

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR.JUSTICE B.SIVA SANKARA RAO**

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WRIT APPEAL NO.818 OF 2008

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J U D G E M E N T
(Per Hon'ble Sri Justice Sanjay Kumar)

Aggrieved by the order dated 30.01.2008 allowing Writ Petition No.31301 of 1997, the respondent therein, the Life Insurance Corporation of India (LIC of India), filed this appeal.

By order dated 21.08.2008, a learned Division Bench refused to grant interim relief pending disposal of the appeal and dismissed the suspension petition filed by the appellant.

The respondent-writ petitioner approached this Court assailing the orders dated 02.06.1997 and 03.06.1997 passed by the LIC of India whereby the petitioner's appointment as an Assistant in its service was terminated on the ground that she did not possess the requisite educational qualification.

The respondent-writ petitioner's appointment was pursuant to an employment notice and the consequential call letter dated 09.08.1996 issued by the LIC of India. She was thereupon subjected to a selection process by way of an interview by a duly constituted selection committee and was issued an order of appointment on 29.10.1996. She reported for duty pursuant thereto. While so, she was held ineligible for appointment as an Assistant on the ground that she did not possess the requisite educational qualification and the same was communicated to her under the order dated 02.06.1997. In consequence thereof, her appointment as an Assistant was terminated under the subsequent order dated 03.06.1997.

The learned single Judge considered the aforestated facts and the material on record and found that the understanding of the LIC of India that the diploma qualification possessed by the respondent-writ petitioner

was not equivalent to two-year Intermediate Course was not borne out as the clarification given by the Osmania University and the Andhra University was to the contrary. The learned Judge further found that no notice of any kind had been issued to the respondent-writ petitioner, so as to allow her an opportunity to explain her stand, before termination of her services. The learned Judge accordingly set aside the impugned orders and allowed the writ petition. A consequential direction was given to the LIC of India to reinstate the respondent-writ petitioner in service forthwith with all attendant benefits, but without back wages.

As stated *supra*, the order of the learned Judge was not suspended pending the appeal and the respondent-writ petitioner is presently in service.

Heard the learned counsel for the parties.

The call letter dated 09.08.1996 issued to the respondent-writ petitioner categorically stated that the qualification required was Intermediate/XII standard (or equivalent examination). The respondent-writ petitioner possessed the qualification of a three-year full-time Diploma Course in Elec. & Comm. Engineering (DECE). The said diploma course was offered by the State Board of Technical Education. Both Andhra University and Osmania University certified the equivalence of this course to two-year Intermediate Course for the purpose of admission to B.E., B.Tech courses and other higher studies.

This being the situation, the learned standing counsel for LIC of India would contend that the relevant recruitment regulations of the LIC of India do not speak of an equivalent qualification in so far as the post of Assistant is concerned. He would assert that the qualification required for appointment to the post of Assistant is only Graduation or HSC (Standard XII of 10 + 2 + 3 pattern) with at least 60% marks in the aggregate. He however has no answer to offer in so far as the call letter issued to the petitioner is concerned. Perusal of the call letter demonstrates in unequivocal terms that an equivalent qualification was also permitted. Once the LIC of India gave candidates to understand that an equivalent

qualification would be adequate for the purpose of appointment to the post of Assistant and also acted upon such equivalence by offering appointment to the respondent-writ petitioner after her selection by a duly constituted selection committee, the LIC of India is estopped from retracting from this stand.

Further, another crucial aspect requires consideration. Annexure I of the LIC of India Regulations, dealing with minimum educational and trade qualifications prescribed for recruitment to posts in Class III and Class IV, wherein the post of Assistant also finds mention, and the employment notice issued by the LIC of India contain a 'Note' which states as under:

'In case of doubt whether a particular examination is equivalent to the prescribed examinations, the decision of the competent authority shall be final.'

This 'Note' assumes significance as the qualifications prescribed for various posts in Annexure I and in relation to which the employment notice was issued, do not specify any equivalence being recognized for any of them. Despite the same, this "Note" was appended clearly indicating the intention of the LIC of India under its Regulations to accept and act upon equivalent qualifications also. The stand now taken that the regulations do not specify recognition of equivalent qualifications therefore warrants rejection as Annexure I in the Regulations indicates otherwise.

Learned standing counsel would further argue that the competent authority in the LIC of India did not recognize the equivalence of the petitioner's diploma qualification with Intermediate course. However, it is not forthcoming as to whether the authority had the wherewithal or academic competence to undertake an exercise to determine equivalence of qualifications.

It is an admitted fact that two Universities, viz., Andhra University and Osmania University, have recognized the respondent-writ petitioner's diploma qualification as an equivalent to Intermediate course

for the purpose of admission to graduate studies in engineering and also higher studies. In the light of such determination of equivalence by high academic bodies such as Universities, the LIC of India necessarily had to undertake an independent exercise through academic experts for coming to a contrary conclusion. Admittedly, no such exercise was ever undertaken by the LIC of India. There was thus no foundation for the LIC of India to come to the opinion that the respondent-writ petitioner did not possess the requisite educational qualification. She was subjected to a selection process through an interview by the duly constituted selection committee which accepted her candidature and her equivalent qualification and the same could not have been brushed aside lightly.

The learned standing counsel relied on case law to support his case. In ***LIFE INSURANCE CORPORATION OF INDIA V/s. ASHA RAMCHHANDRA AMBEKAR (MRS)***^[1], it was held that the regulations of the LIC of India are statutory in character and that they would have the force of law. There is no dispute with this principle but the LIC of India Regulations and more particularly, Annexure I thereof, speak against the LIC of India's present stand.

In ***THE COMMISSIONER, CORPORATION OF MADRAS V/s. MADRAS CORPORATION TEACHERS' MANDRAM***^[2], it was held to the effect that it is not within the domain of the Court to prescribe qualifications. This judgment has no relevance at all to the present fact situation.

In ***PRAKASH CHAND MEENA V/s. STATE OF RAJASTHAN***^[3], the Supreme Court reiterated the settled legal position that the recruitment process must be completed as per the terms and conditions in the advertisement and as per the rules existing when the recruitment process began. This decision supports the respondent-writ petitioner given the obtaining facts and is of no avail to the LIC of India.

Sri M.Srikanth, learned counsel for the respondent-writ petitioner,

placed reliance on ***STATE OF PUNJAB V/s. SUMAN LATA***^[4], wherein the Supreme Court observed that once the Selection Committee consisting of persons with sufficient experience in the field, with knowledge of the job requirements and necessary qualifications in this regard, having examined the qualification possessed by the candidate and selected him, such appointment should not be cancelled by some other authority. This decision clearly supports the order under appeal.

On the above analysis, we find no grounds to interfere with the cogent and well-reasoned order passed by the learned Judge allowing the writ petition.

The writ appeal is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

DR.SIVA SANKARA RAO, J

20th JUNE, 2016
PGS

^[1] (1994) 2 SUPREME COURT CASES 718
^[2] AIR 1997 SUPREME COURT 2131
^[3] (2015) 8 SUPREME COURT CASES 484
^[4] 1999 SUPREME COURT CASES (L&S) 1065