

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.495 of 2020
and W.M.P No.577 of 2020

K.Palanisamy

... Petitioner

vs.

The Zonal Manager,
South Zone Office,
Life Insurance Corporation of India,
Chennai - 600 002.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to consider the petitioner representation dated 13.11.2019 within stipulated time fixed by this Court.

For Petitioner : Ms.T.Madhumitha

For Respondent : Mr.C.K.Chandrasekar

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondent to consider the representation made by the petitioner on 13.11.2019 and take a decision within the time stipulated by this Court.

2.The case of the petitioner is that he is an LIC Agent who has been working as a LIC Agent from the year 2002 onwards. The petitioner was entitled to participate in the selection to the post of Apprentice Development Officer. The respondent Corporation issued a notification on 20.05.2019 inviting applications from candidates to participate in the selection to the said post. The petitioner had also applied for the selection.

3.As per the notification issued by the respondent, there is a specific Clause dealing with Biometric Data-Capturing and Verification. The relevant clause in the notification is extracted hereunder:

14. BIOMETRIC DATA-CAPTURING AND VERIFICATION:

- a) The Biometric data (right thumb impression or otherwise) and photograph of the candidates will be captured and verified during the process of recruitment on the following stages:
 - i. Before the start of the Preliminary/Online examination
 - ii. At the time of entry and exit during main examination
 - iii. At the time of document verification before the interview
 - iv. At the time of reporting for the training
- b) Decision of the Biometric data verification authority with regard to its status (matched or mismatched) shall be final and binding upon the candidates.
- c) Refusal to participate in the process of biometric data capturing/verification on any of the above mentioned occasions may lead to cancellation of candidature.
- d) If fingers are coated (stamped ink/mehandi/coloured etc), ensure to thoroughly wash them so that coating is completely removed before the exam / interview / joining day.
- e) If fingers are dirty or dusty, ensure to wash them and dry them before the finger print (biometric) is captured.
- f) Ensure fingers of both hands are dry. If fingers are moist, wipe each finger to dry them.
- g) If the primary finger (right thumb) to be captured is injured/damaged, immediately notify the concerned authority in the test centre. In such cases impression of other fingers, toes etc may be captured.
- h) Please note that apart from the occasions mentioned above, LIC reserves the right to capture/verify biometric data of candidates at other stages as well.

4. It is clear from the above notification that the biometric data (Right thumb impression) and photograph of the candidates will be captured and verified during every stage in the process of recruitment. In satisfaction of the said requirements, the photograph and the right hand thumb impression of the petitioner was also captured.

5.The petitioner appeared for the written examination on 11.08.2019. At that point of time, both his photograph and biometric data were properly identified/verified and the petitioner appeared for the written examination and cleared the same. Thereafter, the petitioner was called to attend the interview on 07.12.2019. During the interview, the biometric data was tested and the device showed "Not Verified". The petitioner tried several times to scan his right hand thumb impression, but, it was unsuccessful right through. Therefore, the petitioner was disqualified from attending the interview by virtue of Clause 14 of the notification.

6.The petitioner gave a representation to the respondent to consider the candidature of the petitioner on the ground that the petitioner has been working as an Agent for a very long time in the LIC and this may be the last chance for the petitioner to participate in the selection to the post of Apprentice Development Officer considering the age of the petitioner. This representation was kept pending and no decision was taking by the respondent. Therefore, the present petition has been filed before this Court.

7.This Court while issuing the interim order had directed the respondent to keep one post vacant.

8.The learned counsel appearing on behalf of the respondent submitted that the notification specifically stated that the biometric must tally at every stage of selection and even if it does not tally at one stage, the respondent cannot continue with the process of selection for the concerned candidate and it has to be rejected. The learned counsel further submitted that the selection process is over and the postings also have been given. Therefore, the learned counsel concluded his arguments and submitted that the directions can be given to the respondent to consider the representation made by the petitioner.

9.The learned counsel for the petitioner submitted that the relevant Clause in the notification talks about both the photograph and the biometric data and both must tally at every stage of the selection. Therefore, the learned counsel submitted that there is no dispute with regard to the photograph of the petitioner and for some unknown reason, the biometric data alone did not tally at the time before interview. The learned counsel submitted that the biometric data tallied at the time when the petitioner attended the written examination. The learned counsel further submitted that the machine could not have verified the biometric data even due to some fault in the machine and the same cannot be put against the petitioner. The learned counsel

concluded her arguments and submitted that, even now there are eight posts vacant and the respondent can consider the representation made by the petitioner and take a decision.

10.This Court has carefully considered the submissions made on either side and also the materials available on record.

11.The notification stipulates that both the Photograph and the Biometric data must be identified at every stage of selection. This is only to ensure that there is no impersonation at the time of selection. The photograph and the biometric data of the petitioner matched at the time of written examination. However, before interview, the biometric data did not match and it showed as "Not Verified". According to the petitioner, this could be even due to some fault in the machine. Under such circumstances, it is possible for the respondent to verify if the photograph tallies and a decision can be taken in that regard. The petitioner has made a representation to the respondent on 13.11.2019 and the same is pending before the respondent.

12.In view of the above, this Court does not want to take a decision regarding the claim made by the petitioner and the same is left open to the respondent to take a decision based on the representation made by the petitioner. The respondent shall consider the representation dated 13.11.2019 made by the petitioner and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order.

13.This writ petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To
The Zonal Manager,
South Zone Office,
Life Insurance Corporation of India,
Chennai - 600 002.

+2cc to Ms.T.Madhumitha, Advocate Sr.11927
+1cc to Mr.C.K.Chandrasekhar, Advocate Sr.11734

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rsk[co]
srg 19/02/2020