

06.03.2025

Item no.DL/1
Court No. 23

Asraf, A.R.(Ct.)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Case No. **WPA 16609 of 2023**

Nayan Tewary

....Writ Petitioner

VS.

The Life Insurance Corporation of India & Ors.

....Respondents

For the Writ Petitioner :

Mr. Partha Sarathi Bhattacharya, Sr. Adv.

Mr. Sougata Mitra

Mr. Nikhil Gupta

Mr. Subhadeep Maitra

Ms. Soma Chakrabarty

....Advocates

For the Respondents / LIC :

Mr. Abhimanyo Shandilya

Ms. Simi Paul

Mr. Biyas Banerjee

....Advocates

Supplementary Affidavit and Exception to the report of the Life Insurance Corporation of India (for short, "LIC") filed by the petitioner in Court today are taken on record.

The petitioner was engaged by LIC as an agent with effect from 21st August, 2017 at its Asansol Branch. While serving as an agent, the petitioner obtained Bachelor's Degree with three years Honours in Elective Bengali in the year 2019. While

working as an agent in LIC, the petitioner came across an advertisement published by LIC for recruitment of Apprentice Development Officer. The employment notice is annexed at pages 20 to 37 of the writ petition as Annexure P2 thereof (hereinafter referred to as “the employment notice”).

The eligibility criteria under the said employment notice have been stipulated in clause 7 thereof. The qualification and other criteria as per the said employment notice were to be fulfilled as on 1st January, 2023. Clause 7(c) provides for the requisite experience of an applicant, the date of which is also 01.01.2023. In clause 7(c) of the said employment notice, the “Category of Applicant” has been clearly stated under the heading “LIC Employee Category” as “LIC Agents Category or other than Agent, such as DSAs/FSEs”. So far as eligibility criteria of applicant who is a LIC Agent it is stated “not less than 4 years as an LIC agent”. The experience criteria provides for a separate parameter for DSAs/FSEs.

The petitioner applied against the 27 Unreserved (UR) vacancies under Asansol Division where the total vacancies declared was 53. The petitioner qualified in the written examination and

was issued a letter on 3rd June, 2023 calling him for an interview on 15th June, 2023. The petitioner appeared in the interview, however, he was held to be disqualified by a letter dated 3rd July, 2023. Challenging such disqualification, the instant writ petition has been filed.

The learned Senior Advocate appearing on behalf of the petitioner apart from referring to the eligibility criteria has also referred to a printout of the Management Information System wherein the ranking list of agents on number basis was published by LIC. It will appear from pages 6 and 7 of the supplementary affidavit filed by the petitioner that in the Asansol Division under Unreserved category, the petitioner was second in rank while on an overall merit list the petitioner has been in fourth rank. It is the case of the petitioner that going by the rank and the number of vacancies being 27, the petitioner ought to have been given appointment but has been arbitrarily and in a wrongful manner disqualified.

It is further submitted by the petitioner that in case of an agent in LIC being an applicant there was no requirement to fulfill any business target. The fulfillment of business target is only in case of

DSAs/FSEs and, as such, on having fulfilled such criteria, there was no question of the petitioner being disqualified for having not fulfilled the business target as provided in clause 7(c) of the employment notice after having secured 4th rank in the overall selection list.

On behalf of LIC I it is submitted that under the subject employment notice applications could be made by three categories of LIC employees respectably being an agent, DSA and FSE. In case of agent, the candidate had to have served as an agent for minimum four years and the target was to be achieved by all set of candidates. It is the case of LIC that the petitioner though has been successful in written examination or at the interview but having failed to achieve the financial target was declared as disqualified. It is the further case of the LIC that the petitioner also understood that as an agent he had to fulfill the financial requirements and for such reason he had also submitted his financial achievements duly certified by an officer of LIC.

After hearing the parties and considering the materials on record, I find that this writ petition was filed on 13th July, 2023, i.e., within 10 days

from the disqualification letter dated 3rd July, 2023. The petitioner, therefore, cannot be said to have approached this Court at a delayed stage.

This Court by an order dated 18th September, 2023 after taking note of the fact that all the posts of Apprentice Development Officer having not been filled up till then directed one post to be kept vacant. LIC has accepted the said order as they did not file any vacating application or prefer an appeal therefrom. On the contrary, the learned advocate appearing for LIC on instruction submits that in likelihood the 26 vacancies under Unreserved category have been filled up and their training programme had also commenced and may have been completed by this time.

Going to the merits of the matter, on a literal construction of clause 7 (c) it is crystal clear that after “not less than 4 years as an LIC agent” an “or” has been inserted which is then qualified by “other than Agent, such as DSAs / FSEs and thereafter by inserting the word “and” then inserted the petitioner has brought a Net First Year Premium Income of not less than Rs.1,00,000/- on 50 lives per year in any 3 of the immediately preceding 4 financial years”. The use of the word “or”, therefore, makes

the portion prior to the said word “or” disjunct from the rest of the portion. The word “and” is used after the rest of the portion. It cannot, therefore, be said that by using the word “and” it was meant that the agent as also the DSAs / FSEs were required to fulfill the financial target as an eligibility criteria. This will be more so apparent because in case of LIC agent, a four years experience has not been stipulated which is absent for DSAs/FSEs. While in case of DSAs / FSEs, the financial target achieved in the preceding four financial years was to be taken into consideration. This provision if read in the context of the category of LIC employee eligible to apply would clearly confirm the distinction.

In the aforesaid facts and circumstances, I find that the petitioner was wrongly disqualified and the action on the part of the LIC in disqualifying the petitioner is an arbitrary act. Accordingly, the letter / order dated 3rd July, 2023 is set aside and / or quashed.

The petitioner, therefore, should be given appointment against the post directed to be kept vacant by the order dated 18th September, 2023.

LICI is directed to issue appointment letter within seven days from the date of communication of a server copy of this order without insisting upon production of a certified copy thereof.

It is also made clear that the petitioner shall receive the remuneration and emoluments as an Apprentice Development Officer with effect from the date of his actual joining and shall be provided notional benefit from the date on which the last candidate under UR Category was appointed against the aforesaid recruitment process conducted by issuance of the employment notice was given appointment.

Nothing further remains to be adjudicated in this writ petition.

The writ petition is accordingly **disposed of**.

(Arindam Mukherjee, J.)