IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.313 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 11018 of 2006

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Gulab Gupta, daughter of late Sri Basudeo Prasad Sahu, Resident of Mohalla-Mirjapur, P.O.- Lalbagh, P.S. Town- Darbhanga, District Darbhanga.

.... Petitioner-Appellant/s

Versus

1. The Union of India.
2. The Chairman, Central Office, Life Insurance Corporation of India, Jeevan Bima Marg, P.S. No. 19953, Mumbai- 400021.
3. The Zonal Manager, Eastern Zonal Office, Life Insurance Corporation of India, Kolkata.
4. The Senior Divisional Manager, Life Insurance Corporation of India, Divisional Office, Muzaffarpur.
5. The Branch Manager, Life Insurance Corporation of India, Darbhanga.
6. The Assistant Branch Manager, Sales Life Insurance Corporation of India, Darbhanga.
7. Sri Y.P. Choudhary Kamal, Development Officer, Life Insurance Corporation of India, Darbhanga, presently residing at Y.P. Choudhary Kamal Retired Branch Manager LIC C/O G.P. Choudhary, Cooperative Colony Mohalla Laxmi Sagar, Post- Laxmi Sagar, P.S.- Darbhanga, Sadar, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Saket Tiwary, Advocate
For the Respondent/s	:	Mr. Rajeev Ranjan Prasad, Advocate
		Mr. Nilanjan Chatterjee, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
And
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 26-07-2016

The challenge in the present Letters Patent Appeal is to an order dated 11th of September, 2012 passed by the learned Single Bench of this Court whereby the writ application filed by the appellant challenging termination of her agency and forfeiture of renewal commission was not interfered with.

2. The appellant as an agent of the respondent-

Corporation sold a policy to one Mahabir Sahu on 13th of June, 1993. In support of date of birth, reliance was placed upon a School Leaving Certificate. The proposal form of Mahabir Sahu was subjected to Moral Hazard Report. The doctor examined Mahabir Sahu and submitted his confidential examination report to the Branch Manager. Thereafter, the policy was issued.

3. The stand of the appellant is that she sold another policy to Mahabir Sahu on 31st of March, 1994 in which the same proof was submitted.

4. Mahabir Sahu, the policy holder, died on 16th of May, 1998. After the death claim was submitted, a complaint was made that the date of birth of Mahabir Sahu is incorrect as he was 82 years of age at the time of death. Earlier a notice was served upon the appellant to explain the issuance of the policy on the basis of wrong information. Later on, a show cause notice was issued on 8th of January, 2005 as to why her agency be not terminated under Rule 16 of LIC of India (Agents) Rules, 1972 (hereinafter referred to as 'the Rules') and all the commissions payable to her be not forfeited in terms of Rule 19 read with Rule 10 of the Rules. After considering her reply, an order has been passed by the competent authority on 29th of March, 2005 terminating the agency and forfeiting the renewal commission payable to the appellant. An appeal was filed and the Zonal Manager, the appellate authority, dismissed the appeal on 26th of May, 2006.

Thereafter, the appellant filed a Memorial before the Chairman, which was also rejected on 30th of November, 2006. It is thereafter, the appellant invoked the writ jurisdiction of this Court.

5. The learned Single Judge dismissed the writ petition. Still aggrieved, the appellant is in appeal before this Court. Learned counsel for the appellant vehemently argued that this was the only proposal which was found to be suspicious out of over one thousand proposals processed by the appellant. It was on account of rivalry among the heirs of Mahabir Sahu which led to complaint and the show cause notices.

6. The learned Single Bench has found that some leverage could be given in respect of age, but when there is difference of more than 24-25 years, then it cannot be said to be a case of mistake. It was found that the appellant was in league with the person, who was taking the insurance, or she was totally negligent in going ahead with the proposal or the business or that she acted at the behest of somebody else.

7. The agent is a person, who first comes in physical contact with the insured. Whether the insured was around 80 years of age or 50 years of age can be made out by just physical appearance. There can be some error in assessing the age, but 50 years and 80 years is too wide a difference to be ignored by any person. Since the age of the insured was 82 years at the time of death, therefore, in 1993 he

would be more than 77 years of age. Thus, the recording of 50 years of age by the appellant cannot be ignored. She is also a witness to the medical report conducted by the doctor and also to Moral Hazard Report. Therefore, the appellant is the one, who was associated in the proposal and instrumental in getting the proposal accepted which cannot be termed as a good conduct on the part of an agent.

8. This Court in exercise of judicial review examines the decision making process. It could not be pointed out that any of the Rules relating to the enquiry has not been followed. Even the principles of natural justice have been complied with as the appellant was given show cause notice at every stage of the proceedings.

9. Since the decision making process is not suffering from any illegality, therefore, we do not find any error in the orders of punishments and that the order of the learned Single Bench does not warrant interference in the present intra court appeal. The Letters Patent Appeal is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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