

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.599/2018 and
CMP.No.5818 of 2018

S.Priyadharshini ... Appellant
vs

1. The Life Insurance Corporation of India
rep. by the Chairman/the Executive Director
(Marketing/PD), Central Office,
Marketing Department, III Floor,
'Yogakshema' Building, West Wing,
Jeevan Beema Marg,
Mumbai-400 021.
 2. The Zonal Manager,
Life Insurance Corporation of India,
Southern Zonal Office,
Old No.102, New No.153,
LIC Building, Anna Salai, Mount Road,
Chennai-2.
 3. The Senior Divisional Manager,
Life Insurance Corporation of India,
Sales Department, Divisional Office,
'Jeevan Prakash'', Arcot Road,
Vellore-4.
- ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 15.09.2017 made in W.P.No.99/2017 by a
learned Single Judge.

PRAYER IN W.P.No.99/2017:

To call for the records of the file of the 1st Respondent
in connection with the order of Modification in Ref. Mktg. / ZD/
20/ 2016 dated 23.7.16 to Draft of Annexure III-C and also on
the file of the 3rd respondent in connection with the orders
passed by him in Ref.Sales/ DO dated 14.12.2015 and in Ref.
Sales / DO dated 21.11.16 and quash the same by holding that the

interpretation of the Rules 7 and 8 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development officer (Revision of Certain Terms and conditions of service) Amendment Rules 2016 notified by the respondents 1 and 2 for Straight termination without enquiry as unconstitutional and ultravires.

For Appellant :: Mr.R.Jayaprakash

For 1st Respondent :: Mrs.Kaavya Silambanan

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 15.09.2017 made in W.P.No.99/2017 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner therein seeking to issue a Writ of Certiorari to call for the records on the file of the 1st respondent in connection with the order of Modification in Ref. Mktg./ZD/20/2016 dated 23.7.2016 to Draft of Annexure III-C and also on the file of the 3rd respondent in connection with the orders passed by him in Ref:Sales/DO dated 14.12.2015 and in Ref.Sales/DO dated 21.11.2016 and quash the same by holding that the interpretation of the Rules 7 and 8 of the Life Insurance Corporation of India Development Officer (Revision of Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Amendment Rules, 2016 notified by the respondents 1 and 2 for straight termination without enquiry as unconstitutional and ultra vires.

3. After hearing both parties, the learned Single Judge disposed of the Writ Petition along with other Writ Petitions by a Common Order dated 15.9.2017 with liberty to the petitioners to submit their explanations/objections to the competent authorities, who in turn, shall consider the same and pass final orders. Aggrieved over the same, the appellant is before this Court with this Writ Appeal.

4. The matter is listed today under the caption, ''for admission''.

5. We heard the learned Counsel for the appellant and the learned Senior Counsel for the respondents.

6. On the face of the records, we are of the view that the issue raised in this Writ Appeal is no longer res integra. It is covered by a decision of this Court in W.A.Nos.1655 to 1657/2017 dated 15.12.2017 wherein it is observed that as against the issuance of a Show Cause Notice, Writ Petition has been preferred. However, the concerned employees/appellants could offer explanation for the said Charge Memo and the same would be considered on merits and in accordance with law and also complying with the principles of natural justice and also in the light of the decision of the Apex Court in K.S.Ravindran V. New Indian Assurance Company Limited ((2015) 7 SCC 222) by the competent respondent authorities. In the said case, the Apex Court has held that termination of services straightaway, without imposing minor penalties first, on the ground of poor performance of the employee of the Insurance Company as illegal.

7. Following the same, since the challenge in the present proceedings is only a Show Cause Notice, without interfering with the order passed by the learned Single Judge, we dispose of the Writ Appeal subject to the above observation. The explanation of the appellant would be considered on merits and in accordance with law, complying with the principles of natural justice and also in the light of the decision of the Apex Court in ((2015) 7 SCC 222). No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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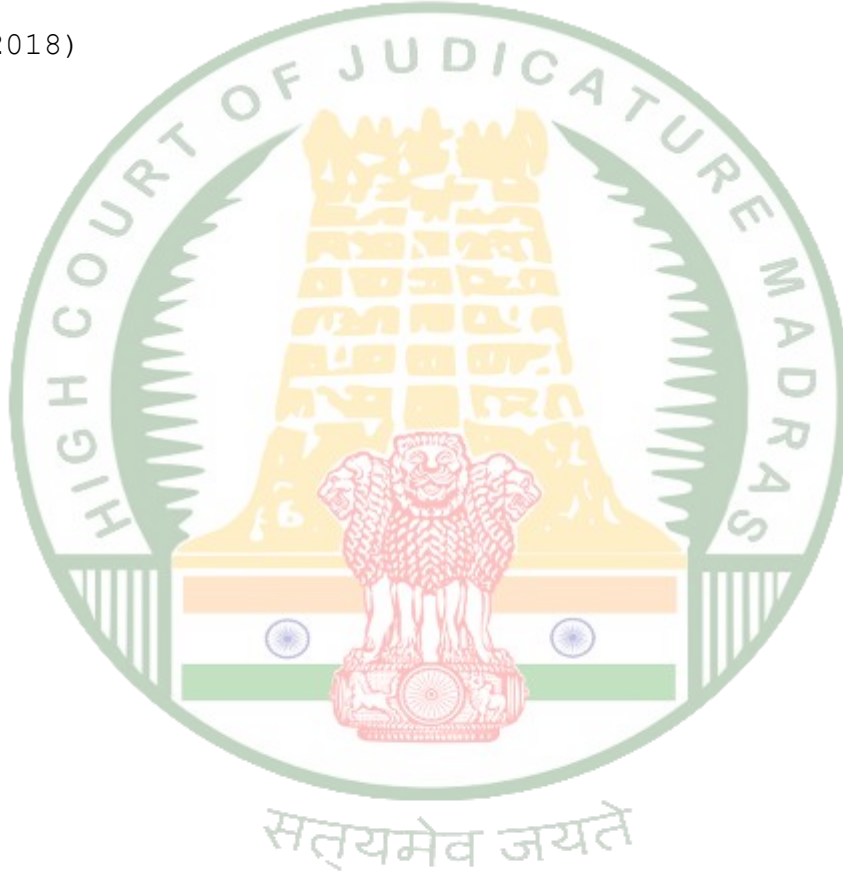
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+1cc to Mr.KAAVYA SILAMBANAN ASSO. Advocate, S.R.No.29151
+1cc to Mr.R.JAYAPRAKASH, Advocate, S.R.No. 29301

W.A.No.599/2018

KAN(CO)
TR(16/05/2018)



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