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Rev.Appln No.39 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

Rev.Application No.39 of 2022

United India Insurance Co. Ltd.,
rep. by its Chairman & Managing Director,
24, Whites Road,
Chennai-600 014.

... Petitioner

Vs.

1.Adhilakshmi. L
2.Praveen Kumar. D

3. National Insurance Company Ltd.,
rep. by its Chairman & Managing Director,
3, Middleton Street,
Kolkatta-700 071.

4.New India Assurance Company Ltd.,
rep. by its Chairman & Managing Director,
87, M.G. Road, Fort,
Mumbai-400 001.

5.Oriental Insurance Company Ltd.,
rep. by its Chairman & Managing Director,
Oriental House,
A-25/27, Asaf Ali Road,
New Delhi-110 002.



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6.General Insurance Corporation of India,
Suraksha, 170, Jamshedji Tata Road,
Churchgate, Mumbai-400 020,
India.

6.Central Board of Secondary Education,
“Shiksha Kendra”, 2, Community Centre,
Preet Vihar, Delhi-110 092.

.. Respondents

Review Petition filed under Order 47 Rule 1 r/w Section 114 of Civil Procedure Code, 1908 to review the order dated 04.02.2022 made in W.P.No.10689 of 2015.

For Petitioner : Mr.C.K.Chandrasekar

For Respondents : Mr.K.Srinivasamurthy
For R.2
No appearance
for other respondents

ORDER

In the final order passed in W.P.No.10689 of 2015 dated 04.02.2022 directing the review petitioner herein to appoint the respondents 1 and 2 herein to the post of Assistants under the pre-revised Scheme relating to GIC Vocational Course without reference to their upper age limit or requirement of passing the written examination. Under the Scheme, vocational students who have successfully completed the two years course will be deemed to meet the



academic qualifications required for recruitment in the cadre of Assistant.

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2. The present Review Petition has been filed for the purpose of bringing to the notice of this Court that the second respondent in this Review Application viz., Praveen Kumar, D has failed in one subject in the GIC Vocational Course and therefore, he is not qualified for appointment. During the final arguments in the writ petition, this aspect was not brought to the notice of this Court.

3. Learned counsel for the second respondent submits that the copy of the mark statement of the second respondent in this Review Application viz., Praveen Kumar, D was produced along with the writ petition. However, there is no specific affidavit filed in support of the writ petition with regard to Praveen Kumar's failure in the GIC Vocational course.

4. This Court is of the view that when the respondents know that the 2nd respondent in the review petition viz., Praveen Kumar has not successfully completed his vocational course, he ought to have brought to the knowledge of this Court about his failure. Having not done so, I am of the view that he has not approached the Court with clean hands.



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5. Learned counsel for the review petitioner submits that they have appointed the first respondent viz., Adhilakshmi, L to the post of Assistant in accordance with the direction of this Court.

6. In the light of the above findings, Paragraph No.20 of the order passed on 04.02.2022 in W.P.No.10689 of 2015 stands reviewed in the following manner, by inserting the following paragraphs:-

“ 20. Since the second petitioner viz., Praveen Kumar, D has not passed GIC Vocational Course, he would not be entitled for appointment to the post of Assistant under GIC Vocational Course Scheme 1993-1994.

21. Since the first petitioner in WP No.10689 of 2015 viz., Adhilakshmi L., has already been appointed to the post of Assistant by the second respondent herein, after the original order passed in the writ petition, no effective orders can be passed insofar as the first petitioner in WP No.10689 of 2015 viz., Adhilakshmi L is concerned.



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22. *At this juncture, learned counsel for the second respondent in this review petition submits that after the second respondent in this review petition viz., Praveen Kumar, D has failed in one subject in the GIC Vocational Course, no supplementary exam were conducted by CBSE since the course itself was discontinued and therefore, sought for relaxation of the essential qualification for appointment to the post of Assistant. Such a decision requires to be taken only by General Insurance Corporation of India (GICI) and this Court, while exercising its power under Article 226 of the Constitution of India will not be justified in relaxing the essential qualification prescribed under the Scheme. However, Praveen Kumar, D/second respondent in this review petition is at liberty to give a representation to the General Insurance Corporation of India (GICI), seeking for relaxation of the educational qualification and for casual appointment. On receipt of such representation, the General Insurance Corporation of India (GICI) shall consider it in*



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the background of the fact that the supplementary examination have not been conducted, thereby disabling the second respondent herein from qualifying in the vocational course and also on the fact that such relaxation may not act as a precedent to any other candidate, since the vocational course itself has been discontinued. General Insurance Corporation of India (GICI) shall consider and pass appropriate orders, atleast within a period of six weeks from the date of receipt of representation from the second respondent herein.

The Review Application is ordered accordingly. No costs.”

31.01.2023

Speaking/Non-speaking order

Neutral Citation: Yes/No

Index: Yes/No

Internet: Yes/No

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To

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M.S.RAMESH,J.,

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