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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8285/2016 and CM No. 34292/2016**

SURENDER KUMAR AGGARWAL Petitioner

Through: Mr Santhosh Krishnan, Advocate.

versus

ZONAL MANAGER, LIFE INSURANCE CORP.
OF INDIA & ORS

..... Respondents

Through: Mr Sanjay Rawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.07.2017

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning an order dated 03.03.2016 (hereafter 'the impugned order') passed by respondent no.1, Zonal Manager, Life Insurance Corporation of India, whereby the petitioner's representations against his termination as an agent of Life Insurance Corporation of India (hereafter 'LIC') were rejected.

2. The petitioner was appointed as an agent of LIC on 27.02.1986. Apparently, petitioner's sons - Mr Khayati Aggarwal and Mr Neeraj Aggarwal - were also LIC agents. On 09.06.2010, an LIC policy holder filed a complaint against Khayati Aggarwal (petitioner's son). It was, *inter alia*, alleged that Khayati Aggarwal had fraudulently changed the nomination in respect of a policy given by the policy holder to surrender;

and, instead of surrendering the same, Khayati Aggarwal had made a fraudulent death claim even though the policy holder was alive.

3. The fraudulent claim bore the signature and stamp of the petitioner as a witness. Accordingly, LIC issued a letter dated 10.06.2010 to the petitioner calling upon him to explain as to how he had witnessed the claim when the policy holder was still alive. The petitioner responded to the said letter denying that he had witnessed the claim in question.

4. Thereafter, on 22.07.2010, LIC issued a show cause notice to the petitioner, alleging that he had acted in a manner prejudicial and detrimental to the interests of LIC and had violated the provisions of Life Insurance Corporation of India (Agents), Rules 1972 (hereafter 'the Rules').

5. The petitioner responded to the said show cause notice by a letter dated 20.08.2010, which is set out below:-

"To,

The Branch Manager,
LIC of India,
Sonapat

Dear Sir,

Sub: D.O. letter Dt.22/07/2010 Received on 8/8/2010.

I beg to say that I have never met the holder of this policy no.174519611. I have no concern with this policy holder.

I asked my son Khayati aggarwal 28643A who told me that he never met the said policy holder.

I asked my son Neeraj Aggarwal agent 3647317 who told me that he used my stamp and did my signatures at the documents of said policy No.174519611.

During this period, I was away for Char Dham Yatra.

Thanking you

S/d

Yours Faithfully"

6. Thereafter, LIC issued a show cause notice dated 25.09.2010 to Neeraj Aggarwal and thereafter, by an order dated 14.10.2010, terminated his appointment as a LIC agent.

7. The petitioner's response to the show cause notice was considered and the concerned officer of LIC found that the petitioner had witnessed the fraudulent claim and the nomination form. Accordingly, by an order dated 10.12.2013, LIC terminated the appointment of the petitioner as an agent of LIC.

8. The petitioner challenged the termination under the Rules before respondent no.1 (Zonal Manager of LIC) which was dismissed by an order dated 09.05.2014. The petitioner filed a revision petition against the dismissal of his appeal before the Chairman, which was also rejected on 04.10.2014.

9. Thereafter, the petitioner filed a writ petition being W.P.(C) 8437/2014, *inter alia*, challenging the order of termination dated 10.12.2013 and subsequent orders dated 09.05.2014 passed by the Zonal Manager, LIC and the order dated 04.10.2014 passed by the Chairman. The said petition

was withdrawn by the petitioner on 26.02.2015 with liberty to make a representation to the respondents.

Submissions

10. Mr Santhosh Krishnan, learned counsel appearing for the petitioner contended that the petitioner's agency could not be terminated on the basis of the show cause notice dated 22.07.2010, as at the material time, the principal allegation was against Khayati Aggarwal. He stated that thereafter, the respondents had proceeded against Neeraj Aggarwal and terminated his agency and, therefore, the earlier show cause notice was redundant.

11. LIC had also terminated the agency of Khayati Aggarwal. This was challenged by Khayati Aggarwal before the Hon'ble Punjab and Haryana High Court by way of a writ petition, which was allowed by the Court on 05.05.2016. He drew the attention of this Court to the said order and contended that on similar facts, the Punjab and Haryana High Court had held that the show cause notice issued to Khayati Aggarwal stood superseded by a subsequent show cause notice issued to Neeraj Aggarwal. In the circumstances, the Court had held that LIC could not proceed against Khayati Aggarwal on the basis of the earlier show cause notice.

12. Mr Krishnan contended that no order passed on the basis of the show cause notice issued on 22.07.2010 could be sustained after LIC had proceeded against Neeraj Aggarwal.

13. He also contended that the earlier writ petition had been withdrawn by the petitioner with liberty to make a representation and, therefore, the

petitioner was not precluded from challenging the orders of termination passed earlier and in any view, could always maintain a challenge to rejection of the representations made thereafter.

Reasoning and Conclusion

14. This Court finds it difficult to accept the contentions advanced on behalf of the petitioner. The contention that the show cause notice dated 22.07.2010 was superseded by a subsequent notice issued to Neeraj Aggarwal, is plainly bereft of any merit. The allegation against the petitioner was that he had witnessed the nomination form which had been fraudulently changed and also the death claim made in respect of a policy during the lifetime of the policy holder. The allegation against Khayati Aggarwal was that of fraudulently changing the nomination in favour of the brother of the policy holder under a forged signature. It was alleged that the policy holder had handed over the original policy bond for surrendering the same but instead of doing so, Khayati Aggarwal had fraudulently changed the nomination and had filed a false death claim.

15. In view of the petitioner's response that Khayati Aggarwal did not know the policy holder but the acts had been done by Neeraj Aggarwal, the show cause notice was issued to Neeraj Aggarwal followed by termination of his agency. The allegations against the petitioner remained the same; that is he had signed and stamped the documents for making fraudulent claim as a witness.

16. In the aforesaid circumstances, it is understandable that once a show cause notice was issued to Neeraj Aggarwal for the acts which were earlier

alleged to be done by Khayati Aggarwal, the show cause notice issued to Khayati Aggarwal would stand superseded. This is what persuaded the Punjab and Haryana High Court to set aside the order of termination of Khayati Aggarwal as an agent. However, the said reasoning is not applicable in the case of the petitioner as the allegations against him continued to stand. LIC neither alleged that Neeraj Aggarwal had forged the petitioner's signature nor his agency was terminated on that ground. Thus, proceedings against Neeraj Aggarwal would not in any manner dilute the allegations against the petitioner and the same were not mutually exclusive.

17. In view of the above, this Court is unable to accept that any ground for setting aside the impugned order and the orders terminating the petitioner's agency is established. Indisputably, the petitioner's appointment as an agent of LIC has been terminated by following the procedure as provided under the Rules. The allegations against the petitioner are serious and no interference with the decisions of the respondents is called for.

18. Before concluding, this Court may also refer to the order dated 26.02.2015 passed in W.P.(C) 8437/2014 (***Surender Kumar Aggarwal v. Life Insurance Corporation of India and Ors.***), whereby the writ petition preferred by the petitioner earlier was dismissed as withdrawn. The opening paragraph of the said order reads as under:-

"After some arguments, Ms. Gupta seeks to withdraw the captioned petition. The learned counsel seeks liberty to approach the respondents on the ground that the petitioner had served as an agent, with LIC, for 28 years, and that, except for the incident, referred to in the petition, there has been no infraction committed by him."

19. It is apparent from the above that the petitioner had sought to withdraw the earlier petition with a view to persuade the respondents to allow him to continue his agency since he had served as LIC's agent for 28 years and, it is only on this ground that this Court had permitted the petitioner to withdraw the said petition. It does not appear that the petitioner had reserved his right to challenge the allegation made against him. However, notwithstanding the same, this Court has examined the challenge raised by the petitioner in this petition.

20. The petition and the pending application are dismissed. The parties are left to bear their own costs.

JULY 13, 2017
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VIBHU BAKHRU, J

