

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.28189 OF 2007

ORDER:

Heard Mr.A.K.Jayaprakash Rao for petitioner and no representation for 2nd respondent.

The petitioner challenges Award dated 20.09.2007 in I.D. No.13 of 1993 passed by the 1st respondent.

Mr.Jayaprakash Rao submits that the 1st respondent though answered the point that removing the petitioner from service is illegal and unsustainable, but however, declined to grant relief on the ground that the petitioner does not satisfy the definition of 'workman' under the Industrial Disputes Act, 1947. He further submits that if the law laid down by the Apex Court in *Life Insurance Corporation of India v. R. Suresh*¹ continues to hold the field, he would have made submissions in the matter, but he is constrained by the proposition of law laid down by the Apex Court in **Chauharya Tripathi v. LIC of India**². The operative portion reads thus:

"5. The aforesaid award compelled the LIC to file the writ petition before the High Court and the High Court, as we find, relying on the decision in **Mukesh K. Tripathi vs. Senior Divisional Manager, LIC & Ors,**(2004 8 SCC 387). expressed the view that the development officers were not workmen and, therefore, the tribunal had no jurisdiction to entertain the *lis* and consequently, it unsettled the award passed by the tribunal. At this juncture, it is seemly to note, after the said decision was rendered on 18.04.2007, an application for review, being Civil Miscellaneous Review Application No.12736 of 2007, was filed stating, inter alia, that the order warranted a review in view of the subsequent pronouncement of this Court in **Life Insurance**

¹ (2008) 11 SCC 319

² (2015) 7 SCC 263

Corporation of India vs. R. Suresh, (2008 11 SCC 319). The High Court declined to entertain the application for review. Hence, the present appeal by special leave.

6. We have heard Mr. S.P. Singh, learned senior counsel and Mr. G. Prakash, learned counsel for the appellants and Mr. Kailash Vasdev, learned senior counsel, assisted by Mr. S. Rajappa, learned counsel for the respondents.

7. Keeping in view the question posed at the beginning, we are obligated to make a survey of the authorities that have been pronounced by this Court specifically pertaining to the Development Officers working in LIC. A three-Judge Bench of this Court in **S.K. Verma vs. Mahesh Chandra & Anr.**, (1983 4 SCC 214), adverted to the definition of 'workman' as originally defined under Section 2(s) of the Act and the substantial amendment that was brought in 1956 in respect of the definition of 'workman' and referred to the decision in **Workmen vs. Indian Standards Institution**, (1975 2 SCC 847) and dwelled upon the hierarchy of officers working in LIC, the duties performed by such officers and eventually held thus :

“A perusal of the above extracted terms and conditions of appointment shows that a development officer is to be a whole time employee of the Life Insurance Corporation of India. that his operations are to be restricted to a defined area and that he is liable to be transferred. He has no authority whatsoever to bind the Corporation in anyway. His principal duty appears to be to organise and develop the business of the Corporation in the area allotted to him and for that purpose to recruit active and reliable agents, to train them to canvass new business and to render post-sale services to policy-holders. He is expected to assist and inspire the agents. Even so he has not the authority to appoint agents or to take disciplinary action against them. He does not even supervise the work of the agents though he is required to train them and assist them. He is to be the 'friend, philosopher and guide' of the agents working within his jurisdiction and no more. He is expected to stimulate and excite the agents to work, while exercising no administrative control over them. The

agents are not his subordinates. In fact, it is admitted that he has no subordinate staff working under him. It is thus clear that the development officer cannot by any stretch of imagination be said to be engaged in any administrative or managerial work. He is a workman within the meaning of s.2(s) of the Industrial, Disputes Act.“ ”

Mr.Jayaprakash Rao fairly submits that having regard to the binding precedent, the writ petition has to be dismissed.

I have perused the paragraphs referred to above and I am satisfied that the ground on which the relief was not granted by 1st respondent is sustainable by relying upon the decision in **Chauharya Tripathi v. LIC of India** (2 supra). The writ petition fails and accordingly dismissed. No order as to costs.

Date: 21.02.2017
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S.V.BHATT,J