
(1983) 05 CAL CK 0015
In the Calcutta High Court

Sushil Kumar Chakraborty and Others	APPELLANT
Vs	
LIC of India and Others	RESPONDENT

Date of Decision : 12-05-1983

Acts Referred:

Constitution of India, 1950 — Article 12
Industrial Disputes Act, 1947 — Section 2
Insurance Act, 1938 — Section 2A
LIFE INSURANCE CORPORATION ACT, 1956 — Section 11, 48, 49

Citation : (1988) 1 CALLT 372 : 87 CWN 734 : (1984) 1 LLJ 503

Hon'ble Judges : C.N. Roy, J

Bench : Single Bench

Judgement

C.N. Roy, J.—In the instant Rule, the order of the Government of India, Ministry of Finance (Department of Economic Affairs) dated 19th December 1978 relating to the service conditions of the Life Insurance Corporation Development Officers and the Notification dated 19th December, 1978 amending the Life Insurance Corporation of India (Staff) Regulations, 1960 are under challenge.

2. The petitioners are Development Officers of Life Insurance Corporation, a statutory Corporation created under the Life Insurance Corporation Act, 1956. It appears that initially the emoluments and salaries of the Development Officers were settled by negotiations and agreements between the administration of the Life Insurance Corporation and the Association of the Development Officers viz. The National Federation of Insurance Field Workers of India. It appears that on 19th November, 1971, a bilateral agreement was concluded between the said Federation and the Life Insurance Corporation of India and the Development Officers were finally integrated with the Life Insurance Corporation along with other staff. It was agreed that each Development Officer should produce through his organisation a minimum scheduled first year premium income of not less than Rs. 25,000/- in each appraisal year with effect from 1st April, 1971 and to insure at least 100 lives in each year and with effect from 1st April, 1974 to produce a minimum scheduled first year premium income of not less than

Rs.30,000/- and to insure at least 125 lives in each appraisal year. It was agreed that if a Development Officer could not reach the minimum norm in any appraisal year his case would be examined by a Joint Divisional Committee consisting of two representatives each of the Corporation and of the said Federation with the Divisional Manager as an umpire if the Committee could not come to an unanimous recommendation. It was provided for that if the Committee would decide that the Development Officer was not capable of giving work according to the schedule he would be absorbed in the administrative side in such post as may be available to him on the basis of his qualification. It appears that previously there was another agreement by which the scale of pay of the Development Officer was revised upwardly to Rs. 230-760/- for Grade I. The petitioners contend that the said two Agreements viz. the earlier Agreement dated 25th September, 1970 regarding upward revision of scale and the subsequent Agreement dated 19th November, 1971 brought a sense of security among the Development Officers and their sense of security and satisfaction were reflected in the increasing growth of the Corporation business. As the agreement on pay and allowances was for a period of 4 years from 1st April, 1969 to 31st March, 1973, the Federation submitted further proposal for revision of pay and allowances on 14th August, 1973. The petitioners contend the proposed negotiation between the Federation and the Management of the Life Insurance Corporation of India had been deferred from time to time on various pretext and the same was ultimately held on 31st May and 1st June 1974 and the Management made an offer of upward pay revision and an offer was also made relating to method of fixation, dearness allowance, adjustment allowance, house rent allowance, city compensatory allowance and provident fund contribution. The said offer however was not implemented. But it was admitted by the Minister in charge that the said offer on the basis of the tentative agreement had been receiving attention of the Government. According to the petitioners, despite solemn agreement between the Management and the Federation, the Management not only failed to implement its commitment but started issuing charge sheets to the Development Officers on the allegations that they had not been keeping up their norms of performances and the Federation took a serious objection as to the issuance" of charge-sheets contrary to the said agreement. The Corporation thereafter informed the Federation that the Chairman of the Life Insurance Corporation had no authority to enter into the agreement and as such the said agreement had no statutory validity. Thereafter an order was passed on 8th April, 1976 unilaterally fixing a norm of performance to the effect that the premium procured for the Corporation by the Development Officers must be in a ratio of about 20% of their salary including allowances. It was also provided for in the said order of April, 1976 that if such premium would not be given by the Development Officers then a re-fixation of the basic pay of the Development Officers would be made first so as to bring down the expense ratio and if such re-fixation also would not make it economical to retain him, his service would be terminated. The said order of April, 1976 has been annexed to the writ petition being Annexure "G". It appears that the said order was issued u/s 11(2) of the

Life Insurance Corporation Act, 1956. It appears that the Federation made various representations against the said order of 1976 and the validity of the said order was also challenged in Courts of law. Thereafter the impugned order dated 19th December, 1978 was issued u/s 11(2) of the Life Insurance Corporation Act again modifying the service conditions of the Development Officers and the impugned notification dated 19th December, 1978 was also issued amending the Life Insurance Corporation of India (Staff) Regulations, 1960. As aforesaid, the said impugned order and the Notification are under challenge in the instant Rule.

3. Mr. Chatterjee, the learned Counsel appearing for the petitioners, has contended that the impugned order u/s 11(2) of the Life Insurance Corporation Act dated 19th December, 1978 (Annexure "G" to the writ petition) and also the Notification dated 19th December, 1978 amending the Life Insurance Corporation of India (Staff) Regulations, 1960 are ultra vires. Mr. Chatterjee contends that power u/s 11(2) of the Life Insurance Corporation Act can be exercised only to bring about uniformity and integration of the transferred staff but the impugned order of 1978 not having done so, the same is ultra vires. For the purpose of appreciating the contentions raised by Mr. Chatterjee, the relevant provisions of Section 11(2) are set out hereunder:

11(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation, it is necessary so to do, or that, in the interests of the Corporation and its policy holders, a reduction in the remuneration payable, or a revision of the other terms and conditions of service applicable to employees or any class of them is called for, the Central Government may notwithstanding anything contained in Sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit, and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months remuneration . unless the contract of service with such employee provides for a shorter notice of termination.

4. Mr. Chatterjee contends that the expression "or in the interests of the Corporation and its ; policy holders" in Section 11(2) is not disjunctive. He submits that Section 11(2) as a whole provide for securing uniformity in the scales of remuneration and other terms and conditions of service applicable to the employees of the erstwhile Insurance Companies whose business had vested in the Life Insurance Corporation. He states that the marginal note of Section 11(2) namely "Transfer of services of existing employees of chief agents of insurance to the corporation" is a pointer as to the real object of Section 11(2). u/s 49(2)(b), the Corporation has power to make regulation for recruitment of employees and agents of the Corporation and the terms and conditions of service

of such employees or agents and u/s 49(2)(bb), the Corporation can make regulation for service conditions of persons who have become employees of the Corporation. Mr. Chatterjee has contended that the Supreme Court in the case of Life Insurance Corporation v. D.J. Bahadur reported in 1981 I L.L.J. I has also highlighted that Section 11 has recognised the need for bringing uniformity in service conditions of employees of different Insurance Companies who have become the employees of the Corporation in view of nationalisation. But by the impugned order of 1978, the Government purported to exercise power u/s 11(2) with regard to the Development Officers appointed by it without any purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service. Accordingly the said order is ultra vires Section 11(2) of the Life Insurance Corporation Act.

5. Mr. Chatterjee has next contended that the Development Officer are workmen within the meaning of Industrial Disputes Act 1947 and therefore agreements and settlements arrived between such workmen and/or their Union and the administration are binding and such settlement should also be deemed to be settlement under the Industrial Disputes Act. Hence, the said settlement cannot be negated by the impugned order of 1978. Mr. Chatterjee has also contended that the preamble of the said order or regulation made on 19th December, 1978 says that the order or regulation was made in the interest of the Corporation and policy holders but the Corporation has failed to produce any material before this Court and/or to disclose any material in the affidavit-in-opposition to show the existence of any such interest of the Corporation and policy holders to justify the said order or regulation. In this connection, Mr. Chatterjee has relied on a Supreme Court decision made in the case of The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others, . It has been held in the said decision that since the existence of "circumstances" is a condition fundamental to the making of an opinion, the existence of the circumstances has to be proved at least prima facie. It is not sufficient to assert that the circumstances exist without giving any clue to what they are because the circumstances must be such as to lead to the conclusion of certain definiteness He has also referred to the decision of the Supreme Court made in the case of Rohtas Industries Vs. S.D. Agarwal and Others, where similar view has been expressed by the Supreme Court.

6. Mr. Chatterjee has also contended that by the impugned order and regulation, the cost ratio has been lowered down to 20 to 25% but such cost ratio is contrary to Rule 17D of the Insurance Rules and as such the same is ultra vires. Mr. Chatterjee has contended that Rule 17D of the Insurance Rules", 1939 framed u/s 408 of the Insurance Act has provided for the cost ratio for the first year premium as 90%. It will appear from the report since annexed to the writ petition that Mr. H.K. Sen, a noted Actuary, has informed in his letter written to the Secretary of the Federation that on analysis of development expenses it appears that the development expenses are well within 70% of the first year's premium. Mr. Chatterjee has contended that the total development expenses for

1972-73 were Rs. 48.69 crores out of the total first year's premium for that year amounting to Rs. 69.95 crores and the expenses for the Development Officers was only 8.67 crores. Mr. Chatterjee has therefore contended that neither the interest of the Corporation nor the interest of the policy holders calls for any reduction in the expenses of the Development Officers and the impugned order made u/s 11(2) of the Life Insurance Corporation Act cannot override the statutory fixation of the minimum cost ratio prescribed under Rule 17D of the Insurance Rules.

7. Mr. Chatterjee has also contended that a gross discrimination has been made against the Development Officers as compared to other employees of the Corporation. He contends that the number of Development Officers throughout India is only 7300 but the number of Class I Officers is about 4000 and it can be well imagined that the number of Class III and Class IV officers is proportionately very high compared to the number of Development Officers. In this connection, Mr. Chatterjee has referred to the observation of Chief Justice Beg of the Supreme Court of India in the decision of Madan Mohan Pathak and Another Vs. Union of India (UOI) and Others, . It was observed by the Chief Justice in the said decision that "...the Corporation has been making very handsome profits so that the question of jeopardising the interests of the Corporation or policy holders could not arise." Mr. Chatterjee has also contended that Government Order dated 19th December, 1978 which is the subject matter of challenge in the instant Rule clearly reveals that the Central Government had in fact ordered the Life Insurance Corporation to make identical regulation and it is quite apparent that the impugned regulation has not been made by the Life Insurance Corporation on independent consideration but the same had been made at the dictate of the Central Government. Accordingly, the regulation must fail for not being passed by the Life Insurance Corporation independently. Mr. Chatterjee has also contended that the impugned order or regulation are also illegal and must fail being hit by the principles of promissory estoppel arising from the earlier settlements and agreements made between the Life Insurance Corporation and the said Federation.

8. In this connection, Mr. Chatterjee has referred to a decision of the Supreme Court made in the case of Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others, . It may be noted here that in support of his contention that the regulation must fail for not being made on independent consideration by the Corporation, Mr. Chatterjee has referred to the decisions of the Supreme Court made in the case of Commissioner of Police, Bombay Vs. Gordhandas Bhanji, , State of Punjab and Another Vs. Hari Krishan Sharma, and The Purtabpore Co., Ltd. Vs. Cane Commissioner of Bihar and Others, . Mr. Chatterjee has also contended that a very drastic change in the condition of service has been brought about by the impugned regulation without giving the Development Officers and/ or the Federation any opportunity of being heard. Such ex parte decision in bringing about a drastic change to the serious prejudice of the Development Officers is violative of principle of natural justice and on that

score also the same should be struck down. Mr. Chatterjee has contended that the Development Officers are workmen within the meaning of Section 2(S) of the Industrial Disputes Act. There is no staff under the Development Officers and they do not exercise any function of managerial nature. The Development Officers do not supervise the works of an agent and they also do not supervise the work of any staff of the Life Insurance Corporation. The Life Insurance Corporation of India (Agent) Regulation 1972 will indicate that the Development Officers can neither appoint the Agent nor they control or supervise the functions of the Agent. Mr. Chatterjee contends that the function of the Development Officers vis-a-vis the Agents are like the captain of a Foot Ball team. In this connection, Mr. Chatterjee has referred to a decision of the Supreme Court made in the case of All India Reserve Bank Employees' Association and Anr. v. Reserve Bank of India and Anr. It has been held in the said decision that mere checking is not supervision but if there is power of assigning duties and distribution of work to others, then the activities will be of supervisory nature. Mr. Chatterjee has referred to another decision of the Supreme Court made in the case of Burmah Shell Oil Storage and Distribution Company of India Ltd. Vs. The Burma Shell Management Staff Association and Others, . Analysing the duty of the Fueling Superintendent, the Supreme Court held in the said decision that the Fueling Superintendent was like a captain of a team who himself also did normal work along with team mates and at times looked after their performance. Mr. Chatterjee therefore, contends that the Development Officers being workmen are fully covered by the provisions of Industrial Disputes Act, 1947. Accordingly, the settlements and agreements entered between the Development Officer through the Federation and the Life Insurance Corporation cannot be changed by the Regulation made u/s 11(2) of the Life Insurance Corporation Act. Mr. Chatterjee has also contended that if the conditions of service are governed or controlled by any special statute, a general statute cannot subvert or substitute the provisions of special legislation. Mr. Chatterjee contends that Industrial Disputes Act is a special legislation dealing with the industrial disputes between the workmen and the management and as such the rights and obligations created under the special legislation cannot be overridden by the regulation purported to have been framed u/s 11(2) of the Act. Mr. Chatterjee therefore contends that the said impugned Government order and the regulations must be declared illegal and ultra vires and the same should be quashed.

9. Mr. Chakraborty, the learned Counsel appearing for the Life Insurance Corporation of India contended that the contention of Mr. Chatterjee that the impugned regulation and the order of the Central Government dated 19th December, 1978 are ultra vires Section 11(2) are devoid of any real substance, Mr. Chakraborty has contended that the decision in D.J. Bahadur's case (supra) since relied on by Mr. Chatterjee, reveals that the said decision related to a case of Class I and Class IV staff of the Life Insurance Corporation of India and the subject matter of the cases was a settlement entered into between Class III and Class IV staff relating to payment of bonus. The Life Insurance Corporation

passed an order superseding the settlement u/s 49 and such order was struck down. But it has not been held in the said decision that the expression "in the interests of the Corporation and policy holders" is not disjunctive and action can be taken u/s 11(2) only for the purpose of securing uniformity in the scales of remuneration and other terms and conditions of service applicable to the employees of the insurers whose business were transferred and vested in the Corporation. On the contrary Mr. Justice Pathak has indicated that there are two limbs in the said Section 11(2) and the power can be exercised not only for bringing uniformity in respect of transferred employees from other insurers but also for the interest of the Corporation and its policy holders.

10. Mr. Chakraborty has also referred to a Bench decision of this Court made in the case of Wmangshu Chakraborty reported in 1979 Labour and Industrial Cases 1417 and it has been held in the said decision that such power can be exercised more than once. Mr. Chakraborty has also relied on a decision of the Patna High Court made in Civil Writ Jurisdiction case No. 2905 of 1979 Bepin Bihari Sinha and Ors. v. Union of India and Ors. In the said decision, the impugned 1978 order and the regulation were challenged by the Development Officers of the Life Insurance Corporation and Mr. Chatterjee himself argued the said case on behalf of the Development Officers. Similar contentions were also raised by Mr. Chatterjee before the Division Bench of the Patna High Court in the said case but the said contentions of Mr. Chatterjee were not-accepted by the Patna High Court.

11. Mr. Chakraborty has also produced a certified copy of the judgment of the Division Bench of the Andhra Pradesh High Court passed on 16th June, 1982 in the case of M.L. Dandavate and Ors. v. The Union of India and Ors. Before the Andhra Pradesh High Court, the orders and regulations which are under challenge in the instant case were also challenged and it was contended that the same were ultra vires Section 11(2) of the Life Insurance Corporation Act. But such contention has also been negated by the Andhra Pradesh High Court in the said judgment. Mr. Chakraborty has contended that Mr. Chatterjee has submitted that the Development Officers are workmen within the meaning of Industrial Disputes Act but in the petition of motion the petitioners have not given any particular about the nature of their duties and the salaries of the petitioners have not also been disclosed. In the absence of such particulars, such contention cannot be accepted by the Court. Mr. Chakraborty has also submitted that similar contention was also raised in Wmangshu Chakraborty's case (supra) but such contention was rejected by the Division Bench of this Court on the ground that in the absence of any particular the said argument should not be accepted. Mr. Chakraborty has also submitted that the Patna High Court in the said decision in Bipin Bihari Sinha's case has also negated the contention of the Development Officers that they were workmen and the Andhra Pradesh High Court has also not accepted such contention.

12. Mr. Chakraborty has also referred to a decision of the Madras High Court

made in Writ Petition Nos. 4054, 4057 of 1977 and Writ Petition Nos. 3243 3245 of 1979 T. Sitharama Rao and Ors. v. Union of India and Ors. In the said cases, the Development Officers of the Life Insurance Corporation challenged the said regulation and the said order of 1978 and also the previous order and regulation of 1976. It was also contended before the Madras High Court that the Development Officers were workmen within the meaning of Industrial Disputes Act but such contention was negated by the Madras High Court. Mr. Chakraborty has also contended that by the latest amendment of Life Insurance Corporation Act in 1981 all regulations framed by the Corporation which were in force before the said amendment, will be deemed to be Rule (cc) of Sections (2) of Section 48. Accordingly the non-substantive clause in Section 11(2) of the Life Insurance Corporation Act will apply and the impugned order and the regulation cannot be held defective under the provisions of any other Act. Mr. Chakraborty has also contended that the preamble of the impugned order and the regulation clearly reveals that the said order and the regulation were made in the interests of the Corporation and its policy holders. It has been contended by Mr. Chakraborty that in the affidavit-in-opposition, the Life Insurance Corporation has disclosed the existence of such interest of the policy holders justifying the said impugned order and the regulation. Mr. Chakraborty has referred to paragraphs 14, 16, 17,19 and 20 of the affidavit-m-opposition and has contended that sufficient materials have been disclosed. Mr. Chakraborty has also contended that 1976 Regulation made u/s 11(2) modifying the service conditions of the Development Officers was more rigid and less beneficial than the impugned 1978 Regulation. For example, the cash norm was 20% in 1976 Regulation but the same is 22% to 25% in the 1978 Regulation. In 1976 Regulation, it was provided for that the pay would be refixed if the salary and allowances of the Development Officers would exceed 20% of the business brought about by him but in 1978 Regulation there is a provision for cutting the conveyance allowance upto maximum of 3 decrements. In 1976 Regulation, termination of service could be made if in three consecutive years the cost ratio was more than 20% but in 1978 Regulation a Development Officer would be absorbed in the administrative side. Even in the matter of preferring an appeal against the decision taken against the Development Officers, there is a favourable provision in 1978 Regulation. In 1976 Regulation, there was provision for appeal only in case of termination but in 1978 Regulation there is provision both against termination and disincentives.

13. Mr. Chakraborty has also contended that as better condition of service has been made in 1978 Regulation, the Development Officers cannot seriously contend that they have been further prejudiced. Referring to the contention that cost ratio as provided in Rule 17D of the Insurance Rules has been violated by the impugned Regulation, Mr. Chakraborty has contended that u/s 2A of the Insurance I Act, "insurer" is a body of persons or an incorporated body but the Life Insurance Corporation is a statutory corporation created under the Central Act and it is neither a body of persons nor an incorporated body. Accordingly,

Rule 17D has no manner of application. Mr. Chakraborty has also contended that the note of the Actuary Sri H.K. Sen addressed to the Federation cannot be accepted to be an authentic determination and no reliance can be placed on such intimation. Mr. Chakraborty has submitted that in Himangshu Chakraborty's case (supra), the Division Bench of this Court did not place any reliance on the said calculation of the said Actuary and the Patna High Court has also accepted the said view of this Court made in Himangshu Chakraborty's case. Referring to the contention of Mr. Chatterjee that there has been a marked discrimination between the Development Officers and the other employees of the Life Insurance Corporation, Mr. Chakraborty has contended that the nature and duties of the Development Officers are entirely different and they cannot be compared with other categories of employees. As they belong to a separate category or class of employees, no complaint can be made if they are separately dealt within the matter of conditions of service. Mr. Chakraborty has contended that the similar contention was raised by the Development Officers while challenging 1976 Regulation in Himangshu Chakraborty's case but such contention was not accepted. The Patna High Court and the Andhra Pradesh High Court have also rejected similar contentions of discrimination between the Development Officers and other employees of the Corporation. Mr. Chakraborty has contended that as two unequals have been treated unequally, there cannot be any question of discrimination.

14. Mr. Chakraborty has also contended that u/s 49 of the Life Insurance Corporation Act, the Corporation can make regulation only with the previous approval of the Central Government. In such circumstances, the directive of the Central Government is in conformity with the provisions of Section 49 of the Act and the contention of Mr. Chatterjee that such regulation has been framed at the instance of the Central Government and as such bad and void is devoid of any substance and should not be accepted. Referring to the contention of Mr. Chatterjee that the impugned order and regulation are hit by the principle of promissory estoppel, Mr. Chakraborty has contended that there is no re-averrment in the writ petition as to in what manner the Development Officers have changed their position. Mr. Chakraborty has submitted that Mr. Chatterjee has referred to a decision of the Supreme Court made in the case of M.P. Sugar Mills case (supra) but in the absence of relevant particulars the Patna High Court did not consider the case of promissory estoppel sought to be raised by the Development Officers. Mr. Chakraborty has also contended that the Life Insurance Corporation is an instrumentality or an agency of the Central Government and as such "State" within the meaning of Article 12 of the Constitution. Hence, the employees of the Life Insurance Corporation have a statutory status and they therefore cease to be contractual. In the circumstances, their service conditions can be governed by the provisions of the Statute and the question of promissory estoppel arising from the principle of contract does not arise.

15. Referring to the last contention of Mr. Chatterjee that the drastic change

brought about in the conditions of service by the Development Officers by the impugned regulation of 1978 are violative of the principles of natural justice, Mr. Chakraborty has submitted that the said order and the Regulation are in the nature of subordinate legislation by a statutory authority. Accordingly, the question of giving previous hearing does not arise. He has also referred to the judgment of the Patna High Court and has contended that the similar contention was also not accepted by the Patna High Court. Mr. Chakraborty has contended that similar contentions were raised by the Development Officers before the Patna High Court, Andhra Pradesh High Court and the Madras High Court challenging the validity of the said impugned Notification and the Regulation made in December, 1978, but all the said High Courts have rejected, the contentions raised by the Development Officers and have upheld the validity of the said Regulation and also the Government Order. A similar Regulation passed in 1976 u/s 11(2) of the Life Insurance Corporation Act challenging the service conditions of the Development Officers was challenged before this Court in Himangshu Chakraborty's case but as aforesaid the Division Bench also rejected the contention of the Development Officers and upheld the said Regulation of 1976 made u/s 11(2) of the Act. In the circumstances, Mr. Chakraborty submits, that the contentions of the petitioners should not be accepted and the Rule must be discharged.

16. After giving my anxious consideration to the facts and circumstances of the case and the arguments advanced by the learned Counsels appearing for the respective parties, it appears to me that Section 11(2) of the Life Insurance Corporation Act not only envisages alteration of the terms and conditions of service for bringing uniformity in the condition of service of the employees of Insurers who had become Life Insurance Corporation¹ employees after the business of the said Insurers had vested in the Life Insurance Corporation, but Section 11(2) also envisages variation of the conditions of service of the direct employees of the Corporation if in the interest of the Corporation and its policy holders, such alteration in the remuneration or revision in the terms and conditions of the services of the employees is necessary. It does not appear to me that Section 11(2) is applicable only in respect of employees of the Corporation who were previously of other Insurers before vesting of business of such Insurers and it will also not be correct to contend that the power u/s 11(2) can be exercised only for the purpose of securing uniformity in the scale of remuneration and other terms of conditions of service applicable to such employees as contended by Mr. Chatterjee.

17. In my view, Mr. Chakraborty is justified in his contention that the Development Officers have failed to give relevant materials to show that they are workmen within the meaning of Section 2(s) of the Industrial Disputes Act and Mr. Chakraborty has also rightly contended that similar contention was also raised before the Division Bench of this Court in Himangshu Chakraborty's case (supra), but for want of relevant particulars the said contention was not considered. In my view, Mr. Chakraborty is also justified in his contention that

the Life Insurance Corporation is not empowered to make any regulation independently on its own accord. u/s 49 of the Life Insurance Corporation Act, the Regulation can be made by the Corporation only with the previous approval of the Central Government. u/s 11(2), the Central Government has also power to change the conditions of service if the Central Government is satisfied that such change is necessary for the reasons indicated in Section 11(2). In the aforesaid circumstances, no illegality has been caused by giving direction by the Central Government to the Life Insurance Corporation to frame regulation by changing the conditions of service.

18. Mr. Chakraborty in my view is also justified in his contention that for the purpose of issuing order u/s 11(2) and for framing rules under the provisions of Life Insurance Corporation Act, an opportunity of hearing is not required to be given to the employees of the Corporation. The Regulation has been framed under the express power given in the Act and for exercise of such statutory power of subordinate legislation, the hearing is not contemplated. There is no manner of doubt that the employees can even to-day make representations to the Corporation authorities and/or to the Central Government and it is reasonably expected that if the concerned authorities are satisfied about the genuine grievance of the concerned employees, suitable changes would be brought in the service conditions of the affected employees by suitably modifying the provisions of the Regulation. But the Regulation cannot be turned down on the ground that before framing the Regulation, opportunity of being heard was not given.

19. The contention of Mr. Chatterjee that the Regulation is hit by principle of promissory estoppel cannot also be accepted and in my view Mr. Chakraborty is right in his contention that the said principle of promissory estoppel cannot be raised for the reasons indicated by him. It appears to me that the contentions which have been agitated in this Rule were also agitated before the Patna High Court and also before the Andhra Pradesh High Court and Madras High Court by the Development Officers. Some of the contentions raised in this Rule were also raised in Himanghshu Chakraborty's case while challenging the said previous Regulation of 1976 made u/s 11(2) of the Life Insurance Corporation Act. But such contentions were not accepted by the Division Bench of this Court in Himangshu Chakraborty's case (supra). By giving elaborate reasonings the said High Courts have rejected similar contentions made in this Rule. The aforesaid judgments have been placed before me by Mr. Chakraborty and I have the occasion to look into the same and I respectfully agree with the views expressed in the said judgments of the Patna, Andhra Pradesh and Madras High Courts. Mr. Chatterjee has however placed before me a decision of the Rajasthan High Court, made in S.B. Civil Writ Petition No. 1030 of 1979 (H.S. Chauhan v. Life Insurance Corporation of India) disposed of on July 6, 1982. The Rajasthan High Court in the said decision has held that the Development Officers are governed by the Industrial Disputes Act and as such the bilateral agreements effected between workmen and management under the Industrial Disputes Act which is a special

legislation cannot be overridden by the impugned Regulation made u/s 11(2) of the Life Insurance Corporation Act and as such it is immaterial if Section 11(2) applies to the Development Officers or not. For the reasons indicated above, I respectfully disagree with the view expressed in the said decision of the Rajasthan High Court. In the circumstances, the instant Rule fails and discharged. But I make no order as to costs.

20. The learned Counsel for the petitioner has prayed for stay of operation of this order. Let the operation of the order remain stayed for a period of two weeks from today.