



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 3301/2003

Padam Chand Prajapat

-----Petitioner

Versus

L.I.C. and Ors

-----Respondent



For Petitioner(s) : Mr. Rakesh Arora.

For Respondent(s) : Mr. Harish Mathur.

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

04/12/2024

1. Under challenge herein is an order dated 04.07.2001 (Annex.3) passed by Life Insurance Corporation of India, Bikaner, vide which recovery of Rs.2,84,757/- was initiated against the petitioner for dereliction of duty while working as a Development Officer at Nagaur.

2. Relevant facts first. One Shri Basti Ram Roj was working as an LIC agent, helping to get and promote business of sale of life insurance policies. One day, vide a letter dated 04.07.2001, respondent No.2 asked the petitioner as to why he did not inform the LIC about Basti Ram Roj being in government employment; and why was he allowed to work as an agent despite being a government employee.

2.1 The petitioner submitted his reply on 17.07.2001 (Annex.1), stating that when Basti Ram Roj was given the agency, he was

unemployed. The petitioner was unaware that subsequently Roj was employed elsewhere or for that matter, in government.

2.2 However, a penalty of censure was imposed on the petitioner, which was communicated on 16.03.2002 (Annex.2). Notwithstanding, the respondents later passed impugned order dated 04.07.2001 (Annex.3), for recovery of Rs.2,84,757/- from the petitioner, credited earlier as incentive bonus and additional conveyance amount qua the business conducted through/by Basti

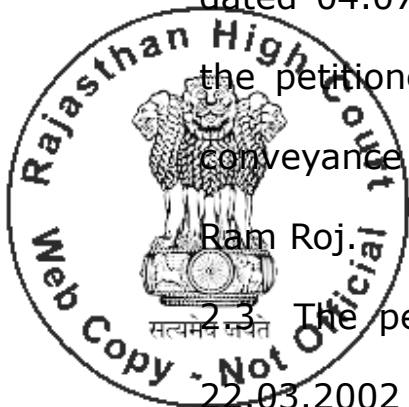
Ram Roj.

2.3 The petitioner submitted a reply to the recovery order on 22.03.2002 (Annex.4), stating that even the department itself had allowed up to date renewals of the said agent and paid commissions and even renewal commissions to him. The petitioner further stated that since a penalty of censure had already been imposed, no further recovery should be made.

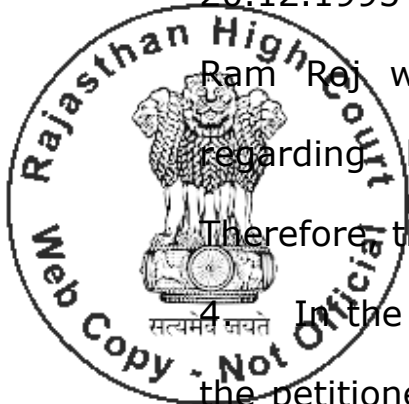
2.4 The Regional Manager (Marketing) of the Zonal Office, vide letter dated 07.06.2003 (Annex.10), informed the petitioner that the competent authority was unable to accede to his request. Subsequently, respondent No.3 sent a letter on 28.06.2003 (Annex.11) asking the petitioner to deposit the amount, else it would be recovered from the petitioner's appraisal.

2.5 Thus this writ petition.

3. Respondents' stand, inter alia, is that Development Officers are obligated to act against agents engaging in illegal activities and report violations to LIC. The Senior Divisional Manager, vide his letter dated 16.03.2002 (Annex.2) had issued only a warning. The administrative censure was not a punishment awarded to the petitioner for proposing LIC policy through his agent, Shri Basti



Ram Roj. The censure and the recovery order are separate issues. The recovery order seeks to reclaim undue payments made on account of the agency which was operated by an unauthorized government employee. Renewal commissions to Basti Ram Roj were allowed pending higher authorities' review. However, from 20.12.1995 onward, credit for business procured through Basti Ram Roj was disallowed. The petitioner's claim of ignorance regarding his agent's employment status is unacceptable. Therefore the petition is without merit and should be dismissed.



4. In the aforesaid backdrop, I have heard learned counsel for the petitioner as well as learned counsel for the respondents and have gone through the case file.

5. Facts of the case are rather peculiar, as already noted hereinabove, which are self-explanatory. It is conceded position that financial benefits accorded to Basti Ram Roj for the services rendered by him after joining the Government Service is the sole basis for taking action against the petitioner.

6. Services of Basti Ram Roj are not in dispute. The only complaint of LIC being that, after joining his employment with the Government, he could not have continued to render his service for LIC. Since the petitioner at the relevant time was the Development Officer, who was supposed to interact with Basti Ram Roj, he was held responsible for not informing his employer i.e. LIC, that Basti Ram Roj has joined service.

7. Be that as it may, neither LIC has suffered any loss nor took any steps against the said Basti Ram Roj/agent, by filing an appropriate complaint before his employer that, while serving for

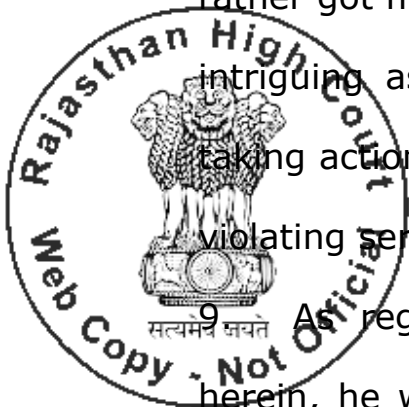
the Government he violated his service rules by working as an agent.

8. Not only this, it transpires that as far as Basti Ram's services as agent are concerned, he rather brought business to LIC. There is no gainsay to state that, being a commercial organization, LIC rather got more business through the agent. Therefore, it is rather intriguing as to why would LIC act against its own interest by taking action against a third party, who, if at all, was delinquent of violating service code with his employer.

9. As regards the employee of the LIC, i.e., the petitioner herein, he was let off with the issuance of a censure. Regarding the imposition of recovery against the petitioner, I find that no grounds were made out in the absence of either any pleading or even any proof of loss suffered in LIC business on account of the petitioner's alleged delinquency.

10. As an upshot, the impugned orders are not sustainable and the same are accordingly set aside.

11. In the parting, I may also hasten to add here that nothing has been produced on record qua the assertion of the respondents that there was a violation of the applicable Service Rules by petitioner. Moreover, neither was the petitioner issued any show cause notice nor was any departmental enquiry conducted, nor otherwise any opportunity was granted him to enable him to present his defense. By mere stroke of a pen, as a bolt from the blue, a unilateral decision was taken to pass the impugned order. Dehors my discussion in the preceding part, on that ground alone, I am unable to sustain tenability of the orders impugned herein, which have all been quashed.



12. Petition is thus stands allowed, as above. Pending application(s), if any, stand disposed of.

(ARUN MONGA),J

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Whether fit for reporting : Yes / No.

