(2016) 02 J&K CK 0007

In the Jammu And Kashmir High Court

Case No : LPASW No. 72 of 2015

Kartar Chand Potter — APPELLANT

Vs

New India Assurance Co. Ltd., Mumbai and others — RESPONDENT

Date of Decision : 17-02-2016

Acts Referred:
General Insurance Business (Nationalisation) Act, 1972 — Section 39

Citation : (2016) 3 JKJ 442 : (2016) LIC 2026 : (2017) 2 LLN 466

Hon'ble Judges : N. Paul Vasanthakumar, C.J. and Tashi Rabstan, J.

Bench : Division Bench

Advocate : S.K. Shukla, Advocate, for the Appellant; Ravinder Gupta, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

N. Paul Vasanthakumar, C.J.—Heard Mr. S.K. Shukla, learned counsel appearing for the appellant and Mr. Ravinder Gupta, learned counsel

appearing for the respondents.

2. This appeal is filed against the order of learned Single Judge made in SWP No. 2227/2006 dated 08.06.2015, dismissing the writ petition filed

by the appellant challenging the order of termination as Development Officer in the New India Assurance Company Limited.

3. The case of the appellant before the writ Court was that he was appointed as Probationary Inspector on 02.07.1984 and was posted at

Billawar in 5744 Branch under Divisional Officer, Jammu. The initial appointment of the appellant was on probation basis for a period of 12

months. His services were confirmed as Inspector/Development Officer Grade-I on 01.09.1986 after extending his probation once. The services

of the appellant were terminated as per notice dated 09.11.1992 by invoking

Para 11 of the General Insurance (Rationalization of Pay Scale and

Other Conditions of Service of Development Staff) Scheme, 1976, as he failed to conform to the stipulated cost. He was given 30 days notice

before termination and was given 30 days time for preferring appeal to the Appeals Committee as per sub rule(v) of Para-11 of the Scheme.

4. The appellant challenged the order of termination dated 09.11.1992 by filing SWP No.669/1993 before this Court. As the appeal preferred

before the Appeals Committee was not disposed of, the writ Court by order dated 07.10.1999 issued directions to the respondent-Company to

decide the appeal by passing speaking order within a period of two months. The appellant again submitted a fresh appeal on 20.12.1999 and on

24.01.2000, the appellant was informed that his appeal dated 20.12.1999 was considered and the Appeals Committee was inclined to hold that

the order of termination dated 09.11.1992, which was upheld vide order dated 08.01.1993, is in order. The appellant again approached this

Court by filing a CMP (SW) No.43-B/1999 contending that the respondents have not taken note of the grounds taken in Para 12 of the appeal.

The learned Single Judge by order dated 28.03.2000 again directed the respondents to decide the matter after taking note of various submissions

made by the appellant and also directed to extend personal hearing to the appellant. The said order was questioned in LPA Nos. 195/2000 and

258/2000 by the appellant as well as the respondent-company and a common order was passed on 28.03.2006 by the Division Bench of this

Court giving directions to the respondent-company to give fresh hearing and to consider all the assertions of the appellant as per rule position by

passing a speaking order within two months and the appellant was directed to appear before the Appeals Committee on 28.04.2006.

5. The appellant appeared before the Appeals Committee along with representation dated 28.04.2006 and after considering the issues raised in

the appeal on merits, the Appeals Committee rejected the appeal on 18.05.2006 by stating that the Committee is of the view that termination of

the appellant is justified since he has not complied with the cost control norms after giving reasonable opportunity consistently for a substantial

period as per the scheme, therefore, the rejection of appeal stands confirmed.

6. The said order was challenged by the appellant on the ground that he has

been given targets equivalent to the targets given to his other counter

parts working in potential areas and in spite of he having put all efforts to fulfil the targets and having requested for transferring him to a potential

area, the respondents did not consider the representation, therefore, order of termination, which was given effect to from the date of rejection of

appeal is liable to be set aside.

7. The learned Single Judge taking note of the fact that the appellant while applying to the post of Inspector/Development Officer in the

respondents-company had given Billawar as his choice of appointment, being the resident of that area and the fact that the appellant had mentioned

in the application the list of prospective clients of that area to procure insurance business and also taking note of the fact that similarly placed

persons who were posted in far flung areas of Jammu Division, could succeed in procuring handsome business for the company, dismissed the writ

petition. The learned Single Judge also relied on the Scheme under which the appellant was appointed. The said order is challenged by raising

similar contentions, stating that the appellant even though had requested for transfer and the same having not been considered is the reason for not

reaching the target.

8. We have considered the rival submissions and gone through the papers.

9. The appellant was appointed as Inspector/Development Officer by order dated 02.07.1984 on probation for a period of 12 months. The period

of probation was extended and the appellant was confirmed from 01.09.1986 through confirmation letter dated 04.11.1986. During the probation

period, the appellant was required to procure minimum premium income of Rs. 1.25 lacs from at least 12 clients with minimum premium of Rs.

1000/- from each such clients or alternatively from 20 clients with minimum premium of Rs. 500/- from each such clients with a further condition

that out of the prescribed quota of Rs. 1.25 lacs the premium of at least Rs. 5000/- should be from Nontraditional Business. It is stated in

paragraph 8 of the appointment order that from the date of confirmation, the appellant will be governed by the General Insurance (Conduct,

Discipline and Appeal) Rules, 1975 and General Insurance (Rationalization of Pay Scales and other conditions of Service of Development Staff)

Scheme 1976, as amended from time to time.

10. It is not in dispute that the appellant while applying for the post has requested for his posting at Billawar as he could mobilise the insurance

policies in that area. However, it is seen that he could not reach the cost control norms and he applied for transfer to a potential place. Merely

submitting the application for transfer without any follow up action cannot be a defence for not reaching of cost control norms which every

Development Officer is bound to fulfil for continuance in service in terms of Para 11 of the General Insurance (Rationalization of Pay Scale and

Other Conditions of Service of Development Staff) Scheme, 1976. The said condition was also incorporated in paragraph 8 of the appointment

order given to the appellant. The respondent-Company is a business Oriented Insurance Company and unless the cost control targets are achieved

by the Development Officers, their business cannot be carried out.

11. Admittedly, the appellant failed to reach the required target of cost control norms framed by the Central Government and the targets having not

been reached/satisfied, the appellant was issued a termination notice which was given effect to after the appeal was rejected by the Appeals

Committee. The learned Single Judge has properly appreciated the facts in the light of the appointment order given as per the Scheme in which the

appellant is to satisfy the cost control norms. Hence, we are unable to find any reason to interfere with the said order. There is no merit in the

appeal, which is dismissed. No costs.

