IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.243 OF 2018

Yasser Arafat ... Petitioner
Versus
The Insurance Regulatory and Development Authority of India ... Respondent

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Ms. Madhavi Nalluri a/w Ms. Pallavi Kamble I/b Akshay Kamble for the Petitioner.
Mr. Shrinivas Bhave a/w Sunayana Kashid I/b Bhave & Co. for the Respondent.

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CORAM : S.C. GUPTE, J.

DATE : 3 MAY 2018

P.C. :

. Heard learned Counsel for the parties.

2 This petition challenges refusal of the insurance regulatory authority to allocate a certain department of his choice to the Petitioner for the work of survey/loss assessment. The Petitioner is a diploma holder in electrical engineering. In October 1999, he was granted a licence to practice as a surveyor/loss assessor by the Insurance Division of the Department of Economic Affairs, Ministry of Finance-Government of India. The Respondent authority was thereafter created by an Act of the Parliament, namely, the Insurance Regulatory and Development Authority of India Act, 1999. Under this new Act, it is the Respondent, who is entrusted with the responsibility of issuing licences to surveyors/loss assessors. It is the Petitioner's grievance that though he was licenced as a surveyor in the

Engineering Department, based on his qualifications, the Petitioner enrolled himself as a trainee surveyor for allocation of an additional department, namely, motor department. It is submitted that the Petitioner, in keeping with the applicable regulation around the time, was qualified to be licensed for, and allocated, motor department, based on his educational qualification of diploma in electrical engineering and his having worked as a trainee surveyor for a period of six months. It is the Petitioner's grievance that despite completing six months' period of training, the Petitioner was not allocated motor department. The Petitioner kept following up the matter. It is his grievance that the Respondent went on prescribing new eligibility criteria for the Petitioner and in the process, keeping him from allocation of motor department. It is the Petitioner's case that all these years, the Respondent denied what was due to the Petitioner and is now insisting on the Petitioner complying with new qualifications under the new regulations, which have come into effect from 30 October 2015. It is submitted that the Petitioner's case is governed by old regulations and having complied with the requirements of the old regulations, he should have been properly allocated the additional department of motor for survey/loss assessment work.

3 In the first place, there is no right in the Petitioner to be allocated any particular department. It is merely a matter of his eligibility. Even insofar as eligibility is concerned, it may be that the Petitioner was eligible when he applied for being allocated the motor department. At that time, the Petitioner was licensed for survey/loss assessment work in engineering department. The regulations provided for his qualifying for the work of any other department, including motor department based on a six months'

training in that department. There was no prescribed qualification of Diploma in mechanical or automobile engineering at that time for being allocated motor department as an additional department for an already licensed surveyor. The fact of the matter is, however, that the Petitioner was not allotted motor department then, whatever be the reasons for such denial. It is beyond doubt that today law has changed. The Parliament introduced Insurance Law (Amendment) Act, 2015 substituting *inter alia* Section 64UM of the Insurance Act, 1938. The substituted provision requires possession of academic qualifications as may be prescribed by regulations made under the Act for a person to act as a surveyor/loss assessor for general insurance. The regulations made under this Act, namely, IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, *inter alia* require qualification criteria of B.E./B.Tech./B.Sc. (Engg.)/A.I.M.I.E. or its equivalent thereof (Mechanical/Automobile); Diploma in Mechanical Engineering/Automobile Engineering of 3 years duration from a recognised institution or its equivalent for enrollment and licensing of surveyors and loss assessors in motor department. The Petitioner admittedly does not possess any of these qualifications. If that is so, he cannot act as a surveyor/loss assessor in motor department. That being the position, the Petitioner cannot demand allocation of motor department as of right on the basis of regulations in force under the old law. If the Petitioner now wants to be licensed as a surveyor/loss assessor in any particular department of general insurance business, he must hold the currently prescribed qualifications under the new regulations.

4 Learned Counsel for the Petitioner, in the alternative, prays for compensation to the Petitioner for monetary loss caused to the Petitioner

due to non-allocation of motor department for all these years, that is to say, till the new regulations came into force. It may be that in an appropriate case, the writ court is empowered to grant compensatory relief. Considering, however, the stand of the Insurance Regulatory Authority as regards the Petitioner's status and qualifications under the old regulations, which is an arguable stand, this Court is of the view that this is not a fit case, where such compensatory relief should be ordered.

5 Accordingly, there is no merit in the petition. The petition is dismissed. No order as to costs.

(S.C. GUPTE, J.)