BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.56 of 2023
and
CMP(MD)No.612 of 2023

1. The Managing Director,
Life Insurance Corporation of India,
Central Office, Yogakshama,
Jeevan Bima Marg, Mumbai.

2. The Zonal Manager,
Life Insurance Corporation of India,
Annasalai, Chennai – 2.

3. The Senior Divisional Manager,
Life Insurance Corporation of India,
Sellur, Madurai – 2. ... Appellants

Vs.

A.Ashraf Ali ... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P(MD)No.17380 of 2019, dated 02.08.2022.

For Appellants : Mr.G.Prabhu Rajadurai
For Respondent : Mr.H.Mohamed Imran for
M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

This writ appeal is directed against the order made in W.P(MD)No.17380 of 2019, dated 02.08.2022.

2. The respondent / writ petitioner was originally appointed as Apprentice Development Officer by the appellants Corporation on 26.09.1987 and thereafter, confirmed as Development Officer on 01.04.1989. After rendering service for about 27 years, his services were terminated through the order dated 10.03.2014, by stating that his performance was not satisfactory as per the appraisal. Thereafter, when the respondent had sought for reappointment as Assistant or Record Clerk to do the administrative work in Class-III posts, his request was rejected through the order dated 02.07.2019. Against the said order, the respondent filed the writ petition.

3. The Writ Court, considering Rule 15 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules 2009, allowed the writ petition. The relevant passage of the order passed by the Writ Court is extracted hereunder:

> "3. *As per the aforesaid Rule, when a Development Officer completes seven years of service and is less than 55 years of age, he would be eligible for reappointment in Class III posts either as an Assistant or Record Clerk. Thus, the entitlement under Rule 15 is a mandatory condition to grant re-employment to such Development Officers, subject to the condition that he should have completed seven years of service and should be less than 55 years of age. If that be so, the rejection of the petitioner's request for re-employment in Class III posts, would be in contradiction to the mandatory provisions under Rule 15, which entitles the Development Officer to seek the post of Assistant or Record Clerk.*
>
> 4. *Incidentally, Rule 18 of the Life Insurance Corporation of India (Employees) Pension Rules, 1995 provides that whenever an employee, being a Development Officer is re-employed back into service, his service prior to his reemployment shall be counted for the "qualifying service".*
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> 5. *In the result, the impugned order dated 02.07.2019 is*

quashed. Consequently, there shall be a direction to the third respondent herein to pass appropriate orders notionally appointing the petitioner to the post of Assistant or Record Clerk in Class III, with effect from 02.07.2019 and that he is deemed to have retired from service on the date of attaining the age of superannuation. While passing such orders, the third respondent herein shall also pass orders taking into account the past service of the petitioner in the post of Development Officer, as qualifying service, for the purpose of calculating the retirement and pensionary benefits. Such orders shall be passed, atleast within a period of six (6) weeks from the date of receipt of a copy of this order."

4. Assailing the impugned order, learned counsel for the appellants would state that as per Rule 15 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules 2009, reappointment is not automatic, but the applicant has to satisfy the criteria regarding his past conduct and suitability. Further, the finding of the Writ Court that providing reemployment under Rule 15 is mandatory upon the applicant fulfils the twin condition of 7 years of service and having age less than 55 years, is

arbitrary since the applicant is not suitable in view of his past record of service, where he was terminated on the ground of under performance. However, without considering the same, the Writ Court has erroneously allowed the writ petition. Thus, the order of the Writ Court is liable to be set aside.

5. Learned counsel for the respondent would state that the respondent was terminated from service on the ground of under performance and not due to the grave charges or serious misconduct and further, he has also satisfied the twin condition stipulated under Rule 15 of the abovesaid rules. Therefore, he cannot be denied reemployment to Class III posts on the ground of suitability. The Writ Court has dealt with the case in proper perspective and rightly allowed the writ petition. Thus, the impugned order does not require interference by this Court.

6. Heard both sides.

7. Perusal of Rule 3(3) of the Life Insurance Corporation of India (Re-appointment of Terminated Development Officers) Rules, 1990, shows that in determining the applicant's suitability for reappointment, the Committee shall have regard to the applicant's past record of service, familiarity with the nature of the work appurtenant to the post to which he seeks reappointment and such other factors as may be considered relevant by it. The respondent has rendered 27 years of service as Development Officer in the appellants corporation. He was terminated due to under performance and not due to any grave charges of serious misconduct. Considering the length of service put in by the respondent and his experience, the respondent cannot be said to be unsuitable for reappointment as Assistant or Record Clerk to do the administrative work in Class-III posts, which are only clerical posts.

8. Though Rule 3(3) of the Life Insurance Corporation of India (Re-appointment of Terminated Development Officers) Rules, 1990, stipulates that the applicant's past record of service, familiarity with the nature of the work appurtenant to the post to which he seeks

reappointment, have to be considered for reemployment, in our view, that alone cannot be the criteria to reject the request of the respondent for reemployment to Class-III posts. An official in the higher level post cannot be said to be non-suitable for clerical post merely because of his under performance in higher level post which resulted in termination. The under performance of the respondent might have been the reason for termination from the post of Development Officer, but the same reason and his past record of service in the said post cannot be cited for rejecting the request for reemployment to Class-III posts which are only clerical posts. If such approach is adopted in every case, then the very object of providing reemployment under Rule 15 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules 2009 itself will be defeated. Even the rejection order for reemployment also does not narrate any specific ground or incident to suit the same under the purview of Rule 3(3) of the Life Insurance Corporation of India (Re-appointment of Terminated Development Officers) Rules, 1990, to reject the request of the respondent on the ground of suitability. As stated supra, except the ground of under performance as Development Officer, there is no grave charge or serious conduct is levelled against the respondent, to *prima facie* disqualify his candidature for reemployment. Such grounds are not made out in the case of the respondent. Therefore, we are not inclined to interfere with the impugned order of the learned Judge.

9. Accordingly, the Writ Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
07.04.2025

Index : Yes / No
Neutral Citation : Yes / No
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