

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10563 of 2021

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Suraj Chandra Gupta Son of Sri Gautam Kumar Gupta Resident of Ward No.12, South Hajipur, Near Bharat Press, P.O./P.S./District- Khagaria.

... .. Petitioner/s

Versus

1. Life Insurance Corporation of India, through the Zonal Manager, East Central Zonal Office, LIC of India, Patna.
2. The Zonal Manager, LIC of India, East Central Zonal Office, Patna.
3. Sr. Divisional Manager, Begusarai Divisional Office, Vishnu Cinema Campus, Deepshikha Road, Begusarai- 851101.
4. The Marketing Manager, Begusarai Divisional Office, Vishnu Cinema Campus, Deepshikha Road, Begusarai- 851101.
5. The Principal, Sales Training Centre (STC), LIC of India, Jiwan Jyoti Bhawan, Divisional Office Campus, Muzaffarpur- 842002.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sidhendra Narayan Singh, Adv.
For the Respondent/s	:	Mr. Abhimanyu Vatsa, Adv.
		Mr. Rakesh Kumar
		Mr. Rajni Kant Singh
		Mr. Manish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-09-2023

Heard learned counsel for the petitioner and learned counsel for the Life Insurance Corporation of India (for short ‘ the Corporation’).

2. The petitioner participated for being appointed as Apprentice Development Officer under the Life Insurance Corporation of India (Recruitment of Apprentice Development Officers) Regulations, 1999.

3. The admitted facts are that petitioner was appointed as



an apprentice on 25-11-2019. He along with other candidates was directed to report for training at Hotel Embassy Muzaffarpur. He received training at the center Hotel Embassy in Muzaffarpur. Before conclusion of the one month period of training, which was to conclude on 31-12-2019 he was served with a final appointment letter dated 30-12-2019 (Annexure-3), whereby he was given an offer of appointment as a Probationary Development Officer with effect from 01-01-2020. He was to join at the Birpur headquarter under the operational area of Supaul, Branch Office at a distance of about 200 Kilometers from the place of training. The offer of appointment dated 30-12-2019, required the petitioner to submit his joining on 01-01-2020 after which the offer of appointment contained a stipulation that the same would automatically lapse. The petitioner did not join at Supaul on 01-01-2020. One day thereafter, i.e., on 02-01-2020 he has sent an Email (Annexure 5 series) requesting that the petitioner should be given posting in Khagaria/ Naugachia. The relevant extract of Email reads as follows:

“ I assure you that I can perform better and bring more business for my dream organization “LIC” if my posting provided nearby my permanent residence. I strongly feel I can focus better on my duties and responsibilities. I have already arranged ten agents for LIC business



and can bring more than double LIC policy beyond target but after Supaul /Birpur posting I feel disheartened. I also confirm that if my posting will be provided in Khagaria/Naugachia, I will bring more than expected business of LIC. I request you to give me one chance to prove myself and post me near my Home town.”

4. The petitioner had also raised a dispute before the Assistant Labour Commissioner (Central) Patna, in the matter. The Assistant Labour Commissioner (Central) Patna, refused to entertain the complain, as there was no master servant relationship and the complain sought to be raised was not covered under Section 2(k) of the Industrial Disputes Act, 1947.

5. It is, thus, submitted by the learned counsel for the petitioner that due to non-humanitarian stand taken by the respondents, the petitioner has no option, but to invoke the writ jurisdiction of this Court. The writ application has, thus, been filed more than three years after the date of joining had lapsed.

6. The submission is that apart from the physical distance, another hardship due to which the petitioner could not join on 01-01-2020, was the ill health of the petitioner's parents. In view of such hardship, the Authority should have allowed the petitioner some time to join, pursuant to the offer of appointment dated 30-12-2019 (Annexure-3).

7. The petitioner, after participating in the process of



selection, had emerged successful and, therefore, the respondent- Corporation should have acted with more grace and allowed some extra time to the petitioner to join. The fact that the petitioner was unable to join due to hardship arising out of his parents illness is also obvious from the Email dated 07-04-2020, (Annexure-5 series). The petitioner also preferred an appeal before the Appellate Authority, but the Appellate Authority also has taken a hyper technical stand relying upon the joining date, specified in the offer of appointment. The same ought to have been relaxed, in view of the hardship being faced by the petitioner as there was no statutory bar in the Rules for relaxing the date of joining.

8. Learned counsel for the respondent-Corporation, on the other hand, submits that the petitioner was not the sole candidate, who had emerged successful. There were many persons and offer of appointment was uniform for all. Other than the instant petitioner all others have complied with their joining. Since 30-12-2019, when the offer of appointment was served to the petitioner, till 02-01-2020 the petitioner has not made any request for extension of joining time on any ground whatsoever. It is only after lapse of the date of joining (01-01-2020), specified in the offer of appointment; and after



the offer stood automatically lapsed in terms of Clause 15 that the petitioner has sent an Email dated 02-01-2020. In the Email, the petitioner has not made request for any extension in joining time. He has only expressed that the petitioner is disheartened by the fact that he is being offered employment at Supaul/Birpur ignoring his request for being provided posting in Khagaria/ Naugachia. The fact that the petitioner did not join because the offer of appointment was requiring him to join at the place of posting which was not to his liking is obvious from first communication dated 02-01-2020, made by the petitioner. The petitioner, in the circumstances, does not deserve any relief from this Court under Article 226 of the Constitution of India. He has failed to comply with the terms of initial joining as per offer of appointment. Thus, no case is made out in favour of the petitioner.

9. Considering the rival submissions this Court is in agreement with the submissions advanced by the learned counsel for the respondent -Corporation. The petitioner did not join at the place of posting, as per the first offer of appointment. He also did not make any request or any communication before the date specified for joining, expressing any hardship, or requesting any extension of date of joining. He has failed to



comply with Clause 15 of the offer of appointment, requiring him to join on 01-01-2020. It is only one day after failure to comply with the mandatory Clause 15 of the offer of appointment that he made his first communication dated 02-01-2020.

10. It is obvious from plain reading of the same that there is no mention of any such hardship, which can be said to be preventing him from joining on 01-01-2020 and there is no request for any extension in joining time. From the relevant extract of Email dated 02-01-2020, quoted above, it is obvious that the Email was only expressing that the petitioner was expecting the first joining to be at a place of his choice.

11. Three months thereafter, on 07-04-2020, he has sent another Email, this time the petitioner has raised a ground of his father's unstable condition, which was not raised by him in the earlier Email dated 02-01-2020. This communication, apparently is nothing, but a belated communication based on an afterthought.

12. The petitioner, apparently, has violated the mandatory terms of Clause 15 of the offer of appointment because of posting at a place which was not to his liking. The petitioner, therefore, has not made out any case of any hardship preventing



him from joining.

13. At this juncture, the Court would consider it appropriate to record that any order of appointment/ transfer or such orders come with some hardship, which *per se* cannot be made a ground for unilaterally violating the mandatory stipulations contained in the communication. It is only if the hardship is undue or it raises a situation in which it is incapable of being complied, that the writ Court may in an appropriate case interfere in the matter in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India.

14. The petitioner's first request dated 02/01/2020 is after the last date of joining and after lapsing of the offer of appointment and raises no issue of hardship, let alone undue hardship. The petitioner, therefore, is not in a position to seek any direction in contravention of the offer of appointment, when all others similarly situated have complied with this stipulation as as per the stand of the respondent -Corporation.

15. The petitioner has relied upon decision of this court in the case of *Abhinav Kumar versus The Life Insurance Corporation of India & Ors.* in *CWJC No. 1529 of 2020*. Copy of the same has been enclosed as Annexure-8 to the reply to the counter affidavit of the petitioner.



16. From bare reading of the judgment relied upon by the petitioner in the case of *Abhinav Kumar* (supra) it is more than obvious that the Corporation in that case had allowed the petitioner 10 days time, in view of the fact that he was undergoing some treatment and before lapse of the 10 days time the petitioner therein was called for re-verification. It is, in such circumstance, that this Court has intervened to prevent the respondents from backtracking on their own representation earlier made. The petitioner's case is, therefore, in a totally different set of facts and decision of this Court in *Abhinav Kumar* (supra) would not constitute a precedent for the claim raised in the instant writ proceeding.

17. This Court does not find any merit in the writ application and the same is dismissed.

(Madhuresh Prasad, J)

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AFR/NAFR	AFR
CAV DATE	N/A
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