

(1997) 05 AP CK 0001

Andhra Pradesh High Court

Case No: Writ Appeal No"s. 330 and 331 of 1995 and W.P. No"s. 6925 of 1994 and 11490 of 1996

Life Insurance Corporation of
India and Others

APPELLANT

Vs

Kalangi Samuel Prabhakar and
Others M. Kalavathi and A. Brijlal

 M. Kalavathi and A. Brijlal
Vs Life Insurance Corporation of
India and Others

RESPONDENT

Date of Decision: May 2, 1997

Acts Referred:

- Central Civil Services (Conduct) Rules, 1955 - Rule 15
- Constitution of India, 1950 - Article 19(1), 21
- Life Insurance Corporation (Agents) Regulations, 1972 - Regulation 17, 17(1), 25, 5
- Life Insurance Corporation Act, 1956 - Section 21, 48(2), 49, 49(1), 49(2)

Citation: (1997) 3 ALT 783

Hon'ble Judges: Y. Bhaskar Rao, J; B.V. Ranga Raju, J

Bench: Division Bench

Advocate: Y.N. Lohita, T. Bali Reddy, in W.P. 6925/94 and Prabhakar Sripada, in W.P.11490/96, for the Appellant; Y.N. Lohita in W.P.11490/96, Ramesh Ranganadham and N. Raghavan and J.V. Suryanarayana Rao in W.P. 6925/94, for the Respondent

Final Decision: Dismissed

Judgement

Y. Bhaskar Rao, J.

The Writ Appeal Nos. 330 of 1995 and 331 of 1995 are filed assailing the judgment of the Single Judge allowing the Writ Petitions and quashing the circulars dated 13-08-1981 and 30-7-1987 of the Life Insurance Corporation of India. Writ Petition No. 6925 of 1994 is filed seeking a Writ of Mandamus declaring the order dated 7-12-1993 of the second respondent therein as confirmed by the first respondent

vide his order dated 17-3-1994 as illegal, void and unconstitutional. Writ Petition No. 11490 of 1996 is filed seeking a Writ of Mandamus calling for the records of the first respondent in Ref. No. Mktg/DSU/2733 dated 22-3-1993, quash the same as arbitrary and illegal and consequently reinstate the petitioner as Life Insurance Corporation of India agent with all consequential benefits.

2. By the circular dated 13-8-1981 the decision of not giving Life Insurance Corporation of India agency to any applicant whose spouse (wife/husband) is employed in the Central/State Government or in any Public Sector Undertaking was conveyed to all Zonal Managers, Divisional Managers and Officers in charge of Branches. Since common question of law is involved in all matters, we are disposing of all cases by common judgment.

3. The facts of these cases, in brief, are that the Managing Director of the Life Insurance Corporation of India has issued the circular dated 21-7-1980 to the effect that wife or husband of an employee of the State/Central Government or the employees of the above Governments shall not be appointed as agents. Again to the same effect, the Chairman of the Life Insurance Corporation of India has also issued another circular dt. 13-8-1981.

4. The above circulars direct that no spouse (husband/wife) of an employee of the Central/State Government or any other Public Sector Undertaking will be given the agency of the Life Insurance Corporation of India. In pursuance of these two circulars, the concerned Officers have issued specific instructions to their subordinates not to appoint any spouse of the employees of Central/ State Government or any other Public Sector Undertakings (hereinafter called as "spouse" for the sake of convenience). Thereby, the applications filed by the spouses were rejected. Writ Petition No. 6925 of 1994 is filed questioning the termination of the agency. The Government of India, Ministry of Finance wrote a letter dated 06-07-1981 to the Chairman, Life Insurance Corporation of India requesting him to issue instructions to all of his field formations directing them not to engage spouses of employees of public sector undertakings, as agents for canvassing life insurance business/in future and as far as the existing agents are concerned, efforts should be made to gradually weed out such agents as and when such instances come to notice.

5. It is contended on behalf of the petitioners that the above said two circulars are contrary to the rules governing the appointment of Agents framed by the Life Insurance Corporation of India and Articles 19(1)(g), 304-A (sic. 304(a)) and 304B (sic.304(b)) of Constitution of India, that the Managing Director and the Chairman of the Life Insurance Corporation of India have no jurisdiction to issue those circulars and that too without amendment to the provisions of the Life Insurance Corporation of India Act incorporating the clause not to appoint spouse as Agent of the Life Insurance Corporation, and further contended that as the above said two circulars are illegal, they are liable to be quashed.

6. On behalf of the Life Insurance Corporation of India, it is contended that since the circulars stated above are the out-come of policy decision of the Central Government and are supplemental to the rules and regulations framed by the Life Insurance Corporation of India, therefore, they are not amenable to challenge under Article 226 of the Constitution of India, that the Corporation has every right of control over appointment of agency in public interest and that the Single Judge erred in allowing the Writ Petitions.

7. The important point of question of law that arises for consideration is:

"Whether the circulars issued by the Corporation debarring spouses of Central/State Government or Public Sector Undertakings employees from being appointed as Agents of the Corporation, are unconstitutional and illegal?"

8. To appreciate the above contentions, it is relevant to look at some of the provisions of the Life Insurance Corporation of India Act and the Rules framed thereunder. The Life Insurance Corporation of India was established on 1-9-1956. The Life Insurance Corporation of India Act, 1956 was enacted.

9. Section 2 of the Act deals with Definitions. Section 4 deals with the Constitution of the Corporation. Chapter III deals with the functions of the Corporation.

10. u/s 48 the power is vested in Central Government to make rules to carry out the purpose of the Act. Section 48(2)(a) provides for the terms and conditions of Office and the terms and conditions of service of members. Section 48(2)(c) deals with the services which the Chief agent should render for the purpose of the proviso to Section 12. Section 48(cc) deals with the terms and conditions of the employees and agents of the Corporation including those who became employees and agents of the Corporation on the appointed day of the Act.

11. Section 49 provides for the power to the Corporation to make regulations so as to give effect to the provisions of the Act. By virtue of that power, the Corporation has framed the Life Insurance Corporation of India (Agents) Regulations, 1972. The Central Government in exercise of its power u/s 48 (1) and (2-A) of the Act issued notification on 10-5-1982 making the said regulations as the statutory rules called as "The Life Insurance Corporation of India (Agents) Amendment Rules, 1982." Rule 4 of the said Rules deals with the appointment of agents of the Corporation.

12. We are concerned with the appointment of agents governed by the Life Insurance Corporation of India (Agents) Regulations of 1972 (hereinafter called as Regulations) which are made as statutory rules in the year 1982 with the publication in Gazette on 29-5-1982.

13. Regulation 2 says as follows:-

"Application:- These regulations shall apply to all agents appointed in India by the Corporation in respect of Life Insurance business."

Regulation 3 deals with the definitions. Regulation 3 (b) defines "agent" means a person who has been appointed under Regulation 4 of these Regulations and includes an absorbed agent.

14. Regulation 4 deals with the appointment of agent which reads as follows:

(1) Agents may be appointed in any place for the purpose of soliciting or procuring life insurance business for the Corporation.

(2) All appointments shall be made by the competent Authority after interviewing the candidates and satisfying itself about their suitability.

(3) In making the appointments, the competent Authority shall be guided by such rules or procedure as may be specified from time to time.

(4) On and from the published day, every person, who was immediately before that day acting on behalf of the Corporation as an insurance agent as defined in the Insurance Act in respect of its life insurance business, shall be deemed to be an agent appointed and confirmed under these regulations from such day;

Provided that for the purpose of computing the period of his work as an agent and any benefit under these regulations, the period during which he was continually acting on behalf of the Corporation as an insurance agent immediately before the published day (excluding any period prior to the 1st September, 1956) shall be taken into account and for the purpose of ascertaining his business in force or the renewal premium income in respect of such business on any date, the business completed by him in the period during which he was continually acting as an insurance agent immediately before the published day shall be taken into account;

Provided further that if any such person within ninety days from the published day, by notice in writing to the Divisional Manager, intimates his intention to discontinue his agency, he shall not be deemed to be an agent under these regulations, but his agency shall stand terminated at the expiry of a period of thirty days from the date of receipt of such notice by the Divisional Manager, and the provisions of the letter of appointment by which he was governed immediately before the published day shall apply as regards the settlement of his account and the benefits admissible to him on such termination.

(5) Notwithstanding anything contained in the foregoing sub-regulations, the competent authority may, by notice in writing to an agent, direct that his agency year shall be every successive period of twelve months from the date mentioned in the notice; Provided that the date so mentioned in the notice shall be the first of a calendar month.

Regulation 5 deals with the qualifications of agents which reads as follows:

"(1) No person shall be appointed as an agent;

(a) if he has not completed 18 years of age; or

(b) if he does not possess a valid licence issued u/s 42 of the Insurance Act; or

(c) if he has not passed the matriculation examination, or an examination recognised as equivalent thereto by the Corporation, in case he is to be appointed in a town or a city with an ascertained population of one lakh or above, and atleast 8th standard in case he is to be appointed at any other place;

Provided that the competent authority may, for reasons to be recorded in writing, relax the requirement specified in the clause.

(2) Subject to such conditions as maybe specified, any society, association, panchayat or other body may be appointed as an agent if it is licensed to act as an insurance agent u/s 42 of the Insurance Act and the provisions of these regulations shall, as far as may be, apply to such agent as they apply to an agent who is an individual.

(3) Subject to the provisions of these regulations and regulation 29 of the Life Insurance Corporation of India (Staff) Regulations, 1960 and employee of the Corporation may be appointed as an agent."

15. Regulations 13 to 15 deal with the grounds of termination of agency. Regulation 17 deals with method of termination of agency. Regulation 25 vests the power in the Managing Director to issue instructions or directions, as may be necessary, according to give effect to the provisions of these regulations.

16. The staff regulations define the terms and conditions of the staff of the Life Insurance Corporation of India and they are framed by virtue of the power vested u/s 49, sub-section 2, Clauses (bb) of Life Insurance Corporation of India Act 1956.

17. Regulation 4 vests the power in the Chairman of the Corporation to issue such instructions or directions as may be necessary to give effect to, and carry out, the provisions of these regulations and in order to secure effective control over the staff employed in the Corporation.

18. Regulation 29 (2) proviso provides that no employee of the Corporation shall be permitted to act as an insurance agent and no employee shall allow any member of his family to act as an insurance agent.

19. Section 29 of the (Staff) Regulations, 1960 of Life Insurance Corporation of India, reads as follows:

"No employee shall undertake part-time work for a private or public body or a private person or accept free therefore without the sanction of the competent authority which shall grant sanction only in exceptional cases when it is satisfied that the work can be undertaken without detriment to his official duties and responsibilities. The competent authority may, in cases in which it minks fit to grant

such sanction, stipulate that any fees received by the employee for undertaking the work shall be paid, in whole or part to the Corporation.

Provided that no employee of the Corporation shall be permitted to act as an insurance agent and no employee shall allow any member of his family to act as an insurance agent."

20. As stated above, Regulation 25 vests power in the Managing Director to issue instructions or directions, as may be necessary to give effect to the provisions of the regulations. Any circular issued to give effect to the regulation will be in consonance with the regulation. Therefore, now we have to scrutinise whether these circulars are in consonance with the regulations or not.

21. The learned senior Counsel Sri Shivarama Sastry and Sri J.V. Suryanarayana Rao appearing for Corporation contended that the circulars are supplement to the regulations and are not contrary. The Corporation has got ample power under the Act and Regulations to issue circulars and there is no dispute about the said proposition. It is further contended by Sri J.V. Suryanarayana Rao that the Corporation has the power to frame regulations as to the method of recruitment as provided u/s 49(2)(b) of the Life Insurance Corporation of India Act, the Central Government can frame rules as to the terms and conditions of the services but not the method or recruitment. The circulars issued by the Managing Director and the Chairman contemplated the method of recruitment, but they are not contrary to the regulations.

22. The learned Counsel appearing for the Writ Petitioners and respondents in the Writ Appeals contended that the regulations provide for specific procedure for appointment of agents and their qualification and disqualification. The regulations have to be amended so as to impose further disqualification. The circulars issued, therefore, are contrary to the regulations, and they are not supplement to the regulations. It is further contended that merely because Section 49(2)(b) empowers the Corporation to frame regulations regarding the method of recruitment, it does not mean that the Corporation has got power to issue circulars as to the method of appointment of agents and the learned Single Judge rightly held that the circulars are illegal.

23. As per Section 48(2) of the Life Insurance Corporation of India Act, the Central Government is vested with the power of framing regulations as to the terms and conditions of services of employees and agents of the Corporation.

24. As per the circulars, no Life Insurance Corporation of India agency shall be given to any applicant whose spouse is employed in the State/Central Government or public undertaking. Since the disqualification imposed is without any amendment to the regulations and is contrary to the rules, the circulars cannot be said to be valid.

25. In *L.I.C. of India v. Asha Ramchandra Ambekar* AIR 1984 SC 2148 the Supreme Court held that the Court cannot direct appointments to be made contrary to statutory provisions. In that case, the Supreme Court was considering compassionate appointment of a wife of a deceased (first respondent). Considering the facts of the case, the Supreme Court elaborately discussed about the scope of Regulation 4 of the Life Insurance Corporation of India (Staff) Regulations, 1960 which deals with the recruitment and appointment of staff on compassionate grounds (Class III and Class IV staff). The Chairman of the Corporation with the approval of the Board on 27-11-1979 issued the Life Insurance Corporation Recruitment (of Class III and Class IV staff) Instructions, 1979. These instructions also contain provisions for the appointment of staff on compassionate ground upon demise of a member of the staff of the Corporation while in service. The circular No. 2D/636/ASP/ 87 was issued by the Central Office of the Corporation on 20-1-1987 provides "Where any member of the family is employed, no appointment may be made on compassionate grounds. "(Vide Clause 4 of the amended Circular.) The Corporation has rejected the appointment of the wife of the deceased on the ground that she had exceeded the upper age limit of 45 years. On filing the Writ Petition, the High Court directed the Corporation to allow her for appointment on compassionate grounds considering her case. The Supreme Court held that the regulations do not contemplate appointment on compassionate grounds when one of the members of the deceased family is gainfully employed, as Regulation 4 of the Life Insurance Corporation of India (Staff) Regulations, 1960 clearly empowers the Chairman of the Corporation to issue such instructions or directions as may be necessary to give effect and carry out instructions of the Corporation in order to secure effective control over the staff employed by the Corporation. As the said regulation specifically empowers the Chairman to issue instructions or directions, the Supreme Court held that the said regulations are statutory in nature and therefore they have statutory force.

26. In the present case the Regulation 25 does not provide for issuing any such instructions as Regulation 25 (of the agent regulations) is quite different from the Regulation 4 of the Staff Regulations. Therefore the facts and the circumstances of the judgment of the Supreme Court are not applicable to the facts and the circumstances of the present case on hand.

27. It is secondly contended that the circulars are issued as supplement to the Regulation 5 of (Agents) Regulations to give effect to the policy decision of the Central Government and placed reliance upon the decision in *State of Maharashtra v. Jagannath* AIR 1989 SC 1133 wherein the Supreme Court held that the executive instruction may supplement but not supplant the statutory rules. The High Court was in error in ignoring this well accepted principle. He also relied on another decision in [Union of India and Another Vs. Tulsiram Patel and Others](#), , wherein the Supreme Court held that the executive instructions stand on a lower footing than a statutory rule for they do not have the force of a statutory rule.

28. The learned Counsel for the petitioners relied on a decision in *S.L. Sachdev v. Union of India* AIR 1981 SC 411, wherein the Supreme Court held that no one can issue a direction which in substance and effect, amounts to an amendment of the Rules made by the President under Article 309. That is elementary.

29. The learned Counsel for the appellants thirdly contended that the Central Government took a policy decision to bar the appointment of the spouses of employees as agents to the Corporation and it is the settled principle of law that the Courts while exercising its power will not interfere with the policy decisions of the Government and in support of his contention, he relied on the decision in [Rakesh Ranjan Verma and others Vs. State of Biha and others](#), wherein the Supreme Court held that the Bihar State Electricity Board shall be guided by such direction on question of policy as may be given to it by the State Government and that the direction given by the State Government to appoint the appellants as Junior Engineers by the Board does not involve any matter of policy and it would be an encroachment on the powers of the Board given u/s 15 of the Act.

30. On the other hand, the learned Counsel for the petitioners contended that the direction given by the Central Government cannot be said to be a policy decision since the qualification and disqualification of an agent are purely conditions for the appointment of an agent.

31. Section 21 of the Act says that the direction given by the Central Government is binding on the Corporation. The policy decisions are those which govern the policies of the Corporation in financial or other schemes to be implemented with the Corporation or any other policy to be adopted by the Corporation, as directed by the Central Government. As per Section 48(2) of the Life Insurance Corporation of India Act the terms and conditions of the service regulations have to be framed by the Central Government.

32. We have already held that the executive instructions will not be taken as a policy decision, they are below the statutory rules. There is no dispute about the decision relied on by the learned Counsel for the respondents regarding the policy decision, as the facts and the circumstances are quite different from the present case on hand. We are not able to agree with the contention of the learned Counsel for the appellants.

33. It is fourthly contended that when question was raised in Parliament as to appointment of the Central Government employees' spouses as Life Insurance Corporation of India agents as contrary to service rules and creating discontent among the public, therefore the Central Government issued a direction which is binding on the Corporation and the Court cannot issue a Writ of Mandamus contrary to rules.

34. On the other hand, it is contended by the writ petitioners that there is no bar for the applicants whose spouses are employed either in the Central Government or in

the Singareni Collieries for the appointment as agents. Therefore, the circulars were issued by non-application of the mind of the authority and the same are illegal and invalid.

35. To appreciate the above contention, it is relevant to extract the following Official Memorandum in M.H.A.O.M. No. 25/4/64-Estt (A), dated 29-2-1964 issued by the Government which reads as follows:-

(10) Enforcement of the restriction: against canvassing by Government servants of the business of Life Insurance Agency, Commission Agency owned or managed by members of his family.)

Sub-rule (1) of Rule 12 of the Central Civil Services (Conduct) Rules, 1955 (now Rule 15), inter alia lays down that "no government servant shall, except with the previous sanction of the Government, engage directly or indirectly in any trade or business or undertake any employment. It has been further emphasised in the "explanation" thereunder that canvassing by a government servant in support of the business of insurance agency, commission agency, etc., owned and managed by his wife or any other member of his family shall be deemed to be a breach of this sub-rule.

2. In spite of specific provisions in this rule, during the past two years quite a number of cases have been reported to the Special Police Establishment in which government servants have been found carrying on life insurance business on their own or in the names of their wives or dependents, etc.,

3. It appears that the government servants have either not realised the full importance of the above rule or are wilfully ignoring it. This rule should therefore, be brought to the notice of all government servants under the Ministry of WHS etc., and the importance of observing the rule impressed on them.

36. It has been further emphasised in the explanation thereunder that canvassing in support of business of insurance agency, commission agency owned by and a member of his family members shall be deemed to have committed breach of the sub-rule, in spite of the specific provision.

37. In spite of the above rule, some of the Central Government employees indulged in carrying on Life Insurance business for their own or for their wives or dependents. Therefore the Government has taken a decision in the above said circular bearing O.M. No. 25/4/64-Estt (A), dated 29-2-1964 directing to bring the above rule to the notice of all the Government servants and see that it can be observed by one and all.

38. By reading the above rule and proceedings issued by the Central Government, it cannot be said that there is a bar for appointment of the spouses of the employees as agents. The bar imposed is only on the employees who indulge in any business or canvass for their own or any other family members. Therefore, it cannot be said that the rules of the Central Government envisages a bar on the appointment of the

spouses of the Government or public undertakings (employees) as agents. However, there is a bar to the employees to canvass or partake in the business of their spouses. Thus, if any Government employee has violated the above said rule, it is open for the Government to take stern action against the particular person.

39. Rule 15 of Central Civil Services (Conduct) Rules reads as follows:

"15. Private trade or employment:

(1) No Government servant shall, except with the previous sanction of the Government, engage directly or indirectly in any trade or business or negotiate for or undertake any other employment:

Provided that a Government servant may, without such sanction-

(i) undertake honorary work of a social or charitable nature, or

(ii) undertake occasional work of a literary, artistic or scientific character, or

(iii) participate in sports activities as amateur; subject to the condition that in all the cases his official duties do not thereby suffer. He shall not undertake or shall discontinue, such work or activity, if so directed by the Government.)

Explanation:- Canvassing by a Government servant in support of the business of insurance, agency, commission agency etc., owned or managed by his wife or any other member of his family shall be deemed to be a breach of this sub-rule.

(2) Every Government servant shall report to the Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(3) No Government servant shall, without the previous sanction of the Government, except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force, or any co-operative society for commercial purposes;

(Provided that a Government servant may take part in the registration, promotion or management of-

(i) a literary, scientific, or charitable society or of a company, club or similar organisation the aims and objects of which relate to promotion of sports, cultural or recreational activities, registered under the Societies Registration Act, 1860 (21 of 1860) or the Companies Act, 1956 or any other law for the time being in force; or

(ii) a co-operative society substantially for the benefit of Government Servants registered under the Co-operative Societies Act, 1912 (2 of 1912) or any other law for the times being in force.)

(4) Unless otherwise provided by general or special orders of Government, no Government servant may accept any fee for any work done by him for any private or public body or any private person without the sanction of the prescribed authority.

(Explanation:- The term "fee" used here shall have the meaning assigned to it in Fundamental Rule 9 (6A))

Conduct and Discipline Rules of Singareni Collieries Company Limited, Clause 12 reads as follows:-

"12. Private Trade or Employment

(1) No employee of the Company shall except with the previous sanction of the Company engage directly or indirectly, in any trade or business or undertake any employment.

Provided that an employee of the company may without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character subject to the condition that his official duties do not thereby suffer but he shall not undertake, or shall discontinue, such work if so directed by the Company."

Standing Orders relating to the Singareni Collieries Company Limited clearly provides Termination of Employment in the following rule:

13. (a) Termination of Employment:- For terminating employment whether by the Management or by an employee, notice shall be given in writing by the party concerned;

(1) One month's notice for monthly staff.

(2) Two weeks' notice for other employees.

Rule 16 pertains to Misconduct which reads as follows:

16. Misconduct:- An employee may be suspended, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct, provided that suspension without pay, whether as a punishment or pending an enquiry, shall not exceed ten days. The following shall denote misconduct:-

(1) wilful insubordination or disobedience, whether alone or in combination with another or others, of any lawful or reasonable order of a superior;

(2) Theft, fraud, or dishonesty in connection with the Company's business or property.

(3) Taking or giving bribes or any illegal gratification, whatsoever,

(4) Habitual late attendance and habitual absence without leave or without sufficient cause.

- (5) Drunkenness, fighting, riotous or disorderly or indecent behaviour.
- (6) Habitual negligence or neglect of work.
- (7) Habitual indiscipline.
- (8) Smoking underground and within the Colliery area in places where it is prohibited.
- (9) Causing damage to work in progress or to property of the Company.
- (10) Sleeping on duty.
- (11) Malingering or slowing down work.
- (12) Acceptance of gifts from subordinate employees.
- (13) Lending money to or borrowing money from subordinate employees.
- (14) Writing of an anonymous letter criticising a superior officer or the Company.
- (15) Conviction in any Court of law for any criminal offence involving moral turpitude.
- (16) Continuous absence without permission and without satisfactory cause for more than 10 days.
- (17) Giving a false information regarding his name, age, father's name, qualifications or previous service at the time of employment.
- (18) Leaving work without permission.
- (19) Any breach of the Indian Mines Act, or any other Act, or of any rules or bye-laws thereunder or of Standing Orders.
- (20) Abetment of, or attempt at abetment or any of the above acts of misconduct.

40. The Conduct Rules relating to Central Civil Services, clearly evidenced that there is no bar for the appointment of the spouses as agents of the Life Insurance Corporation of India. The bar imposed is for the employee of the Central Government, State Government or public undertakings from canvassing or from conducting trade or business by themselves. It is to be noticed that in the circular issued by the Managing Director dated 21-7-1980, it is stated that the wife/husband of employees of the Central Government, State Government is prohibited to have an insurance agency as provided by the Central Civil Services Conduct Rules, Railway Service Conduct Rules and State Civil Services Conduct Rules.

41. By reading these instructions, it is revealed that there is a prohibition imposed by the rules. But the regulation do not provide such prohibition, as stated above by us.

42. It is fifthly contended by the learned Counsel Sri. J.V. Suryanarayana Rao that under regulation 17(1) of the (Agents) Regulations 1972, there is an implied power for Corporation to terminate the services of any agent. Therefore, the termination cannot be said as bad. He further contended that in the case of Life Insurance agent in Writ Petition No. 6925 of 1994, the appointment of agent itself is at the inception of bad allegation that his appointment is after the circular was issued by the Corporation. Therefore terminating the said agent cannot be said as bad and there is rule bar.

43. In the present case termination is not binding the agency that there is a bar for the appointment of the spouses of the government employees, we have already held supra that there is no bar for appointment. Once if there is no bar rejecting the appointment or terminating the agency on that count is not valid and illegal.

44. We have to interpret power under Regulation 17(1) as unbridled, the same is arbitrary and against the public policy, when, particularly the regulation pertains to grounds of termination and there is no rule of prohibition for appointment of spouses either under the rules.

45. Even if it is accepted that the circulars are issued validly as per the power conferred u/s 49(2)(b) of the Act, the question is whether they will have the force. Section 49(1) provides that whenever regulation is framed by the Life Insurance Corporation of India, the same has to be published in the Gazette and placed before the Parliament. It is not disputed in this case that the circulars were not placed before both the Houses of Parliament nor published in the Gazette. Therefore, the Counsel contended that the circulars have no force of law as they are not published in the Gazette.

46. The two circulars are issued as per letter dated 6-7-1981 directing the Corporation to stop the appointment of spouses of the employees as agents of the insurance company and terminate those who are already in employment and their widows as the agents. The said letter is only demi official letter and it cannot have the force of law and they are again termed as directions or policy decisions as contemplated u/s 21 of the Act in matters involving in the public interest as contemplated under the same Section of the same Act.

47. Regarding W.P. No. 11490 of 1996, it is filed assailing the termination order dated 22-3-1993 terminating the agency of the petitioner. The petitioner's agency was terminated on the allegation of misconduct in issuing a policy by exercising the power u/s 17(1) of the Act. When the termination is not specifically mentioned, it cannot be said as termination without any reasons. Further, this termination is not on the ground mat he is one of the spouse of the public undertakings. Therefore, we do not see any valid reasons in allowing the Writ Petition.

48. For the foregoing reasons, we hold that the impugned circulars are violative of Articles 19(1)(g) and 21 of the Constitution of India. Accordingly, the Single Judge has

rightly held in allowing the Writ Petitions under appeal.

49. In the Result, Writ Appeals Nos. 330 of 1995 and 331 of 1995 and Writ Petition No. 11490 of 1996 are dismissed while Writ Petition No. 6925 of 1994 is allowed.