

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 25.03.2021

Judgment Delivered on : 27.04.2021

Coram:

THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.313 of 2019

K.Bhaskar ... Appellant/Petitioner

Vs.

1. The Life Insurance Corporation of India,
Central Office, Yogakshema,
Jeevan Bima Marg, Mumbai-400 021.
Represented by the Chairman,
Life Insurance Corporation of India.
2. The Managing Director,
Life Insurance Corporation of India,
Central Office, Yogakshema,
Jeevan Bima Marg, Mumbai-400 021.
3. The Executive Director (Personnel),
Life Insurance Corporation of India,
Central Office, Yogakshema,
Jeevan Bima Marg, Mumbai-400 021.
4. The Zonal Manager,
Life Insurance Corporation of India,
South Central Zonal Office,
Opp. Secretariat, Saifabad,
Hyderabad.
5. The Zonal Manager,
Life Insurance Corporation of India,
Zonal Office, LIC Building,
153, Anna Salai, Chennai-600 002.

.. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 26.10.2018 passed by the learned Single
Judge, in W.P.No.5521 of 2013 on the file of this Court.

Prayer in WP.No.5521/2013:

Writ of Mandamus, directing the 1st Respondent to promote him as Senior Divisional Manager/Deputy Zonal Manager from the year 2006 and to give promotion with retrospective effect from the years 1992 in the Cadre of Administrative Officer 1996 as Assistant Divisional Manager 2002 as Divisional Manager and all promotions with consequential benefits.

For appellant : Mr.C.Deivasigamani

For respondents: Mr.C.K.Chandrasekar

JUDGMENT

R.SUBBIAH, J

This Writ Appeal had been filed as against the order dated 26.10.2018 passed by the learned Single Judge, in Writ Petition in W.P.No.5521 of 2013 on the file of this Court.

2. The said Writ Petition was filed praying for issuance of a Writ of Mandamus to direct the first respondent to promote the appellant/writ petitioner as Senior Divisional Manager/Deputy Zonal Manager from the year 2006 and to give promotion with retrospective effect from the years 1992 in the cadre of Administrative Officer, 1996 as Assistant Divisional Manager, 2002 as Divisional Manager and all promotions with consequential benefits.

3. The appellant is a Post-Graduate possessing M.Sc., M.Phil. He joined the respondent-Life Insurance Corporation (LIC) as a direct recruit Assistant Administrative Officer of the 16th Batch on 02.03.1988 and he was due to retire on superannuation on 31.08.2018 without pensionary benefits. He had secured 18th place in the selection list of that batch of direct recruit officers and had been one among 43 candidates who secured highest marks in the attitude test conducted by the respondents-LIC. He was also one among the two Scheduled Caste candidates in the merit list of 43 candidates. All his batch mates are in Deputy Zonal Manager Cadre/Senior Divisional Manager cadre, but he is working as Manager for no fault of his. He had not been informed as to why he had not been promoted, even though his juniors were promoted by-passing him. He had not been promoted during the periods 1992, 1993, 1994 (AO Cadre) and 2002, 2003, 2004, 2005, 2006 (ADM Cadre) and 2012 (DM Cadre) respectively. He lost his promotion year after year over the years. He had sought all copies of his Annual Confidential Reports (ACR) since his entry from 1988 to 31.03.2012 under the Right to Information Act and on his appeal, the first appellate authority/Managing Director of the respondents-LIC furnished all

copies of his ACR since his entry as a direct recruit officer and received all copies of ACR on 12.09.2012.

4. It is the further case of the appellant/writ petitioner that he came to know of the adverse remarks, entries in the ACR from 1988 to 2012 only after receiving the reports through the said Act on 12.09.2012. He appealed to the Chairman of the respondents-LIC against his non-elevation to the posts of AO, ADM, DM cadres in 1992, 1993, 1994 (AO Cadre) and 2002, 2003, 2004, 2005, 2006, 2007 (ADM Cadre) and 2012 (DM cadre) respectively. But there was no response. Hence, he has filed the instant Writ Petition for the relief stated supra.

5. The respondents/LIC filed counter affidavit before the Writ Court denying the averments made by the appellant/writ petitioner.

6. The learned Single Judge had dismissed the said Writ Petition after hearing both sides by observing that the promotion can never be claimed as a matter of legal right, however, consideration for promotion is a fundamental right of an employee.

7. The learned counsel appearing for the appellant/writ petitioner submitted that, whatever be the grade or status given, the adverse remarks must have been communicated to the employee, as laid down by the Supreme Court in a catena of decisions.

8. The learned counsel for the appellant/writ petitioner further submitted that, the promotion had been denied to the appellant not based on seniority, but on merits and suitability, as adjudged in the ACRs. Since the question of seniority had not been raised in the Writ Petition, it is not necessary to implead the other persons who have been promoted, in the Writ Petition, as contended by the respondents-LIC. The appellant/writ petitioner retired as Assistant Divisional Manager. Since the appellant/writ petitioner had attained superannuation, he may be promoted notionally to get pensionary benefits from the date of denial of promotion to respective date of promotion to the appropriate cadre at right time. Thus, the learned counsel for the appellant/writ petitioner prayed to allow the Writ Appeal.

9. On behalf of the respondents-LIC, the learned counsel submitted that the posts of Senior Divisional Manager/Deputy Zonal Manager and the Divisional Manager are selection posts. In fact, the appellant/writ petitioner had already been promoted upto the post of Divisional Manager. He was subjected to the selection process and promoted upto the post of Divisional Manager. It is further submitted by the learned counsel

appearing for the respondents/LIC that the claim of the appellant/writ petitioner for promotion with retrospective effect from the year 1992, cannot be granted, in the absence of any Rules to that effect. Thus, the learned counsel appearing for the respondents/LIC prayed for dismissing the Writ Appeal.

10. Heard both sides and perused the materials available on record.

11. We find that the post of Senior Divisional Manager, Deputy Zonal manager and the Divisional Manager are selection posts and the selection is by way of selection process. The appellant/writ petitioner cannot claim a right over the same as a matter of legal right to promote him to the said post(s). From 1992, he has been keeping quiet and he filed the Writ Petition only in 2013, i.e. 5 years before his retirement.

12. Considering the facts and circumstances of the case, the learned Single Judge has correctly dismissed the Writ Petition based on well-considered reasons assigned therein and the same does not call for any interference by this Court, as there is no infirmity or perversity in the same.

13. The Writ Appeal is therefore dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

CS

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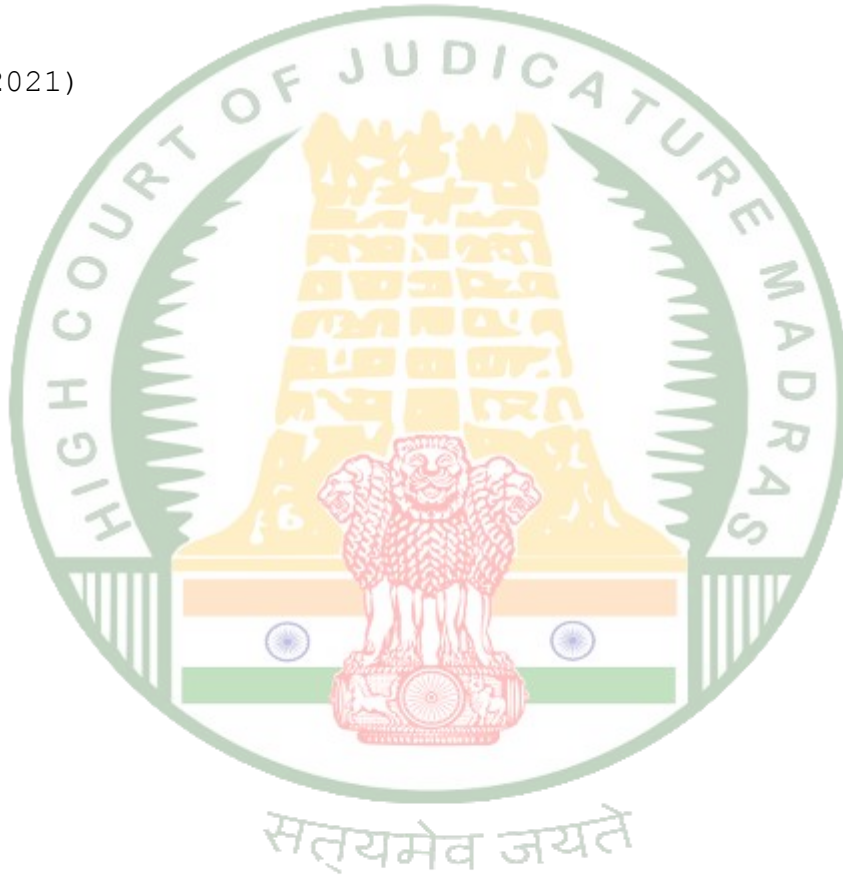
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