

01.03.2023
DL-58
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22959 of 2022

Ranajit Sajjan
Vs.
Life Insurance Corporation India & Ors.

Mr. Mrinal Kanti Biswas,
Mr. Manish Biswas

....for the petitioner.

Mr. Avishek Guha,
Ms. Akansha Chopra

....for LIC.

The petitioner challenges the selection process for promotion to the post/cadre of Higher Grade Assistant (Administration) under the Employees (Promotion) Rules, 1987. The petitioner's case is that the petitioner despite being more qualified and senior than the other selected candidates was not considered for promotion when his juniors whose names appear in Serial no.7, 9 and 12 of the gradation list have been considered for promotion.

From a report on affidavit filed on behalf of Life Insurance Corporation of India (LIC) affirmed on December 2, 2022, this Court finds that the petitioner has been given more marks than the other candidates in the seniority table. Furthermore, the petitioner was given full marks in the qualification table. As far as the work record was concerned, the candidates

whose names appear in Serial nos.7, 9 and 12 were given full marks, i.e., 25 whereas the petitioner was given 18. Furthermore, the other 3 candidates were given more than 16 marks for the interview out of 20 whereas the petitioner was given only 9.

This Court called for a further report on affidavit and the same has been handed over before this Court today and retained with the records.

From the said additional report on affidavit where the work records/annual performance report of the said 3 candidates have produced, it transpires that all the 3 candidates received outstanding marks from their Reporting Officers for the years 2018, 2019 and 2020. Furthermore, the Reviewing Officer has also agreed with the assessment of the Reporting Officer. The reason for giving outstanding marks to the said 3 candidates have been also categorically stated by the Reporting Officers.

Mr. Biswas, learned counsel appearing on behalf of the petitioner submits that the Annual Performance Reports have not been properly marked/assessed. The petitioner should not have been given 16 in the qualification table. He submits that the other 3 candidates have been awarded full marks of 25 for work records when the petitioner was not awarded full marks of 20 in the seniority table. He relies on a

judgment reported in (2008) 8 SCC 725 (**Dev Dutt vs. Union of India & Ors.**) for the proposition that every entry in the ACR/APR of a public servant must be communicated to him within a reasonable period whether it is poor, fair, average, good or very good entry. He submits that non-communication of the entry has adversely affected the petitioner's chances for promotion. He also relies on paragraph 41 of the said judgment that non-communication of an annual confidential report of a public servant other than the military is arbitrary, violative of Article 14 of the Constitution of India.

Mr. Guha, learned counsel appearing on behalf of LICl submits that there is a particular procedure that an employee has to follow for getting their Annual Performance Report (APR). In the event the petitioner made an application under the Right to Information Act, 2005, the same would have been communicated to the petitioner.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that no prayer has been made in the writ petition challenging the fact that the APRs are not communicated to the employees of LICl and for the said reason, the promotional policy of LICl is void. The writ petitioner has challenged the impugned

ranking list dated February 17, 2022 and March 14, 2022.

This Court finds that the petitioner has participated in the entire promotional process and thereafter challenged the same after the petitioner was considered ineligible for promotion. Such a course of action is deprecated by the Hon'ble Supreme Court. This Court is of the view relying upon a judgment of the Apex Court reported in (2019) 10 SCC 34 (**AIR Commodore Naveen Jain Vs. Union of India & Ors.**).

After completion of his submissions Mr. Biswas prayed for liberty to move an appropriate application challenging the filling up of the post of HGA (Admin.) in the Dum Dum Branch by way of transfer. Since this Court has not gone into the merits of such a challenge leave as prayed for is granted to challenge the same in an appropriate proceeding, if so advised.

Furthermore, this Court finds that there is no irregularity, arbitrariness and/or mala fide in the ratings of the ACRs. The Reporting Officer has given his reasons and the Reviewing Officer has accepted the said reasons for granting outstanding marks to the said 3 candidates.

Therefore, this Court is of the view that there is no merit in this writ petition. **WPA 22959 of 2022 is dismissed.**

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)