

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO: 34106 OF 2015

Between:

Susan Ittyerah, D/o.late Mr.I.K.Jacob, aged about 36 years, Deputy Director
O/o. IRDA, Basheerbag, Hyderabad.

...PETITIONER

AND

1. The Union of India, Department of Finance Service, Rep. by its Secretary, 3rd Floor, Jeevan Deep Building, Salsad Marg, New Delhi-110 001.
2. Insurance Regulatory and Development Authority, Rep. by its Chairman 3rd Floor, Parsirama Bhavan, Basheerbagh, Hyderabad-500 004.
3. Senior Joint Director, HR Administrative Department I.R.D.A, 3rd Floor, Parsirama Bhavan, Basheerbagh, Hyderabad-500 004.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue the Writ order or Direction more particularly in the nature of Writ of Mandamus declaring the impugned office order dated 09-10-2015 whereby reverting the petitioner from cadre of Deputy Director to the Senior Assistant Director cadre without recording reasons there for as contemplated under Regulation No.11 of IRDA (Conditions of Service of Officers and other employees) Regulations 2000 is arbitrary, illegal, capricious and violative of all cannons of law and justice and consequently set aside the same.

I.A. NO: 1 OF 2015(WPMP. NO: 43905 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to continue the petitioner the cadre of Deputy Director by suspending the operation of impugned office order dated 09-10-2015 issued by the 3rd respondent pending disposal of the above writ petition.

Counsel for the Petitioner: M/s. GAYATHRI

**Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent No.2 & 3: SRI VEDULA SRINIVAS, Sr. COUNSEL,
REP. FOR SRI M.V.SURESH**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION No.34106 of 2015

ORDER:

This Writ Petition has been filed challenging the impugned Office Order dated 09.10.2015 passed by respondent No.3 reverting the petitioner from the Cadre of Deputy Director to the Cadre of Senior Assistant Director, without recording reasons therefor, as contemplated under Regulation No.11 of Insurance Regulatory and Development Authority (Conditions of Service of Officers and other employees) Regulations, 2000 (in short, 'IRDA Regulations'), as arbitrary, illegal and violative of all canons of law and justice.

2) Heard Ms. Gayatri, learned counsel appearing for the petitioner and Sri Vedula Srinivas, learned Senior Counsel, appearing for Sri M.V. Suresh, learned counsel for respondents 2 and 3, and Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, appearing for respondent No.1.

3) Learned counsel appearing for the petitioner's counsel has contended that the petitioner was promoted from the post of Senior Assistant Director to the post of Deputy Director (Technical) and placed on probation for a period of one year, *vide* proceedings No.IRDA/Admn./ORD/PER/ 036/2/2015, dated 24.01.2015, she was reported to the duties as Deputy Director on 24.02.2015 and her pay was fixed in the post of Deputy Director (Technical Stream) *vide*

proceedings dated 10.03.2015. Learned counsel has contended that the respondents have reverted the petitioner from Deputy Director cadre to Senior Assistant Director Cadre, *vide* impugned proceedings dated 09.10.2015, after completion of more than six months, without there being any allegation or fault of the petitioner and without issuing any notice. It is further contended that the impugned order dated 09.10.2015 passed by the authorities reverting the petitioner to the post of Senior Assistant Director without recording/assigning any reasons, as required under Regulation 11 of the IRDA Regulations, cannot be countenanced and therefore prayed to set aside the impugned order. Learned counsel has placed reliance on the following judgments in support of her contentions:

- 1) ***State Bank of India v. Palak Modi*¹;**
- 2) ***Ratnesh Kumar Choudhary v. Indira Gandhi Institute of Medical Sciences, Patna, Bihar*²; and**
- 3) ***Aurangabad Municipal Corporation v. Jayant*³.**

4) Per contra, the learned Senior Counsel appearing for the learned counsel for respondents 2 and 3 has contended that the petitioner was promoted to the post of Deputy Director on 24.02.2015 and posted to Research & Development Wing of Sectorial Development Department and the petitioner was placed on probation for a period of

¹ (2013) 3 SCC 607

² AIR 2016 SC 467

³ (2019) 17 S.C.R. 986

one year from the date of promotion. The role of the Deputy Director is supervisory in nature and senior in position too. Learned Senior Counsel has contended that the petitioner was reverted to the post of Senior Assistant Director by invoking Regulation No.11 of the IRDA Regulations and the respondents are empowered to do so. Hence, there is no irregularity in reverting the petitioner. It is further contended by the learned Senior Counsel that the decision for reversion of the petitioner was taken after careful consideration of all relevant reports on the functioning of the petitioner received from the Reporting Officer and the overall In-charge of the Department i.e. HOD and a series of mails exchanged between the petitioner and the Reporting Officer regarding the work in the Department and guidance aspects in execution of various tasks assigned to the petitioner. In the assessment of the Reporting Officer, the petitioner could hardly complete/contribute to any of the targets of the R&D Wing and the Reporting Officer also tried to counsel the petitioner on various occasions to make her to understand the role that she has to play as a Supervisor, but in vain. Based on the performance and attendance of the petitioner, during the relevant five months, the HOD had confirmed that the petitioner was not capable of supervising the work and staff in the area of work assigned to her. The ED of the Department also reported that the petitioner has not measured upto requirement. Learned Senior Counsel has submitted that all the

above factors were reported to the HR Department, which analysed the reports received from the HOD and ED, and put up a detailed office note dated 09.10.2015 to the Competent Authority for considering invocation of Regulation No.11 of the IRDA Regulations. Upon careful analysis of the reports of the Department on the functioning of the petitioner, the Competent Authority had passed the impugned order. Hence, the respondents are justified in passing the impugned order reverting the petitioner from the cadre of Deputy Director to the cadre of Senior Assistant Director, for the smooth functioning of the Department.

5) Learned Senior Counsel has further contended that the HOD based on the performance and attendance of the petitioner during the time of her reporting to him, has confirmed that she was not capable of supervising the work and staff in the area of work assigned to her and therefore requested to provide immediate substitute in her place for smooth functioning of the R & D Wing. It is further contended that the petitioner was also absent for a number of days, without any information/intimation during the period of probation leaving impact on the performance of the office and further contended that she was unauthorizedly absent for 17 days during March, 2015 to August, 2015, besides availing sick leave for eight days and approved casual leave for eight days. Further, on a number of days, the petitioner has not marked attendance in biometric. Since the petitioner has

absented unauthorizedly from duties without any information, a charge memo was also issued to the petitioner. Further, after the petitioner has taken the charge as Deputy Director, the Executive Director, who oversee the Department, had called for a meeting of the officials of the SDD in his Cabin on 13.04.2015 at 1.00 pm., to which the petitioner has not attended, in spite of intimation, for which, the petitioner has pleaded that she has no advance intimation or *email*. Vide letter dated 16.04.2015, the Senior Joint Director has also sought an explanation from the petitioner for not attending the said meeting, which amounts to insubordination in terms of Regulation 29 of IRDA Regulations. Since the explanation submitted by the petitioner was not convincing, a charge memo was also issued to the petitioner on 08.09.2015, however, the learned Senior Counsel submitted that the said charge memo is nothing to do with the *lis* in the present Writ Petition. It is further contended that the petitioner had not submitted the self appraisal part of Annual performance Appraisal, which is supposed to be submitted by every Officer, for the years 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014. Learned Senior Counsel has vehemently contended that after recording reasons in the office order dated 09.10.2015, the third respondent was justified in reverting the petitioner from the cadre of Deputy Director to Senior Assistant Director cadre by invoking

Regulation 11 of the IRDA Regulations. Therefore, the learned Senior Counsel has prayed to dismiss the Writ Petition.

6) This Court has taken note of the submissions made by the respective counsel and perused the material on record.

7) A perusal of the impugned order dated 09.10.2015 discloses that the said order was passed by the third respondent by invoking Regulation 11 of IRDA Regulations, which reads as under:

"An officer and other employee promoted from one grade to another may be reverted during the probationary period without notice by the competent authority after recording the reasons therefor."

8) From the above Regulation it is crystal clear that the respondent authorities got ample power to revert any probationary employee, but however, subject to recording of reasons. Therefore, the contention of the petitioner that she was not served with any notice prior to passing of the impugned order, does not stand to the scrutiny of this Court.

9) Further, pursuant to the directions of this Court, the respondent authorities have produced the original record pertaining to the impugned order dated 09.10.2015, a perusal of which discloses that Office Note dated 09.10.2015 has been appended to the impugned order wherein the reasons were recorded extensively

referring to the poor performance of the petitioner viz., inadequacy in supervisory skills in leading and guiding her subordinates, frequent uninformed/unauthorized absence, etc., which necessitated the authorities to look for a suitable substitute in the place of the petitioner for the smooth functioning of the R&D Wing. When that be so, the ground urged by the petitioner in attacking the impugned order i.e. bereft of reasons, is unsustainable.

10) Coming to the judgments relied by the petitioner, this Court is of the considered view that they are distinguishable on facts of the present case. The case in **Palak Modi (referred supra)** pertains to termination of a probationer whereas in the present case the petitioner was only reverted during the probationary period. The case in **Ratnesh Kumar (referred supra)** pertains to dismissal of an employee from service and therefore the said judgment also has no application to the facts of the present case. Further, **Jayant's case (referred supra)** pertains to reversion of an employee without furnishing a notice to show cause or giving an opportunity of being heard. But, in the present case, Regulation 11 of the IRDA Regulations empowers the authority to waive the issuance of notice, subject to recording of reasons, which condition has been complied with by authorities in the case on hand, as discussed in the foregoing paragraph. Therefore, the judgments relied by the learned counsel for the petitioner are of no avail to her.

11) In view of the above discussion, the Writ Petition is devoid of merits and the same is liable to be dismissed.

12) Accordingly, the Writ Petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

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SD/- P.Ch. NAGABHUSHAMBA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to M/s. GAYATHRI, Advocate [OPUC]
2. One CC to SRI M.V.SURESH, Advocate [OPUC]
3. One CC to SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA, High Court for the State of Telangana at Hyderabad [OPUC]
4. Two CD Copies

BSR
GJP



HIGH COURT

DATED: 29/12/2023

ORDER

WP.No.34106 of 2015



**DISMISSING THE WRIT PETITION,
WITHOUT COSTS**

⑥ NW
19/4/24