

25.06.2024
Sl. No.14
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13310 of 2024

Sukamal Bairagi
Vs.
The Life Insurance Corporation of India & Ors.

Mr. Chirantan Sarkar,
Mr. Anousko Das
....for the petitioner.

Ms. Tanushree Dasgupta
....for LIC.

Mr. Santanu Kumar Mitra,
Mr. Subhabrata Das
....for the State.

The petitioner says that he belongs to Economically Weaker Section (in short, EWS) and participated in a recruitment process initiated by Life Insurance Corporation of India (in short, LIC) for recruiting Apprentice Development Officers under such category. The advertisement/notice dated 21st January, 2023 is annexed at page 27 of the writ petition wherefrom it appears that there are total 70 vacancies under EWS category out of the total vacancies of 1049. The petitioner, on being successful in the examination, has been provisionally selected. However, LIC has sought for EWS certificate for the year 2022-2023 based on the gross annual income for the financial year 2021-2022 latest by 27th February, 2022. LIC communicated the same

by an electronic mail dated 22nd February, 2024, which is annexed at page 60 of the writ petition.

The petitioner says that the petitioner has the EWC certificates based on the family income for the financial years 2018-2019, 2020-2021 and 2022-2023 and have produced the EWC certificate for the year 2023-2024 which is based on the family income for the financial year 2022 - 2023. Only the certificate for the year 2021-2022 is not in the possession of the petitioner. The petitioner has annexed at page 21 of the writ petition the EWS certificate valid for the year 2023-2024 which has been issued by the Additional District Magistrate (T), North 24-Parganas on 1st December, 2023 on the basis of the gross annual income of the petitioner's family for the financial year 2022-23.

The petitioner says that the employment notice was dated 21st January, 2023 and as such, the EWS certificate for the financial year 2023-2024 is the relevant one. The petitioner has already submitted the same. LIC, according to the petitioner, by calling for the EWS certificate for the year 2021-2022 is attempting to change the "rule of game" subsequent to the completion of the selection process. If the certificate for the year 2022 - 2023 based on the income for the financial year 2021 - 2022 was

necessary then LICl could have asked for the same before hand to enable the petitioner to obtain the same and produce it. LICl has called upon the petitioner to produce the certificate within 4 days which was an impossible task as the petitioner has no control over the issuance process of such certificate. In any event the petitioner has applied for the EWS certificate to the Block Development Officer, Gaighata, North 24-Parganas on 29th February, 2024 with requisite documents which has been duly forwarded to the Sub-Divisional Officer, Bongaon, North 24-Parganas on 5th March, 2024. The acknowledgment receipt of the application and the forwarding letter are annexed at pages 25 and 26 of the writ petition.

On behalf of LICl it is submitted that the petitioner cannot be issued the appointment letter unless he produces the EWS certificate for the year 2022-2023 based on his family income for the financial year 2021-2022. On a query from Court, the learned Advocate for LICl submits on instruction that there are two posts under EWS category lying vacant.

On behalf of State it is submitted that they have not much role to play in the facts of this case. The certificate for the year 2022-2023 on the basis of family income for the financial year 2021 - 2022 will

be issued in due course if the petitioner qualifies for receiving such certificate.

After hearing the parties and considering the materials on record, I find that LICl has only asked for EWS certificate for the year 2022-2023 based on the petitioner's family income for the financial year 2021-2022. Although, the employment notice has been published on 21st January, 2023, i.e. during the financial year 2023-2024. On the date of application in terms of the said employment notice, the financial year 2022-2023 did not come to an end. So, LICl cannot be said to have travelled beyond the employment notice on having asked for the EWS certificate for the immediate preceding year which came to an end on 31st March, 2023.

The employment notice being dated 21st January, 2023 has to take into consideration the petitioner's family income for the financial year 2021-2022 as the financial year 2022-2023 did not come to an end on 21st January, 2023 when the employment notice was published.

However, in the letter dated 12th June, 2023 by which the petitioner was called for interview being annexed at page 58 of the writ petition. LICl has asked for the latest EWS Certificate. By the time when the petitioner was called for interview the financial

year 2022-2023 had come to an end. So the latest certificate should be construed to be the certificate for the year 2023-2024 being based on the income for the financial year 2022-2023. The petitioner has this certificate and has produced the same. The certificate for the year 2023-2024 is annexed at page 21 of the writ petition. LIC, therefore, by issuing the letter dated 22nd February, 2024 has created confusion. The petitioner, therefore, cannot be eliminated from the selection process for not having produced the EWS Certificate for the year 2022-2023.

In the aforesaid facts and circumstances, the Additional District Magistrate, North 24-Parganas is directed to consider the petitioner's application for the EWS certificate for the year 2022-2023 based on the income for the financial year 2021-2022 appearing at page 25 of the writ petition which has been forwarded to the Sub-Divisional Officer, Bongaon as expeditiously as possible but not later than 30th August, 2024 of course if the petitioner is entitled to the same. Keeping in mind that the General Elections were going on in the months of April, May and June, 2024 when normal activity in the Government Offices got slowed down and that two posts under EWS category remains vacant till date coupled with the fact that the petitioner has produced

EWS certificate for the year 2023–2024, LICI is directed to keep one post under EWS category vacant till 30th September, 2024 to be filled up by the petitioner if the petitioner is able to produce EWS certificate for the year 2022–2023 based on the petitioner's family income for the financial year 2021–2022.

Nothing further remains to be adjudicated in this writ petition and as such the same is accordingly disposed of.

Since I have not called for affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)