
(2010) 09 AP CK 0030
In the Andhra Pradesh High Court
Case No : Writ Petition No. 15454 of 2010

D. Jeevan Lal

APPELLANT

Vs

Life Insurance Corporation of India

RESPONDENT

Date of Decision : 28-09-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 6 ALD 482

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : S. Sreeramachandra Murthy, for the Appellant; Bathula Raj Kiran, SC, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The Petitioner is appointed as Probationary Development Officer (PDO), in the Life Insurance Corporation of India (for short "the Corporation"), on 17-12-2007. His services were terminated by the Corporation through order dated 18-12-2008, on the ground that he did not meet the stipulated targets, while in probation. He filed W.P. No. 9822 of 2009, challenging the order of termination. The writ petition was disposed of, on 23-12-2009, directing the Respondents to consider the case of the Petitioner for extension of probation, on par with other similarly situated PDOs. On 19-02-2010 the Corporation passed an order, expressing its inability to extend the probation of the Petitioner. The same is challenged in this writ petition.

2. The Petitioner contends that on account of several factors, such as, recession, competition in the market, saturation in the area in which he is working, the prescribed targets could not be achieved, not only by himself, but every PDO in the area. He submits that, out of 11 PDOs working in the area, not one of them reached the targets, but himself and another person by name, A.S. Reddy, are denied for extension of probation. He contends that when the only basis for denial of extension is failure on the part of the PDOs, to reach the targets, there

cannot be any further classification among the PDOs, who did not reach the targets. He further contends that the action of the Respondents is ex-facie arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

3. The Respondents filed a counter-affidavit. It is stated that the order of appointment itself there is a stipulation, to the effect that the officers must be on probation for a period of one year, extendible by one more year, and that if the performance is not satisfactory, the Corporation shall have the right to terminate the probation. It is stated that the performance of the Petitioner was almost dismal, and he cannot compare himself with the other PDOs.

4. Sri S. Sriramachandra Murthy, learned Counsel for the Petitioner submits that the Respondents have accorded discriminatory treatment to the Petitioner, even while extending probation of other PDOs, who too did not meet the targets. He contends that there is no justification for not extending the probation.

5. Sri Battula Raj Kiran, learned Standing Counsel for the Respondents, on the other hand, submits that the mere termination of probation does not amount to punitive action, and that it is always the prerogative of the employer, to extend or terminate the probation.

6. In the order of appointment, it is clearly mentioned that a PDO will be on probation for a period of one year, which may be extended is to a maximum period of 24 months. The Respondents also reserved their right to discharge the PDOs from service, without assigning reasons. On completion of one year of probation, by the Petitioner, the Respondents refused to declare his probation. The Respondents have not stated either that the Petitioner has successfully completed, or that they have not chosen to extend it. They have terminated the services of the Petitioner through orders dated 18-12-2008. The basis shown was that the Petitioner did not reach the targets. The gist thereof was stated in an annexure. He made a representation to the Respondents drawing their attention to the fact that several PDOs, who too did not meet the targets, were extended the probation. When no positive action ensued, he filed W.P. No. 9822 of 2009. That writ petition was disposed of, with a direction to the Respondents to consider the representation. On a consideration thereof, the impugned order was passed. The Respondents stuck to their initial stand, except that the facts and figures were supplemented in detail.

7. An employer has the prerogative to terminate the probation without assigning reasons, and such a step does not amount to any disciplinary action. The scope of interference, in matters of termination of probation, is comparatively limited.

8. Though the Corporation has a right to terminate the probation, without assigning reasons, it cannot discriminate between persons, similarly situated. The only allegation against the Petitioner was that, he failed to meet the targets. If that were to be so, every PDO, whoever did not meet the target, ought to have been accorded the same treatment. There cannot be any further classification

amongst such persons, with reference to their performance. The classification, that is sought to be made in this regard, must have nexus with the object, which the Respondents propose to achieve. If the object is only to ensure that the PDOs reach the prescribed targets, a classification within the PDOs, who did not achieve targets, is contrary to Articles 14 and 16 of the Constitution of India. Howsoever reasonable it may appear, on the facts of the case, it suffers the vices of baseless classification frowned at the equity clause, enshrined under the Constitution.

9. Hence, the writ petition is allowed. The order of termination of services of the Petitioner dated 12-02-2010 is set aside. The Respondents shall extend the probation of the Petitioner by another six months, duly stipulating the targets, and in case he does not reach them, it shall be open to the Corporation to take necessary action.

10. There shall be no order as to costs.