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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.7830, 7592, 9611 and 7821 of 2018
and
W.M.P(MD).Nos.8172, 7220, 7221, 7415,
7416, 7847, 8054, 8877, 7396, 7397, 8053

W.P(MD).No.7592 of 2018

Hemalatha

... Petitioner

in W.P(MD).No.7830 of 2018

A.Palaniappan

... Petitioner

in W.P(MD).No.7592 of 2018

P.Janagavel Pandian

... Petitioner

in W.P(MD).No.9611 of 2018

J.Palanirajan

... Petitioner

in W.P(MD).No.7821 of 2018

Vs

1.The Life Insurance Corporation of India,
rep., by the Chairman /The Executive Director,
(Marketing/PD),
“Yougakshema” Building, West Wing,
Jeevan Beema Marg, Mumbai 400 021.

2.The Zonal Manager,
Life Insurance Corporation of India,
Southern Zonal Office,
Old No.102, New No.153,
LIC Building, Anna Salai,
Mount Road, Chennai -2.



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3. The Senior Divisional Manager,
Life Insurance Corporation of India,
Madurai Divisional Office,
Jeevan Prakash, Bridge Station Road,
P.O.Box No.16, Sellur, Madurai 625 002.

... Respondents
in all petitions

Prayer in W.P(MD).No.7830 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the third respondent in connection with the orders passed by him in his proceedings No.Nil dated 20.01.2018 and proceedings No.Nil dated 19.03.2018 quash the same by holding that the interpretation of the Rules 7 to 8 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Amendment Rules 2016 notified by the respondents 1 and 2 for straight termination without enquiry as unconstitutional and ultravires.

Prayer in W.P(MD).No.7592 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the third respondent in connection with the orders passed by the third respondent in Ref Sales/Appraisal/SP dated 20.03.2018 and 27.03.2018 quash the same by holding that the interpretation of the Rules 7 to 8 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of



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Service) Amendment Rules 2016 notified by the respondents 1 and 2 for straight termination without enquiry as unconstitutional and ultravires.

Prayer in W.P(MD).No.9611 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the third respondent in connection with the orders passed by the third respondent dated 16.04.2018 and quash the same by holding that the interpretation of the Rules 6 to 7 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Amendment Rules 2016 notified by the respondents 1 and 2 for straight termination without enquiry as unconstitutional and ultravires.

Prayer in W.P(MD).No.7821 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the third respondent in connection with the orders passed by the third respondent in Ref Sales/Appraisal/SP dated 28.02.2018, quash the same by holding that the interpretation of the Rules 7 to 8 of the Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Rules 2009 and Life Insurance Corporation of India Development Officer (Revision of Certain Terms and Conditions of Service) Amendment Rules 2016 notified by the respondents 1 and 2 for straight termination without enquiry as unconstitutional and ultravires.



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In all petitions

For Petitioners : Mr.M.Ajmalkhan
Senior Counsel for
M/s.Ajmal Associates
Mr.C.Venkateshkumar
For Respondents : Mr.G.Prabhu Rajadurai
Standing Counsel

COMMON ORDER

Heard the learned Senior Counsel appearing for the writ petitioners and the learned Standing Counsel appearing for the respondent corporation.

2.The writ petitioners are working as Development Officers in Life Insurance Corporation of India. Their service conditions are governed by the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules, 2009. The said Rules were amended in the year 2016. Rule 6 and 7 of the amended Rules are as follows:

“6.Termination of Service in Certain Cases:

1.Provisions regarding termination of services of Development Officer mentioned in Sub Rule(2) of Rule 6 of Special Rules, 2009 shall remain unchanged as under:



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if, as a consequence of the applicable of the decrement/s detailed in the Table of Disincentives, the basic pay has once been fixed at the minimum of the scale on which he is borne, and it on a s account of such decrements falls below such minimum

(2) Sub rule (8) of Rule 6 of Special Rules, 2009 has been substituted as under:

Notwithstanding anything contained in sub rules (1) to (7) where the annual remuneration of a Development Officer in any preceding year (hereafter in this sub-rule referred to as the "relevant year exceeds 50% of the eligible premium of that year and the aggregate of the annual remuneration in the relevant year and the two appraisal years immediately preceding the relevant year exceeds 50% of the aggregate of the eligible premium in those three years, his services shall be liable to be terminated in accordance with rule 7 of Special Rules, 2009.

In view of the above amendment, the services of a Development Officer shall be liable for termination, if cost ratio in the relevant appraisal year is more than 50% and the ratio of the aggregate of the expense in that and the two immediately preceding appraisal years to the aggregate of the Scheduled First Year Premium Income in those three appraisal years exceeds 50% in accordance with Rule 7 of Special Rules 2009, now amended as Amended Special Rules, 2016.



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7.Competent Authorities for Termination of Service/Appeal/Memorial:

Sub rule (1)(2), (3) of Rule 7 of Special Rules, 2008 has been amended and sub rule (4) has been added as under:

(1) Where a Development Officer has failed to conform to the expense limit and where no opportunity to conform to such limit could be given under the provisions of rule 6 the **appointing authority** may laminate his services after giving him three months notice or salary in lieu thereof.

Provided that the Development Officer shall be given an opportunity to show cause against such proposed termination of his service.

(2) An appeal against an order passed under sub rule (1) shall lie to the **Zonal Manager** and the provisions of rule 41,42,43,44 and 45 of the staff rules shall, so far as may be, apply to any such appeal.

(3) In the case of an appeal under sub rule (2), the Zonal Manager shall consider the records of the case and pass orders on merits having regard to the circumstances of the case.

(4) A Development Officer whose appeal has been rejected by the Zonal Manager may submit a Memorial to the Chairman in respect of that matter.”



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3.The writ petitioners' performance, for the appraisal year ended on Nil.11.2015, 31.08.2017, 28.02.2018 and 31.05.2016 respectively, was assessed and there seems to be shortage of cost ratio prescribed in the Rules. Therefore, action under the Rule 6(2) r/w Rule 7 was initiated. Challenging the show cause notices, these writ petitions came to be filed and interim order of stay was also granted.

4.The learned Senior Counsel appearing for all the writ petitioners reiterated all the contentions set out in the affidavits filed in support of these writ petitions. His core contention is that the petitioners face the prospect of summary termination and that would be a clear violation of the principles of natural justice. He pointed out that the validity of this Rules came to be challenged before other High Courts and that the Hon'ble Supreme Court is presently seized of the matter. In the alternative, he submitted, even while contending that the respondents must be called upon to adhere to the principles of natural justice while taking a call in the matter, that the writ petitioners are ready to be accommodated in any class-III post as contemplated by Rule 15 of the amended 2016 Rules.



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5.Per contra, the learned Standing Counsel appearing for the corporation submitted that the writ petitions have been filed primarily on the ground that the corporation may act without following the principles of natural justice. He clarified that the respondents would adhere to the procedure set out in the decision of the Hon'ble Supreme Court reported in **2015 (7) SCC 222** in the case of ***K.S.Ravindran Vs., Branch Manager, New India Assurance Co., Ltd.***, and the decision passed by the Hon'ble Division Bench in W.A.No.1639 of 2017 dated 08.12.2017. As regards the alternative submission advanced by the learned Senior Counsel, he submitted that the appointment of writ petitioners in any Class-III post in the event of their termination as Development Officer is not automatic and that their suitability also will have to be evaluated.

6.I carefully considered the rival contentions and went through the materials placed on records.



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7.The main prayer in these writ petitions is for quashing the impugned notices. This prayer cannot be granted. The respondents have merely issued notice under the relevant Service Rules. Notices *per se* do not infringe the right of the writ petitioners. Therefore, the question of quashing the impugned notices does not arise at all. As regards the grievance of the writ petitioners that the principles of natural justice may not be adhered to, this grievance also may not survive, since the respondents have now clarified that they propose to adhere to the procedure laid down by the Hon'ble Division Bench in W.A.No.1639 of 2017 dated 08.12.2017. As regards the alternative submission made by the learned Senior Counsel, I am of the view that the same need not be gone into in these proceedings .

8.Recording the submission of the learned Standing Counsel appearing for the respondent corporation, the Writ Petitions are **disposed of**. In any event of the writ petitioners being terminated from the post of Development Officer, it is always open to the petitioners to avail the remedy under Rule 15 of the Life Insurance Corporation of India



Development Officers (Revision of Certain Terms and Conditions of Service) Amendments Rules, 2016, for reappointment. No costs.

Consequently, connected Miscellaneous Petitions are closed.

28.09.2022

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy on 30.09.2022



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G.R.SWAMINATHAN, J.,

Rmk

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