

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11313 of 2015

=====

Yogendra Pandey Son of Late Surendra Pandey, resident of Nandlal Tola in
font of Dharm Nath Soap Factory, Garkha Road, Police Station- Chapra
Town, District- Saran at Chapra

... .. Petitioner/s

Versus

1. The Life Insurance Corporation of India through its Chairman, Mumbai, Maharashtra
2. The Zonal Manager, Life Insurance Corporation of India, 'Jeevan Deep' Building, Fraser Road, Patna
3. The Senior Divisional Manager, Life Insurance Corporation of India, Muzaffarpur Division, Muzaffarpur
4. The Branch Manager, Life Insurance Corporation of India, Chapra Branch-I, Chapra District- Saran at Chapra

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh Mr. Ram Binod Singh
For the L.I.C.		Mr. Rakesh Kumar Mr. Abhimanyu Vatsa

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
DATE : 16-09-2019

The present writ petition has been filed for quashing the order dated 24.04.2015 passed by the Chairman, Life Insurance Corporation of India (hereinafter referred to as the 'L.I.C.'), whereby the memorial preferred by the petitioner herein has been rejected. The petitioner has further prayed for quashing the order dated 19-04-2010 issued under the signature of the Senior Divisional Manager, LIC, Muzaffarpur Division, Muzaffarpur, whereby and whereunder penalty of termination



of agency has been imposed upon the petitioner herein. It is further prayed to quash the order dated 14.01.2011 passed by the appellate authority and thereafter direct the respondent authorities to reinstate the petitioner as Agent of L.I.C. with all consequential benefits.

The brief facts of the case are that the petitioner was appointed as an Agent of L.I.C. on 14.08.1991 by the competent authority under Chapra Branch-1 and was allotted an Agency Code No. 3845/532 within the organization of Shri Ram Naresh Singh, Development Officer bearing Code No. 1054/532. The petitioner is stated to have rendered excellent service for the benefit of L.I.C. and had become a member of the Chairman Club and Chief Insurance Officer. It is the case of the petitioner that while everything was going on smoothly, it appears that an insurance policy of Rs. 1,00,000/- of one Gayatri Devi was done by one Sudhir Kumar Paswan as an Agent of the same Branch on 30.12.2004, whereafter it appears that the said policy holder approached the L.I.C. Agent, namely, Sudhir Kumar Paswan to know about the surrender value of the L.I.C. policy on 30.06.2009, upon the said Agent had gone to the L.I.C. Chapra Branch-1 along with the said policy holder and enquired about the policy status on 30.06.2009. However, it transpired that the



surrender value of the said policy had already been withdrawn vide Cheque/D.D. No. 713267 amounting to a sum of Rs. 1,43,229/- on the basis of fake policy bond and the amount had been encashed by opening a fake account in the name of Gayatri Devi in Oriental Bank of Commerce at Chapra. The said Gayatri Devi had then filed a petition before the Branch Manager/Senior Divisional Manager and others for payment of her amount since she had never surrendered the original policy bond and also had lodged a complaint before the Police leading to registration of an FIR bearing Chapra Town P.S. Case No. 23 of 2010 for the offences under Sections 406/34 of the Indian Penal Code against the officials of the L.I.C., Muzaffarpur Division and Chapra Branch-1. Thereafter, the Senior Divisional Manager, Muzaffarpur Division, Muzaffarpur had issued a show cause notice to the petitioner on 20.03.2010 stating therein that fraudulent surrender under the Policy No. 534382539 of Smt. Gayatri Devi had taken place on 30.06.2009 which was in the knowledge of the petitioner, as per revelations made by the officers of the Branch, hence, since the petitioner had not informed the Branch Management about the fraudulent surrender and had neither advised the said policy holder to register a complaint with the Branch Management regarding the



fraudulent surrender, *prima facie*, the L.I.C. was of the opinion that the involvement of the petitioner in the fraudulent surrender of the policy under reference was established, hence the petitioner had acted in a manner prejudicial to the good conduct and detrimental to the interest of the Corporation and had also displayed lack of integrity and devotion as an Agent of the Corporation. The petitioner had then submitted detailed reply to the said show cause notice dated 03.04.2010 denying the allegation levelled against him about him having knowledge about the fraudulent surrender of the policy in question. The Senior Divisional Manager, L.I.C., Muzaffarpur, had then by the impugned order dated 19.04.2010, imposed the penalty of termination of agency of the petitioner herein under Rule 16(1) (a) and 16(1)(b) of the L.I.C. of India (Agents) Regulations, 1972 as well as had ordered for forfeiture of renewal commission payable to him, upon finding the show cause reply submitted by the petitioner to be unsatisfactory. The petitioner had then filed an appeal under Rule 20 of the Rules before the Zonal Officer on 19.05.2010 and the same was rejected by the impugned order dated 14.01.2011 on the ground that as per the enquiry report dated 08.03.2010, submitted by the Divisional Officer, Muzaffarpur, the petitioner herein and Shri Sudhir



Kumar Paswan had represented the case of surrender of the said policy and had initiated the processing as also both of them were in a hurry to get the policy surrendered to the extent that they had personally taken the related papers from the P.S. Department to the Accounts Department for immediate processing and further in the FIR lodged by the policy holder Smt. Gayatri Devi, the petitioner was a witness to the statement of charges against officials of L.I.C. and he had deliberately stated that the Senior Divisional Manager, Muzaffarpur and other officials were involved in the fraudulent payment resulting in the petitioner intentionally conniving in the fraudulent surrender of policy and making irresponsible statement before the Police resulting in tarnishing the image of the Corporation.

The petitioner, in compliance of the order of this Court dated 05.12.2014 passed in CWJC No. 9132 of 2011 had preferred a memorial before the Chairman-cum-L.I.C. who by the impugned order dated 24.04.2015 has rejected the memorial filed by the petitioner herein on same and similar grounds.

The learned counsel for the petitioner has submitted that Rule 16(1)(a) and Rule 16(1)(b) of the L.I.C. (Agents) Regulations, 1972 provide for termination of agency in case of failure on the part of the Agent to discharge his functions and in



case the Agent acts in a manner prejudicial to the interest of the Corporation or to the interest of its policy holder. However, in the present case a bare perusal of the show cause notice dated 20.03.2010 would show that no proof whatsoever has been brought forward by the respondent L.I.C. to show that either the petitioner was having knowledge about the fraudulent surrender of policy or he had acted in a manner prejudicial to the good conduct and detrimental to the interest of the Corporation or had displayed lack of integrity and devotion towards his duty as an Agent of the Corporation, hence the order impugned i.e. the one dated 19.04.2010 passed by the Senior Divisional Manager, L.I.C., Divisional Office, Muzaffarpur is perverse and fit to be set aside. It is further submitted that a bare perusal of the appellate order dated 14.01.2011 would show that the appellate authority has relied upon the enquiry report dated 08.03.2010 submitted by the Divisional Office, Muzaffarpur, however, a copy of the same has not been supplied to the petitioner herein, hence the appellate order has been passed by taking into consideration extraneous materials, thus the appellate order dated 14.01.2011 is fit to be set aside on the ground that the same has been passed relying on such materials, which were never supplied to the petitioner herein so as to seek his



reply/defence upon the same, thus resulting in violation of the principles of natural justice. It is further submitted that apart from the bald statements, no proof whatsoever has been mentioned/relied upon, either in the original order dated 19.04.2010 or in the appellate order dated 14.01.2011 or in the memorial order dated 24.04.2015, to show that the petitioner had represented the case of surrender of the policy in question and had initiated the processing as also had witnessed the statement of charges against the officials of L.I.C. in the F.I.R. lodged by the policy holder Smt. Gayatri Devi, hence in absence of such proof, the petitioner could not have been held guilty of the charges framed against him and no penalty could have been imposed upon him, hence the appellate order dated 14.01.2011 and the memorial order dated 24.04.2015 are perverse, *de hors* the law of the land and have been passed with vengeance in order to save the skin of the officials of the L.I.C., thus are fit to be quashed. Lastly, it is submitted that none of the officials of L.I.C. based at Muzaffarpur/Chapra Branch have been punished, hence the petitioner could also not have been punished inasmuch as if at all the allegation levelled against the petitioner is accepted to be true, the same would definitely lead to the conclusion that the officials of the L.I.C. are also involved



in the fraudulent surrender and withdrawal of the policy amount. In any view of the matter, it is submitted that the trial court has acquitted the accused persons in the case arising out of Chapra Town P.S. Case No. 23 of 2010.

Per contra, the learned counsel for the respondent L.I.C. has submitted that the L.I.C. has followed the proper procedure required to be followed for the purposes of imposing penalty upon the petitioner herein and only after issuance of a show cause dated 20.03.2010 and seeking the reply of the petitioner herein as also after considering the same, the impugned order of punishment of termination of agency of the petitioner herein has been passed on 19.04.2010. It is further submitted that similarly the appellate orders dated 14.01.2011 and 24.04.2015 are also well reasoned orders and do not require any interference by this Court. Lastly, it is submitted that it is an admitted position that petitioner had connived with another agent namely Sudhir Kumar Paswan and the petitioner was having knowledge that fraudulent surrender of policy was being made, hence, it was incumbent upon him to have informed the Branch Office so that payment could have stopped in time.

I have heard the learned counsel for the parties and



perused the materials on record. This Court finds from the record that no proof whatsoever has been produced on record of this case to show that the petitioner was having knowledge about the fraudulent surrender of the policy in question and the fact is that the entire proceeding in question has proceeded on a purely hypothetical basis. Similarly, there is no material on record to show that the petitioner was witness to the statement of charges against the officials of L.I.C. in the FIR lodged by the policy holder Smt. Gayatri Devi. This Court is further of the view that in absence of supply of the enquiry report dated 08.03.2010, submitted by the Divisional Office, Muzaffarpur, the appellate authority could not have relied upon the same for the purposes of passing the impugned order dated 14.01.2011. A bare perusal of the counter affidavit filed by the respondent L.I.C., especially paragraph-10 thereof, would show that it has been admitted by the respondent L.I.C. that Sudhir Kumar Paswan was the person who had earlier booked the policy and had then made available the surrender quotation to the said Smt. Gayatri Devi and thereafter, he had initiated the processing of surrender of policy and had fraudulently got issued a cheque on 30.06.2009. Thus, it is clear that the Agent in question, who had facilitated the grant of policy to Smt. Gayatri Devi as also



the Agent who had encashed the same by fraudulent surrender of the said policy was the said Shri Sudhir Kumar Paswan, as has been stated in the counter affidavit filed by the respondent L.I.C. I further find that the writ petitioner in paragraph no. 43 of the writ petition has stated that the petitioner was not having any knowledge about the said fraudulent surrender of policy, hence there was no occasion to inform the Branch Manager, however, no proof has been brought forth either in the counter affidavit filed before this Court or in the show cause notice dated 20.03.2010 or in the order of punishments/appellate order/memorial order to show that the petitioner was having knowledge about the fraudulent surrender of policy in question. This Court further finds that no proof has been brought on record by the respondent L.I.C. to show that the petitioner had been a witness to the statement of charges against the officials of L.I.C. in the F.I.R. filed by Smt. Gayatri Devi. Thus, this Court is of the view that the ingredients necessary for terminating the agency of the Agent, as required under Regulation 16(1)(a) & (b), are clearly missing in the present case, hence the order of punishment dated 19.04.2010 is illegal and it to be set aside. Similarly, the appellate order dated 14.01.2011 and the memorial order dated 24.04.2015 are also



illegal and liable to be quashed. This Court further finds that the respondent L.I.C. authorities have proceeded in the matter of imposing punishment upon the petitioner herein on hypothetical basis as also the entire action of the respondent L.I.C. vis-à-vis petitioner herein is fraught with surmises and conjectures. This Court further finds that the principles of natural justice have not been complied with inasmuch as neither the enquiry report dated 08.03.2010 submitted by the Divisional Office, Muzaffarpur has been made available to the petitioner herein nor the proof on which reliance has been placed for the purposes of holding the petitioner guilty, has been furnished to the petitioner herein, hence, on this ground as well, the punishment orders are liable to be set aside. Last but not the least, the criminal proceeding initiated by the aforesaid Smt. Gayatri Devi vide Chapra Town P.S. Case No. 23 of 2010 has also come to a naught inasmuch as the learned Court of Judicial Magistrate- 1st Class, Chapra at Saran by the judgment dated 18.07.2018 has acquitted the accused persons (officials of the respondent L.I.C.) and in the said judgment, it has been recorded that though the petitioner was sought to be produced as P.W. 1 but he had turned hostile, meaning thereby that admittedly the petitioner had not acted in a manner prejudicial



to the interest of the Corporation, thus it cannot be said that the petitioner had engaged in tarnishing the image of the respondent Corporation.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the writ petition stands allowed and the order dated 19.04.2010 passed by the Senior Divisional Manager, Divisional Office of the L.I.C. at Muzaffarpur, the appellate order dated 14.01.2011 passed by the Zonal Manager, L.I.C., East Central Zone, Patna and the memorial order dated 24.04.2015 passed by the Chairman of the L.I.C. are quashed and it is directed that the renewal commission payable to the petitioner, as forfeited by the respondent L.I.C. be paid forthwith to the petitioner herein.

It is needless to state that as a result of quashing of the impugned orders dated 19.04.2010, 14.01.2011 and 24.04.2015, the petitioner would be entitled to all consequential benefits.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.10.2019
Transmission Date	

