistant out side the place where he is working, he has to participate only by applying leave and he cannot claim the attendance as "on duty". In the instant case, Sri S.A. Lateef Basha was aware that he has to go to Kurnool to participate in the enquiry and assist the petitioner and has given his consent for being a defence assistant. Thus, when an employee has no objection for attending to the enquiry as a defence assistant, there is no good reason for the respondent-Corporation to deny provision of his service as a defence assistant. No other Circular or Regulation is brought to my notice which prohibits engagement of defence assistant who is working at a place far away from the place of conducting enquiry. In view of the same, rejection on the ground that Sri Lateef Basha is working in Hyderabad Division, which is away from Kurnool is not sustainable.

8. Having regard to the above, the respondent authorities are directed to permit the petitioner to engage the services of Sri S.A.Lateef Basha as defence Assistant. At this stage, learned counsel for the petitioner submits that while

rejecting the request of the petitioner, hearing of enquiry is posted to 20.11.2015. It is not possible to secure the services of the defence assistant by 20.11.2015 and therefore requests further time be granted to the petitioner to participate in the enquiry.

9. Having regard to the same, the writ petition is disposed of, granting liberty to the petitioner to engage the services of Sri S.A.Lateef Basha as defence assistant. The Disciplinary Authority, LIC, Divisional Office, Jeevan Prakash, Kadapa, YSR Kadapa District, (2nd respondent) is directed to defer the enquiry scheduled to be held on 20.11.2015 to any other date after two weeks with prior intimation to the petitioner as well as Sri S.A. Lateef Basha. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

19th November, 2015

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