

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

% ***Date of Order : February 19, 2018***

+ **W.P.(C) 1519/2018 & CM No.6217/2018**

SUKANTA ROY CHOWDHURY Petitioner

Through: Mr.Puneet Verma, Advocate

versus

AGRICULTURE INSURANCE CO. OF INDIA

LTD. & ORS Respondents

Through: Mr.Madan Gera, Advocate for R-1 and R-3
Mr.Ripu Daman Singh Bhardwaj, CGSC
and Mr.Pradeep Jha, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Quashing of Advertisement of January, 2018 (*Annexure P-8*) vide which applications have been invited for the post of ‘*Appointed Actuary*’ on contract basis is sought by petitioner on the ground that despite being fully eligible in-house candidate, he has not been considered for the said appointment. A mandamus is sought to respondents to consider petitioner’s name for the post of ‘*Appointed Actuary*’ on permanent basis in reference to Advertisement of January, 2018.

2. It is matter of record that respondent had earlier issued Advertisement of 10th June, 2017 for appointment on the post of ‘*Appointed Actuary*’ and though petitioner had applied for the said post but he was not considered and vide order of 8th December, 2017 (*Annexure P-5*) the respondent was directed to state in detail as to how petitioner is not qualified or ineligible for

being considered for the post of ‘*Appointed Actuary*’ and fate of the said Representation was to be made known to petitioner. Petitioner’s counsel submits that a fresh Representation (*Annexure P-6*) was made to respondent on 15th December, 2017 and it has been rejected vide impugned Reply of 4th January, 2018 (*Annexure P-7*) wherein it is stated that petitioner was found to be ineligible, inter-alia, on the following grounds which are as under:-

“1. As per Para 3(B)(ii) of IRDA regulations, it is mandatory criteria for the appointment of AA that the person shall be a Fellow Member in accordance with the Actuaries Act, 2006. You have acquired the fellowship from Institute of Actuaries of India only on 08.09.2017.

2. As per para 3(B)(ix) of IRDA regulations, the applicant shall possess a certificate of Practice issued by the Institute of Actuaries of India. You have been granted the certificate of Practice by Institute of Actuaries of India on 11.10.2017.”

3. Petitioner has not assailed the impugned Reply (*Annexure P-7*) and rightly so, as respondent came out with a fresh Advertisement (*Annexure P-8*) in January, 2018 which clearly provides that eligibility as on 1st January, 2018 would be the basis of the appointment so made. Learned counsel for respondent-Insurance Company submits that though petitioner now fulfils the two eligibility conditions as spelt out in the impugned Reply (*Annexure P-7*) but he does not have one year of relevant post qualification experience as required in the case of general/health insurer/reinsurer.

4. Learned counsel for petitioner submits that as per Clause 3 of the ‘*IRDAI guidelines on Transitory Provisions under the IRDAI (Appointed Actuary) Regulations, 2017*’, a Mentor is appointed to ‘*Appointed Actuary*’ who does not have the minimum period of experience as prescribed in the

Regulations. So, it is submitted that petitioner was eligible to be considered in pursuance to the Advertisement of January, 2018 but he has not been considered and for the first time today, respondent's counsel has disclosed that Mr.Puneet Sudan has been selected for post of '*Appointed Actuary*' in relation to the impugned Advertisement of January, 2018.

5. Learned counsel for respondent-Insurance Company submits that the offer of appointment has been accepted by Mr.Puneet Sudan and said appointment is for a period of 3 years and is awaiting Insurance Regulatory and Development Authority of India's approval. Learned counsel for respondent-Insurance Company submits that since Mr.Puneet Sudan had the requisite qualification, therefore, he has been appointed on the said post.

6. Learned counsel for petitioner submits that petitioner's grievance of his actuarial folder being arbitrarily blocked without any intimation renders him completely cut off from the actuarial duties and this arbitrary action of respondent has caused immense humiliation and embarrassment to petitioner who is working as Manager (Actuarial) with the respondent and this aspect was very much part of the Representation (*Annexure P-6*) made by him but it has not been dealt with in the impugned Reply. It is clarified by respondent-Insurance Company's counsel that direction to the respondent vide order of 8th December, 2017 was to spell out as to why petitioner was not eligible for the post in question.

7. Learned counsel for petitioner on instructions submits that if petitioner's actuarial folder which has been blocked since 16th October, 2017 remains blocked for another few days, it would render petitioner ineligible for practising as an Actuary and this will create problems in seeking renewal of '*Certificate of Practice*' as Actuary. It is pointed out by petitioner's

counsel that vide e-mail (*Annexure P-3 Colly*), petitioner had sought unblocking of petitioner's actuarial folder on 18th October, 2017 and also on 9th January, 2018 but there is no response to the said e-mails. It is submitted that appointment of Mr. Puneet Sudan ought to be made subject to the outcome of these proceedings.

8. Upon hearing and on perusal of the material on record, I find that the Reply of 4th January, 2018 (*Annexure P-7*) to petitioner's earlier Representation has not been assailed in this petition and so, it would be appropriate to call upon third respondent to intimate petitioner within two weeks as to why petitioner's application for the post in question has been discarded. Third respondent is required to explain to petitioner as to why petitioner was not considered eligible/suitable for the post in question. It be also made clear to petitioner by third respondent as to why the petitioner's actuarial folder has been blocked and what is the impediment to unblock it. These factual aspects need to be clarified by third respondent within a fortnight and its intimation be given to petitioner within a week thereafter. Such a course is required to be adopted by third respondent, so that petitioner is in a position to effectively assail the appointment of Mr. Puneet Sudan on the post in question.

9. With aforesaid directions, this petition and the application are disposed of with liberty to petitioner to have recourse of law as available, after the factual position is made clear to him by third respondent.

Dasti to counsel for the parties.

(SUNIL GAUR)
JUDGE

FEBRUARY 19, 2018

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