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Court : Chennai

Decided On : Jan-21-1980

Reported in : (1980)2MLJ13

Appellant : Kalavathi B. Java

Respondent : The Life Insurance Corporation of India, Represented by Its Chairman and Two ors.

Judgement :

ORDER

V. Ramaswami, J.

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 in insurance agent of the General Assurance Society Limited, Madras with effect from 13th September, 1947. On the nationalisation of the Life Insurance business, it appears, originally ladies were not permitted to be agents. When the rules were relaxed relating to the appointment of women as agents, the petitioner applied for appointment as agent. By an order of appointment dated 7th September, 1962, she was appointed as an agent with effect from 26th August, 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 of 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 along 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 that 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 1st

May, 1972. The date on which the petitioner had completed the last year of her agency before the published date is, therefore, 31st December, 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 learned Counsel for the respondent also contended that for the purpose of calculating 15 years under Regulation 9(4), the fifteen years from 20th August, 1962, will have to be calculated and not with reference to the calendar year. There is no logic in this argument of the learned Counsel and it cannot be accepted. We have already seen 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 31st December, 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-regulations (2) and (3), the fifteen years referred to is 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). I have no doubt that the fifteen years referred to in Regulation 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 31st December, 1962 and the petitioner would have completed 15 years of agency on 31st December, 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 fifteenth 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 on the fifteenth 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 fifteen years of agency only, the automatic termination under Regulation 13(1) could not be invoked with reference to the fifteenth agency year. It might be that the petitioner is liable to produce the minimum business even for the fifteenth 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 fifteenth 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 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 termination 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 set aside and the rule nisi is made absolute. There will be no order as to costs.

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