

AD-16
Ct No.09
27.07.2023
TN

WPA No. 17250 of 2023

Manisha Chowdhury
Vs.
The Union of India and others

Mr. Md. Farhaduddin,
Mr. Siddhartha Roy

.... for the petitioner

Mr. Sukumar Bhattacharyya,
Ms. Anamika Pandey

.... for the respondent no. 1

Affidavit-of-service filed today be kept on record.
Despite service, none appears for the Bank at the time of call, although the Union is represented, along with the petitioner, through counsel.

The grievance of the petitioner, who opened a policy with the respondent no. 2, is that there was mis-selling/misrepresentation on the part of the agent of the respondent no.2, when the petitioner was coaxed into opening the policy. Although the petitioner was given the impression that the petitioner had an option to surrender the policy within two years, subsequently the petitioner learnt that if such surrender was effected, the petitioner would substantially lose money.

It is contended that such mis-selling and the provisions of the policy are contrary to Government Guidelines and ought to be deprecated.

Upon hearing learned counsel for the petitioner, it is seen that a look-in period of fifteen days was stipulated in the policy itself, which has been annexed as Annexure-P1 to the present writ petition. Having not taken advantage of the same, the petitioner cannot now resile from the terms of the same, by application of the Doctrine of *Caveat Emptor*.

The petitioner is an educated person and entered into the policy with her eyes wide open. However, since the petitioner now wants to surrender the policy and has raised a specific allegation as to mis-selling/misrepresentation by an agent of the respondent no.2, that is, the PNB Met Life India Insurance Company Limited, it is the bounden duty of the respondent nos. 2 and 3 to consider such offer of the petitioner to surrender the policy, subject to the conditions of the policy as well as to enquire into whether the petitioner is entitled to any concession on the ground of mis-selling/misrepresentation.

Accordingly, WPA No. 17250 of 2023 is disposed of by directing the respondent nos. 2 and 3 to consider the representation of the petitioner annexed at page-34 of the writ petition, dated June 23, 2023,

and enquire into the allegation of misrepresentation/mis-selling by the agent of the respondent no. 2 levelled by the petitioner and, if the respondent nos. 2 and 3 return a favourable decision in favour of the petitioner on such score, to consider whether the petitioner is entitled to any concession on the occasion of surrender of the policy.

It is made clear that the allegations made in the writ petition have not been entered into on merits, which is why affidavits have not been directed in the matter.

It will be open to the respondent nos.2 and 3 to act independently and in accordance with law while considering the representation of the petitioner and, if need be, to give an opportunity to the petitioner to present the petitioner's case, personally or through her authorized representative.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)