IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.04.2024

Pronounced on : 23.05.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18088 of 2022

VSS Krishna ... Petitioner

Vs.

1.The Senior Divisional Manager,
The Salem Divisional Office,
LIC of India, "Jeevan Prakash",
Johnsonpet, Salem 636 007
2.The Zonal Manager,
The Southern Zonal Office, LIC of India,
"LIC Building", 153, Anna Salai, PB No.2450,
Chennai 600 002(TN) ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus by quashing the impugned reply letter dated 08.03.2022 of the first respondent (LIC of India Salem Divisional office) and to direct the respondent to settle the "First Year Commission, Renewal Commission(as on date) with proper bank interest as on date and to credit the future renewal commission to the petitioner's bank account directly for the "4626 policies which is completed in the petitioner's own license No.0809051518 valid period (27.04.2012 to 26.04.2015) and to issue the customers policies due list / details of the policies.

For Petitioner : Mr.V.S.S.Krishna(petitioner in person)

For Respondents : Mr.Manoj Sreevalsan

ORDER

This writ petition has been filed challenging the order dated 08.03.2022 passed by the first respondent thereby rejected the claim made by the petitioner for first year commission and renewal commission with interest.

2. The petitioner was a Financial Services Executive, (hereinafter called as FSE) Contractual Employee with the respondents. He had joined on 09.05.2012 and thereafter, he was terminated on 25.01.2018. During his training period, he was directed to acquire IRDAI (Insurance Regulatory and Development Authority of India)licence. He had paid a sum of Rs.250/- as licence fee for the licence No.0809051518. After his termination, the petitioner obtained information under the Right to Information Act and it revealed that the petitioner's licence was issued to sell respondent's insurance product as per their terms and conditions

and it was valid for three years from 27.04.2012 to 26.04.2015. During that period, 4626 policies were completed under the licence. Further, the petitioner was informed that 2295 policies were completed under his FSE code (0015070). Therefore, the petitioner requested the respondents to pay commission for the said 4626 policies. However, the claim of the petitioner was not considered and as such he had filed writ petition before this Court in WP.No.27207 of 2021. This Court directed the respondents to consider the claim of the petitioner and dispose of the same in accordance with law by an order dated 22.12.2021. However, the request made by the petitioner was rejected by the order impugned in this writ petition dated 08.03.2022 stating that information was already furnished under the Right to Information Act for the period from 09.05.2012 to 25.01.2018.

3. Heard, the petitioner and the learned counsel appearing for the respondents.

4. On perusal of the counter filed by the respondents and on hearing the submissions made by the learned counsel appearing on either

side, revealed that Life Insurance Corporation of India is a Statutory Corporation constituted under the Life Insurance Corporation Act, 1956. It has rules for appointment to permanent posts for all cadres and instructions for engagement of temporary staff in Class III and Class IV cadres. The permanent employees are governed by the LIC of India (Staff) Regulations, 1960. The temporary employees are governed by the LIC of India (Employment of Temporary Staff) Instructions, 1993. As far as the petitioner is concerned, he is not covered under any of these Regulations / Instructions.

5. The Financial Service Executive Scheme, 2007 was formulated for the purpose of appointment of Financial Service Executives on contractual basis initially for a period of three years. It will be extended from time to time. The said scheme was closed on 24.01.2018. As per Clause 24 of the said Scheme provides that 'FSE shall be allowed to continue Individual agency with LIC if he desires so, but only as a direct agent either after the period of contract is over or even when the contract with him prematurely terminated for reasons other than

misconduct and if he is otherwise found suitable or if the FSE submits his resignation before the period of contract is over'. They are granted licence in accordance with the IRDAI Regulations. It envisages that any individual engaged in soliciting / canvassing insurance policy including telecallers engaged for the same, shall necessarily have a valid licence. Their role cannot be equated to that of an individual agent of LIC of India. The role of individual agents involves identifying the prospects, solicit insurance policies from them, provide them with insurance policy through the insurer and also facilitate various services to the policy holders. FSE's will be coordinating with the attached Bank outlets and will facilitate the completion of LIC policies procured / solicited/ prospected by the Bank Branches as the Bank is the corporate agent to LIC. The corporate agents are paid commission as per their eligible norms for the new business premiums and also for the renewal premiums. However, the FSE's are not eligible for any commission and they are paid remuneration as per their terms of appointment.

6. As far as the petitioner is concerned, at the time of closure

of the FSE Scheme, the petitioner did not opt to migrate as Chief Life Insurance Advisor (CLIA) with the respondents. The petitioner was engaged as FSE and allotted him to Salem Career Agents Branch Office for a period of three years on contractual basis on 09.05.2012. After completion of the scheme, the petitioner was given opportunity to continue as Direct Agent as per clause No.24 of the Scheme and the petitioner did not opt for the same. Therefore, he was terminated on 24.01.2018. That apart, it is the mandatory eligible condition to acquire IRDA licence within a period of three months from the date of commencement of training, and if not, selection would stand cancelled. Therefore, the petitioner obtained licence for the purpose of facilitating completion of LIC policies / canvassing the prospect identified by the Bank outlets attached to him. Therefore, from the period 09.05.2012 to 24.01.2018 under the petitioner's licence, completed 2925 policies by the petitioner under his FSE code 0015070.

7. So far as the commission is concerned, as per the Annexure 6R of the terms of the FSE, FSE's are not entitled for commission. As per

clause No.4, provides only a fixed amount as total remuneration per month and the same is specified as Rs.10,000/-, Rs.11,300/- and Rs.12,700/- for the first, second and third year respectively. In addition to the fixed amount specified above, FSE shall be entitled to receive incentives based on their yearly new business performance as approved by the competent authority from time to time. Whenever the petitioner was entitled to any incentive, he was paid the said incentive amount. Therefore, the request made by the petitioner was rightly answered and this Court finds no infirmity or illegality in the order passed by the first respondent. As such, this writ petition is devoid of merits and liable to be dismissed.

8. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

23.05.2024

Neutral Citation:Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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