



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.1319 of 2016

and

WMP (MD) Nos.1089 and 1090 of 2016

R. Parthasarathy

... Petitioner

Vs.

1. The Regional Manager (P & IR),
Life Insurance Corporation of India,
South zone,
P.Box No.2450,
153, Anna Salai,
Chennai -2.

2.The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office,
"Jeevan Prakash" Bridge Station Road,
P.B. No.16, Sellur,
Madurai - 625 002.

... Respondents

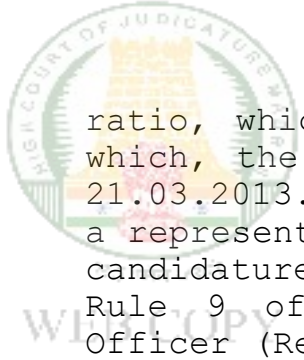
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent in connection with the order passed by him in Ref.No.P & IR, dated 20.11.2015 and quash the same and direct the respondents to consider the case of the petitioner for re-appointment under Rule 9 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and re-appoint the petitioner with effect from the date of request made by him vide his representation dated 10.04.2013 with all monetary and service benefits.

For Petitioner : Mr.D.Selvanayagam
For R1 & R2 : Mr.G.Prabhu Rajadurai

ORDER

This Writ Petition has been filed to quash the order passed by the 2nd respondent, dated 20.11.2015 and consequently, direct the respondents to consider the representation of the petitioner, dated 10.04.2013 and re-appoint him.

2.The case of the petitioner is that he was appointed as Development Officer in the LIC of India and after initial training, he was posted at Palayamkottai Branch in the year 2002 and he was confirmed by order dated 21.04.2004. Thereafter, at his request, he was transferred to Palani Branch. While so, because of the family problem and medical issues, he was unable to maintain the cost



ratio, which resulted in an ultimatum from the Corporation, due to which, the petitioner was terminated from service with effect from 21.03.2013. Taking into account his poor financial position, he made a representation dated 10.04.2013 to the respondents to consider his candidature for reemployment in Class-II/Class-III category under Rule 9 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules, 2009. Finding no response on the said representation, he filed WP (MD).No.16120 of 2015. When the said writ petition was taken up for hearing, the learned Standing Counsel, who appeared for the respondents fairly submitted that the case of the petitioner would be considered for re-employment within a period of two months. Recording the same, the said Writ Petition was disposed of by this Court, vide order dated 04.09.2015. Pursuant to the said order, the petitioner was called for interview. However, by the impugned proceedings dated 20.11.2015 sent by the 2nd respondent, it was informed to the petitioner that his case for re-employment has not been found possible. Aggrieved over the same, the petitioner has come up with the present writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, *inter alia* stating at paragraph 9 as follows:

"I submit that the appointment of the petitioner as an Assistant is not automatic but conditional that he satisfies the Committee constituted to assess his suitability must satisfy itself about the petitioner's suitability to the post. Unfortunately, the petitioner is found unsuitable and this fact was communicated to the petitioner and so the petitioner's representation is devoid of merits."

4. The learned counsel appearing for the petitioner submitted that without assigning any reason, the second respondent issued the impugned communication and hence, the same is liable to be set aside.

5. Though the respondents averred many things in the counter affidavit filed by them, the learned counsel appearing for the respondents fairly conceded the submission so made by the learned counsel for the petitioner that no reason was adduced in the impugned communication issued by the second respondent with regard to the rejection of the petitioner's case for re-employment.

6. After hearing both sides and upon perusal of the documents filed in the form of typed set of papers, it is evident that the second respondent, without assigning any reason, has rejected the case of the petitioner for re-employment, vide communication dated 20.11.2015, which is impugned herein. For better appreciation, the contents of the impugned communication run thus:

"This has reference to your application dated 28.09.2015 and the interview held on 05.11.2015 in connection with the above."



We regret to inform you that it has not been found possible to consider your case for re-appointment as Assistant in Class III Cadre."

7. This Court is of the opinion that reason is the heartbeat of every conclusion; it introduces clarity in an order and without the same, it becomes lifeless; reasons substituted subjectivity by objectivity; and absence of reasons renders the order indefensible/unsustainable particularly when the order is subjected to further challenge before a Higher Forum.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court has no other option except to set aside the impugned communication and remand the matter for disposal afresh by a speaking order.

9. Accordingly, this writ petition stands allowed by setting aside the impugned communication issued by the second respondent, dated 20.11.2015. The matter is remanded back to the second respondent for passing afresh order, with regard to consider the case of the petitioner for re-employment, after granting sufficient opportunity of hearing to him, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Regional Manager (P & IR),
Life Insurance Corporation of India,
South zone,
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2. The Senior Divisional Manager,
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"Jeevan Prakash" Bridge Station Road,
P.B. No.16, Sellur, Madurai - 625 002.

+1 CC to M/s.D.SELVANAYAGAM, Advocate SR-61652.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate SR-61684.

WP (MD) No.1319 of 2016
22.04.2019

CS: (04/06/2019) 3P 5C