



WP.No.3312 of 2024

In the High Court of Judicature at Madras

**Reserved on :
23.10.2024**

**Delivered on :
29.10.2024**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.3312 of 2024 &
WMP.Nos.3571 & 3572 of 2024

Chitra (a) P.L.Chitra

Vs

...Petitioner

1.United India Insurance Company
Ltd., rep.by its Chairman &
Managing Director, No.24,
Whites Road, Chennai-14.

2.The Deputy General Manager
Personnel & HR, United India
Insurance Company Ltd., No.24,
Whites Road, Chennai-14.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent relating to the Notification - Recruitment of 300 Assistants dated 14.12.2023 bearing Ref.No.UIIC/HO-HRM/Asst/2023, quash the same insofar as it does not make provision for absorption of the petitioner, who passed 10 plus 2 Vocational Group - General Insurance in VI batch i.e. in 1995 as



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illegal, arbitrary and without jurisdiction and consequently direct the respondents to absorb/appointment the petitioner as Assistant as was given to the petitioner's batch-mates with effect from the date they were given appointment together with all service and other benefits within a time frame fixed by this Court.

For Petitioner : Mr.N.G.R.Prasad for
M/s.Row & Reddy
For Respondents : Mr.C.K.Chandrasekar,
Standing Counsel

ORDER

This writ petition has been filed challenging the notification issued by the respondents dated 14.12.2023 for recruitment to the post of 300 Assistants, in so far as not making a provision for absorption of the petitioner, who has passed 10 + 2 Vocational Group - General Insurance and to direct the respondents to absorb/appoint the petitioner as Assistant as was done for similarly placed persons earlier with all attendant benefits.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Standing Counsel appearing for the respondents.



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3. The case of the petitioner is as follows :

(i) The respondents started Vocational Group - General Insurance course in selected CBSE schools. This course was started with the object of getting trained staff, who will be automatically absorbed in the General Insurance Company.

(ii) All the students upto 5th Batch (1992-94), who got through this vocational group, were automatically absorbed in the respondent - Insurance Company. The petitioner underwent the course in the 6th Batch (1993-95). As per the scheme, on the completion of the course, the students must be absorbed into the respondent - Insurance Company. Later, 25% of the vacancies in the Insurance Companies alone came to be allotted towards such absorption from the students, who underwent this course. From the 7th Batch onwards, the scheme itself came to be scrapped.

(iii) In the year 2013, a Notification for recruitment was issued to the post of Assistant in the respondent - Insurance Company. However, 25% reservation for students, who underwent the course, was not provided for those, who passed the 6th Batch. Hence, W.P.No.15923 of 2013 came to be filed before this Court by some of the students, who underwent the said course like the petitioner. A learned Single Judge of this Court, after considering the grievance of those petitioners and the objective of the course, allowed the said writ



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petition on 27.9.2013 in the following terms :

"17. Therefore this court declares:

(1) That the respondents have not proved that the de-linking of automatic job guaranteed from the course was informed in advance to the petitioners even before the admission into their course during 1993-1994. Therefore petitioners are covered by original scheme of automatic job guarantee.

(2) Based on the assurance of automatic job guarantee only, the petitioners joined in the Vocation Course specially designed for Insurance Companies and therefore the respondents are bound by promissory estoppel.

(3) The respondents cannot deny the automatic job to those candidates who under went the course during 1993-1994, as the scheme was withdrawn unilaterally without information in advance.

(4) Assuming that the job guaranteed was withdrawn from 1993-1994, even as per the revised scheme 25% of total seats are not reserved for 1993-1994 to the students as per the impugned notification.

(5) The respondents by the impugned notification violate the commitment/ undertaking given in the revised guidelines and also the undertaking given before this Court.

(6) The respondents cannot compel the petitioners to undergo the tests for getting



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employment, like general candidates, as they were specifically made to study the designed vocational course.

(7) The petitioners could not joint any other higher course or get employment, because of undertaking the special course.

(8) The petitioners have to be appointed by the respondents in their Insurance companies as Assistants after giving one year apprenticeship training.

(9) Admittedly after 1997, there was no recruitment up to 2012 and now only through the impugned notification, steps are taken to fill up the posts of Assistants in the Insurance Companies. Therefore, age relaxation have to be given to the petitioners in view of the above positions.

(10) Without quashing the impugned notification in the interest of large number of participants who took part in the recruitment process, this court moulds the prayer and directs the respondent to absorb the petitioners under the 1988 scheme and to start the process of appointment of the petitioners by appointing the petitioners as apprentices within four weeks from the date of the receipt of a copy of the order and report to this Court."

(iv) The said order of the learned Single Judge of this Court dated 27.9.2013 was also confirmed by a judgment of the learned Division Bench of this Court in W.A.No.2164 of 2013 dated 25.3.2014



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wherein the relevant portions read as follows :

"16. The learned Single Judge has rightly taken note of the fact that the syllabus for the vocational course in General Insurance Company was a tailor made to suit the needs of the Insurance Company and in fact, the subjects were taught only by the Insurance Officials and therefore, held that the students, who underwent the said course have to be necessarily accommodated in the appellants' companies and also the students, who underwent the course during earlier academic years were absorbed under the automatic appointment/ absorption scheme in the Insurance Companies.

17. It is pertinent to point out at this juncture that only nine writ petitioners have to be accommodated and the said fact was also taken note of while allowing the writ petition. This Court, on an independent application of mind to the facts and materials placed before it, is of the view that there is no error apparent or infirmity in the order allowing the writ petition and finds no merit in this writ appeal."

(v) The relief that was granted in the said writ petition namely W.P.No.15923 of 2013 was confined only to the petitioners, who approached this Court.

(vi) Thereafter, a fresh Notification was issued on 18.11.2014 for recruitment to the post of Assistants. By issuing this Notification, 25%



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was earmarked for those, who underwent this course. However, two of the candidates, who wrote the written examination, were not called for interview on the ground that they did not pass the written examination. Aggrieved by that, the two candidates filed W.P.No. 10689 of 2015.

(vii) While dealing with W.P.No.10689 of 2015, another learned Single Judge of this Court dealt with the earlier order dated 27.9.2013 passed in W.P.No.15923 of 2013 and W.P.No.10689 of 2015 came to be allowed by order dated 04.2.2022 in the following terms :

"13. It is stated that only three candidates of the year 1993-94 batch of vocational course had participated in the selection process, which was less than the total number of seats falling under the 25% reservation. In view of the decision taken by this Court in B.Supriya's case (supra), the respondents cannot now insist that the petitioners should have passed the written examination. As a matter of fact, the petitioners ought not have to be subjected for written examination but should have been automatically absorbed, since the total number of candidates who had passed the GIC vocational course and applied in the reservation process were less than the number of reserved vacancies under the 25% quota.

14. The learned counsel for the respondents attempted to submit that the decision in B. Supriya's case (supra), would not be applicable to



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the present case in hand since that case related to the notification year 2013, whereas the petitioners herein had participated in the 2014 notification. The counter affidavit filed by GIC also states that the petitioners in B.Supriya's case (supra) alone would be entitled for the benefits of the order and not any other person.

15. These submissions seems to be misconception of the order in B.Supriya's case (supra). The learned Single Judge, while passing the order, had clearly held in para 9 that the 1993-94 batch students are covered by automatic absorption Scheme and the benefits of such automatic absorption has to be extended to the 1993-94 batch students. In para 13 & 14 of the same order, the learned Judge had also held that the respondents cannot deny reservation to the petitioners on the ground that they had failed in the written examination and that in the written examination insofar as the 1993-94 batch is concerned, is unwarranted. The order itself is not one in personam, but would be applicable to all the 1993-94 batch in view of the clear findings therein and thus the submission that this order would not be applicable to the petitioners, is misconceived. Likewise, B.Supriya's case (supra) does not differentiate the notifications 2013 and 2014, but only highlights the status and entitlement of the students of the 1993-94 batch in general. Since the petitioners herein also belongs to 1993-94 batch like that of the B.Supriya's case, the order



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would be squarely applicable to the petitioners herein.

16. The Hon'ble Supreme Court in the *Maharaj Krishnan Bhatt's case (supra)* had held that, once the earlier decision of a Constitutional Court had attained finality, the Authorities ought to have gracefully accepted by granting similar benefits to the subsequent petitioners.

17. Thus, I am of the considered view that since the revision of the Scheme by withdrawal of the 25% reservation was communicated by GIC to CBSE only on 31.05.1993, at which point of time, the concerned Schools were not aware of such a revision, the students who had joined for the 1993-94 batch cannot be expected to know about such a withdrawal of the benefit of the Scheme. The subsequent intimation to the concerned Schools was only from the academic year 1994-95, by which time the petitioners along with the other students of 1993-94 batch, had already opted for the course. This proposition was also ratified by the Hon'ble Division Bench in *B.Supriya's case (supra)*.

18. In view of the non consideration of the candidature of the petitioners by the respondents and the pendency of this Writ Petition, the petitioners may have crossed the upper age limit prescribed in the notification by now. This aspect was also considered by this Court in *B.Supriya's case (supra)* in para 14, wherein it was held that the respondents cannot insist for upper age limit in



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view of the arbitrary action taken by them. Had the respondents processed the petitioners' applications as on the date of the notification, without requiring them to undergo written examination, they would have been well within the maximum age limit. Thus, in view of the mistake committed by the respondents in failing to apply 25% reservation to the petitioners, they cannot now insist that the petitioners should be within the maximum age limit after all these years.

19. In the light of the above observations and findings by both the learned Single Judge and the Hon'ble Division Bench in B.Supriya's case (supra), this Court is of the affirmed view that the revised Scheme will not be applicable to the 1993-94 batch of GIC Vocational Course students, including the petitioners herein. Consequently, these petitioners are not required to undergo the written examination in the recruitment process and hence their disqualification in the examination is irrelevant. Since the total number of candidates, who had participated in the selection process from the 1993-94 batch was well within the 25% of reservation for the GIC vocational course 1993-94, they would be entitled for appointment."

(viii) After coming to know about the said order dated 04.2.2022 in W.P.No.10689 of 2015, the petitioner made a representation on 14.6.2022 to the General Manager of the respondent - Insurance Company seeking to appoint/absorb her in the post of Assistant.



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However, no reply was received by the petitioner from the respondents. While so, the impugned Notification dated 14.12.2023 has been issued for filling up 300 vacancies in the post of Assistants. However, the 25% reservation was not earmarked for the candidates, who underwent the course during 1993-95 (6th Batch). Aggrieved by that, the present writ petition has been filed before this Court.

4. The respondents filed a counter affidavit, in which, they have taken a stand that in the Notification itself, which was issued on 18.11.2014, it was made clear that the benefit of 25% would not be extended in any future exercises and that apart, the petitioner already crossed the cut off age as she is aged about 45 years, that the petitioner did not apply for appointment in any of the previous recruitments when the age was relaxed upto 40 years and that a futile attempt is now being made seeking for appointment/absorption to the post of Assistant.

5. The further stand taken in the counter affidavit is to the effect that public employment cannot be an all time open door to enter at one's own sweet will, that in the earlier two writ petitions, the petitioners therein had participated in the recruitment process and challenged the same at the relevant point of time, that therefore,



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those orders would not come to the rescue of the petitioner and that the petitioner is attempting to get employment in a scheme that was stopped in the year 2014, which was abundantly made clear in the earlier Notification dated 18.11.2014. Ultimately, the respondents sought for dismissal of this writ petition.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned Notification.

7. The lone issue that arises for consideration in the present writ petition is as to whether the petitioner is entitled to be appointed/ absorbed in the post of Assistant only on account of the fact that she underwent the vocational course during the period 1993-95 (6th Batch).

8. The objective behind starting the vocational course was dealt with in detail by the Honourable Mr.Justice N.Kirubakaran while dealing with W.P.No.15923 of 2013 dated 27.9.2013 wherein it was held that only based on the assurance of automatic job guarantee, the students joined in the vocational course specially designed for the Insurance Companies and that therefore, the respondent - Insurance Company



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cannot deny such automatic job assurance for those candidates, who underwent such a course during the period 1993-95 (6th Batch). The learned Single Judge also made it clear that those candidates could not be compelled to undergo any further tests for getting employment nor could be treated like the other general candidates. The learned Single Judge further took into account the fact that those candidates, by virtue of the specialized course underwent by them, could not join nor get any other employment except the one that was guaranteed by the Insurance Companies. In view of the same, it was ultimately held by the learned Single Judge that the petitioners in W.P.No.15923 of 2013 were entitled to be absorbed under the scheme and that they must be appointed in the post of Assistants.

9. When the order dated 27.9.2013 in W.P.No.15923 of 2013 was taken on appeal in W.A.No.2164 of 2013, the learned Division Bench of this Court did not find any ground to interfere with the order dated 27.9.2013. Further, the learned Division Bench took into consideration the fact that only nine petitioners had to be accommodated in that recruitment process and that therefore, there was no ground to interfere with the directions issued by the learned Single Judge in the order dated 27.9.2013.



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10. When the said order dated 27.9.2013 in W.P.No.15923 of 2013 was passed, the relevant Notification that was issued in the year 2013 did not separately provide for 25% reservation of vacancies for those, who underwent the vocational course.

11. Taking note of the said order dated 27.9.2013 in W.P.No. 15923 of 2013, when the subsequent Notification was issued on 18.11.2014 to fill up the vacancies to the post of Assistants, 25% of the total vacancies was earmarked for those candidates, who underwent the vocational course in the 6th Batch.

12. At this juncture, it will be relevant to take note of the specific condition that was provided in the Notification of the year 2014, which is extracted as hereunder :

*"Note to candidates qualified in 10 + 2 CBSE
- General Insurance Vocational Course in 1993-94:*

1. 25% of total vacancies are earmarked for the candidates qualified in 10+2 CBSC - General Insurance Vocational Course in 1993-94. In case candidates of CBSE stream are not found eligible, then candidates from normal stream from the recruitment batch would be considered against such balance vacancies, if any. The eligible and willing candidates are hereby informed to make use of the opportunity and apply. It is further



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informed that it would not be possible to extend such benefit in any future exercises.

2. Those who had successfully completed two years 10+2 CBSE - General Insurance Vocational Course during the academic year 1993-94 batch are also eligible to fill up the form subject to their fulfilling the normal eligibility norms like Online test, etc., as provided in the notification/ advertisement. However, the upper age limit is relaxed upto the age of 40 years for such candidates in respect of the posts earmarked for them."

13. The earlier Notification that was issued in the year 2014 made it abundantly clear that those candidates, who were falling within the 25% reservation, would have to avail this opportunity since it could not be extended in any future exercises. Considering the fact that many, who applied under this reservation quota, would have crossed the upper age limit fixed under the Notification, the upper age limit was relaxed upto 40 years whereas the upper age limit for other general candidates was fixed at 28 years. The age relaxation was given for other candidates, who fell within the category of SC/ST/OBC, etc. It is pertinent to note that the petitioner did not participate in that selection.



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14. Two of the candidates, who participated in that selection, did not clear the written examination and therefore, they were not called for interview. Hence, they filed W.P.No.10689 of 2015 before this Court. The Honourable Mr.Justice M.S.Ramesh, by considering the earlier order passed in W.P.No.15923 of 2013 dated 27.9.2013, held that absorption is automatic for those candidates, who fell under the relevant batch and that they could not be denied appointment on the ground that they failed in the written examination. In other words, it was held that the written examination in respect of the 1993-95 batch was unwarranted. Under such circumstances, W.P.No.10689 of 2015 came to be allowed on 04.2.2022 and the two petitioners therein, who had applied under that Notification, were directed to be considered for appointment.

15. It was brought to the notice of this Court that out of the two petitioners in W.P.No.10689 of 2015, the order dated 04.2.2022 that was passed in favour of the second petitioner was later reviewed and that this order enured only in favour of the first petitioner. The first petitioner, at the relevant point of time was aged about 38 years.

16. The petitioner, after being in hibernation, suddenly realized that she would be entitled to be absorbed as an Assistant after



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crossing 40 years. For the first time, the petitioner made a representation dated 14.6.2022 to the General Manager of the respondent - Insurance Company stating that she came to know about the earlier orders of this Court, that she is also similarly placed and that therefore, she must also be absorbed to the post of Assistant.

17. Thereafter, the present Notification dated 14.12.2023 came to be issued. Obviously, no reservation was prescribed in this Notification since the earlier Notification that was issued in the year 2014 made it very clear that the benefit of the scheme would not be extended in any future exercises.

18. While exercising jurisdiction under Article 226 of The Constitution of India, the Constitutional Courts have always imported the concept of laches and denied the relief sought for. While undertaking this exercise, the Courts take into consideration the Latin term '**Vigilantibus Non Dormientibus Jura Subveniunt**'. To put it in a simple language, it is the obligation of a litigant to not only be aware of his right under law, but also to be vigilant while exercising the same. The legal process only benefits those, who exercise their right within a reasonable time.



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19. Even though the law of limitation is not strictly applied to writ petitions filed under Article 226 of The Constitution of India, the doctrine of laches is always applied in appropriate cases.

20. Useful reference can be made to the judgment of the Apex Court in the case of ***Shankara Co-op Housing Society Ltd. vs. M. Prabhakar [reported in 2011 (5) SCC 607]*** wherein paragraph 54 of the judgment is extracted as hereunder :

"54. The relevant considerations, in determining whether delay or laches should be put against a person who approaches the writ court under Article 226 of the Constitution is now well settled. They are:

(1) there is no inviolable rule of law that whenever there is a delay, the court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts.

(2) The principle on which the court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because court should not harm innocent parties if their rights had emerged by the delay on the part of the Petitioners.



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(3) The satisfactory way of explaining delay in making an application under Article 226 is for the Petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the Statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the Petitioner chooses to believe in regard to the remedy.

(4) No hard and fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.

(5) That representations would not be adequate explanation to take care of the delay."

21. In the case in hand, the petitioner did have a right to be appointed/absorbed as an Assistant since she had undergone the vocational course. However, for the reasons best known to her, the petitioner had not participated in both the selection of the years 2013 and 2014. As stated supra, in the Notification of the year 2014 itself, it was made clear that the benefit would not be extended in any future exercises. This is in view of the fact that this scheme cannot be kept open endlessly permitting those persons, who underwent the course 30 years back to claim for absorption/appointment whenever they want.



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22. The petitioner in this case is aged nearly 45 years. If the petitioner is directed to be absorbed in the post of Assistant, the doors will have to be kept open for all and it would lead to a conclusion that anyone at any age will seek for the right to appointment/absorption. If this logic is extended, someone can approach this Court just one year before the age of retirement prescribed and seek for the relief of appointment/absorption. This will lead to ludicrous consequences.

23. The Notification issued in the year 2014 made it abundantly clear that a last chance was given to those persons, who belonged to the 6th Batch to participate in the selection by reserving 25% out of the total seats and the age was also relaxed upto 40 years. If the petitioner has not availed this opportunity, the petitioner really missed the bus and she cannot be now allowed to catch the bus, which has already reached its destination. The petitioner cannot take advantage of the earlier orders passed by this Court in W.P.No.15923 of 2013 dated 27.9.2013 and W.P.No.10689 of 2015 dated 04.2.2022 at this length of time.

24. For all reasons stated above, this Court holds that the petitioner is not entitled to the relief sought for in this writ petition. There are absolutely no merits in this writ petition.



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25. Accordingly, the writ petition stands dismissed. No costs.

Consequently, the connected WMPs are also dismissed.

29.10.2024

To

1.The Chairman & Managing
Director, United India Insurance
Company Ltd., No.24,
Whites Road, Chennai-14.

2.The Deputy General Manager
Personnel & HR, United India
Insurance Company Ltd., No.24,
Whites Road, Chennai-14

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