

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14828 of 2020

and

W.M.P.(MD)No.12489 of 2020

Balasubramanian

... Petitioner

Vs.

1.The Zonal Manager,
Life Insurance Corporation of India,
Southern Zonal Office,
LIC Building, Mount Road,
Chennai-2.

2.The Senior Divisional Manager,
Life Insurance Corporation of India,
No.9-A, Punithavathiyar Street,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Ref:Sales/DO, dated 05.02.2019 and quash the same and further direct the respondents to appoint the petitioner in an administrative post in Class III Cadre in Life Insurance Corporation of India in accordance with Rule 15 of Life Insurance Corporation of India (Revision of Certain Terms and Conditions of Service) Rules, 2009.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.D.Shanmugaraja Sethupathi

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent corporation.

2. The petitioner was appointed as Apprentice Development Officer on 06.11.2008. He became a Probationary Development Officer on 07.02.2009. He became a regular Development Officer on 09.02.2010. Notice was issued on 07.03.2015 calling upon the petitioner to show cause as to why his services should not be terminated. The petitioner offered his response. Thereafter, the first respondent issued one more show cause notice on 29.08.2015. Challenging the same, the petitioner filed W.P.(MD)No.17563 of 2015. Vide order dated 14.10.2015, this Court granted an interim order of stay. The writ petition came to be dismissed on 24.01.2018. The Management thereupon terminated the petitioner from service on 08.03.2018. The said termination order has become final. Now the question that arises for consideration is whether the petitioner is entitled to be considered for re-appointment in terms of Life Insurance Corporation of India Development Officers (Revision of

certain terms and conditions of Service) Rules, 2009. The petitioner applied to the respondent seeking re-appointment under the aforesaid Rules. The petitioner's request was rejected by the second respondent vide order dated 05.02.2019. Challenging the same, the present writ petition came to be filed.

3. The petitioner's counsel reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and grant relief as prayed for.

4. The respondents have filed a counter affidavit and the learned standing counsel took me through its contents and pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is not in dispute that the service rules pertaining to Development Officers underwent an amendment with effect from 01.08.2015. Post amendment, Rule 3 of Life Insurance Corporation of India (Reappointment of Terminated Development Officers) Rules, 1990 reads as follows:-

“3.Conditions of eligibility and criteria to reappointment:

(1) A terminated Development Officer who has completed not less than ten years of service as a Development Officer and has not completed 55 years of age as on the date of his Termination will be eligible for reappointment:-

(a) as an Assistant, if such person possesses the qualifications specified for appointment as an Assistant at the time of his reappointment;

(b) as a Record Clerk, if such person does not possess the qualifications referred to in clause (a) but possesses the qualifications specified for appointment as a Record Clerk at the time of his reappointment.

(2) (a) A terminated Development Officer seeking reappointment shall submit an application to the Competent Authority.

(b) The application shall be submitted through the officer-in-charge of the Branch Office where the applicant was employed as a Development Officer immediately preceding his termination.

(3) Every applicant shall be interviewed by a Committee consisting of three Officers not below the rank of Administrative Officer, constituted by the appointing authority, to determine the applicant's suitability for reappointment.

Explanation: In determining the applicant's suitability for reappointment the committee shall have regard to the applicant's past record of service, familiarity with the nature of the work appurtenant to the post to which he seeks reappointment and such other factors as may be considered relevant by it.

4. No terminated Development Officer shall be reappointed unless he has been certified to be medically fit to discharge his duties by a qualified medical practitioner appointed by the Corporation.”

Rule 15 of the Life Insurance Corporation of India Development Officers (Revision of certain terms and conditions of Service) Rules, 2009 was amended as follows:-

“15.Re-appointment of terminated Development Officer:

If a Development Officer, whose services are terminated in pursuance of Rule 7 has completed at least seven of service in Class II on the date of such termination and has not completed 55 years of age, he shall be eligible for reappointment in the service of the Corporation to do administrative work in Class III either as Assistant or Record Clerk in accordance with such qualification and suitability as may be specified under the Life Insurance Corporation of India (Reappointment of Terminated Development Officers Rules, 1990)

Provided that notwithstanding the break in service as a consequence of termination, his service in the Corporation shall be deemed to be continuous for the purpose of leave; and also for the purpose of gratuity or provident fund if he has not received or if he has received but repays to the Corporation such amount of gratuity or provident fund as he has received.”

7. Before amendment, the development officer who had completed seven years of service was eligible for re-appointment subject to qualification and suitability as may be specified. If the petitioner's case has to be considered under the un-amended Rules, the respondent has to be directed to consider the petitioner's case for re-appointment. If the amended Rules are applied, the impugned order will have to be sustained. The controversy is whether the petitioner is governed by un-amended or amended rules. As rightly pointed out by the learned standing counsel for the corporation, what the petitioner seeks is reappointment following his termination as development officer. The petitioner was terminated on 08.03.2018. Cause of action for reappointment arose only

thereafter. Therefore, Service Rules in force on the date when cause of action arose alone will have to be taken into account.

8. In this view of the matter, I endorse the stand of the management that the petitioner's case will be covered by the amended rules. The amended rules stipulate completion of ten years of service. Admittedly, the petitioner did not have ten years of completed service when he was terminated on 08.03.2018. The impugned order is sustained.

9. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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