Kalavathi B. Java Vs. the Life Insurance Corporation of India and ors.

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Court : Chennai

Decided On : Jan-21-1980

Reported in : AIR1980Mad316

Judge : V. Ramaswami, J.

Acts : Life Insurance Corporation of India (Agents) Regulations, 1912 - Regulations 9(2), 9(3), 9(4) and 13(1)

Appeal No. : Writ Petn. No. 2927 of 1977

Appellant : Kalavathi B. Java

Respondent : The Life Insurance Corporation of India and ors.

Advocate for Def. : J. Kanakaraj, Adv. ;of Raj and Raj

Advocate for Pet/Ap. : G. Venkataraman, Adv.

Judgement :
ORDER

1. An interesting point on the interpretation of Life Insurance Corporation of India (Agents) Regulations, 1972, arises for consideration in this writ petition. The petitioner was working as an insurance agent of the General Assurance Society Ltd., Madras, with effect from 13-9-1947. On the nationalisation of the. Life insurance business, it appears, originally ladies were not permitted to be the

agents. When the rules were relaxed relating to the appointment of women as, agents, the petitioner applied for appointment as an agent. By an order of appointment dated 7-9-1962, she was appointed as an agent with effect from 20-8-1962. On the ground that she had not completed sufficient amount of business as required under Regulation 9 (3), her services were sought to be terminated under Regulation 13 (1).

The learned counsel for the petitioner contended that the petitioner's services were terminated on the ground that as required under Regulation 9 (3) (d), the petitioner had not introduced any proposal resulting in policies, of at least 12 different lives. But in calculating the period for finding out whether the petitioner had introduced policies on 12 different lives the respondent had taken the agency year as the calendar year. The petitioner's case is that the respondent should have taken the agency year as beginning from 20th August of every year, and ending with 19th August in the subsequent year.

The learned counsel appearing for the respondent, on the other, hand, contended that as per the definition of 'agency year', the calendar year alone could be taken into account and the business will have to be calculated with reference to such calendar year. The definition of 'agency year' in so far as the present case is concerned is the one which is given in relation to an absorbed agent and that reads as follows

'In these regulations unless the context otherwise requires, 'agency Year' in relation to an absorbed agent, means

(A) the period of twelve months from the date following the date on which he had completed the last year of his agency before the published day (hereinafter referred to as the first agency year of such -agent) and (B) in the subsequent years of his appointment every successive period of twelve months following the completion of the first agency year,'

2. Under the terms of appointment, the petitioner had to complete in each calendar year an aggregate business of at least Rs. 40,000 on six different lives. It further states that if the appointment was on and after 1st July in a calendar year, she will

have to complete half of the qualifying business for a year, for hat calendar year. Thus, the annual business for the agent is to be computed with reference to the calendar year and necessarily therefore, the year of agency is the calendar year. It is not -disputed by the parties to this writ petition that the business introduced by the petitioner was only considered with reference to the calendar year prior to the regulations. The 'Published day' with reference to the definition of agency is 1-5-1972. The date on which the petitioner had completed the last year of her agency before the published date is, therefore, 31-12-1971. The agency year, so far as the petitioner is concerned, therefore, is the calendar year and the first year of agency under the regulation with reference to Regulation 9 (3) is the calendar year 1972. The learned counsel for the respondent is, therefore, correct in the submission that the agency year so far as the 'petitioner is concerned is the calendar year and that her work will have to be assessed with reference to the business completed during the calendar year.

3. While contending that the agency (year is the calendar year, the Interned counsel for the respondent also contended that for the purpose of calculating 15 years under Regulation 9 (4), the 15 years from 20-8-1962 will have to be calculated and not with reference to the calendar year. There is no logic in argument of the learned counsel and it cannot be accepted. We have already were that the business to be introduced by the petitioner is to be calculated with reference to the calendar Year and the first year of agency with reference to the business completed should be deemed to have been over on 31-12-1962. Though Regulation 9 (4) refers to the agent working for the Corporation for a period of 15 years, since it is in the nature of an exception to the minimum business required of the agent under sub-regulate (2) and (3) the 15 years referred to are only the 15 agency Years as calculated in the previous paragraph. There is no reason and the context also does not require any different meaning to be given for the 15 years of agency referred to in Regulation 9 (4). 1 have no doubt that the 15 years referred to in Reg. 9 (4) also will have to be worked out with reference to the calendar Years. If so calculated, the first year of agency would have been over on 31-12-1962 and the petitioner would have completed 15 Years' of agency on 31-12-1976.

4. Even so, the learned counsel for the respondent contended that since the petitioner had not completed the minimum business as required in sub-regulation (3) of Regulation 9 in respect of the 15th year, there is an automatic termination of the agency under Regulation 13 (1). I cannot agree with this contention either. If once an agent had completed 15 years as calculated above the question of trying to find out whether in the 15th year she had introduced sufficient 'business does not arise at all for consideration in view of the non obstante clause in Regulation 9 (4). Under Regulation 9 (4) it is not possible to invoke Regulation 13 (1) after completion of 15 years of agency. Since the automatic termination will arise only after the end of the year and Regulation 9 (4) refers to 15 years of agency only, the automatic termination under Regulation 13 (1) could not be invoked with reference to the 15th agency year. It might be that the petitioner is liable to produce the minimum business even for the 15th year as required, under Regulation 9 (3). Also for not producing such minimum business, an action might be taken, but the automatic termination referred to in Regulation 13 (1) could not be invoked. If an action is taken for non-production of the minimum business in the 15th year, the principles of natural justice have to be followed.

Since no such action was taken and the respondent relied only on Regulation 13 (1) providing for automatic termination, the impugned order of the respondent is not sustainable. In fact, the impugned order proceeded on the basis that she had not completed 15 years and that she had not introduced the minimum business as required under Regulation 9 (3). Since in my view the petitioner had completed 15 years within the meaning of Regulation 9 (4), the question of automatic termini nation under Regulation 9 (3) does not arise and the impugned order of termination is illegal.

5. In the result, the writ petition is allowed, the order of termination is 64 aside and the rule nisi is made absolute. Then will be no order as to costs.

6. Petition dismissed