

(Supreme Court Of India)

LIC of India

v.

Hansraj

(Y.K. Sabharwal and B.N. Srikrishna,Jj.,)

C. A. No. 2703 of 2002 | 02-08-2005

1. The respondent in this appeal was a Development Officer in the Branch Office of Life Insurance Corporation of India (for short, the 'LIC') at Abohar. There were municipal elections for Abohar in the year 1961. The respondent wanted to contest the said elections. For the elections to be held on 24th September, 1961, the last date for filing of nomination papers was 20th August, 1961. The respondent by letter dated 20th August, 1961 received by LIC on 29th August, 1961 sought permission to contest those elections. By letter dated 31st August, 1961, the Branch Manager of LIC, Abohar informed the respondent that without permission he cannot contest the municipal elections but his request seeking permission to contest elections has been forwarded to the Divisional Officer for consideration. By another letter dated 4th September, 1961, the respondent was informed that it is not possible to give permission for his contesting municipal elections. That letter was received by the respondent on 5th September, 1961. Despite it, the respondent contested the elections and won the same. He was later appointed as Senior Vice President of the Municipal Corporation in the year 1963.

2. By letter dated 5th December, 1963, the LIC required the respondent to submit explanation for having contested the elections and accepted the post of Senior Vice President without obtaining its prior permission and, thus, having contravened the staff regulations. The respondent in his reply dated 21st December, 1963, did not dispute that he contested the elections. In his letter, it was stated that he had already applied for permission. It is admitted that such permission had not been accorded. It was further stated that his election as Senior Vice President is a matter of honour and it does not adversely affect the business of LIC.

3. By memo dated 16th March, 1964, the respondent was charged for having violated Regulation 25(4) and Regulation 28 of the Life Insurance Corporation of India (Staff) Regulations, 1960 (for short, the 'Regulations') for having contested the elections of the Municipal Committee without permission. In reply dated 30th March, 1964, the respondent said that nothing warrants punishment since he had sought permission well before the election and that earlier other three persons had been accorded sanction.

4. Regulation 25(4) and Regulation 28 of the Regulations read as under:

“Prohibition against participation in politics and standing for election:

25(1).....

(2).....

(3).....

(4) No employee shall take part in an election to any Legislature or local authority. Provided that—

(i) xxx xxx xxx

(ii) xxx xxx xxx

(iii) The Chairman may permit an employee to offer himself as a candidate for election to a local authority and the employee so permitted shall not be deemed to have contravened the provisions of this regulation.

28. No employee shall accept, solicit or seek any outside employment or office whether stipendary or honorary without the previous sanction of the Competent Authority.”

5. On consideration of aforesaid facts, the appellant issued a notice dated 14th September, 1964 to the respondent to show cause why he may not be removed from services. The said show cause notice was issued under Regulation 39 of the aforesaid Regulations. Regulation 39(2), inter alia, provides that no employee shall be dismissed or removed or compulsorily retired or reduced to a lower service or a post without the charge being communicated and without having been given reasonable opportunity of defending himself against such charge. The respondent replied to the show cause notice on 29th September, 1964 again repeating what he had said earlier that he had made an application for getting permission to contest the election. The respondent took a false stand to the effect that the rejection had not been communicated to him. In fact, rejection communicated to him by letter dated 4th September, 1961, received by the respondent under his own signature on 5th September, 1961.

6. The admitted facts are that there is a mandate in the Regulations 25(4) and 28, above noticed, for contesting the election and from accepting any office, whether stipendary or honorary, without previous sanction of the Competent Authority. The further admitted fact is that the respondent contested the election despite permission having been refused. It is not the case of the respondent that any such permission was granted.

7. Considering the aforesaid admitted facts, the appellant-LIC imposed on the respondent the penalty of removal from service.

8. The order of removal was challenged by the respondent by filing a suit seeking a declaration that his removal was illegal, void and arbitrary. The Trial Court recorded a finding that the respondent-plaintiff contested the election as a member as also Senior Vice-President of Municipal Committee, Abohar without permission of the Chairman of LIC and thereby contravened the LIC Staff Regulations, 1960. It further held that an employee contravening any of the regulations could be removed from service as provided in Regulation 39 and

therefore, LIC was within the ambit of its authority to remove the respondent from service. While so holding, the Trial Court further held that the respondent was denied a reasonable opportunity to defend himself before ordering his removal and, therefore, principles of natural justice were violated. The Court held that the respondent was not allowed to examine any witness in defence. The Trial Court, however, declined the relief of reinstatement to the respondent and passed a decree of damages to Rs. 2,000/- in his favour and against the appellant.

9. The judgment and decree of the Trial Court was challenged by the respondent by preferring first appeal in the High Court. The appellant also challenged the judgment and decree to the extent it granted damages against it and the finding that principles of natural justice were violated. A learned Single Judge reversed the judgment and order of the Trial Court and held that since the respondent was not given adequate opportunity to lead evidence in defence, the LIC violated Regulation 39(2) which mandatory enjoins upon the LIC a duty to afford adequate opportunity before passing an order of dismissal, removal or compulsorily retired. In this view, learned Single Judge allowed the appeal of the respondent and dismissed the cross-objections of the appellant and held that the respondent is entitled to reinstatement and to that extent modified the judgment of the Trial Court. The letter patent appeal filed against the judgment of Single Judge having been dismissed, the appellant is in appeal on grant of leave.

10. It is a clear case of undisputed facts where the respondent contested the elections not only without any permission as required by the regulations but despite specific refusal to grant such permission. On the admitted facts, the violation of Regulations 25(4) and 28 is writ large. There cannot be any second view on these admitted facts. Despite admitted facts, respondent was given opportunity in the form of the show cause notice to which reply, as above noticed, was sent by him. On these facts, it cannot be said that the respondent was denied a reasonable opportunity to defend. On consideration of the admitted facts, the order of removal of respondent from service was made. Under the circumstances, it was not permissible for the Courts below to come to the conclusion that there was violation of principles of natural justice. In the present case, the conclusion of denial of reasonable opportunity to the respondent to defend is patently erroneous. The Trial Court, after rightly holding that the respondent in violation of regulations contested the elections

and that the appellant was within the ambit of its authority to remove him ought to have dismissed the suit. The finding of the Trial Court about the contesting of elections by the respondent in violation of regulations has rightly not been upset either by the learned Single Judge or the Division Bench. The said finding could also not be challenged before us.

11. On the undisputed and admitted facts, there was no question of grant of any further opportunity to the respondent. The principles of natural justice were fully complied and the respondent had been given sufficient and reasonable opportunity, having regard to the facts and circumstances of the case. The approach of the Courts below that the order of removal was passed in violation of Regulation 39 as principles of natural justice had been violated is clearly erroneous.

12. Apart from above, no prejudice has been caused to the respondent since on the admitted facts, the only view possible is that the respondent had violated the regulations by contesting election even after being informed with reference to his application dated 20th August, 1961 addressed to the Chairman, Life Insurance Corporation of India that it is not possible to give him permission for contesting the Municipal Election. The respondent received this letter on 5th September, 1961 but still contested the elections held on 24th September, 1961.

13. There are situations when order of punishment made in violation of principles of natural justice may still not be set aside, such as:

(1) where no prejudice is caused to the person concerned; and

(2) the quashing of the order of which violation of natural justice is alleged is likely to result in revival of another order which is in itself illegal.

14. Considering various decisions including the decision in *S.L. Kapoor v. Jagmohan and Ors.*, 1980 (4) SCC 379 and *K.L. Tripathi v. State Bank of India and Ors.*, (1984) 1 SCC 43, this Court in *Aligarh Muslim University and Ors. v. Mansoor Ali Khan*, VI (2000) SLT 415=(2000) 7 SCC 529, reiterated that when

on admitted and undisputed facts only one view is possible, the order passed in violation of principles of natural justice may not be quashed.

15. From whichever angle the case may be examined, the approach of the High Court is clearly erroneous in not allowing the cross-objections filed by the appellant to the judgment and decree of the Trial Court and in directing the dismissal of the suit.

16. For the aforesaid reasons, we set aside the impugned judgment, allow the appeal and dismiss the suit of the respondent-plaintiff.