

23.08.2024

Ct. 23

D/L 7

ab

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 7199 of 2023

With

CAN 1 of 2023

CAN 2 of 2023

CAN 3 of 2024

CAN 4 of 2024

Sandip Kumar Mallick

-Vs-

Union of India & Ors.

Mr. Amit Pan,
Mr. Debarshi Das

... for the petitioner

Ms. Sonal Agarwal

... for the LIC

Re: CAN 4 of 2024

The writ petition was filed on 22nd March, 2023, *inter alia*, challenging a show cause notice dated 29th July, 2022 issued to the petitioner, a Development Officer of the Life Insurance Corporation of India (in short, LIC) by his employer as also declaring the Rules 2, 3, 6, 7 and 8 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Services) Amendment Rules, 2016 to be ultra vires. During the pendency of the said writ petition, a termination notice was issued on 8th June, 2023. The petitioner challenged the said termination

notice by filing an application being CAN 2 of 2023 in the present writ petition. In the said application, on 11th August, 2023, the termination notice dated 8th June, 2023 was directed to be kept in abeyance.

The petitioner says that although the show cause notice as well as termination notice has been stayed and/or directed to be kept in abeyance, the employer has issued a fresh show cause on 25th June, 2024 and a termination notice on 30th July, 2024. The petitioner is seeking stay of the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 by filing the instant application being CAN 4 of 2024 in the main writ petition. The petitioner also says that the whole object of issuing the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 is to victimize the petitioner when this Court is already in seisin of the matter after having passed interim protection in respect of the previous set of show cause notice and the termination notice. It is further submitted that in this manner by issuing successive show cause notices and termination notices, the employer is attempting to non-suit the petitioner by rendering the writ petition infructuous.

On behalf of the LIC, it is submitted that the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 have been issued after appraisal of the petitioner's dismal

performance in the year ended on 30th April, 2024. This is a separate show cause notice for a separate business year followed by the termination notice and as such, the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 are outside the purview of the present writ petition. Any cause of action that may have accrued in favour of the petitioner on the issuance of the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 is a separate cause of action, which cannot be brought within the ambit of the present writ petition. This application, therefor, is not maintainable.

After hearing the parties and considering the materials on record, I find substance in the submissions of the petitioner to the extent that by issuing show cause notice and termination notice for successive years, the present writ petition will be rendered infructuous when this Court has admitted the same and has granted interim protection to the petitioner. At the same time, the submissions made on behalf of the LICl cannot be also brushed aside considering the fact that the show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 are in respect of a separate business year after evaluating the petitioner's performance for that year.

In the facts and circumstances as aforesaid, the respondents are granted an opportunity to disclose their stand on affidavit. At the same time, some protection is also required to be given to the petitioner, failing which the termination notice dated 30th July, 2024 being enforced will leave the petitioner remediless. The show cause notice dated 25th June, 2024 and the termination notice dated 30th July, 2024 are directed to be kept in abeyance and no steps or further steps in pursuance thereof should be taken without the leave of this Court till disposal of this application.

Let affidavit-in-opposition to the application being CAN 4 of 2024 be filed by 6th September, 2024. Reply thereto, if any, be filed by 17th September, 2024.

Let this matter appear on 20th September, 2024 under the same heading.

(Arindam Mukherjee, J.)