

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL WRIT PETITION NO.10380 OF 2015

Premkumar Shankaran Nair .. Petitioner
vs
Life Insurance Corporation of India & ors Respondents

Mr.P.D.Paranjape for Petitioner
Mr.R.K.Chaulkar for Respondents

CORAM: ANOOP V.MOHTA &
G.S.KULKARNI,JJ
DATE: 21 SEPTEMBER, 2016

ORDER:

1. This petition challenges the order dated 10 March 2012 passed by the respondent-Life Insurance Corporation of India (for short the 'LIC') dismissing the petitioner from service. The petitioner who was working as a Development Officer was issued a charge sheet on 17 April 2010 inter alia on the ground that the petitioner had committed breach of Regulations 21 and 28 read with Regulation 39 (1) of the Life Insurance Corporation of India (Staff) Regulations,1960 (for short 'the Regulations'). It would be relevant to extract the charges which reads thus :

“You Shri P.Nair Development Officer
S.R.No.4955603 working in 95-V Branch Pune DO

are hereby charged as under :

That you Shri P.Nair Development Officer in the services of the corporation since 12.9.1988. You are holding a post of nominated corporation in the Pimpri Chindwad Mahanagar palika since 12.6.2007 for the tenure of five years without the previous sanction of competent authority. The role and powers of the nominated members are at par with the elected members resulting that you are receiving honorarium as a nominated member of the council of Rs.54000/- per person and Rs.100/- per meeting subject to maximum of Rs.400/- w.e.f. 21.6.2007 which was increased to Rs.100/- per meeting subject to maximum of Rs.400/- w.e.f. 22.1.2010. By accepting outside office though honorary without the previous sanction of the competent authority you are made breach of section 28 of the Staff Regulations 1960. By our aforesaid acts you failed to maintain absolute integrity and devotion to duty failed to serve the corporation honestly and faithfully acted in manner detrimental in the interest of the corporation and prejudicial to good conduct and thereby committed breach of regulation 21 and 28 read with Regulations 39 (1) of LIC of India (Staff) Regulations 1960 for which any one or more of the penalties specified under regulation 39 (i) to (g) of the aforesaid (Staff) Regulations 1960 can be imposed on you.

However, before I proceed further in the matter you are hereby directed to state in writing within a period of 10 days from the receipt of this charge sheet as to whether or not you plead guilty to the charges mentioned above. If you admit the charges, a statement of admission for if not a statement of denial should be submitted to the undersigned within the 10 days from the receipt of this charge sheet together with a list of documents by which as also a list of witnesses through whom you would like to defend yourself.

Please note that if your written statement along with a list of witnesses and documents as mentioned above is not received by the undersigned

within the period stipulated or if your statement of denial is not found to be satisfactory further proceedings in the matter shall ensure as according to the LIC of India (Staff) Regulations 1960 and other standing instructions. A provisional list of documents by which charges are sought to be sustained is annexed (vide Annexure A) to the charge sheet.

Dated 17 day of April 2016.”

S/d
Sr.Divisional Manager/
Disciplinary Authority

2. On the basis of above charges, a departmental enquiry was undertaken. There is no dispute that the petitioner participated in the enquiry proceedings and a full opportunity was given to the petitioner to defend the inquiry, which ultimately culminated into an order of dismissal dated 10 March 2012 as impugned. A Departmental Appeal was preferred by the petitioner which was also rejected. In these circumstances the petitioner is before us.

3. The only contention as urged on behalf of the petitioner is that before he was nominated as a Municipal Corporator he had made a requisite application dated 25 May 2007 seeking a sanction for accepting the post of a

Corporator. However before the application could be granted, the petitioner came to be nominated/appointed as a Municipal Corporator on 18 June 2007 and therefore provisions of Regulation 28 of the said Regulations would not be applicable. There is no dispute that the petitioner accepted this appointment as a Corporator in the absence of a prior sanction. The contention of the petitioner is that there is no breach of any service regulation and the enquiry is thus bad and illegal.

4. In this context, it would be relevant to extract the concerned Regulation 28 which requires the 'previous sanction' to be granted by the competent authority, which would enable an employee to seek an outside employment or office as sought and/or accepted by the petitioner. Regulation 28 reads thus:

Employees not to seek outside Employment

“28. No employee shall accept, solicit or seek any outside employment or office whether stipendiary or honorary without the previous sanction of the competent authority.”

5. A plain reading of Regulation 28 (supra) makes it clear that employees of the Corporation shall not be permitted to accept or solicit or seek any outside employment or office whether stipendiary or honorary without previous sanction of the competent authority. Admittedly, the petitioner was not granted such previous sanction/approval of the respondent-LIC before the petitioner came to be appointed/nominated as Municipal Corporator of the Municipal Corporation. In fact, the above Regulation being clear there is no question of any post facto sanction. In the circumstances, due to lack of a previous sanction of the competent authority to hold office of the post of Municipal Corporator, there would certainly be a breach of Regulation 28 of service regulations. If the petitioner was issued a charge sheet inter alia for violation of service Regulation 28 and if in that regard a departmental inquiry was held and the petitioner admittedly failed to prove that there was a previous sanction for accepting such appointment, then we do not see as

to how inquiry proceedings as initiated against the petitioner for violation of Regulation 21 and 28 are vitiated or in any manner bad. Consequently, the impugned order of termination also cannot to be faulted.

6. The petitioner at this stage relies on Regulation 25 which speaks about '*Prohibition against Participation in Politics and Standing for Elections*' to contend that this Regulation was a subject matter of consideration before the Supreme Court in the case of **Sukhdev Singh vs Bhagatram** reported in **AIR 1975 SC 1331**. The submission is that the Supreme Court has upheld the conclusion of the High Court that the Corporation should not be permitted to enforce regulations mentioned in clauses (1) and (4) of Regulation 25. We are afraid that neither the reliance on Regulation 25 nor reliance on this decision is appropriate in the facts of the present case. In the present case in the charge sheet there is no charge under Regulation 25. Moreover, the questions which fell for consideration of their Lordships in the said

decision were whether an order for removal from service contrary to Regulations framed under the Life Insurance Corporation Act, 1948 would enable an employee to a declaration against the statutory Corporation of continuance in service or would give rise to a claim for damages and secondly whether an employee of a statutory Corporation is entitled to claim protection of Articles 14 and 16 against the Corporation or whether the statutory Corporation are authorities within the meaning of Article 12 of the Constitution. It is in this context in the majority judgment the Court held that Rules and Regulations framed by the Life Insurance Corporation of India have the force of law and that employees of the statutory bodies have a statutory status and they are entitled to a declaration of being in employment or dismissal or removal is in contravention of statutory provisions. It was also held that all these statutory bodies are authorities within the meaning of Article 12 of the Constitution. The conclusion of the High Court that Regulations do not have the force of law was set aside and

consequently conclusion of the High Court that the Corporation should not be permitted to enforce the Regulation mentioned in clauses (1) and (4) was upheld. These being the issues we fail to understand how this decision would in any manner assist the petitioner.

7. In any case, it is not in dispute that Regulations 21 and 28 were binding on the petitioner being an employee of the Respondent-Corporation. Admittedly, the breach of these Regulations is proved. If this is the position, then we find no case for interference in the present petition. No other ground has been argued.

8. Writ Petition is devoid of merits and is rejected.
No order as to costs.

G.S.KULKARNI, J

ANOOP V.MOHTA, J

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