

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2085 of 2015

In

Civil Writ Jurisdiction Case No.9635 of 2008

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1. Vinay Shankar Prasad and Ors son of Late Shiv Shankar Prasad, resident of New Professors Colony, Hanumanganj, Mishra Tola, P.S.- Darbhanga Town, District- Darbhanga.
 2. Syed Hashamuddin Ali, son of Syed Asghar Ali, resident of Azad Road, Chandwara, P.S.- Muzaffarpur Town, District- Muzaffarpur.
 3. Sanjeev Kumar Sinha, S/o Shri Krishna Chandra Prasad Sinha, resident of Mani Prakash, Mohalla- Bengali Tola, Laheriasarai, P.S.- Laheriasarai, District- Darbhanga.

... .. Appellant/s

Versus

1. Life Insurance Corporation Of India and Ors
2. Zonal Manager, East Central Zone, Life Insurance Corporation of India, Exhibition Road, Jeevan Deep
3. Senior Divisional Manager, Life Insurance Corporation of India, Divisional Office, Uma Shankar Pra
4. The Branch Manager, Life Insurance Corporation of India, Branch Office, Ashok Complex, Raj Kumar Ga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Raju Giri, Advocate Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Nilanjan Chatterjee, Advocate Mr. Pulkit Ranjan, Advocate Mr. Sahil Kumar, Advocate Mr. Ujjawal Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

20 13-12-2023

In the present L.P.A, appellants have assailed the order of the by learned Single Judge dated 07.08.2015 passed in CWJC No. 9635 of 2008.



2. Grievance of the appellants are in respect of recovery of certain amount from each of the appellant with reference to alleged excess payment stated to have made to each of the appellant. The Respondent- Life Insurance Corporation of India (hereinafter referred to as "L.I.C") have a policy of appointing agent and attached to the Development Officer. Concerned agent is entitled to certain remuneration and if he reaches a particular target in that event Development Officer is entitled to certain monetary benefits. There was a disputed issue to the extent that appellants- Development Officers were not entitled to attachment of certain agents, consequently whatever the excess payment made, arising out of the policy, was audited and ordered for recovery. Thus, appellants were before this Court in filing C.W.J.C 9635 of 2008.

3. On 06-12-2023 following orders were passed in the present LPAs.

"Learned counsel for the L.I.C respondent seeks time, he is hereby directed to secure one of the officer who is well conversant with the matter. He has to apprise with reference to scheme of recovery against the Development Officer. Prima facie Development Officers or Officers of the L.I.C, if they have committed any alleged misconduct they are governed by certain discipline rules/regulations whether those disciplinary rules or regulations have been followed for the alleged misconduct stated to have been committed by the appellants or in the alternative L.I.C respondents are hereby



directed to apprise this Court apart from disciplinary rules/regulations against L.I.C officers for committing any alleged misconduct, they are liable for penal action or not. In other words, is there any parallel regulations in respect of certain payments made to the Development Officer on account of the business provided by respective agents. If these materials are not placed on record we have no other option except to proceed against L.I.C. If they are involved in any alleged misconduct they are liable for disciplinary action like framing of article of charges, appointment of enquiry officers, and presenting officers. Thereafter, domestic enquiry are required to be held. Consequently, enquiry officer has to forward the enquiry report to the Disciplinary Authority and Disciplinary Authority was further required to issue show cause notice along with the enquiry officer's report and then Disciplinary Authority was required to proceed to impose penalty of recovery if any loss caused to the L.I.C Corporation on behalf of the Development Officer.

The aforementioned material information are required to be examined with reference to the relevant schemes/regulations governing the Development Officers in the L.I.C Corporation.

List this matter on 13.12.2023."

4. Today, learned counsel for the respondent- L.I.C and Administrative officer- Ravindra Kumar (L.I.C, Divisional Officer, Muzaffarpur) who are present and submitted that appellants are not committed any misconduct so as to resort for disciplinary action under the Life Insurance Corporation of India (Staff) Rules, 1960.

5. Perusal of the records, it is evident that appellants are disputing that whatever the demand of recovery or excess



payment made to them is not in order. Having regard to the service rendered by each of the appellant, they are entitled to whatever the incentive or monetary benefits under the policy decision of the L.I.C.

6. In other words, it is a disputed issue, whether appellants are entitled to monetary benefits, arising out of the policy decision of the L.I.C, insofar as accuse concerned and who have been tagged to the respective Development Officer and in the event of agents targeting particular point or amount in that event Development Officer is entitled to certain monetary benefits. When the appellants are disputing insofar as the recovery is concerned in that event the Disciplinary Authority should have resorted to relevant provision under the Life Insurance Corporation of India (Staff) Rules, 1960.

7. Even assuming that, recovery of any amount would fall under the minor penalty in such matter also Disciplinary Authority should have issued a show-cause notice and seeking explanation. If the concerned officials are disputing the alleged charge, irrespective of minor penalty or major penalty, matter is required to be adjudicated in a departmental enquiry in framing charges. In this regard it is necessary to take note of Apex Court decision in the case of ***O.K. Bhardwaj vs Union Of India And***



Ors. reported in **(2001) 9 SCC 180** wherein, Apex Court has held that if there are disputed issues in respect of imposition of minor penalty even in such circumstances departmental enquiry is warranted.

8. In the present case, merely informing the appellants that the L.I.C Corporation have paid certain excess payment to the respective appellants and it is to be recovered. Such a procedure is not permissible when the appellants or employees of the Insurance Corporation are governed by Life Insurance Corporation of India (Staff) Rules, 1960.

9. Since, the Respondent- L.I.C have not resorted to invoking the aforementioned regulation, the impugned actions of the recovery and so also the order of the learned Single Judge dated 07.08.2015, passed in C.W.J.C No. 9635 of 2008 stands set aside. Writ petition filed by the appellants stands allowed.

10. Reserving liberty to the Respondent- L.I.C to proceed in accordance with law like invoking the aforementioned cited regulation and complete the enquiry within a period of six months from the date of receipt of this order, after due following procedures.

11. The Respondent- L.I.C Corporations are hereby directed to examine applicability of discipline regulation against



the retired officers/employees or not if regulation does not permit to take action against retired officials/employees in that event no enquiry can be initiated against retired appellants. This may be examine by the Disciplinary Authority and proceed to pass order of dropping further proceedings, in the event of regulation do not permit to take action against such of those retired employees/officers with the above observation L.P.A stands allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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