IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

WEDNESDAY, THE 31ST DAY OF JULY 2024 / 8TH SRAVANA, 1946

WP(C) NO. 8360 OF 2022

PETITIONER:

ABDULLA @ OTTUR RAVINDRANATHAN
AGED 70 YEARS
S/O.SANKARAN NAIR, ASARIKANDIL HOUSE,
OTTAKKANDAM, ARIKULAM,
KOZHIKODE DISTRICT,
PIN - 673 620.

BY ADV SRI C.K.RAMAKRISHNAN

RESPONDENTS:

1 **THE MANAGER**
HDFC (STANDARD LIFE INSURANCE COMPANY LTD.),
SINAX TOWER, KANNUR ROAD,
NADAKKAVU,
KOZHIKODE DISTRICT,
PIN - 673 011.

ADDL.R2 & R3 IMPLEADED

ADDL.R2 **BANKING OMBUDSMAN,**
RESERVE BANK OF INDIA,
BAKERY JUNCTION, TRIVANDRUM-695033

ADDL.R3 **THE GENERAL MANAGER,**
CONSUMER AFFAIRS DEPARTMENT,
GRIEVANCE REDRESSAL CELL,
INSURANCE REGULATORY AND DEVELOPMENT OF INDIA (IRDAI),
SURVEY NO.115/1,
FINANCIAL DISTRICT,
NANAKRANGUDA,
GACHIBOWLI,
HYDERABAD-500032.

[ADDL.R2 AND R3 ARE IMPLEADED AS PER ORDER DATED 02/06/2022 IN IA.2/22 IN WP(C) 8360/2022]

ADDL.R4 IMPLEADED

ADDL.R4 **INSURANCE OMBUDSMAN,**
OFFICE OF THE INSURANCE OMBUDSMAN,
2ND FLOOR,
PULINATTU BUILDING,
OPPOSITE COCHIN SHIPYARD
M.G.ROAD,
ERNAKULAM - 682 015

[ADDL.R4 IS IMPLEADED AS PER ORDER DATED 24/11/2022 IN I.A NO.4/2022 IN WP(C) 8360/2022]

BY ADVS.
SRI JITHIN SAJI ISAAC
SRI N.KRISHNA PRASAD
SRI BHARATH MOHAN
SRI K.J.SAJI ISAAC(S-82)
MS. ELIZABETH VARKEY(E-25)
SRI AJEESH EMMANUEL(K/109/2012)
SRI SHAMSUDEEN O.K.(K/000687/2017)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.06.2024, THE COURT ON 31.07.2024 DELIVERED THE FOLLOWING:

T.R. RAVI, J.

W.P.(C)No.8360 of 2022

Dated this the 31st day of July, 2024

JUDGMENT

The petitioner had taken an insurance policy from the first respondent and paid a sum of ₹1,00,000/- towards the first instalment of premium. This was done on 25.10.2008. He did not pay any further premiums. The policy was of 15 years duration. The writ petition was filed 14 years later seeking a refund of the amount given as premium. Pending the writ petition, the petitioner wrongly approached the Banking Ombudsman for remedy. The Banking Ombudsman and the General Manager, Consumer Affairs Department, of the Grievance Cell of IRDAI were made additional respondents 2 and 3 in the writ petition. The second respondent replied stating that the first respondent does not come within the purview of the second respondent. Thereafter, the Insurance Ombudsman was impleaded as the additional fourth respondent. The petitioner submitted a complaint before the additional 4th respondent and the same has been rejected as per

Ext.P8, stating that the petitioner has to represent his case first to the insurer, and it is only if he is not satisfied with the decision of the insurer that he can approach the Ombudsman. Exhibit P8 is dated 7.10.2022. The petitioner appears to have approached the additional 4th respondent again, by submitting Exts.P9 and P10 representations, but the same have not been considered so far on merits. The petitioner hence seeks relief under Article 226 of the Constitution of India.

2. The first respondent has filed a counter affidavit stating that the petitioner is not entitled to any relief since the policy which he had taken in 2008, has lapsed due to non-payment of instalments of premium. It is stated that if there is a default in the payment of the 2nd instalment, then the entire amount paid will get forfeited, and no amount will be payable under the surrender policy after one year. I do not propose to go into the merits of the contentions of the parties since the Insurance Ombudsman has not considered the issue on merits and has rejected the claim, stating that the petitioner has to first approach the insurer. The Insurance Ombudsman has not considered the fact that the petitioner had already approached the Insurer and the Insurer had rejected the request. In the circumstances, it is only appropriate that the Insurance Ombudsman considers the issue on merits and passes

an order in accordance with the law.

3. The writ petition is hence disposed of directing the additional 4th respondent to consider Exts.P9 and P10 applications submitted by the petitioner and take a decision on merits, after hearing the petitioner and the 1st respondent, at the earliest, at any rate within four months from the date of receipt of a certified copy of this judgment. The petitioner shall be permitted to make additional written submissions, before the additional 4th respondent, and the same shall also be accepted and considered by the additional 4th respondent in accordance with the law.

Sd/-

T.R.RAVI
JUDGE

dsn

APPENDIX OF WP(C) 8360/2022

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE STATEMENT SHOWING THE UNIT LINKED PENSION SCHEME UNDER LIFE INSURANCE COMPANY.**
Exhibit P2	**TRUE COPY OF THE STATEMENT SHOWING THE PAYMENT DATED 25/10/2008.**
Exhibit P3	**TRUE COPY OF THE LETTER DATED 03/11/2009 ISSUED BY THE RESPONDENT TO THE PETITIONER.**
Exhibit P4	**TRUE COPY OF THE COMPLAINT FILED BEFORE THE OMBUDSMAN BY THE PETITIONER DATED 24/3/2022 WITH ACKNOWLEDGEMENT RECEIPT**
Exhibit P5	**TRUE COPY OF THE LETTER FORWARDED BY THE BANKING OMBUDSMAN RBI DATED 28/4/2022**
Exhibit P6	**TRUE COPY OF THE LETTER DATED 22/8/2022 ISSUED BY HDFC**

RESPONDENT EXHIBITS

EXHIBIT R 3 (a)	**A True copy of complaint dated 27.10.2022**
Exhibit R1(a)	**True copy of the letter dated 19.05.2022 submitted by the petitioner to the Insurance Regulatory and Development Authority of India**
Exhibit R1(b)	**True copy of the reply dated 18.07.2022 sent by the 1st respondent to the petitioner**
Exhibit R1(c)	**True copy of the policy dated 17.11.2008 issued to the petitioner by the 1st respondent**

PETITIONER EXHIBITS

Exhibit P7	**TRUE COPY OF THE LETTER DATED 27/10/2022 TO THE SERVICE RECOVERY OFFICER ,HDFC LIFE BY THE PETITIONER**
Exhibit P8	**TRUE COPY OF THE LETTER NO.KOC-L-019-2223-0311 DATED 7/10/2022 BY THE OFFICE OF THE INSURANCE OMBUDSMAN ,KOCHI TO THE PETITIONER.**

Exhibit P9	**TRUE COPY OF THE REPRESENTATION DATED 01/09/2022 BY THE PETITIONER**
Exhibit P10	**TRUE COPY OF THE REPRESENTATION DATED 15/02/2023 BY THE PETITIONER**