

(2002) 09 JH CK 0011

Jharkhand High Court

Case No: CWJC No. 2534 of 1994 (R)

Mohd. Khurshid

APPELLANT

Vs

Life Insurance Corporation of
India and Another

RESPONDENT

Date of Decision: Sept. 6, 2002

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: M. Sohail Anwar, Altaf Hussain and N. Hoda, for the Appellant; M.M. Banerjee, for the Respondent

Final Decision: Allowed

Judgement

M.Y. Eqbal, J.

This writ application is directed against the order dated 5th/8th February, 1994 issued under the signature of respondent No. 2 Senior Divisional Manager, Life Insurance Corporation of India, whereby the service of the petitioner from the post of Apprentice Development Officer has been terminated with immediate effect.

2. It appears that in pursuance of the advertisement issued by the respondents, petitioner applied for recruitment to the post of Apprentice Development Officer. After the petitioner successfully qualified in the written test and the interview, he appointed as such vide letter dated 16.2.1992. By the said order, petitioner was directed to report to the Principal (Sales). Training Centre, Patna and had to stay at Patna for one month. Petitioner joined the (Sales) Training Centre at Patna on 18.12.1992 and completed the class room training on 8.3.1993. It is stated by the petitioner that he took one month's branch administration training at Garhwa Branch of the Life Insurance Corporation of India (in short "Corporation). While the petitioner was posted at Garhwa, he did his best in bringing new business as stated by the petitioner, but due to illness he could not procure sufficient business. Petitioner then appeared in the written test for the post of Development Officer and after passing written test he was called for interview.

3. Petitioner's further case is that although his name was recommended for putting him on probation but all of a sudden petitioner received letter informing him that respondent was dissatisfied with the performance of the petitioner as Apprentice Development Officer and therefore his services has been terminated. Respondents' case on the other hand is that during the period when the petitioner was posted as Apprentice Development Officer he always remain absence from the headquarter and he remained absent from duty on the ground of illness. Petitioner was informed by the Branch Manager, Garhwa on 5.11.1993 that he did not receive House Hold Survey and Agency Prospective Report. Petitioner was further informed that his stipend will not be released till submission of the said report and improvement in the field work. It is further stated that during the period of apprenticeship when his performance was totally unsatisfactory, a show cause notice was given to him asking the reasons for his absence and for unsatisfactory performance; thereafter the explanation being found unsatisfactory, his service was terminated.

4. I have heard, Mr. M.S. Anwar, learned counsel appearing for the petitioner and Mr. M.M. Banerjee, learned counsel appearing for the respondents.

5. Admittedly, petitioner was appointed as Apprentice Development Officer vide appointment letter dated 16.2.1992 a copy of which has been filed and annexed as Annexure- 2 to the writ application. The relevant clauses of the appointment letter is worth to be quoted here :

Written test.--After completing the Field Training for 5-1/2 months i.e. 8-1/2 months from the date of joining as an apprentice, you will be examined for the knowledge by you during the entire period of training of 8-1/2 months.

On successful completion of Apprenticeship period you will be appointed as Development Officer on probation on a monthly basic pay of Rs. 1350/- per month and such other allowances which are admissible in accordance with Staff Regulation, 1960. The Staff Regulation, 1960 shall not apply to an Apprentice Development Officer.

During the apprenticeship period you shall be governed in all respects by the terms and conditions set in the Life Insurance Corporation of India (Apprentice Development Officers), Recruitment Scheme, 1991.

6. It appears that by letter dated 9.7.1993 the respondents informed the petitioner that he will have to appear in the written test and after passing writ test he will be put on probation. Letter dated 9.7.1993 (Annexure-4) is quoted herein below :

"To

Shri Md. Khurshid,
Apprentice Development Officer,
LIC of India, Garhwa

Dear Sir,

Re : Written Test

This is to inform you that you will be completing 8-1/2 months apprenticeship period on 23.8.1993.

You are aware that after completion of about 8-1/2 months of your training. You will have to appear in the written test to be conducted by our S.T.C. Patna.

Though we have not yet received the exact dates of the test, we inform you to be prepared so that you can proceed to Patna as soon as you here the dates of the test.

Needless to add that you will be put on probation only after passing in that written teat.

Yours faithfully

Manager (Sales)

7. Petitioner accordingly appeared in the written test and became successful for holding the post of Development Officer. Copy of the result sheet showing the name of the petitioner and others for putting them in probation immediately is annexed as Annexurer-5 to the writ application.

8. Although in the counter affidavit a plea was taken by the Corporation that an explanation was called from the petitioner and from the headquarter also for non-submission of House Hold Survey and Agent Prospective Reports but those submissions are not supported by any document. Even assuming that petitioner was called for submission of explanation for his absence in the month of April to June, 93, how the letter dated 9.7.1993 was issued asking the petitioner to Tush for written test. Petitioner did appear in the written test and successfully passed the said written test. The Manager (Sales)/D.M. of the Corporation issued Annexure-5, letter dated 7.9.1993 informing the Branch Manager that the petitioner along with others passed the test and shall be put on probation immediately. In the rejoinder to the counter-affidavit, it is stated by the petitioner that on receipt of the letter dated 5.11.1993; he submitted House Hold Survey and Agency Prospective Report which was forwarded by the Branch Manager, Garhwa to the Divisional Officer at Jamshedpur. The Branch Manager Garhwa, also recommended the case of the petitioner for putting him on probation.

9. In course of argument Mr. M.M. Banerjee, learned counsel for the corporation produced before this Court the original record of the case as directed by this Court in the order dated 30.4.1997. One of the important letter containing minutes dated 1.2.1994 is worth to be discussed herein after. It appears that on 1.2.1994 a note-sheet was placed before the Manager by the Sales Department stating inter alia, that petitioner was absent from 16.4.1993 as he was suffering from infective hepatitis. His apprenticeship period ended on 8.9.1993 but he submitted reports

only on 9.11.1993. In such situation his services may be terminated. The Branch Manager put a note on the same day i.e. on 1.2.1994 to the Senior Divisional Manager that in view of serious irregularities the petitioner may be terminated from the post of Apprentice Development Officer. On the same day another office also put the same note. The Senior Divisional Manager approved the said note on 4.2.1994. I have referred this very letter to show that on the basis of the notes placed on 1.2.1994 and recommended by the Branch Manager on the same day for termination of the petitioner from the post of Apprentice Development Officer, the Senior Divisional Manager approved the same on 4.2.1994. Accordingly the impugned letter of termination was issued on 5.2.1994. There is no whisper at all in the said note-sheet and the minutes that before terminating the petitioner from the post of Apprentice Development Officer when notice to show cause may be issued to him, nor there is any finding that his service was dissatisfactory because of non submission of required report. The defence taken by respondents in the counter affidavit is therefore self contradictory and cannot be accepted.

10. As noticed above, the petitioner directed to appear in the written test and he successfully passed the written test and thereafter impugned letter was issued terminating the petitioner from the post of Apprentice Development Officer without giving any show cause notice. The action of the respondents is therefore arbitrary and unjustified.

11. This writ application is therefore allowed and the impugned letter of termination is set aside. Respondents are directed to consider the case of the petitioner for his appointment on the post of Development Officer on probation in terms of the initial letter of appointment quoted herein above.