

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

CWP No.18020 of 2017

Date of Order: 08.11.2017

Khayati Aggarwal

....Petitioner

Versus

Life Insurance Corp. of India and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Divanshu Jain, Advocate for the petitioner.

Mr. Piyush Sharma, Advocate for the respondents.

RAKESH KUMAR JAIN, J (ORAL)

The petitioner is having an agency of Life Insurance Corporation of India (for short "LIC") with Agency Code No.2864-317. His agency has been terminated vide order dated 05.8.2016 with forfeiture of renewal commission under provisions of Regulation 16(1)(b) and (d) and Regulation 19(1) read with Regulation 10(6) of LIC of India (Agents) Regulations, 1972 (for short "Regulations").

Aggrieved against the said termination of agency, the petitioner filed the statutory appeal under Regulation 20 of the Regulations. Said appeal was dismissed on 25.1.2017 on the ground that since the respondents have already complied with the order passed by this Court in CWP No.26881 of 2015 within the stipulated time therefore, the appeal is not maintainable.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that order dated 25.1.2017 vide

which the appeal has been dismissed is patently erroneous and illegal. Earlier the writ petition bearing CWP No.26881 of 2015 was filed by the petitioner against the order dated 10.12.2013 of termination,*inter alia*, on the ground that though the proceedings were initiated against his brother Neeraj Aggarwal, yet his agency was also terminated on 14.10.2010. It was alleged that the agency of the petitioner could not have been terminated on the same facts. Consequently, the writ petition was allowed, setting aside order dated 10.12.2013 vide which the agency of the petitioner was terminated and the matter was remanded back to the respondents with a liberty to serve a show cause notice to the petitioner with additional detail, pertaining to the petitioner and after taking his reply, pass appropriate orders again. In pursuance thereof, show cause notice was issued to the petitioner on 10.6.2016 to which he filed the reply.

The additional material was not given in the show cause notice but the petitioner was separately informed on 15.7.2016 about the additional material used against him which was also disputed by the petitioner by way of reply and ultimately vide order dated 05.8.2016 the agency of the petitioner was terminated.

In such circumstances, there is a fresh termination order dated 05.8.2016 for which the petitioner had the remedy of appeal which was rightly availed but the said appeal has been dismissed under wrong notion by the respondents that since the order passed by this Court in CWP No.26881 of 2015 has been complied within time, therefore, the Appellate Authority does not have jurisdiction to hear the appeal.

After hearing learned counsel for the parties and taking into consideration the facts and circumstances of this case, I am of the

considered opinion that the right of appeal of the petitioner under the Regulations cannot be taken away from the petitioner. Regulation 20 and 23 of the Regulations which are relevant for this case are reproduced hereinbelow:

“ 20. Appeals:

(1) Every agency shall have a right of appeal to the relevant appellate authority set out in Schedule VII against an order terminating the appointment which has been passed under regulation 15 or regulation 16 or sub-regulation (l) of regulation 17 or regulation 18.

(2) Every person submitting an appeal shall do so separately and in his own name.

(3) The appeal shall be addressed to the authority to whom the appeal lies, shall not contain any disrespectful or improper language and shall be complete in itself.

(4) The appeal shall be submitted through the authority which made the order appealed against.

(5) No appeal under this regulation shall be entertained unless it is submitted within a period of three months from the date on which the applicant receives a copy of the order appealed against.

Provided that the appellate authority may entertain the appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.”

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 but not later than six months from the date of the receipt of the appeal by the appellate authority.”

The petitioner thus has a right of appeal in terms of Regulation 20 and in case the appeal is filed it has to be considered in terms of Regulation 23 as mentioned above.

In view of aforesaid, present petition is allowed and order dated 25.1.2017 is set aside and the matter is remanded back to the Appellate Authority to decide the appeal of the petitioner in accordance with law. The parties are directed to appear, before the Appellate Authority on 29.11.2017, which shall decide the appeal in terms of Regulation 23 of the Regulations.

November 08, 2017
manoj

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No