

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3016 of 2013

=====

1. Sanjay Kumar Son of Satyanarayan Sah Resident of Quarter Number - 22, Road No -8, SK Nagar, Ps - Budha Colony, District - Patna

.... Petitioner/s

Versus

1. The Life Insurance Corporation of India through the Zonal Manager, East Central Zone, LIC, Life Insurance Corporation of India, East Central Zonal Office, 'Jeevan Deep' Vth Floor, Exhibition Road, Patna - 800001
2. The Zonal Manager, East Central Zone, Lic, Life Insurance Corporation of India, East Central Zonal Office ' Jeevan Deep' Vth Floor, Exhibition Road, Patna - 800001
3. The Senior Divisional Manager, Life Insurance Corporation, Patna Divisional Office 2. 'Jeeavan Ganga' Building, Fraser Road, Patna - 800001
4. The Divisional Manager, LIC of India Patna D0-2, 4th Floor, Jeevan Ganga, Fraser Road, Patna - 800001
5. The Manager (OS) LIC of India, Patna Do-2, 4th Floor, Jeevan Ganga, Fraser Road, Patna - 800001
6. The Manager (Office Service), LIC of India, Piro Branch Office, District - Bhojpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gyan Shankar, Adv.

For the Respondent/s : Mr. Rajeev Ranjan Prasad, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-04-2016

Heard Mr. Gyan Shankar, learned counsel for the petitioner and Mr. Rajeev Ranjan Prasad, learned counsel appearing for the Life Insurance Corporation and its authorities.

The writ petition has been filed seeking inter alia a direction to the authorities of the Life insurance Corporation to pay the admitted dues of the petitioner which as per his statement comes to Rs. 2,18,160/- which is on account of operating the diesel generator set at

the Bhojpur Branch Office of the Life Insurance Corporation as per the agreement entered in between the parties.

There is no dispute that an agreement was entered in between the petitioner and the Corporation for running the diesel generating set at the Branch Office of the Corporation. A relevant extract of the agreement enumerating the terms and conditions is present at Annexure-1 and is dated 1.2.2008. It is again not in dispute that although the agreement was for a period of 3 years ending in 2011 but the petitioner has continued to operate the same until 3.4.2012 as per the admission of the Corporation made in paragraph 9 of the counter affidavit. It is again not in dispute that the admitted dues has also been paid by the corporation. The dispute presently relates to the additional charge claimed by the petitioner allegedly by reason of fluctuating diesel price. Mr. Gyan Shankar learned counsel for the petitioner while referring to Clause (q) of the terms and conditions submits that the respondent Corporation is liable to consider the claim of the petitioner for the additional expenditure incurred on account of the increase in the diesel price and for which a representation was filed by the petitioner present at Annexure-3 giving the details thereof. He submits that since no steps were taken by the corporation to consider the grievance of the petitioner rather the contract itself stood terminated hence the present writ petition.



A counter affidavit has been filed and Mr. Prasad learned counsel for the Corporation while not disputing the factual position submits that although a claim is raised by the petitioner relying upon Clause (q) of the terms and conditions but the fact remains that right since the agreement was entered in between the parties in 2008, no such claim was raised by the petitioner and it is only when the corporation decided to end the contract that this claim for additional charge under Clause (q) has been raised. He further submits that although the claim is based upon log book entry brought on record vide Annexure-4 to the rejoinder but the same has not been filed by the petitioner before the Corporation and thus its veracity has not been tested. Learned counsel for the petitioner responds to the doubt raised to submit that the log book is duly signed by the Branch Manager hence there can be no issue on the authenticity thereof and a mere delayed action by the petitioner to raise the claim may not be an excuse to reject the same if otherwise the claim is bona fide.

I have heard learned counsel for the parties and I have perused the records.

There is no dispute that the petitioner has provide service to the Corporation under the contract and has also been paid the admitted dues. The claim raised herein is in respect of the additional expenditure incurred by the petitioner on account of the enhancement

in the diesel price. Such provision is present in Clause 'q', 'r' and 's' of the terms and conditions present at Annexure-1 which runs as follows:

“(q) The contractor will quote his monthly rate based on prevailing price of the diesel. Any further increase in price of diesel shall be adjusted on the basis of consumption of fuel other than it no increase shall be considered during the contractual period. For the adjustment of price variation of diesel, contractor has to maintain a log book.

(r) He will maintain a proper log book for recording a daily running hours and it shall be verified by a representative authorized by the office on daily basis.

(s) All the pages of the Register shall be initiated by the authorized officials of the office and this log book shall be put up for inspection whenever desired by the inspecting authority.”

Learned counsel for the petitioner has relied upon the log book entries present at Annexure-4 to support the claim which bears the signature of the Branch Manager as well as the representation filed by the petitioner present at Annexure-3 to submit that the claim raised required a consideration and disposal. That the grievance of the petitioner has not been addressed by the Corporation in the backdrop of the circumstances discussed, I deem it fit and proper to direct the Senior Divisional Manager, the respondent No.3 to consider the grievance raised by the petitioner and dispose of the same in accordance with law and after opportunity of hearing to the petitioner preferably within 3 months from the date of production of a copy of this order. The petitioner shall be at liberty to substantiate his claim

with supporting documents including the original copy of the log book as per the terms and conditions of the agreement present at Annexure-1.

However, in the nature of order passed in the backdrop of the dispute raised, this Court is not persuaded to consider the relief prayed by the petitioner for continuity of the contract. The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Bibhash/-

U			
---	--	--	--