BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1469 of 2022
and
C.M.P.(MD)No.11830 of 2022

1.LIC, Zonal Manager,
LIC of India,
No.102, Anna Salai,
Chennai - 600 002.

2.The Senior Divisional Manager,
LIC of India,
Divisional Office,
Tirunelveli.

3.The Chairman,
LIC of India,
Central Office,
Yogakhshema,
Jeevan Bima Marg,
Mumbai - 400 021. ... Appellants

Vs.

V.S.Balasubramania Pillai ... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order dated 16-08-2022 in W.P.(MD).No.15900 of 2012 on the file of this Court.

For Appellants : Mr.G.Prabhu Rajadurai,
Standing Counsel.

For Respondent : Mrs.R.Saraswathi

JUDGMENT

Heard both sides.

2.The writ petitioner / V.S.Balasubramania Pillai was an LIC agent for 22 years (1987 – 2009). On 15.02.2002, the agent introduced one Manikandan and obtained a policy for him. It turned out that on the said date, Manikandan was actually aged 17 years having been born on 01.08.1985. However, in the policy proposal, it was made to appear as if he was born on 01.12.1984. Manikandan, the life assured passed away on 29.05.2006. The investigation conducted by LIC revealed that the date of birth was fraudulently given and that led to repudiation of the policy also. Since the agent by his conduct had exposed the corporation to a possible financial loss, show cause notice was issued to him and eventually, the punishment of termination of his agency with forfeiture of renewal commission under Regulation 16(1)(b) of the Life Insurance Corporation of India (Agents) Regulations, 1972 was imposed on 08.08.2009. The agent filed W.P.(MD)No.1 of 2011 challenging the termination order dated 08.08.2009. When the writ petition was taken for final disposal on 21.03.2012, it was submitted on behalf of the agent that while he would not press the prayer for quashing the termination order, he would be satisfied if liberty is given to approach the Zonal Manager of LIC for restoration of commission for the policies already subscribed by him. Recording the said submission, the writ petition was disposed of in the following terms:-

> *"5.In the light of the above submission made by the learned counsel for the respondents, the writ petition is disposed of granting liberty to the petitioner to apply for restoration of commission and on receipt of the same, the first respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of thirty days from the date of receipt of a copy of application from the petitioner. No costs. Consequently, connected miscellaneous petition is closed."*

3.Availing the said liberty, the agent submitted a representation. But the request was rejected vide order dated 28.06.2012. Challenging the same, the agent filed W.P.(MD)No.15900 of 2012. The writ petition was allowed by holding that the agent would be entitled to the renewal commission on the premium received in respect of the business secured by him while he was agent. Challenging the said order dated 16.08.2022, this intra-court appeal has been filed by LIC.

4.The learned standing counsel for LIC reiterated all the contentions set out in the memorandum of grounds appeal. Relying on the decision reported in ***(1994) 1 SCC 1 (S.P.Chengalvaraya Naidu Vs. Jagannath)***, he contended that the act of agent would amount to playing fraud on the corporation. He took us through the scheme of regulations governing the duties of agent and contended that an agent is expected to maintain the highest levels integrity, honesty and diligence. Even a slight infraction would have to be viewed seriously.

5.We do endorse the stand of the learned standing counsel for LIC. That is why, the agent was rightly terminated. The only question that calls for consideration is whether the agent should also be forfeited the renewal commission.

6.As rightly pointed out by the learned Single Judge, forfeiture of the renewal commission would arise only if the act of the agent can be characterized as fraudulent.

7.In the case of hand, the father of the policy holder / life assured was also a panel doctor of LIC. It is quite possible that the agent believed the representation of the panel doctor. Even though policy was taken on 15.02.2002, the death of life assured took place only on 29.05.2006 ie., four year later. It was not an early claim. The policy amount was only Rs.2,00,000/-. If the agent as well as the said panel doctor wanted to cheat the corporation, they would have definitely taken a policy for a larger sum. Considering these aspects, we are led to conclude that the act of agent cannot be characterized as fraudulent. Paragraph Nos.17 and 18 of the learned Single Judge read as follows:-

> *"17.It is not the case of the Corporation that with full knowledge, the petitioner has given a wrong information about the date of birth of the proposer or he had actively concealed the*

date of birth of proposer after having knowledge about the same. The proposer is none other than the son of a Panel Doctor of the respondents Corporation. The petitioner in his explanation has submitted that he believed the Panel Doctor of the respondents Corporation and accepted the date of birth of the son of the said Doctor. It is quite natural that an LIC agent believes the Panel Doctor of the same Corporation for which he was functioning as an agent. The respondents Corporation had at no point of time made any allegation as against their own Panel Doctor. In such an event, the allegation of the fraud against the petitioner has not been legally substantiated. Of course, the petitioner is under a statutory obligation to verify the date of birth of the proponent. For the said negligence, he has already suffered an order of termination and lost his career. Without proving fraud just by chanting the word 'fraud' in the show cause notice and incorporation the same in the termination order would not prove that the petitioner has committed fraud in proposing the policy of the said Manikandan. Therefore, the respondent Corporation has utterly failed to prove that the petitioner has committed fraud.

18.When the element of fraud has not been proved, the termination of the petitioner is only on the ground that he has acted prejudicial to the interest of the Corporation as pointed out in the order of the original authority by invoking Regulation No. 16(1)(b) of the Life Insurance Corporation of India (Agents) Regulations, 1972. When the termination is on the ground other than the fraud, as per Regulation No. 19(1), the petitioner is *entitled to the commission on the premium received in respect of the business secured by him while he was an agent. In the instant case, there is no dispute that the petitioner is continually working as an agent for more than 10 year since his appointment. Hence, the order of the respondents herein forfeiting renewal commission of the writ petitioner is not legally sustainable and the same is set aside."*

8.We endorse the reasoning given by the learned Single Judge. Interference with the said order is not warranted. We make it clear that no legal proposition has been laid down either by the learned Single Judge or by this Court. Relief is granted to the writ petitioner only considering the special facts and circumstances obtaining in this case. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.J.R. J.,)
27.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

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