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W.P. No.7298 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.7298 of 2015 and
M.P.No. 2 of 2015

B.Nithyanandan

... Petitioner

Vs

1.The Union of India,
Rep. by its Secretary,
Finance Department,
New Delhi.

2.The Life Insurance Corporation of India,
Rep. by the Chairman,
Central Office, Mumbai.

3.The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office,
Johnsonpet, Salem.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records with respect of the proceedings of the 3rd respondent in his proceedings in Ref.Do/Sales dated 16.12.2014 passed by the 3rd respondent and quash the same by holding that Rule 8 of the Life



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Insurance Corporation of India Development Officers (Revision of certain terms and conditions of service) Rules 2009 as unconstitutional and ultravires and direct the respondent to reinstate the petitioner in service with all monetary and service benefits.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.J.Madanagopal Rao,
Senior Central Govt. Standing counsel
for R1

Mr.S.Silambanan,
Senior Advocate for
Mr.K.Sathish,
M/s Profexs Associates for R3

R2- No Appearance

ORDER

The present writ petition is filed challenging the order dated 16.12.2014 and also the validity of Rule 8 of Life Insurance Corporation India Development Officers (Revision of certain terms and conditions of service) Rules 2009 as unconstitutional and ultravires and direct the respondent to reinstate the petitioner in service with all monetary and service benefits.



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2. At the outset, it was submitted by the learned counsel for the petitioner that he does not press the challenge to the validity of Rule 8 of Life Insurance Corporation India Development Officers (Revision of certain terms and conditions of service) Rules 2009 .

3. It was submitted that the petitioner was appointed to the post of Development officer in the second respondent Corporation in the State of Tamil Nadu after the petitioner had cleared the written examination sometime in February 2013. The petitioner had joined service on 30.11.2013 and was terminated on 16.12.2014.

4. It was submitted by both the learned counsel for the petitioner as well as the respondents that the only question that arises in the writ petition is as to whether the petitioner even before the declaration of probation would have any right to insist that he ought to be put on notice before the termination. Importantly, the other petitioners in similar matters were appointed on the very same date and also terminated on the very same date i.e., 1 year and 16 days after the initial appointment. It is not brought to the notice of this Court any document that would indicate that the petitioner has successfully completed his probation.



5. The learned Senior counsel for the respondents would submit that the petitioner services can be terminated during the probation without notice or assigning reasons. The clause on probation is relevant and is extracted hereunder:

“2.Probationary Period:

You shall be on probation initially for a period of twelve months from the date of your joining duties as a probationer, but the Corporation may, in its sole discretion, extend your probationary period, provided that the total probationary period including the extended probationary period shall not exceed 24 months counted from the commencement of the probationary appointment. During the probationary period (which 105 includes extended probationary period, if applicable) you shall be liable to be discharged from the services of the Corporation without any notice and without any cause being assigned.”

6. On a reading of the above clause, it would be clear that probation would initially for a period of twelve months which could be extended by further period of twelve months. Importantly, during the period of probation, it is left to the discretion of the Corporation to discharge the probationer without any notice without any cause being assigned. That being the case, the petitioner having failed to demonstrate that they have successfully completed the probation, I find no merit in the submission of the learned counsel for the petitioner that non-issuance



of notice would vitiate the order of termination.

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7. It is further submitted by the learned counsel for the respondents that the petitioner's service was terminated as he failed to meet minimum business requirement. Thereby, he has failed to fulfill the parameters, thus the petitioner's service as Probationary Development Officer was terminated. The relevant portion of the termination proceeding is extracted hereunder:

“This has reference to clause 10 and 11, dealing with 'Minimum Business' and 'Confirmation and Increments' respectively of the order Ref: Mktg/PDO dated 30.11.2013 vide which you were offered Appointment as Probationary Development Officer of the Corporation commencing from 01.12.2013. As the scheduled Probationary period is ending on 30.11.2014 and as per clause 11 which deals with 'Confirmation and Increments' stating unambiguously that your Confirmation in the services of the corporation in the Class II cadre shall, apart from adhering to all the conditions stated in the order mentioned above, depend upon the fulfillment of the minimum business requirements set out in clause 10. As you have not fulfilled the parameters mentioned in the letter dated 30.11.2013, your services as a Probationary Development Officer is terminated with effect from 01.12.2014. Also as per out appointment order dated 27.05.2013 as Apprentice Development Officer clause 6(A) in case you are discharged from the service or if you resign before the completion of 4 years from the date of appointment of Apprentice Development Officer, you are liable to pay the corporation the liquidated damages of Rs.25000/-. You are advised to pay the liquidated damages of Rs.25000/- immediately.”



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7.1. From a reading of the above termination letter, it would be clear that the respondent Corporation though was under no compulsion to assign any reason to discharge a probationer during the period of probation, has assigned reason for termination viz., that the petitioner failed to fulfill the parameter mentioned in the letter dated 30.11.2013, i.e., the petitioner failed to fulfill the minimum business requirement.

8. For the above reason, I find no reason to interfere with the impugned proceeding and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

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To
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MOHAMMED SHAFFIQ, J.

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