

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO

WRIT APPEAL No.459 OF 2017

Between:

The Chairman, Life Insurance Corporation of India,
Central Office, Yogakshema, Jeevan Bima Marg,
PB No.19953, Mumbai and others.

...Appellants

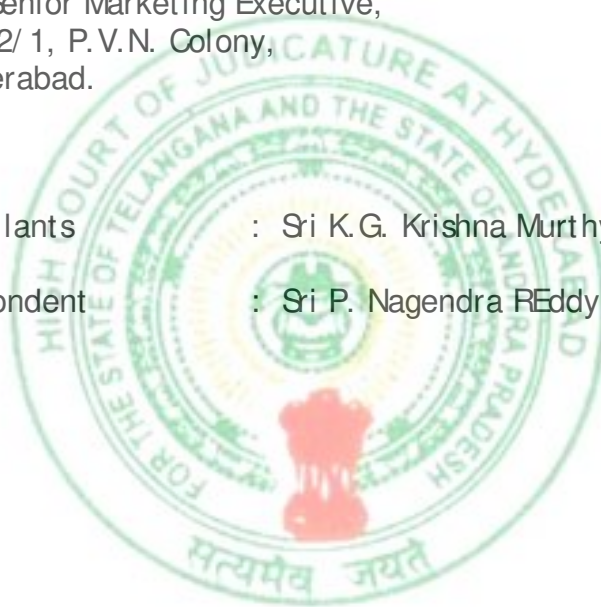
Vs.

Bhanoth Tirupathi S/o Eerya, aged about
32 years, Occ: Senior Marketing Executive,
R/o.H.No.10-392/ 1, P.V.N. Colony,
Malkajgiri, Hyderabad.

... Respondent

For Appellants : Sri K.G. Krishna Murthy

For Respondent : Sri P. Nagendra Reddy



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.459 OF 2017

JUDGMENT: (per V. Ramasubramanian, J)

The Life Insurance Company of India has come up with the above writ appeal challenging the order of the learned single Judge, directing the Corporation to grant renewal of contract of appointment to the respondent as Senior Marketing Executive.

2. Heard Mr. K.G. Krishna Murthy, learned senior counsel appearing for the appellants and Mr. P. Nagendra Reddy, learned counsel appearing for the respondent.

3. The respondent was originally appointed in the year 2010, as Senior Marketing Executive, in terms of a scheme known as Senior Marketing Executives (On Contract Basis) Scheme-2009, for a period of three years. Upon completion of the initial period of three years, the contract was renewed for a further period of three years. The extended period of three years was to expire on 04.04.2016. Therefore, the Corporation issued a letter dated 11.02.2016 intimating the respondent of the expiry of the period of contract by 04.04.2016 and asking the respondent to surrender the materials belonging to the Corporation.

4. Challenging the said communication and claiming a right to have a second extension of the contract, the respondent filed a writ petition in W.P. No.10512 of 2016. The said writ petition was allowed by a learned single Judge of this Court by an order, dated 19.01.2017, forcing the Corporation to come up with the above writ appeal.

5. The learned Judge was persuaded to allow the writ petition solely on the basis of an order passed by a Division Bench of this Court in W.A. No.822 of 2016. Therefore, it is necessary to have a look at the said order. In W.A. No.822 of 2016, the Life Insurance Corporation of India challenged

an interim order of *status quo* granted by a single Judge in a writ petition filed by a person who was identically placed as the respondent herein. The Division Bench, took up the writ appeal along with the writ petition itself and after perusing the Clause 3 (b) of the Senior Marketing Executives (On Contract Basis) Scheme-2009, the Division Bench allowed the writ petition with a direction to the Corporation to continue the Marketing Executive for a third term with liberty to the Corporation to review his performance and pass appropriate orders.

6. Therefore, in the light of the said order of the Division Bench of this Court in W.A. No.822 of 2016 dated 14.09.2016, learned Judge allowed the writ petition of the respondent with a positive direction to the Corporation to grant second renewal of contract to the respondent.

7. But, unfortunately for the respondent, the Division Bench, in W.A. No.822/ 2016, did not lay down any law for the learned Judge to follow the same as a precedent. The provisions of the Contract Scheme were not analyzed by the Division Bench, to come to the conclusion that the right to renewal was automatic. Therefore, we do not think that the decision in W.A. No.822 of 2016 can be taken to be laying a preposition of law that renewal of the contract was automatic.

8. Coming to the Scheme itself, it is seen from Clause 3 (a) that the engagement for the marketing assignment was to be purely on contractual basis for a period of three years. Sub-clause (b) of Clause 3 enables the employer to renew the contract for a further period of three years, subject to a maximum of three terms. Clause-3 of the Contract Scheme in its entirety reads as follows:

“3. Nature of Engagement:

- a) Engagement shall be for the marketing assignment and it shall be purely on contractual basis for a period of 3 years.

b) Renewal of contract

The contract may be further renewed for a period of three years subject to the satisfactory performance, suitability of the person during the contractual period and needs of the Corporation. In no case the contractual engagement shall be more than three terms.”

9. A careful look at the Scheme would show that what was provided as marketing assignment, was not one of either status or employment. It was an engagement for the marketing assignment, purely on contractual basis. The renewal of the contract for a period of three years, was subject to three conditions, namely, (1) Satisfactory performance, (2) Suitability of the person and (3) Needs of the Corporation. The expression used in Clause-3 (b) of the Scheme is “may be further renewed”. There is no scope for reading the word “may” as “shall.” The option is on the part of the Corporation. The contract was not an open ended contract, conferring on both parties any right of renewal. Therefore, the provision contained in Clause-3 (b) cannot be construed as conferring an automatic right of renewal.

10. If a person does not have an automatic right of renewal, it is not possible for him to seek a mandamus to renew the contract. Hence, the learned Judge is not correct in allowing the writ petition and issuing a positive mandamus. Therefore, the Writ Appeal is allowed and the order of the learned single Judge is set aside. The writ petition filed by the respondent is dismissed.

11. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

October 31, 2017
KTL