IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17007 of 2021

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Bhagwati Charan Tiwary, aged about 35 years (Male), Son of Murlidhar Tiwary Resident of Villagar-Bhaluhan, P.O. Sabar, Police Station-Karamchat, District-Kaimur.

... ... Petitioner/s

Versus

1. The Life Insurance Corporation of India through its Chairman, 3rd Floor, Central office, "Yogakshema" Jeevan Bima Marg, Mumbai-4000021.
2. The Zonal Manager, Life Insurance Corporation of India, Central Zone, Jeevandeep Building, 6^{th} Floor, Exhibition Road, Patna.
3. The Senior Divisional Manager, Life Insurance Corporation of India, 4th Floor, Jeevan Ganga Building, Frazer Road, Patna.
4. The Marketing Manager, Life Insurance Corporation of India Patna Division-II, 4th Floor, Jeevan Ganga Building, Frazer Road, Patna-1.
5. The Branch Manager, Life Insurance Corporation of India, Sasaram Branch, Sasaram, District-Rohtas.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate.
		Mr. Rajeev Kumar, Advocate.
		Mr. Varun Krishna Singh, Advocate.
For the Respondent/s	:	Mr. Siddharth Harsh
For the LIC	:	Mr. Rakesh Kumar, Advocate.
		Mr. Rajni Kant Singh, Advocate.
		Mr. Manish Kumar, Advocate.
		Mr. Sandeep Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 24-07-2024

Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

> *"(i) For setting aside the order dated 04.02.2021 passed by the Chairman, Life*

Insurance Corporation of India whereby memorial preferred by the petitioner under the provisions of Life Insurance Corporation of India (Agents) Regulation, 2017 (hereinafter referred to as Regulation) has been dismissed;
(ii) For setting aside the order dated 28.07.2020 passed by Zonal Manager-cum-Appellate Authority, L.I.C. of India by which appeal preferred by the petitioner has been dismissed.
(iii) For setting aside the final order dated 15.10.2019 passed by Senior Divisional Manager-cum-Competent Authority whereby in exercise of power vested under Regulation penalty of termination of agency of the petitioner with forfeiture of renewal commission has been imposed."

3. It is a case of the petitioner that he was appointed as an agent for the Respondent-Corporation in the year, 2008 and the petitioner has been discharging his duties without any complaint. That on 25.09.2018, a letter has been issued to the petitioner stating that the Policy No. 517201155 (Late Vicky Jaiswal) has been repudiated on account of suppression of health of the insured at the time of the revival of the Policy. Further it is alleged that the revival of the Policy was received on 24.01.2014, whereas the insured person was admitted to Subham Hospital on 23.01.2014 for treatment of burn injury and calling for the explanation of the petitioner. The petitioner, thereafter, has filed his explanation dated 26.10.2018

stating that he had obtained the revival policy from Vicky Jaiswal at least 20 to 25 days before the date of revival, but unfortunately the petitioner was suffering from jaundice and he could not present the policy for revival within time. Thereafter, a show cause notice dated 05.12.2018 was issued to the petitioner proposing to impose penalty for the lapses committed in reviving the policy of Vicky Jaiswal after he was admitted to the hospital. The enquiry was entrusted as per the provisions of the regulation and the enquiry officer submitted his report on 28.05.2019. Based on the said enquiry report dated 28.05.2019, another show cause notice was issued to the petitioner on 18.07.2019 proposing to terminate the agency of petitioner. Though the petitioner has filed his reply explaining that the revival of the policy was due to mistake, inadvertent and the same was not deliberate or intentional, the same was not accepted by the authorities and final order of termination with forfeiture of the renewal commission has been passed on 15.10.2019. That aggrieved by the order of termination, the petitioner has preferred an appeal before the appellate authority on 03.12.2019 but the same was dismissed on 28.07.2020. The petitioner in the fondhope that he would get favourable order has preferred a memorial against the order of dismissal of the appeal before the Chairman of the Corporation but the same was dismissed on 04.02.2021 confirming the order of the appellate authority.

4. Learned counsel for the petitioner has stated that the Respondent-Corporation did not take into consideration the fact that the petitioner was suffering from jaundice and he was advised bed rest. That the renewal of the policy was received by the petitioner more than 22 to 25 days before the said Vicky Jaiswal was admitted into the hospital. The submission of the policy after one day after Vicky Jaiswal was admitted to the hospital was not deliberate or intentional but the same was inadvertent. Learned counsel has, therefore, prayed this Hon'ble Court to take a sympathetic view and set aside the impugned orders. the learned counsel has relied on the judgement of the Hon'ble Supreme Court in the case of ***D. K. Yadav Vs. M/s J.M.A. Industries Ltd.*** reported in ***1993 AIR SCW 1995*** in support of his case.

5. Per contra, the learned counsel appearing on behalf of the Respondent-Corporation has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that all the three authorities i.e. the Chairman, the Appellate Authority as well as the Disciplinary Authority

have found that the petitioner knowingly fully well that the Vicky Jaiswal was admitted to the hospital on 23.01.2014 has submitted the revival policy on the next day of admission to the hospital. That the said act of the petitioner is contrary to the regulations issued by the Corporation and, therefore, duly taking into consideration the evidence and circumstances the termination order has been passed. Further, learned counsel has stated that the authorities have scrupulously followed the procedure laid down under the regulations and, therefore, the finding of fact arrived by the Disciplinary Authority, confirmed by the Appellate Authority and the Hon'ble Chairman in the memorial cannot be interfered by this Court under Article 226 of the Constitution of India. Learned counsel has relied on the judgement of this Hon'ble Court in the case of ***Life Insurance Corporation of India Vs. Sri Jay Kumar Pandey & Anr***. reported in reported in (2011) 4 PLJR 129 and in the case of ***OM Kumar & Ors. Vs. Union of India*** reported in ***2001 (2) SCC 386*** in support of his case.

6. Admittedly in the present case, the revival policy was submitted by the petitioner belonging to one Vicky Jaiswal on 24.01.2014, the said Vicky Jaiswal was admitted with burn injuries in Subham Hospital on 23.01.2014. Further, as seen

from the record, the plea taken by the petitioner that he was suffering from jaundice and was advised to take bed rest for 20 to 25 days prior to the date of revival of the policy also seems to be a false one as the petitioner has submitted some other policies for revival on 06.01.2014 and 21.01.2014. Further the Disciplinary Authority having found that the medical prescriptions and discharge summary were not worthy of believing as there were not from a reputed hospital. It is pertinent to note that the Respondent-Corporation to deal with the appointment and termination of the agents, has issued Life Insurance Corporation of India (Agents) Regulations, 2017 and as per the Regulation 15 which reads as under:-

> *"15. Termination of agency on account of certain disqualifications (1) If an agent-*
>
> *(a) is found to be a minor,*
>
> *(b) is found to be of unsound mind by a court of competent jurisdiction;*
>
> *(c) if he is found to be guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment to commit any such offence by a court of competent jurisdiction;*
>
> *(d) if in any judicial proceeding, has been found to have knowingly participated in or connived at any fraud, dishonesty or misrepresentation against the Corporation or any of its subsidiaries or against any person having official dealings with the Corporation or any of its subsidiaries, his appointment shall be liable to be terminated by the competent authority.*

(2) Every order of termination under sub-regulation (1) shall be issued after affording a reasonable opportunity to the agent to show cause against such termination in an enquiry to be conducted in accordance with the procedure set out in the Fifth Schedule.

(3) Where the competent authority proposes to take action under sub-regulation (1), it may direct the agent not to solicit or procure new insurance business until he is permitted by the competent authority to do so and the order of suspension so issued may be published as provided for in the Fifth Schedule."

7. This Court sitting under Article 226 of the Constitution of India, in disciplinary matters can only go into the question as to whether the procedure followed by the authority has been fair and transparent but cannot go into the question of quantum of punishment. It is for Disciplinary Authority to impose the punishment based on the facts and circumstances of the case. In this particular case, the insurance agents hold a fiduciary relationship based on trust. The Corporation is dependent on the agents for not only for procuring the policies but also getting them renewed. The edifice of the trust cannot be broken by the agent as the entire organisation will collapse if agents are allowed to get policies or revive the existing policies based on false information or affidavits. The role of the High Court in disciplinary matters is very limited the Hon'ble Supreme Court in the case of ***Om***

Kumar & Ors. Vs. Union of India report in ***(2001) 2 SCC 386*** has held as under:-

> "*the question of quantun of punishment in disciplinary matters is primarily for the Disciplinary Authority and the jurisdiction of the Hon'ble High Court under Article 226 of the Constitution or of the Administrative Tribunals is limited and is confined to the applicability of one or other of the well known principles known as 'Wednesbury principles.*"

8. Further the Hon'ble Division Bench of this High Court in the case of ***Life Insurance Corporation of India Vs. Sri Jay Kumar Pandey & Anr.*** reported in ***(2011) 4 PLJR 129*** has held as under:-

> *"8. In the present case, action has been taken in terms of Regulation 16(1)(b). The Corporation has come to the conclusion that the action of the respondent was prejudicial to the interest of the Corporation. The action was taken after affording reasonable opportunity to show-cause against such termination. The respondent had shown cause followed by the order of termination passed by the learned competent authority. The respondent also availed of the departmental appeal which has-been dismissed by, a reasoned order. In our view, the order of the competent authority conforms to the requirements of Regulation 16(1)(b), and further conforms to the requirements of Regulation 16(2) which provides that the order of termination shall be in writing and communicated to the agent concerned. Regulation 16(3) enables the competent authority to pass an order in the*

nature of an order of suspension in contemplation of action against the agent. It is significant to observe from a plain reading of Regulation 16 that, in case the act attributable to the agent is covered by anyone of the clauses under Regulation 16(1), perhaps the only action that can be taken against him is termination of agency. On a perusal of Regulation 16, we get a clear impression that the only protection available to an agent against the proposed order of termination of agency is to be found in the proviso to Regulation 16(1) which is to the effect that the agent shall be given a reasonable opportunity to show cause against such termination. As indicated hereinabove, such an opportunity read with the requirements of Regulation 16(2), was afforded to the respondent. It, therefore, follows as a matter of corollary that the kind of relationship that exists between the Corporation and the agent, the respondent should be under no impression that he will be entitled to the exhaustive protection available to the holder of a civil post within the meaning of Article 311 of the Constitution. He is entitled to the limited protection against arbitrary action of the Corporation. It should also be emphasized that the activities of the Corporation are a good deal commercial in nature, and is not engaged in discharge of sovereign and regal functions."

9. The judgement relied by the petitioner in the case of D.K. Yadav Vs. M/s J. M. A. Industries Ltd. reported in 1993 AIR SCW 1995 is not applicable to the facts of the present case and is distinguishable and, therefore, not of any help.

10. The prayer of the petitioner for reduction of the punishment to that of termination without forfeiture of renewal commission also cannot be granted as there is very likelihood that the petitioner may indulge in renewing the policies of customers who are not eligible for renewal.

11. Having regard to the above mentioned facts and circumstances, this Court does not find any infirmity or illegality in the impugned orders passed. The present writ petition is accordingly dismissed.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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