

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6137 of 2020

Amrendra Kumar Ojha, male, aged about 53 years, S/o Late Hari Ganesh Ojha, Resident of Vill-Murthan, P.O.-Parmanandpur, P.S.-Sonepur, District Saran (Chhapra) Bihar at present residing at K-107, Peoples Cooperative Colony, P.O.-Lohiya Nagar, Kankarbagh, Patna-800020 working as a Stenographer in the office of the Principal, Sales Training Centre, "Jeevan Prakash", Fraser Road, Patna.

... .. Petitioner

Versus

1. The Life Insurance Corporation of India through its Chairman, "Yogashema", Central Office, Jeevan Bima Marg, Mumbai-400021.
2. The Zonal Manager, Life Insurance Corporation of India, East Central Zone, "Jeevan Deep", Exhibition Road, Patna-800001.
3. The Sr. Divisional Manager, Life Insurance Corporation of India, Patna Division-1, "Jeevan Prakash", Fraser Road, Patna-800001.
4. The Union Home Secretary, Govt. of India, Ministry of Home Affairs, North Block, New Delhi-110001.
5. Chief Labour Commissioner, Govt. of India, Ministry of Labour and Employment, New Delhi-110001.
6. The Secretary (Labour), Govt. of India, Ministry of Labour and Employment, New Delhi-110001.
7. The Regional Labour Commissioner-cum-the Regional Nodal Officer, COVID-19 Control Room, Mourya Lok Complex, Patna-800001.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Amrendra Kumar Ojha (In Person)
For the Resp Nos. 4, 5 & 6	:	Mr. Radhika Raman, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 02-06-2020

This matter has been taken up for hearing through video conference. The petitioner appearing in person undertakes that all defects shall be removed without delay immediately after the lockdown ends, and in any event within one month thereof. Learned counsel for the respondents states that he has no objection if the defects are removed as



proposed and the matter be taken up on merits in view of the stated urgency.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition --

“i) For issuance of appropriate writ/writs, rule/rules, direction/directions to the concerned Respondents, restraining them from the implementation of the order of penalty dated 21st day of March, 2020 imposed by the Respondent No. 3 and served to the petitioner on 24th day of April, 2020 during the period of pendency of the COVID-19 pandemic under which the Union Home Secretary has issued an order to all the employers of this country, be it in the industry or in the shops and commercial establishment, shall make payment of wages of their workers, at their work places on the due date, without any deduction for the period their establishment are under closure during the lockdown;

ii) For issuance of appropriate writ/writs, rule/rules, direction/directions in the nature of mandamus commanding the concerned respondents for vitiating the order of penalty dated 21st day of March, 2020 passed by the Respondent No. 3 and served to this petitioner on 24th day of April, 2020 during the pendency of the interim order dated 05.02.2020 passed by this Hon'ble Court in the matter of MJC Application No. 4940 of 2019;



iii) For issuance of appropriate direction/directions to the Respondent No. 4 to direct the Respondent No. 1 to take the actions and to enquire into the matter against the Respondent No. 3 for his whimsical action, prejudicial mind and biased attitudes, misuse of his powers and imposed the penalty by way of violating the orders dated 29.03.2020 issued by the Union Home Secretary, Government of India, Ministry of Home Affairs, under the Disaster Management Act, 2005 and the interim order dated 05.02.2020 passed by the Hon'ble Court; and

iv) For grant of other relief or reliefs to which the petitioner may be entitled to on the facts and circumstance of the case or as this Hon'ble Court may deem fit."

3. The petitioner was appointed as a stenographer in the Life Insurance Corporation of India (hereinafter referred as Corporation) on 11.09.1991, and since then he has been performing his service. By order dated 21.03.2020 passed by Sr. Divisional Manager, Life Insurance Corporation of India (Respondent No. 3), a penalty of "Reduction by two stages in time scale of pay applicable to his cadre" has been imposed on the petitioner in terms of Regulation 39(1)(d) of the Life Insurance Corporation of India (Staff) Regulations, 1960. The petitioner states that the order of penalty has been passed on 21.03.2020 and served subsequently on 24.04.2020 during



the Covid-19 pandemic. It is stated that he is not being paid his full salary in contravention of the letter No. 40-3/2020-DM-1(A) dated 29.03.2020 (Annexure-2) issued by Union Home Secretary, Government of India (Respondent No. 4) in his capacity as Chairperson National Executive Committee in exercise of powers under Section 10(2)(l) of the Disaster Management Act, 2005. The said letter directs, *inter alia*, that no deduction of wages be made for the period the establishment is under closure during the lockdown. The petitioner has filed an appeal-cum-complaint dated 29.04.2020 against the aforesaid order of penalty dated 21.03.2020 before the Zonal Manager, Life Insurance Corporation of India, East Central Zone (Respondent No. 2). The petitioner has also filed complaints before various authorities complaining against such deduction from his salary, but to no avail.

4. Learned counsel for the respondent nos. 4, 5 and 6 appears and has been heard.

5. At the outset itself, this Court takes note that the petitioner has not questioned the validity of the order of penalty dated 21.03.2020, rather the main grievance raised in the present writ petition is for restraining the respondents from implementing the said order of penalty. In that view of the matter, this Court would not entertain the submissions



sought to be made on merits of the order of penalty, more so, when an appeal-cum-complaint dated 29.04.2020 has admittedly been filed by the petitioner before the Zonal Manager, Life Insurance Corporation of India (Respondent No. 2) and is pending. The petitioner also claims to have filed several complaints before various authorities against the deduction being made from his salary pursuant to the order of penalty, on the ground that such deduction is contrary to the spirit of the order dated 29.03.2020 issued by the Union Home Secretary, Government of India (Respondent No. 4) in exercise of powers under Section 10(2)(l) of the Disaster Management Act, 2005. It needs to be borne in mind that such order has been issued for the effective implementation of the lockdown measures and to mitigate the economic hardship of migrant workers.

6. In the above circumstances, this Court is of the view that the ends of justice will be met by granting liberty to the petitioner to file a fresh representation/complaint before Chief Labour Commissioner, Government of India, Ministry of Labour and Employment, New Delhi (Respondent No. 5) within a period of one week from today, which if so filed, shall be considered and disposed of on its own merits in accordance with law and after grant of an opportunity of hearing to the petitioner, expeditiously and in any event



within a further period of four weeks from the date when the representation/complaint is filed.

7. It is made clear that in view of the ongoing lockdown and Covid-19 pandemic, any correspondence between the parties may be made through email and that the concerned authority shall be at liberty to hear the petitioner through video conference. To enable the same, the petitioner shall furnish his mobile number and e-mail ID to Mr. Radhika Raman, learned counsel appearing on behalf of respondent nos. 4, 5 and 6, not later than by Thursday, i.e. 04.06.2020, for its onward transmission to the concerned authority.

8. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	03.06.2020
Transmission Date	-

