IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/2/2016

C O R A M

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3295 of 2015

K. Shankar ... Petitioner

Vs

1. The Chairman
   Insurance Regulatory and
   Development Authority
   3-5-817/818 United India Towers
   9th Floor
   Hyderguda
   Basheerbagh
   Hyderabad 500 029.

2. The OMBUDSMAN
   Fatima Akhtar Court
   4th Floor, 453 (Old No.312)
   Anna Salai
   Teynampet
   Chennai 600 018.

3. The Manager
   Aviva Life Insurance
   Aviva Tower
   Sector Road
   Opp. Golf Course
   DFR Phase V.Sector -43
   Gurgaon 122 003.
   Haryana.

4. The Manager
   Aviva Insurance
   Ashirwaqd Towers
   Plot No.2 Old No.182 III Floor
   Kodambakkam High Road
   Nungambakkam
   Chennai 600 034. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the entire records, particularly the impugned order Ref:CHN-L-004-1415-2569 issued by the second respondent dated 13/10/2014, quash the same and directing the third and fourth respondents to give the premium amount Rs.360000 (Rupees Three lakh sixty thousand only) on 31/3/2008, Cheque No.811291, Bank: Centurion Bank and its current Growth Fund ULIP, Units, total fund value which was paid by the petitioner, in his Insurance Policy No.RSG1353997, Client ID 770727, commencement on 6/12/2006 (Last premium date: 6/12/2015) and consider the petitioner's representation dated 21/10/2008 and 9/9/2014.

For Petitioner ... Mr.M.Senthamizhselvan

For respondents... Mr.M.B.Gopalan
for R.1
No appearance for R.2.
Mr.Elveera Ravindran
for R.R.3 to 4.

O R D E R

With the consent of the learned counsel appearing on either side, this writ petition is taken up for final disposal.

2. Heard Mr.M.Senthamizhselvan for the petitioner, Mr.M.B.Gopalan for the first respondent and Mr.Elveera Ravindran for the third and fourth respondents.

3. This writ petition has been filed praying to quash the impugned order, passed by the second respondent, dated 13/10/2014, and direct the third and fourth respondents to give the premium amount of Rs.3,60,000/- and further direct the third and fourth respondents, to consider the petitioner's representations, dated 21/10/2008 and 9/9/2014.

4. The petitioner had entered into one of the insurance policies with the third and fourth respondents and the details of the policies are as follows:-

(Policy No:RSG1353997, Client ID 770727)

| Policy Owner | K.Shankar | Sum Assured | 1,800,000.000 |
|---|---|---|---|
| Life Insured | K.Shankar | Nominee | Easwari |
| Commencement Date | 6/12/2006 | Policy Term | 10 |
| Premium Frequency | Annual | Premium Amount | 360000.00 |
| Branch | CBOP Chennai Branch | Unit Manager Code | 2334b |
| Agent Code | Yo660936 | Plan | Save Guard |
| Last Premium Date | 6/12/2015 | Product Code | RSG |
| Adviser Name | Santhosh Kumar | Cheque No. | 811291 (31/3/2008) |
| Amount | 360000/- | Drawn on | Centurion Bank |

5. After the commencement of the aforestated policy, the petitioner had paid the first annual premium amount, by way of a cheque bearing No.811291, dated 31/3/2008, drawn on Centurion Bank, for a sum of Rs.3,60,000/- (Rupees Three lakhs and Sixty thousand only). Due to some personal inconvenience, he was not able to pay the subsequent annual premium amount. Hence, the petitioner had made a representation to the fourth respondent, on 21/10/2008, for withdrawing the above mentioned policy and asked for return of premium amount, due to his financial situation. But the fourth respondent did not take any action. Thereafter, the petitioner had sent an another representation dated 9/9/2014, to the first respondent with a copy to the respondents 2 to 4. Since the same was not considered, the petitioner's counsel had sent a legal notice, to the fourth respondent, on 24/9/2014, to pay the premium amount (Growth Fund ULIP, Units, Total Fund Value), within 10 clear days, from the date of receipt of the legal notice.

6. Finally, the second respondent, had issued the impugned order, dated 13/10/2014, and the operative portion reads as follows:-

> “The subject matter of grievance is not coming under the purview of Insurance Ombudsman.”

7. Aggrieved over the aforestated impugned order, the present writ petition has been filed.

8. Mr.M.B.Gopalan, learned counsel appearing for the Insurance Regulatory and Development Authority/first respondent would submit that the matter could be remitted back to the second respondent, so that the second respondent could consider the issue by conducting an enquiry.

9. In view of the submission made by the learned counsel appearing for the first respondent, the impugned order, passed by the second respondent, in CHN-L-004-1415-2569, dated 13/10/2014, is set aside and the matter is remitted back to the second respondent. The second respondent is directed to decide the issue, as per the Redressal of Public Grievances Rules, 1998, within a period of six weeks, from the date of receipt of a copy of this order.

10. In the result, this writ petition is allowed. No costs.
mvs.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

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+ 1 cc to M/s.R.J.Yoga Anandhi, Advocate SR 10460

+ 1 cc to Mr.M.B.Gopalan, Advocate SR 10905

+ 1 cc to Mr.Elveera Ravindran, Advocate SR 10683

scd(co)
prk23/2

W.P.No.3295 of 2015