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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.30101 OF 2019

AND

W.M.P.NO.30046 OF 2019

A.Pichandi

... Petitioner

-vs-

1. Life Insurance Corporation of India,
Rep. by its Chairman,
Central Office, Jeevan Bima Marg,
Mumbai - 400 021.
2. The Executive Director (Personnel),
Life Insurance Corporation of India,
Central Office, Jeevan Bima Marg,
Mumbai - 400 021.
3. The Zonal Manager,
Southern Zone, LIC of India,
Zonal Office, LIC Buildings,
Anna Salai, Chennai - 600 002.
4. The Senior Divisional Manager,
LIC of India,
Divisional Office-1,
Anna Salai, Chennai - 600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, declaring that the recruitment process initiated by the Fourth Respondent through advertisement dated 17.09.2019 for the post of Assistant without first absorbing the Petitioner as employee, is illegal, arbitrary, null and void.

For Petitioner : Mr.A.Thayaparan

For Respondents : Mr.C.K.Chandrasekhar



O R D E R

Heard Mr.A.Thayaparan, Learned Counsel for the Petitioner and Mr.C.K.Chandrasekar, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has challenged the advertisement dated 17.09.2019 published by the Fourth Respondent inviting applications for the post of Assistants contending that the same could not be made without first appointing the Petitioner in terms of the decision of the Hon'ble Supreme Court of India in Tamil Nadu Terminated Full Time Temporary LIC Employees Association -vs- Life Insurance Corporation of India and others [(2015) 9 SCC 62].

3. It has been brought to notice by Learned Counsel for both sides that a Larger Bench of the Hon'ble Supreme Court of India in Ranbir Singh -vs- SK Roy, Life Insurance Corporation of India (Order dated 27.04.2022 in Miscellaneous Application No. 1150 of 2019 in Contempt Petition (Civil) No. 1921 of 2017 in Civil Appeal No. 6950 of 2009) has considered the divergent views expressed in the earlier decisions and has passed the following order:-

"74. The position as it now stands, results in a palpable conflict between the two judge Bench decision in TN Terminated Employees Association (supra) dated 18 March 2015 on the one hand and the earlier binding decision of a larger Bench in E Prabavathy (supra) on 23 October 1992 and of subsequent Benches. This conflict must be harmonised by taking recourse to the jurisdiction of this Court under Article 142 of the Constitution. In arriving at a conclusion, this Court finds that:

(i) The remit of the CGIT which resulted in the Dogra Report was confined to the process of verification, as distinct from an adjudication of rights and liabilities;

(ii) The Dogra Report is flawed because:

(a) The report failed to carry out an accurate verification of only those Class III workers who had put in at least 85 days of work in a period of two years and Class IV workers who had put in 70 days of work in a period of three years;



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(b) The lists which are appended to the report contain patent inconsistencies and errors as a consequence of a failure to carry out an adequate verification; and

(c) The report accepted the claims for absorption of those workers who were specifically governed by the decision of this Court in E Prabavathy (supra), in spite of an express stipulation to the contrary in the order of this Court dated 23 October 1992 as well as in paragraph 75 of the Srivastav Award;

(iii) A public employer such as LIC cannot be directed to carry out a mass absorption of over 11,000 workers on such flawed premises without following a recruitment process which is consistent with the principles of equality of opportunity governed by Articles 14 and 16 of the Constitution. Such an absorption would provide the very back-door entry, which negates the principle of equal opportunity and fairness in public employment, which has been specifically decried by this Court in Secretary, State of Karnataka v. Umadevi.

75. The dispute is now of an antiquity tracing back to nearly four decades. Finality has to be wrung down on the dispute to avoid uncertainty and more litigation. Nearly thirty-one years have elapsed since 1991. We have come to the conclusion that the claims of those workers who are duly found upon verification to meet the threshold conditions of eligibility should be resolved by the award of monetary compensation in lieu of absorption, and in full and final settlement of all claims and demands. Thus, this Court directs the following:

(i) A fresh verification of the claims of workers who claim to have been employed for at least 70 days in Class IV posts over a period of three years or 85 days in Class III posts over a period of two years shall be carried out;

(ii) The verification shall be confined to persons who were working between 20 May 1985 and 4 March 1991;

(iii) All persons who are found to be eligible on the above norm shall be entitled to compensation computed at the rate of Rs 50,000 for every year of service or part thereof. The payment of compensation at the above rate shall be in lieu of reinstatement, and



in full and final settlement of all claims and demands of the workers in lieu of regularisation or absorption and notwithstanding the directions issued by this Court in TN Terminated Employees Association (supra);

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(iv) In carrying out the process of verification, the Committee appointed by this Court shall not be confined to the certified list before the CGIT and shall consider the claims of all workers who were engaged between 20 May 1985 and 4 March 1991;

(v) For the purpose of verification, LIC shall make available all the records at the Divisional level to the Committee appointed by this Court;

(vi) It will be open to the workers concerned or, as the case may be, the Unions and Associations representing them, to make available such documentary material in their possession for the purpose of verification;

(vii) The process of verification shall be carried out independently without regard to the Dogra Report, which is held to be flawed;

(viii) The payment of compensation in lieu of reinstatement shall be effected by LIC within a period of three months from the date of receipt of the report of verification by the Committee; and

(ix) The task of verification shall be carried out by a Committee consisting of:

(a) Mr Justice P K S Baghel, former Judge of the Allahabad High Court; and

(b) Shri Rajiv Sharma, former District Judge and member of the UPHJS.

LIC shall provide all logistical assistance to the Committee and bear all expenses, including secretarial expenses, travel and incidental expenses, as well as the fees payable to the members of the Committee. Justice P K S Baghel shall fix the terms of remuneration payable to the members of the Committee."

In view of the same, it is accepted by Learned Counsel for both sides that the parties would be governed by the said binding ruling which now holds the field.



In the result, the Writ Petition is disposed in terms of the decision of the Hon'ble Supreme Court of India in Ranbir Singh -vs- SK Roy, Life Insurance Corporation of India (Order dated 27.04.2022 in Miscellaneous Application No. 1150 of 2019 in Contempt Petition (Civil) No. 1921 of 2017 in Civil Appeal No. 6950 of 2009). No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

kv/gd

To

1. The Chairman,
Life Insurance Corporation of India,
Central Office, Jeevan Bima Marg,
Mumbai - 400 021.
2. The Executive Director (Personnel),
Life Insurance Corporation of India,
Central Office, Jeevan Bima Marg,
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4. The Senior Divisional Manager,
LIC of India,
Divisional Office-1,
Anna Salai, Chennai - 600 002.

+1cc to M/s.C.K.Chandrasekhar, Advocate, S.R.No.30221

+1cc to Mr.A.Thayaparan, Advocate, S.R.No.30246

W.P.No.30101 of 2019

PVS (CO)
RLP (25/05/2022)