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WP-1210-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 12th OF NOVEMBER, 2024WRIT PETITION No. 1210 of 2023*MANOJ VERMA**Versus**LIFE INSURANCE CORPORATION OF INDIA AND OTHERS*

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Appearance:

*Shri A.K.Sethi, learned senior counsel with Shri Mayank Verma,
learned counsel for the petitioner.*

Ms. Jyoti Tiwari, learned counsel for the respondent No.1.

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ORDER

Initially, the petition was filed under Article 226 of the Constitution of India challenging the show-cause notice Annexure P/1 dated 30.12.2022, Enquiry Report Annexure P/12 and the Charge-sheet Annexure P/2 including entire departmental enquiry proceedings. During the pendency of the petition, the respondent passed the dismissal order dated 18.01.2023 which has been challenged by the amendment.

02. Facts draped in brevity narrated in the petition are that the petitioner was appointed on 12.09.1992 on the post of Development Officer and since then is continuing his services under the respondents. Immediately, after the appointment of the petitioner by the Department on 28.10.1992, the respondent No. 2 has issued a letter for verification of all the documents submitted along with the application for appointment. After appointment on



the Post of Development Officer, the petitioner being the meritorious employee since appointment and flawlessly maintaining position in the Department and is leading, guiding and training the team of more than 100 active LIC agents and till date have lead, guide and trained more than 450 LIC agents from the date of joining and is continuously giving the business to the respondents' Department and has been awarded for various departmental competitions since the appointment till date. Moreover, the petitioner has been in the top 15 employees in the Divisional Office of the respondents whereby more than 300 Development Officers are actively working. And furthermore, petitioner from the date of appointment before respondents for 30 years out of which 23 times petitioner has been ranked No.1 in City Branch Office (CBO).

03. It is further pleaded that suddenly, after 8 years of service of the petitioner, a complaint was filed by the person named as Krishkant Choudhary belonging to the same caste of the petitioner stating that petitioner submitted false certificate at the time of appointment but later on 30.12.2001 the same person who earlier lodged complaint before respondent No. 2 has withdrawn his complaint vide letter before Main Office, Mumbai, LIC and another before General Manager, Central Zone, Bhopal (M.P) stating that petitioner's Caste Certificate is not false and he belongs to "Chattri-Kasera" caste and he has stated that false complaint was lodged by him against the petitioner. After the withdrawal of earlier complaint, another complaint with same respect was filed by Rajkumar Tamrakar against the petitioner. Complaint against the petitioner was filed in the month of



February 2002 but copy of complaint was not provided to petitioner earlier or neither along with the charge-sheet dated 21.02.2022.

0 4 . Furthermore, on 19.06.2003 a Circular bearing no. CZ/P&IR/Desk-B was issued by the Assistant Secretary of the LIC of India referring to all the Senior Divisional Managers (Respondent No. 2) in which it was stated "*Central Vigilance Commission CVC had advised that in case any authority feels that the anonymous/pseudonymous complaints are having sufficient material for taking cognizance of complaints, in the events concerned authority will have to take permission from the Central Vigilance Commission*" but in the present case there is no sufficient material present against the petitioner and moreover the Respondent No.1 & 2/Department had not taken the cognizance to ask for material evidence from the complainant in support of questioning of the caste certificate and the clear status of caste certificate of the petitioner. On 14.08.2020, petitioner wrote a letter to District Collector, Indore regarding issuance of new Caste Certificate bearing no.1800/121/89-90 dated 21.08.1990. With respect to petitioner's letter dated 14.08.2020, the Collector has issued letter dated 03.11.2020 to the Naib Tehsildar, Juni Indore for verification of the caste certificate of the petitioner after which Naib Tehsildar, Juni Indore issued a letter to all the "Pravachak" of Tehsil and District Indore stating that petitioner's caste certificate be verified. Thereafter charge-sheet was issued to petitioner on 21.02.2022 by respondent No.2 after which petitioner submitted his contention before the respondent No.2 authority vide reply dated 23.03.2022 to respondent No.2 authority denying all the charges



against him along with reply petitioner also submitted supporting documents, letter dated 27.10.2021 Naib Tehsildar issued letter to SHO, AJK Thana stating that no record is available with the record room. On 12.07.2022 Enquiry Officer issued a confidential letter to Petitioner with respect to investigation officer wherein it was directed to the petitioner to remain present on 18.07.2022 before the Investigation Officer for the purpose of Departmental enquiry. Thereafter, Enquiry Officer issued another letter with respect to date and time of departmental enquiry. After the minutes of meeting, petitioner submitted a detailed reply to the enquiry officer which was received by enquiry officer on 16.11.2022.

05. On the basis of the letter dated 27.10.2021 of Tehsildar, Juni Indore, the respondents No.1 & 2 issued the charge-sheet against the petitioner along with the copy of the enquiry report. The petitioner filed a detail reply to the said notice. The petitioner challenged in the present petition the said show cause notice, enquiry, charge-sheet including entire departmental proceedings. During the pendency of the petition, the impugned order of dismissal dated 18.01.2023 (Annexure P/20) was passed and all the pecuniary benefits were forfeited.

06. On 23.04.2024 this Court after considering the submission of the counsel for the petitioner has passed the following order:-

The petitioner applied for the post of Development Officer in the services of Life Insurance Corporation. Along with the application form, he annexed his caste certificate issued by the Tehsildar dated 21.08.1990. The petitioner was selected and called for documents verification vide letter dated 28.10.1992. He was served with a show-cause notice and a charge-sheet in the year 2022 that he has submitted a false caste certificate because as per the report sent by the Office of Collector, Indore, no such file /



record is available pertaining to the caste certificate. Vide impugned order dated 18.01.2023, the petitioner has been dismissed from service. Learned counsel appearing for the respondents submits that the petitioner was called upon to submit a fresh caste certificate in view of the Circular dated 03.01.2014. Since the petitioner failed to submit valid caste certificate, therefore, he has been terminated.

Shri Sethi, learned Senior Counsel for the petitioner submits that merely on the ground that the record is not available, the caste certificate issued by the Tehsildar cannot be treated as false or forged caste certificate. The petitioner applied for issuance of fresh caste certificate but the same has not been issued till date. The caste certificate dated 21.08.1990 was issued in the prescribed format under the Circular which was in vogue at that relevant point of time.

Government Advocate is directed to forward the photocopy of caste certificate dated 21.08.1990 available in this writ petition to the Collector, Indore who shall authorize the Additional Collector or Deputy Collector, Incharge of Caste Certificate Section to submit report / opinion on following terms:-

- (i) if the record is not available, then whether the caste certificate dated 21.08.1990 was issued by the Tehsildar, who was posted in the Tehsil Office in the year 1990 or not ?
- (ii) whether the caste certificate was issued in the format and at that time whether the Tehsildar was competent to issue a caste certificate ?
- (iii) Whether in view of the finding given on above (i) & (ii) point, caste certificate can be treated as valid caste certificate ?

Let the report be submitted within six weeks.

Let a copy of this order be supplied to the office of Advocate General, Indore with photocopy of the caste certificate dated 21.08.1990 for necessary compliance. List the matter in the first week of July, 2024.

07. In compliance to the said order, a report was submitted by the Collector stating that the relevant record of year 1990 is not available in the office of Tehsildar/Naib Tehsildar. Since the record is not available, therefore, the requisite information cannot be provided. It was further stated that as per the Circular dated 27.07.2017, at the relevant time Ministers were



authorised to issue caste certificate as per the Circular dated 10.04.1975 and the same were treated to be valid. As per subsequent Circular dated 26.07.1984, Additional Naib Tehsildar were also conferred power of Tehsildar to issue caste certificate. It was also stated in the report that at the relevant time in the year 1990 no format for the caste certificate was prescribed.

08. The respondents filed reply and raised preliminary objection that the petitioner is having alternative remedy to file an appeal before the Zonal Manager and thereafter to file a memoir before the Chairman against the order of Appellate Authority. It was also submitted that the respondent is an establishment notified by the government as per the provisions of Section 3 of the Life Insurance Corporation Act, 1956. It is an establishment of Central Govt. of India governed by Ministry of Finance.

09. The respondents have supported the order of dismissal on merit on the basis of Circular dated 03.01.2014 Annexure R/3. It has been vehemently argued that though the services of the petitioner have not been dismissed on the ground that he had submitted a false or forged caste certificate, but his services have been terminated in the light of Clause-3 of Circular dated 03.01.2014 Annexure R/3 as the petitioner had failed to submit an updated digital caste certificate. By way of reply and additional reply, it has been submitted that the other employees, who had submitted subsequent caste certificate, they have been retained in service. Since the case has been contested on merit, therefore, this Court is of the considered view that the same should not be dismissed on the ground of availability of alternative



departmental remedy.

10. Counsel for the petitioner argued that merely on the ground that the record is not available with the Revenue Authority, the caste certificate issued by the Tehsildar cannot be treated as false or forged certificate. The respondents cannot insist the petitioner to submit another caste certificate after period of 33 years of service. The caste certificate which has been filed as Annexure R/6 dated 21.08.1990 undisputedly at that time there was no prescribed format for the same as stated in the report. The report submitted in pursuant to the Court order dated 23.04.2024 states that the record in the office of Tehsildar/Naib Tehsildar on the basis of the caste certificate was issued is not available. There was no prescribed format at the relevant time and the Naib Tehsildar and Tehsildar were Competent Authority.

11. After hearing learned counsel for the parties, the question arises for consideration whether the services of the petitioner could have been terminated in view of Clause 3 of Circular dated 03.01.2014 Annexure R/3.

The relevant Clause 3 is reproduced as under:-

"3) In cases other than above, where the issuing Authority is not in a position to confirm the exact status of the caste certificate citing some reason but indicates other reasons such as case is not included in the list of scheduled castes or no records etc, a Charge Sheet should be issued immediately and enquiry should be conducted against the employee and brought to the logical conclusion in a time bound manner."

12. Upon perusal of Clause 1 & 2, it is vivid that on receipt of information regarding submission of false caste certificate by the employee, the caste certificate has to be forwarded to the appropriate Revenue Authority for immediate verification and explanation to be called from the



concerned employee. The sub clause 2 states that on receipt of confirmation from the Competent Authority that the caste certificate is false or the employee does not belong to the caste on the basis of which he/she got the appointment, the concerned employee should be immediately issued Charge Sheet cum Show Cause Notice proposing the penalty of Dismissal from the services of the Corporation under Section 39(g) of Staff Regulations, 1960, stating that "since the act of submission of false caste certificate constitutes an offence involving moral turpitude, why his/her gratuity / pensionary benefits should not be forfeited".

13. It is not the case of the respondent that the petitioner had submitted a false certificate or there is any report by the Competent Authority stating that the caste certificate furnished by the petitioner at the time of the appointment in the year 1990 was false. Clause-3 provides that in cases other than above where the issuing Authority is not in a position to confirm the exact status of caste certificate citing some reason but indicates other reasons such as caste is not included in the list of scheduled castes or no records etc, a Charge-Sheet should be issued immediately and enquiry should be conducted against the employee and brought to the logical conclusion in a time bound manner.

Thus, the Clause-3 would attract only when the issuing authority is not in a position to confirm the exact status of caste certificate citing some reason, but indicates that other reasons such as caste is not included in the list of scheduled caste. In the present case the report submitted in compliance to the order passed by this Court, the issuing authority has not stated that his



caste is not included in the list of schedule caste or no records etc. but has simply stated that the record is not available in the office of the issuing authority, but did not state that the caste of the petitioner is not included in the list of the scheduled caste or no record relating to caste of the employee.

14. Counsel for the respondents argued that the services of the petitioner has not been dismissed on the ground that the caste certificate was forged or false, but has been dismissed on the ground that the petitioner did not submit the updated digital caste certificate. The dismissal of an employee merely on the ground that he did not submit fresh caste certificate, cannot be a ground for dismissal of service. In the present case there was no such report. The report does not indicate that any complaint made by the Revenue Authorities regarding missing of the record or had taken any action against any issuing officer for missing of the record. Merely because the record was not available, the services could not be dismissed under Clause-3 particularly when the application of the petitioner for issuance of fresh caste certificate is pending before the authorities. As soon as the fresh certificate shall be issued by the authority, the petitioner shall submit the same before the respondents. The petitioner had filed various documents to show that he had applied before the Competent Authority for fresh caste certificate which was not decided by the authorities.

15. The submission of counsel for the respondent that the other employees submitted fresh caste certificate would not be a ground for dismissing the services of an employee under Clause-3 of the Circular Annexure R/3. It is already held that the Clause-3 of the Circular Annexure



R/3 dated 03.01.2014 would not attract in the present case in view of the specific report submitted by the Revenue Authorities in compliance to the Court order dated 23.04.2024. The order of dismissal coupled with forfeiture of all monetary benefits after a period of 33 years of appointment on the ground of not submitting fresh caste certificate is illegal, arbitrary and unreasonable.

16. Thus, the impugned order of dismissal is quashed. The petitioner is directed to be reinstated if not already attained the age of superannuation with all consequential benefits. As a consequence, the petition is **allowed**.

No order as to costs.

(VIJAY KUMAR SHUKLA)
JUDGE

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