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

+ W.P.(C) 11118/2016 & CM Appln. No.43462/2016, 8964/2017

LALIT KUMAR ..... Petitioner

Through Mr. Ajay K. Sharma, Advocate.

versus

LIFE INSURANCE CORPORATION OF INDIA AND ANR ..... Respondents

Through Mr. U. C. Mittal and Mr. Abhay Gupta, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 20.07.2017

1. The petitioner has filed the present petition *inter alia* impugning the show cause notice dated 31.07.2015 and an order dated 30.09.2016 passed by the Senior Divisional Manager, Life Insurance Corporation (LIC) (the Disciplinary Authority) whereby the appointment of the petitioner as an agent of LIC was terminated. Petitioner was also imposed with the penalty of forfeiture of renewal commission.

2. The petitioner was appointed as an agent by LIC on 04.01.1992 and his appointment was confirmed on 20.08.1992. The principal allegation against the petitioner is that certain cheques for premia which were towards renewal of policies under the Salary Saving Scheme for the benefit of the employees of MCD were diverted as premia for new proposals, which were confirmed on the reports submitted by the petitioner; and the petitioner had

earned commission on the same. However, it is the petitioner's case that he was, in no manner, involved in appropriation of the premium towards new policies.

3. In the matter of ***P.K. Singh. v. Life Insurance Corporation of India***: ***(2010) 169 DLT 369***, this Court had in the context of similar issues, examined the material and role of the agents, in respect of premia paid under the Salary Savings Scheme. In that case, the Court found that there was no evidence to establish that the agent was responsible for the manner in which the premia was appropriated and therefore set aside the orders terminating the agency. The aforesaid decision was confirmed by a Division Bench of this Court in ***Life Insurance Corporation of India v. R. K. Mahajan: (2015) 225 DLT 484***.

4. It is seen that the petitioner has relied upon the said judgments before the Disciplinary Authority however, the same has been disregarded by him by simply stating that each decision is on its own facts. This Court finds that the Disciplinary Authority has not examined the said decisions and has not indicated any reason why the aforesaid decisions rendered by this Court ought to be distinguished. The said decisions plainly indicate the manner in which the material/evidence is required to be analysed in the context of determining the role of the agents involved.

5. Although, the petitioner has a remedy of an appeal, however, since it is apparent that the Disciplinary Authority has not dealt with the defence raised by the petitioner, the Court is of the view that the Disciplinary Authority ought to, in first instance, deal with the issues raised, so that the Appellate Authority gets a clear and complete view of the issues involved. The order dated 30.09.2016 has serious implications for the petitioner and

the decision to terminate an agency of an agent who has worked for twenty four years cannot be taken in a casual manner.

6. In view of the above, the impugned order dated 30.09.2016 is set aside with a direction that the Disciplinary Authority (the concerned Sr. Divisional Manager) to consider all contentions of the petitioner including the effect of the delay in the issuance of show cause notice and pass an appropriate order. The Disciplinary Authority shall also examine the decisions in ***P.K. Singh. v. Life Insurance Corporation of India*** *(supra)* and ***Life Insurance Corporation of India v. R. K. Mahajan*** *(supra)* and in the event, the Disciplinary Authority is of the opinion that the aforesaid decisions are not applicable to the petitioner's case, he shall give proper reasons for the same.

7. It is also being contended by the petitioner that other officers who had also been accused of similar allegations have been promoted. This Court is not inclined to examine this issue. However, it is open to the petitioner to raise the same before the Disciplinary Authority who shall consider the same in accordance with law.

8. The Disciplinary Authority shall pass an order within a period of eight weeks from today after hearing the concerned parties. It is further directed that the petitioner shall not conduct any business relating to the LIC during this period of eight weeks.

9. The petition along with the pending applications is disposed off with the aforesaid observations.

VIBHU BAKHRU, J

JULY 20, 2017/dr