

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P. No. 40663 of 2015

and

M.P. No. 1 of 2015

1.M.Indhumathi

2.Y.Malliga

... Petitioners

Vs.

1. The Chairman
Life Insurance Corporation of India
Mumbai - 8.

2. The Manager
P&IR Department
Life Insurance Corporation of India
Chennai Divisional Office II,
C-47, II Avenue, Anna Nagar Plaza
Anna Nagar, Chennai - 40.

... Respondents

Prayer :: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, directing the respondents, calling for records relating to the 2nd respondent's proceedings in P&IR/DO II dated 18.05.2015 and that of the 2nd respondent's proceedings in P&IR/DO II dated 03.07.2015 to quash the same, and to consequently direct the respondents to forthwith consider the claim of the first petitioner for appointment on compassionate ground to any eligible /suitable post.

For Petitioners :Mr.L.Chandrakumar

For Respondents :Mr.D.Muthukumar [For R1 & R2]

O R D E R

The petitioners are aggrieved against the proceedings of the second respondent dated 18.05.2015 and 03.07.2015, wherein and whereby, the request of the petitioners to appoint the first petitioner on compassionate appointment was rejected on the reason that she has crossed the upper age limit of 30 years for considering such appointment, as contemplated under the relevant

Recruitment Instructions, namely, LIC of India Recruitment (of Class II and Class IV Staff) Instructions, 1993.

2. Heard Mr.L.Chandrakumar, learned counsel for the petitioners and the learned counsel appearing for the respondents-Corporation.

3. It is seen that the first petitioner's father and the second petitioner's husband by name Yasothkumar was working as Assistant in the respondents-Corporation and died on 28.12.2014, while he was in service. Consequently, the petitioners made a representation to the second respondent on 05.05.2015 for considering the first petitioner to be appointed in any suitable post on compassionate ground. The said application was rejected by the impugned order dated 18.05.2015 stating that the upper age limit for compassionate appointment is 30 years and therefore, the respondents-Corporation was unable to consider the request. Again, the petitioners made one more representation on 15.06.2015 and the same was once again rejected on 03.07.2015 stating the very same reason.

4. Mr.L.Chandrakumar, learned counsel for the petitioners submitted that while considering the claim for compassionate appointment, the respondents are not entitled to stick on to the upper age limit owing to the necessity exists in the family. Therefore, he submitted that the first respondent-Chairman can exercise his discretion and relax the upper age limit further.

5. On the other hand, the learned counsel appearing for the respondents-Corporation relied on the Life Insurance Corporation of India Recruitment (of Class III and Class IV Staff) Instructions 1993, more particularly, instruction 21, which deals with the relaxation in favour of near relatives of an employee, who dies while in service or retires at least 5 years prior to the date of superannuation. He also relied on the decision of the Apex Court reported in (1994) 2 Supreme Court Cases 718 in support of his contention that Courts cannot order appointment on compassionate grounds dehors the provisions of statutory regulations and instructions.

6. Heard both sides.

7. It is seen that the first petitioner's father and the second petitioner's husband while in service at the respondents-Corporation died on 28.12.2014. It is further seen that an application for appointing the first petitioner on compassionate ground was made by the petitioners on 05.05.2015. Admittedly, the first petitioner was 33 years old even at the time of making such application.

8.Perusal of the above said instructions would show that the upper age limit fixed in favour of near relatives of an employee, who dies while in service is 30 years, in the case of sons and unmarried daughters and 45 years in case of spouse. If that being the instructions governing the compassionate appointment, I do not think that the petitioners can seek appointment of the first petitioner contra to the above said instructions, as admittedly the first petitioner has crossed the upper age limit of 30 years. It is seen that under similar circumstances, the Hon'ble Supreme Court in Life Insurance Corporation of India Vs. Asha Ramchandra Ambedkar and another reported in (1994) 2 Supreme Court Cases 718 has observed that the appellant Corporation being a statutory Corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and Instructions and they cannot be put aside and compassionate appointment be ordered.

8.Under the above stated facts and circumstances, this Court is not in a position to consider the claim of the petitioners to interfere with the impugned proceedings, since such rejection was made solely based on the above said instructions, which are binding on the respondents-Corporation.

9.Accordingly, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

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To

Sub Assistant Registrar

1. The Chairman
Life Insurance Corporation of India, Mumbai - 8.
2. The Manager
P&IR Department
Life Insurance Corporation of India
Chennai Divisional Office II,
C-47, II Avenue, Anna Nagar Plaza
Anna Nagar, Chennai - 40.

+1 cc to Mr.D.Muthukumar, Advocate, S.R.No.23306

+1 cc to Mr.L.Chandrakumar, Advocate, S.R.No.23471

W.P.No.40663 of 2015

GJ-II(CO)

SSM(05/04/2019) .