

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.5175 of 2002

ORDER

The petitioner-insured filed this writ petition being aggrieved by the order dated 05.06.2000 passed by the 2nd respondent, whereunder the 2nd respondent confirmed the order dated 20.08.2001 passed by the 1st respondent.

The brief facts of the case are that the petitioner obtained Asha Deep policy for a sum of Rs.50,000/- from Life Insurance Corporation of India. The period of policy is 20 years and premium payable on the policy quarterly @ Rs.835/-, the same was accepted on 28.03.1993 and the policy bond bearing No.671753341 was issued. The petitioner paid the monthly premium upto 1995 and as he was unable to pay the premium, the policy was lapsed and thereafter, the said policy was revived on 03.06.1996 as per the terms and conditions of the policy. The petitioner paid premiums upto 28.02.2001 under receipt No.227137. In the meanwhile, in August, 1999, the petitioner fell sick and on the advise of doctors, he had undergone by-pass surgery in Usha Cardiac Center, Vijayawada, on 19.09.1999, for which, he incurred an amount of Rs.1,20,000/-. Hence, he submitted a claim petition for Rs.1,20,000/- and the same was rejected by order dated 20.8.2001 stating that the petitioner had suppressed the fact

that he is suffering from hypertension at the time of revival of the policy. Being aggrieved by the same, the present writ petition is filed.

Sri Ch.Ramesh Babu, learned counsel for the petitioner would submit that the petitioner was hale and healthy at the time of initial coverage of Asha Deep insurance policy on 28.03.1993 and as on the date of revival of the policy on 03.06.1996, the petitioner was subjected to medical examination and was found healthy. However, in the year 1999, as he underwent by-pass surgery and incurred a sum of Rs.1,20,000/-, he filed claim petition. But, his claim was rejected on 20.08.2001 on the ground that he had suppressed his health condition of suffering from hypertension. Hence, the petitioner preferred an appeal before the Zonal Claim Review Committee on 05.06.2000. Without considering the grounds of appeal and without assigning any reasons, the same was rejected on 30.06.2001 by the respondent-insurer being the State under Article 12 of the Constitution of India, which is arbitrary and illegal and that the petitioner is entitled for reimbursement of the claim amount of Rs.1,20,000/-.

Sri Singam Srinivas Rao, learned Standing Counsel appearing for the insurance company would contend that initially, the petitioner is covered under the policy, thereafter,

as per terms and conditions, the policy was revived; that the revival is a fresh contract; that the petitioner suppressed the fact that he is suffering from hypertension; that the medical certificate issued by the doctor is not conclusive proof, whereas he was suffering from hypertension is supported by the doctor's letter dated 04.01.2000, whereas the claim of the petitioner was considered by the Zonal Office Claims Review Committee and there is no illegality in the impugned order and the writ petition is liable to be dismissed.

As can be seen from the records, it appears that the petitioner obtained Asha Deep policy for the sum of Rs.50,000/- from LIC. The tenure of policy is 20 years with monthly premium of Rs.835/-. The proposal was accepted on 28.03.1993 and the policy bond was issued. Thereafter, the policy was lapsed and on payment of amount due, the same was revived on 03.06.1996. After medical examination and on advise of the doctors, the petitioner underwent by-pass surgery in Usha Cardiac Center, Vijayawada on 19.09.1999, and an amount of Rs.1,20,000/- was incurred. It is the contention of the petitioner that by the time of surgery, the policy was revived. But the petitioner's claim for reimbursement was rejected by the respondents and the appeal filed by the petitioner on 5.6.2000 was also rejected *vide*

order dated 30.06.2001. The appellate authority has not considered the appeal in its proper perspective. Respondent-LIC being an authority comes within the meaning of State under Article 12 of the Constitution of India and its action must be in conformity with the Article 14 of the Constitution of India. But, it has neither dealt with the grounds of appeal nor given an opportunity to the petitioner and rejected the appeal. While deciding the appeal, the principles of natural justice have not been followed and the order passed by the appellate authority is liable to be set aside.

Having regard to the above, this Court deems it appropriate to remand the matter to the appellate authority to decide the claim afresh after affording an opportunity to the petitioner.

Accordingly, the Writ Petition is allowed and the impugned order is set aside, with a direction to the appellate authority to reconsider the appeal afresh after affording an opportunity to the petitioner, within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

30th July, 2018
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