

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.11.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No.40209 of 2016

All India General Insurance OBC
Employees' Welfare Association,
Represented by its General Secretary,
C/o. United India Insurance Company Limited,
No.24, Whites Road,
Chennai - 600 014. .. Petitioner

Vs.

- 1.The Union of India,
Government of India,
Ministry of Finance,
Department of Financial Services,
Represented by its Secretary to Government,
Jeevan Deep Building,
Parliament Street, New Delhi.
- 2.The Chairman cum Managing Director,
United India Insurance Company Limited,
No.24, Whites Road, Chennai - 600 014.
- 3.The Chairman cum Managing Director,
New India Assurance Company Limited,
No.8, M.G.Road,
Fort, Mumbai - 400 001.
- 4.The Chairman cum Managing Director,
The Oriental Insurance Company Limited,
No.A-25/27, Asif Ali Road,
New Delhi - 2.
- 5.The Chairman cum Managing Director,
National Insurance Company Limited,
No.3, Middleton Street,
Kolkatta - 700 071.
- 6.The General Insurance Public
Sector Association,
Represented by its Chairman,
III Floor, "Jeevan Vihar"(Rear Portion),
Parliament Street, New Delhi - 1. .. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent herein to consider the representation of the petitioner Association dated 02.11.2015 and consequently direct the first respondent to ensure the implementation of the policy of the first respondent by the respondents 2 to 5 as per the assurances before the Parliamentary Committee constituted by the first respondent and ensure the inclusion of the petitioner Association in the check-off exercise by the respondent Insurance Companies 2 to 5.

For Petitioner : Mrs.Dakshayani Reddy
For Respondent No.1 : Mr.Su.Srinivasan
Asst. Solicitor General
For Respondent No.2 : Mr.D.Bhaskaran
For Respondent No.3 : Mr.S.Manohar
For Respondent No.4 : Mr.M.Krishnamoorthy
For Respondent No.5 : Mr.S.Arunkumar
For Respondent No.6 : Mr.N.Vijayaraghavan

O R D E R

The petitioner is All India General Insurance OBC Employees Welfare Association, registered under the provisions of the Tamilnadu Societies Registration Act, 1998. The members of the Association are the employees belonging to the OBC community of the respondent Insurance Companies 2 to 5. The petitioner Association is having 12000 members all over India, working in 125 Regional Offices of the four respondent Insurance Companies.

2. The grievance of the petitioner Association is that the Check-off exercise is being conducted by the four respondent Insurance Companies every three years, to find out the major Trade Unions so that the subscription for the Association can be straight away deducted from the members salary. So far, the Insurance Companies have recognised the Associations belonging to Trade Unions and SC/ST Associations alone and have been permitted to take part in the check-off exercise (facility). Even though OBC registration has been made under the category of OBC, as per the decision of the Hon'ble Supreme Court in Indra Sawhney vs. Union of India [(2000) 1 SCC 168], which enables the OBCs to have the registration in the recruitment, so far OBC Association has not been permitted to take part in the check-off exercise conducted by the four respondent Insurance Companies.

3. Even though there are many OBC employees represented by the petitioner, the petitioner Association has not been included in the list. Hence, the petitioner made an application on 14.10.2016 for Check-off Exercise - 2016 - Online mode.

Inspite of assurance by the four respondent Insurance Companies before the Parliament Committee for the welfare of OBCs on 04.11.2015 held at Chennai that effects would be taken to include OBC Association also in the check-off exercise, the petitioner Association has not been included in the notice for Check-off Exercise - 2016 - Online mode dated 28.10.2016. Hence, the petitioner has come before this Court by way of this writ petition.

4. Heard Mrs.Dakshayani Reddy, learned counsel appearing for the petitioner; Mr.Su.Srinivasan, learned Assistant Solicitor General, who takes notice on behalf of the first respondent; Mr.D.Bhaskaran, learned counsel, who takes notice for the second respondent; Mr.S.Manohar, learned counsel, who takes notice for the third respondent; Mr.M.Krishnamoorthy, learned counsel, who takes notice for the fourth respondent; Mr.S.Arunkumar, learned counsel, who takes notice for the fifth respondent and Mr.N.Vijayaraghavan, learned counsel, who takes notice for the sixth respondent.

5. When the matter is taken up before this Court, Mrs.Dakshayani Reddy, learned counsel appearing for the petitioner circulated a communication dated 11.11.2016 issued by the sixth respondent, wherein it has been stated that the Governing Board of the sixth respondent, in its meeting dated 18.10.2016 has decided to conduct the Check-off Exercise - 2016 - Online mode with the participation of OBC Employee Welfare Associations and the second phase of check-off exercise will be limited only to OBC employees (recruited as OBCs).

6. With great efforts, the petitioner Association was able to get a recognition by way of inclusion in the check-off exercise, 2016-Online mode, as evident from the communication dated 11.11.2016 issued by the sixth respondent, which is the Umbrella Organisation of respondents 2 to 5. Once a decision has been taken by the sixth respondent in its meeting held on 18.10.2016 it will be binding on the respondents 2 to 5. The relevant portion of the communication of the sixth respondent dated 11.11.2016 is usefully extracted as follows:

"We have already informed you that the Governing Board in its meeting held on 18.10.2016 has decided to conduct the Check off Exercise, 2016 with the participation of OBC Employee Welfare Associations. As such all OBC Employees Officers (upto cadre of Scale IV Officer) who were recruited as OBC candidate, will now be eligible for submitting dual authorization (LOA) i.e. one in favour of a Union / Association representing his Class (Class I / II / III & IV as the case may be) and another Authorization, in favour of a Welfare Association representing OBC employees (on the

pattern of SC/ST employees & SC/ST Welfare groups).

As OBC employees will be exercising their LOAs in favour of respective Class wise-wise Trade Unions Associations on 16.11.2016 in the Member Companies, the process of which is already underway, the second phase of Check off will not be limited to OBC employees (Recruited as OBCs) exercising their LOAs in favour of one of the Registered OBC Welfare Associations, of thier choice."

7.From the above, it is clear that the sixth respondent has taken a decision to include the name of the petitioner Association also in the Check-off Exercise - 2016 - Online mode and therefore, the relief sought for by the petitioner has been complied with by way of communication dated 11.11.2016 issued by the sixth respondent.

8. However, the question of entitlement of OBC employees who have been recruited under general category as to whether they are entitle to participate in the Check-off Exercise - 2016 for the OBC Association has not been gone into in this Writ Petition and the said issue is kept open. As stated above, the petitioner's claim has been positively answered by the communication dated 11.11.2016 issued by the sixth respondent.

9. Recording the above, the Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Union of India,
Government of India,
Ministry of Finance,
Department of Financial Services,
Jeevan Deep Building,
Parliament Street, New Delhi.

2.The Chairman cum Managing Director,
United India Insurance Company Limited,
No.24, Whites Road, Chennai - 600 014.

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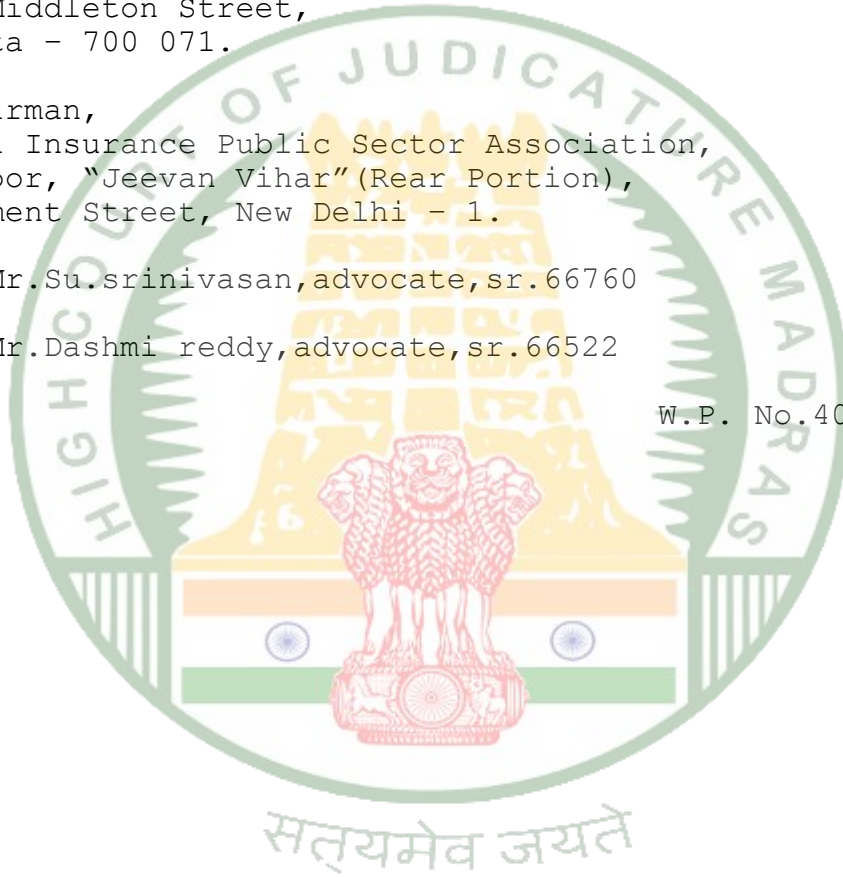
6.The Chairman,
General Insurance Public Sector Association,
III Floor, "Jeevan Vihar" (Rear Portion),
Parliament Street, New Delhi - 1.

+1 cc to Mr.Su.srinivasan,advocate,sr.66760

+1 cc to Mr.Dashmi reddy,advocate,sr.66522

krd 23/11

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