BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15713 of 2020
and
W.M.P.(MD)No.13170 of 2020

R.Ramesh ... Petitioner

Vs.

1.The Chief Regional Manager,
United India Insurance Company,
Regional Office, No.7, West Veli Street,
Madurai.

2.The Designated Authority,
United India Insurance Company,
Regional Office,
No.7, West Veli Street,
Madurai.

3.The Senior Divisional Manager,
United India Insurance Company,
No.39, Gandhi Road,
LIC Divisional Office Building,
Thanjavur – 613 001.

4.Assistant Manager (Own Damages Claims),
United India Insurance Company,
No.39, Gandhi Road,
LIC Divisional Office Building,
Thanjavur – 613 001.

5.Assistant Manager (Third Party Claims),
United India Insurance Company,

No.39, Gandhi Road,
LIC Divisional Office Building,
Thanjavur – 613 001.

6.The Enquiry Officer,
United India Insurance Company Limited,
Divisional Office,
42, Mutt Street,
Kumbakonam – 612 001 ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of dismissal of the appeal filed by the petitioner passed by the 1st respondent in Ref: MDU:RO:UMEX:AA1:2020-21 dated 20.10.2020, quash the same and direct the 1st respondent to restore the petitioner's insurance agency portal in the insurance.

For Petitioner : Mr.S.K.Mani

For Respondents : Mr.G.Prabhu Rajadurai,
Standing Counsel for R1 to R5
No appearance for R6

ORDER

The petitioner was appointed as an insurance agent on 25.05.2017. The petitioner was issued with show cause notice dated 21.03.2018. It is alleged that the petitioner was indulging in the following acts of misconduct:-

"*1.Converting walk in customer business in your agency through portal*
2.Changing Bancassurance business to your code."

2.The petitioner offered his explanation. Not satisfied with the same, the petitioner's agency was suspended. That led to filing of W.P.(MD)No.14261 of 2018. During pendency of the writ petition, enquiry was completed and the petitioner's agency was also terminated on 30.11.2018. The same was questioned by the writ petitioner in W.P.(MD)No.24723 of 2018. He also parallelly filed an appeal before the appellate authority. The appellate authority also confirmed the order passed by the original authority and dismissed the petitioner's appeal on 20.10.2020. Challenging the same, this writ petition came to filed.

3.The respondents have filed counter affidavit justifying the action taken against writ petitioner. Heard the contentions advanced on either side and also went through the materials on record.

4.The first charge against the petitioner is that he converted the walk in customers as his clients. I called upon the learned standing counsel for the respondents 1 to 5 to produce the enquiry report as well as the other materials in support of the said charge. It is seen that not even a single customer who had been allegedly converted as the petitioner's client has been examined. Therefore, I have to necessarily come to the conclusion that the finding that this charge has been proved rests on zero material. The second charge against the petitioner is that he converted the bank assurance business as his own business. As rightly pointed out by the learned counsel for the petitioner, this is impossible. It is true that banks also procure insurance business. As and when they do it, they had engaged the services of the petitioner only pursuant to the instruction given by the insurance company. The insurance commission will be paid by the insurance company directly to the bank. The petitioner will get only 5% of the commission as out of pocket expenses and nothing more. Therefore, in the very nature of things, the petitioner could not have converted bank assurance business as his own business. This charge is intrinsically not maintainable. That apart, I went through the contents of the enquiry report. The enquiry report is quite cryptic. It merely adopts the presenting officer's report. There is no independent finding as to the culpability of the petitioner. Looked at from any angle, the impugned order cannot be sustained. It is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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