

CWP No.1413 of 2012
CWP No.6216 of 2012
CWP No.6184 of 2012
CWP No.6203 of 2012

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.

CWP No.1413 of 2012
Date of Decision:-31.08.2016

Jagdish Chander

..... Petitioner

Vs.

Union of India and others

..... Respondents

2.

CWP No.6216 of 2012

Pawan Kumar Kaundal

..... Petitioner

Vs.

Union of India and others

..... Respondents

3.

CWP No.6184 of 2012

Mithu Lal

..... Petitioner

Vs.

Union of India and others

..... Respondents

4.

CWP No.6203 of 2012

Virpal Kaur

..... Petitioner

Vs.

Union of India and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Pawan Kumar, Sr. Advocate, with
Mr.Abhimanyu Batra, Advocate,
for the petitioner.

Mr.Akshay Jain, Advocate,
for respondents No.2 and 3.

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of four writ petitions bearing **CWP No.1413 of 2012** titled as **“Jagdish Chander Vs. Union of India and others”**, **CWP No.6216 of 2012** titled as **“Pawan Kumar Kaundal Vs. Union of India and others”**, **CWP No.6184 of 2012** titled as **“Mithu Lal Vs. Union of India and others”** and **CWP No.6203 of 2012** titled as **“Virpal Kaur Vs. Union of India and others”** because the issues involved in all the four petitions are identical. However, for the sake of convenience, the facts are being extracted from **CWP No.1413 of 2012** titled as **“Jagdish Chander Vs. Union of India and others”**.

All the aforementioned writ petitions were admitted on 14.3.2014 and operation of the impugned orders dated 4.9.2010 and 11.11.2011 were stayed during the pendency of the writ petition. Incidentally, all the aforementioned writ petitions were dismissed for non-prosecution on 7.1.2015 in which the following order was passed:-

“1. On the applications from the LIC for fixing the actual date filed in CM Nos.10465, 10444, 10449, 10443 of 2014, this Court passed an order on 5.12.2014 fixing today the date for hearing. The applications were in response to a liberty given to the LIC even while dismissing the appeals, to approach this Court in LPAs filed against some interim orders passed by this Court beyond the period of limitation.

2. *There is no representation of the non-applicant/petitioners. All the writ petitions are dismissed for default with costs of ₹10,000/- in each case. The interim orders granted in favour of the petitioners already shall stand vacated.”*

The petitioner filed an application bearing CM No.1589 of 2015 for recalling of the said order. Similar applications were also filed in the other writ petitions as well. The said applications were allowed on 6.8.2015 and the writ petitions were restored but without interim order. The petitioner then filed an application bearing CM No.12275 of 2015 for restoration of stay order, which was contested by the respondent-LIC. Similar applications were also filed in the other writ petitions as well. Ultimately, this Court, on 3.8.2016, ordered to list the main case itself along with the application. Incidentally, the main case is already on the regular board of this Court at Sr. No.665.

Learned counsel for the petitioner, *inter alia*, argued that the respondents have violated Regulation 16 of the Life Insurance Corporation of India (Agents), Regulation, 1972 [for short ‘the Regulations’] as no reasonable opportunity to *show cause* was given to the petitioner before the termination of his agency. He also submitted that the appeal filed by the petitioner has also been dismissed by the Appellate Authority in violation of Regulation 23 of the Regulations, which provides that the appellant has to be given a reasonable opportunity to represent his case before the Appellate Authority.

I have heard both the learned counsel for the parties in detail and ultimately it has been found, as a matter of fact, that the appellate authority has dismissed the appeal of the petitioner without giving him any opportunity to represent his case before it. In another words, the appellate authority considered the memorandum of appeal and decide the same on its own without the assistance of the petitioner.

The question thus arises as to whether there is a violation of Regulation 23 of the Regulations?

The answer to this question is not farfetched as it is inbuilt in Regulation 23 of the Regulations itself, which read thus: -

“23. Consideration of appeals:

(1) Where an appeal is received under these regulations, the appellate authority shall consider all the circumstances of the case and pass such orders as it deems fit.

Provided that the appellant shall be given a reasonable opportunity of representing his case.

(2) All appeals shall be disposed of as expeditiously as possible not later than six months from the date of the receipt of the appeal by the appellate authority.”

Since, I am convinced as there is no evidence brought on record by the respondents that the appellate authority has given opportunity of representation to the petitioner to put forward his case before it, therefore, there is a clear violation of the proviso to Regulation 23 of the Regulations

and the order passed in appeal is in violation of Regulation 23 of the Regulations. Consequently, the impugned orders passed by the appellate authority in all the four cases are hereby set aside and the matter is remanded back to the appellate authority to reconsider the appeal after allowing the petitioner to represent his case before it, in accordance with law. It is needless to mention that the petitioner shall be at liberty to raise all the pleas, which have been raised before this Court. Insofar as the issue of stay is concerned, the same has been declined by the Court at the time when the order dated 6.8.2015 was passed for recalling of the petitions, therefore, there is no question of granting stay to the petitioner till he appears before the appellate authority.

The petitioner(s) may, if so advised, file an application before the appellate authority for staying the order, which has been passed against him terminating his agency. If such an application is filed, the appellate authority shall decide the said application, at the first instance, as early as possible. The parties are directed to appear before the appellate authority on 7.10.2016. The appellate authority shall make an endeavour to decide the appeal(s) as early as possible, preferably within a period of two months.

31.08.2016

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether non speaking

Yes/No