

Life Insurance Corporation of India & others

Vs

Jyotish Chandra Biswas

Civil Appeal No. 4445 of 2000

(Mr. S. Rajendra Babu and Mr. Shivraj V. Patil, JJ.)

09.08.2000

JUDGMENT

Shivraj V. Patil J.:— Leave sought for is granted.

The Life Insurance Corporation of India and its officers have brought this appeal to this Court aggrieved by the judgment dated 8.10.1999, passed by the Division Bench of the High Court of Calcutta. The relevant facts which are necessary for the disposal of this appeal, are the following:

While the respondent was working as a Development Officer in the Life Insurance Corporation of India at Calcutta (for short the 'Corporation a charge-sheet — was issued to him on 15.2.1956 alleging that he remained unauthorisedly absent from his duties for a total number of 61 days between the period 18.10.1967 to 13.2.1968 and that he remained absent from his station at Calcutta during the said period without prior permission of the authorities. He was directed to submit his written statement to the said charges. Accordingly he submitted his reply in writing. Thereafter the Divisional Manager Calcutta of the Corporation was appointed as Inquiry Officer to inquire into the said charges levelled against the respondent. The Inquiry Officer, on the basis of evidence found the respondent guilty of all the charges. The Zonal Manager being the Disciplinary Authority concurring with the findings recorded by the Inquiry Officer issued a communication dated 15.11.1968 to the respondent stating that he proposed to dismiss him from service and directing him to show cause within 21 days as to why the proposed punishment should not be imposed. The respondent made a further representation dated 11.1.1969. The Zonal Manager having considered the representation passed the order dated 28.1.1969 dismissing the respondent from service of the Corporation with immediate effect finding that there was nothing new in the said representation of the respondent dated 11.1.1969. The respondent having kept quiet for a period of about five years, however, by his letter dated 9.1.1974 in addition to other contentions requested for his re-employment in the Corporation. The Corporation by letter dated 15.2.1974 (Annexure P-5) informed the respondent that as per Regulation 12 of the Life Insurance Corporation of India (Staff) Regulations, 1960 (for short the 'Regulations') no person, who has been dismissed from the service of the Corporation, shall be re-employed. Thereafter, the respondent filed the writ petition in the High Court on 25.3.1975 questioning the validity and correctness of the order of termination of the services and for consequential reliefs. The learned single Judge dismissed the said writ petition observing that:—

"On a careful consideration of the records and proceedings in the instant case, it appears to me that the impugned order and the proceedings in which it was passed do not ex-facie suffer from any defect. It also does not appear that the said order was passed in violation of the principles of natural justice. On the contrary, it appears that the petitioner was given an opportunity at every stage of the

inquiry to make his representation. The allegations of mala fide and erroneous procedure followed urged by the petitioner in his application, in my view, has little force. In any event, it appears that the petitioner is guilty of unreasonable delay and laches inasmuch as he has sought to impugn the order of dismissal passed in January, 1969, in March, 1975. There is no explanation for this delay".

Respondent took up the matter in appeal before the Division Bench of the High Court, which was alleged. The Division Bench noticed that the respondent in the meanwhile had superannuated and directed that he should be deemed to have continued in service till his age of superannuation and would be entitled to the terminal benefits together with compensation of Rs. 25,000/-. In the order the Division Bench has stated thus:

"The learned trial Judge by a laconic order dismissed the application, inter alia, holding that the petitioner is guilty of unreasonable delay without explaining the same. As regards the other findings, no reason has at all been assigned nor the contention of the appellant to the effect that the Zonal Manager being the appellate authority, he could not have acted as a disciplinary authority had been taken into consideration."

The Division Bench also observed that writ application should have been allowed only on the ground that the appellate authority had acted as a Disciplinary Authority as a result whereof the appellant had been deprived of a right to appeal.

It was pointed out to us that the respondent had not raised this ground before the learned single judge and as such no fault could be found with the order of the learned single Judge. It was further urged on behalf of the appellants that the learned single judge was right and justified in dismissing the writ petition on the ground of delay and laches when there was absolutely no explanation whatsoever for inordinate delay of about six years in filing the writ petition; the respondent either had accepted or reconciled with the order of termination of his services by keeping quiet for a period of five years and thereafter seeking for his re-employment in the Corporation.

The submissions were made on behalf of the respondent supporting the judgment under appeal. Further our attention was specifically drawn to Regulations 39 and 40 and Schedule-I to contend that the Zonal Manager being the appellate authority ought not have passed the order of termination of services of the respondent, depriving him of a right to appeal.

The order terminating the services of the respondent was passed on 28.1.1969. The writ petition was filed challenging the said order on 25.3.1975, almost after a period of six years. There was no explanation in the writ petition whatsoever for this inordinate delay. The respondent sought for his re-employment in the Corporation by his letter dated 9.1.1974 almost after a period of five years from the date of termination of his services. It only indicated that he accepted the order of termination of his services, if not expressly but impliedly. In the writ petition no ground was raised as to deprivation of right of appeal to the respondent against the order of the termination of his services. It is not the case of the respondent that he was denied any opportunity offending principles of natural justice. Inquiry was held pursuant to the charge sheet; witnesses were examined; and even the respondent examined three witnesses on his behalf. The Inquiry Officer looking to the evidence brought on record found the respondent guilty of the charges. It was also not shown that any prejudice was caused to him in the inquiry. The Disciplinary Authority concurring with the findings recorded by the Inquiry Officer, after giving further opportunity to the respondent, passed the order terminating the services of the respondent. These being the facts and circumstances of the case, in our opinion the learned single Judge was right in dismissing the writ petition. We find that the order

of the learned single judge is a detailed and considered one. We find it difficult to accept the observations made by the Division Bench of the High court extracted above that the order passed by the learned single judge was laconic. When there was no explanation whatsoever given by the respondent in the writ petition for delay of about six years, the learned single judge was right in saying so and dismissing it. When the ground that the respondent was deprived of a right to appeal was not taken before the learned single judge either in the writ petition or in arguments, the Division Bench was not right and justified in saying that the learned single judge did not assign any reason whatsoever in support of his judgment in this regard. We fail to understand how such a non-existing ground could be considered by the learned single Judge.

The respondent having attained the age of superannuation retired during the pendency of proceedings before the High Court and had succeeded before the Division Bench of the High Court. Having regard to the facts and circumstances of the case and that he was dismissed from services as early as in 1969 and was also deprived of other benefits, we think it is just and appropriate to award cost to him.

Thus viewed from any angle the judgment of the Division Bench under appeal cannot be sustained. Hence the appeal is allowed, the judgment under appeal is set aside and the appellants shall pay cost to the respondent quantified at Rs. 25,000/-.