



2025:DHC:555-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 08.01.2025
Judgment delivered on: 30.01.2025

+ LPA 227/2024 & CM APPL. 16894/2024

VINAY KUMAR UPADHYAY ...Appellant

versus

LIFE INSURANCE CORPORATION OF
INDIA & ORSRespondents

Advocates who appeared in this case:

For the Appellant : Mr. R.P. Pahwa, Advocate.

For the Respondents : Mr. Kamal Mehta, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. Present appeal has been filed under Clause X of the Letters Patent Act, 1866 assailing the impugned order dated 02.11.2023 passed by the learned Single Judge dismissing the underlying writ petition being W.P.(C) 9977/2022 filed by the appellant seeking directions to respondents to restore the benefits/commissions to the appellant arising from his agency code and forthwith release of the same.

2. On 19.09.2008, the appellant was appointed as an agent by the Life Insurance Corporation of India (hereinafter referred to as *the LIC*) for

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LPA 227/2024

Page 1 of 8



2025:DHC:555-DB



selling life insurance. It is stated that in his quest for a better and secured future, on 05.07.2021, the appellant applied for a job with HDFC Ergo General Insurance Company Limited (hereinafter referred to as *the HDFC Ergo*) and the appellant was offered the post of Deputy Manager (Customer Experience Management).

3. Pursuant thereto, the appellant gave his resignation on 07.07.2021 by approaching the respondent no.4/Branch Manager, LIC. It is stated that later, upon advice, the appellant also gave a letter stating that he is not involved in selling of life insurance directly or indirectly with the HDFC Ergo.

4. It is stated that no response was received from the respondents as to the appellant's resignation and as to the detachment of his Income Tax PAN. Without waiting for a response to his said resignation any longer, the appellant joined the service of the new employer on 13.07.2021.

5. It is stated that the appellant had been regularly receiving his renewal and other commissions twice every month as per the rules/practice of the respondents. However, the respondents stopped releasing such commissions to the appellant from 15.07.2021 onwards without any notice. Aggrieved by this, the appellant sent a legal notice dated 13.05.2022 to the respondent no.3/Senior Divisional Manager, LIC with a copy to respondent no.4, *inter alia*, calling upon them to release/direct to be released to the appellant forthwith and, in any case, within 7 (seven) days of the receipt of the said notice, all types of commissions viz., First Year Commission, Bonus Commission, Renewal Commission or any other kind of commission which



2025:DHC:555-DB



the appellant had earned, as may be calculated on the basis of the premium income that may have been received or may be received in future by the respondents from time to time under his said insurance agency and also do the needful with regard to the detachment of his income tax PAN.

6. It is stated that having not received any response from the respondents, the appellant was constrained to approach this Court by way of the underlying writ petition praying for a direction to the respondents to release the commissions and other benefits that are due and payable to the appellant. However, *vide* impugned order dated 02.11.2023, learned Single Judge dismissed the writ petition of the appellant in view of Regulation 19 of the Life Insurance Corporation of India (Agents) Regulations, 2017 (hereinafter referred to as *the LIC Regulations, 2017*). Aggrieved by this, the appellant has preferred the present appeal.

7. The only contention raised by the learned counsel for the appellant is that the LIC Regulations, 2017 were never made known either to the employees of the respondent like the appellant or made available to the public, due to which the appellant continued to believe that he was governed by the old Regulations under which he had been appointed. He submitted that it was the duty of the respondent to bring the new Regulations to the notice of the agents like the appellant, failing which, the new Regulations, which were merely notified in the official gazette, could not have been made applicable to the appellant to his detriment. He contended that read so, the Regulations which would be applicable to the appellant were those that were published in the year 1972, namely, the Life



2025:DHC:555-DB



Insurance Corporation of India (Agents) Regulations, 1972. In support thereof, the learned counsel referred to his appointment letter placed as Annexure A-2 to the present appeal, particularly to para 4. According to the learned counsel, since the new LIC Regulations, 2017 were neither informed to the employees nor were made public, such Regulations would not govern the appellant who was appointed under the LIC Regulations, 1972. In that view of the matter, he emphasized that the reliefs sought by him in the underlying writ petition were under the LIC Regulations, 1972 and thus, the dismissal of his writ petition by the learned Single Judge was incorrect.

8. Alternatively, learned counsel also vehemently contended that the appellant ought to have been afforded an opportunity to choose as to which of the Regulations would be applicable to govern his service conditions particularly when the subsequent Regulations of 2017 work to his detriment. That option having not been afforded, lead to infraction of his fundamental rights, giving him a reason to invoke the writ jurisdiction of this Court.

9. The learned counsel emphasized that his subsequent employer i.e. HDFC Ergo is neither a Life Insurance company or a Health Insurance company but only a General Insurance company, and the department in which the appellant joined deals only with providing medical insurance to its clients and not life insurance cover. He contended that the bar as per the new Regulation 19 was only against directly or indirectly soliciting or procuring or promoting life insurance cover to the clients with the new



employer. In support of this contention, the learned counsel referred to an email dated 20.09.2021 at page 64, sent by the new employer to respondent no.4 clarifying that the department of the appellant deals only in Mediclaim insurance and not life insurance policies. Thus, it was submitted that even on that score, he was entitled to the commission as applicable under the LIC Regulations. He thus prayed that the appeal be allowed and the reliefs sought in the underlying writ petition be granted alongwith compensation.

10. The argument of the learned counsel in respect to the additional requirement of making an amending notification available to the public by circulation or sale, apart from mere publication in the Official Gazette, for bringing the amendment into operation, is no more *res integra* in view of the judgment of the Supreme Court in ***Union of India vs. Ganesh Das Bhojraj, (2000) 9 SCC 461***. The Supreme Court, in the facts of that case, had held that for bringing the amending notification into operation, the only requirement of the section is its publication in the official gazette and no further mode of publicity or additional requirement of offering it to public or putting it on sale is contemplated. It would be apposite to extract the relevant paragraphs hereunder for clarity:

“...14. From the aforesaid judgment it can be stated that it is an established practice that the publication in the Official Gazette, that is, the Gazette of India (sic is an) ordinary method of bringing a rule or subordinate legislation to the notice of the persons concerned. Individual service of a general notification on every member of the public is not required and the interested person can acquaint himself with the contents of the notification published in the Gazette. It is the usual mode followed since years and there is no other mode prescribed under the present statute except by the amendment in the year 1998 by Bill 21 of 1998.

15. Further, in New Tobacco Co. case [(1998) 8 SCC 250] the Court



referred to the decision in Harla v. State of Rajasthan [1951 SCC 936]. In Harla case the Court referred to Section 3 of the Jaipur Laws Act, 1923 which, inter alia, provided that the Court of Jaipur State shall administer the law passed from time to time by the State and published in the Official Gazette. In that case, it was admitted that the Jaipur Opium Act was never published in the Gazette and, therefore, the Court held that in the absence of some specific law or custom to the contrary, a mere resolution of a Council of Ministers in Jaipur State without further publication or promulgation would not be sufficient to make a law operative. The Court also observed:

“We take it that if these proclamations are not published strictly in accordance with the rules so drawn up, they will not be valid law. ... The mode of publication can vary; what is a good method in one country may not necessarily be the best in another. But reasonable publication of some sort there must be.”

16. Further, in the case of New Tobacco Co. [(1998) 8 SCC 250] the Court relied on the decision in B.K. Srinivasan [(1987) 1 SCC 658, 672] . In that case (in para 15) after considering various contentions, the Court specifically held that where the parent statute prescribes the mode of publication or promulgation that mode must be followed. Where the parent statute is silent, but the subordinate legislation itself prescribes the manner of publication, such a mode of publication may be sufficient, if reasonable.

17. From the aforesaid observations, it is plain and clear that the decision in B.K. Srinivasan [(1987) 1 SCC 658, 672] also reiterates that the notification will take effect only when it is published through the customarily recognised official channel, namely, the Official Gazette. We also agree with the reasons recorded in Mayer Hans George [AIR 1965 SC 722] and hold that notification under Section 25 of the Customs Act would come into operation as soon as it is published in the Official Gazette and no further publication is required. Hence, the decision rendered in Pankaj Jain Agencies [(1994) 5 SCC 198] represents the correct exposition of law on the subject. The decision rendered in New Tobacco Co. [(1998) 8 SCC 250] followed in Garware Nylons Ltd. [(1998) 8 SCC 282] does not lay down the correct law...”

11. In view of the above, we are not persuaded by the argument of the learned counsel for the appellant that since the LIC Regulations, 2017 were not made known to him or the public, the appellant would be governed by



2025:DHC:555-DB



the erstwhile LIC Regulations, 1972. It is crystal clear from the aforesaid ratio that the moment an Act or a notification is published in the official gazette, the date of such publication would be the effective date of the Act or the notification coming into force. No other procedure is prescribed post such publication in the official gazette. In that view of the matter, the argument of the learned counsel is untenable and rejected.

12. Resultantly, the reliance on the LIC Regulations, 1972 is misplaced.

13. So far as the arguments in respect of Regulation 19 of the LIC Regulations, 2017 particularly sub regulation (1) & (3) are concerned, we are not persuaded by such submissions. Moreover, the issue whether the appellant did or did not, directly or indirectly, solicit or procure or promote life insurance business in any capacity for any other person or company or organization, which may include broker or intermediary or a Life Insurance Company or a Health Insurance Company, after ceasing to act as an Agent of the respondent within two years thereafter, was examined by the learned Single Judge in detail. Post such detailed examination and after appreciating the documents on record, the learned Single Judge had held that the appellant failed to prove that he is not directly or indirectly soliciting or promoting or procuring life insurance business in HDFC Ergo. Thus, Regulation 19 clearly bars the appellant from receiving the commission from the respondent. Even before us, the appellant has failed to place any document to prove that he is not in violation of Regulation 19.

14. In view of the above, the present appeal is bereft of any merits and is accordingly dismissed, however, without any order as to costs.



2025:DHC:555-DB



15. Pending application, if any, also stand disposed of.

TUSHAR RAO GEDELA, J

VIBHU BAKHRU, J

JANUARY 30, 2025/*rl*

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LPA 227/2024

Page 8 of 8