

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 11199 OF 2014
WITH
CIVIL APPLICATION NO. 11930 OF 2017**

Mohammad Azmatullah Mohammad
Hikmatullah .. Petitioner

Versus

The Chairman LIC of India and others .. Respondents

Shri Anil M. Gaikwad, Advocate for the Petitioner.

The Respondent Nos. 1 to 3 are served.

Shri Girish Rane, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 06TH OCTOBER, 2017.

FINAL ORDER :

. The petitioner seeks directions against respondents to settle and pay the retiral benefits to the petitioner considering his voluntary retirement dated 01.09.2011.

2. Mr. Rane, the learned counsel submits that, after conducting departmental enquiry, the petitioner was removed from service under order dated 31.12.2010.

3. Mr. Gaikwad, the learned counsel submits that, the

petitioner was not aware of any departmental enquiry being initiated against him, nor order of removal. As such civil application is filed seeking leave to amend and challenge order of removal also.

4. Mr. Rane, the learned counsel submits that, there is delay of almost four years. The petitioner had a right to file appeal under Regulation 40 of the LIC of India (Staff Regulation), 1960. The said appeal can be filed within a period of ninety days and if it is after expiry of ninety days, on sufficient cause being shown, the delay can be condoned under Regulation 41.

5. The relief of pensionary benefits at this stage cannot be considered on account of the punishment imposed upon the petitioner. It appears that, the petitioner was litigating the present writ petition since 2014. It is the contention of the respondent that, even the petitioner was informed at his address abroad that he has been removed. The petitioner denies the said fact of receipt of order of removal.

6. Be that as it may, the writ petition is pending since 2014 and there is dispute with regard to service of order of removal.

7. Considering the aforesaid facts and equity, we pass following order.

8. The petitioner may present an appeal before the authority as laid down under Regulation 40 of the LIC of India (Staff Regulation) 1960 within a period of one month from today. If the same is presented within a period of one month from today, the appellate authority shall decide the said appeal on its own merits, in accordance with law and as per the procedure laid down therein and shall not reject it only on the ground of delay.

9. Depending upon the judgment given in appeal the petitioner may take up further proceedings, if any grievance remains. The writ petition and civil application accordingly are disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]