

ITEM NO.101 (PH)

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2268/2011

HASHMUDDIN & ORS.

Appellant(s)

VERSUS

LIC & ORS.

Respondent(s)

(With appln. (s) for impleadment and intervention and interim relief and office report)

WITH

C.A. No. 2571/2013

(With Interim Relief and Office Report)

C.A. No. 4629/2011

(With Interim Relief and Office Report)

SLP(C) No. 8748/2011

(With appln.(s) for taking additional document on record and Interim Relief and Office Report)

Date : 20/10/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Pramod Swarup, Sr. Adv.
 Mrs. M.V. Rama, Adv.
 Ms. Sushma Verma, Adv.
 Mrs. Anjani Aiyagari, Adv.

Mr. J.N. Dubey, Sr. Adv.
Mr. Anurag Dubey, Adv.
Ms. Anu Sawhney, Adv.
Ms. Meenakshi P., Adv.
Mr. S. R. Setia, Adv.

For Respondent(s) Mr. Kailash Vasdev, Sr. Adv.
 Mr. Ashok Panigrahi, Adv.
 Mr. Surajit Bhaduri, Adv.

Mr. M.M. Singh, Adv.
Mr. Aniruddha P. Mayee, Adv.

Mr. Kumar Parimal, Adv.

Mr. K. Subba Rao, Adv.
Mr. A. Selvin Raja, Adv.

Mr. B.K. Raizada, Sr. Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

I.A.No. 4 Of 2016 in Civil Appeal No. 2268 of 2011 has been filed on behalf of the seven applicants. They were writ petitioners before the Allahabad High Court when they were working in the State of U.P. but later their services fell within the newly created State of Uttarakhand and hence their writ petitions are presently still pending before the Uttarakhand High Court at Nanital.

They have prayed for impleadment in Civil Appeal No. 2268 of 2011 on the ground that they stand on the same footing as the appellants.

There is no opposition to the aforesaid prayer. Hence I.A. No. 4 of 2016 for intervention is allowed.

We make it clear that this order is confined to these four matters which cover the temporary Class III employees of L.I.C. recruited for working in the States of U.P. and Uttarakhand. The other matters already stand de-tagged from some other matters.

It is not necessary to advert to various orders passed in these matters earlier but we may usefully refer to two such orders, passed on 05.02.2014 and 04.09.2014

which read as under:

"SLP(C)NO.8748/2011, C.A. Nos.2268/2011,
2571/2013 & 4629/2011

Heard counsel on either side.

It is the common case of the parties that the petitioners/appellants have put in more than 10 years of continuing service. On the basis of the decision of this Court in Secretary, State of Karnataka v. Uma Devi (3) & Others reported in (2006) 4 SCC 1, paragraph 53, the Management should have examined the claim of the petitioners/appellants for regularization as one-time measure. This exercise, it is stated, has not been done. We direct the respondent to do that exercise within eight weeks.

C.A. Nos. 6950/2009, 6951/2009, 6956/2009,
6953/2009, 6954/2009, 6952/2009,
6367-6368/2010

After hearing the counsel at length, we are inclined to give directions to the LIC to explore the possibility of framing a scheme so that those already covered by the Industrial award (those who are covered by the award, whether working or not), so as to absorb them in service.

LIC to also examine whether these persons may be exempted from writing this test also.

List all the appeals on 16.04.2014, as part-heard.

"SLP(C)No.8748/2011, C.A.No.2268/2011,
C.A.No.2571/2013 and C.A.No.4629/2011

This Court vide its order dated 05.02.2014 granted eight weeks time to the respondent-Life Insurance Corporation of India to formulate a scheme as per what was envisaged in paragraph 53 of the judgment of this Court in Secretary, State of Karnataka vs. Uma Devi (3) & Ors. (2006) 4 SCC 1. Learned counsel for the respondents has endeavoured to take us to a scheme that was prevalent in 1992 on the basis of the decision of this Court in State of Haryana Vs. Piara Singh (1992) 4 SCC 118. That

exercise is entirely futile after the pronouncement of judgment in Uma Devi's case (supra). We were, therefore, inclined to direct the presence of the Chairman of Life Insurance Corporation of India to appear on the next date of hearing. However, the learned Attorney General has assured us that necessary action shall be taken within six weeks from today. On his assurance, we adjourn these cases.

List for consideration on 05.11.2014.

These appeals/petition are de-tagged from other appeals which related to the industrial award passed against the respondents in respect of other workmen.

C.A.Nos. 6950/2009, 6951/2009, 6956/2009, 6953/2009, 6954/2009, 6952/2009 & 6367-6368/2010

Let these appeals be listed for hearing on 05.11.2014".

In compliance of those two orders L.I.C. has placed certain materials through I.A. No. 3 of 2015 in these matters. In Para 15, the Scheme placed before this Court reads as under :

"(i) This scheme is applicable only for the petitioners whose names are given in the Annexure and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into LIC of India. They shall be given age relaxation for the purpose of eligibility only.

(ii) LIC of India will hold a written examination for them.

(iii) They may have to appear in the written examination along with open market candidates, if circumstances, so demand.

(iv) The successful candidates shall be called for interview. Only those persons, who are

successful in the interview, shall be appointed and posted as Assistants anywhere in the Zone, after they clear pre-recruitment medical examination.

(v) Those who are recruited shall be governed by the rules as applicable to the employees of the Corporation and they shall not be entitled to claim any other benefit regarding their past service rendered as temporary employees.

(vi) By accepting the scheme, any other cases filed by the petitioners in the Supreme Court and/or in other High Court/s or any other court will be treated as closed.

(vii) Such of those petitioners who do not apply or are not successful shall cease to be in employment".

Considering the long length of service rendered by the appellants in temporary capacity, this Court does not approve the part of the Scheme where under the appellants have to appear in written examination along with open market candidates (Clause 3 of the Scheme).

Fortunately Mr. Kailash Vasudev, learned senior counsel, on instructions, submitted that L.I.C. shall hold a limited written examination only for the appellants and the intervenors.

We make it clear that the limited examination will not include candidates from the open market and will be confined only to the appellants /writ petitioners and the intervenors.

We have noted an order of this Court dated 7th February, 1996 passed in Civil Appeal No. 1790 of 1989 (The Management of the Life Insurance Vs. Their workmen). In that

order this Court permitted the L.I.C. to hold a test if there was no power to exempt the class IV employees from the test and interview but observed as follows:

"We direct the Management to exempt the concerned Class IV Employees from the test and interview if the Management has power to do so under the regulations/instructions governing their conditions of service. In case the Management has no such power, we have no doubt in our mind that the test which shall be prescribed for these workmen shall be of a lesser standard than the one which has been prescribed under the two circulars mentioned in the compromise. We have further no doubt that simply because these workmen have approached the Court. The Management shall not take any vindictive attitude towards them.

In somewhat similar circumstances, an order came to be passed by this Court on 18th January, 2011 in C.A.Nos. 953-968 of 2005 (LIC of India and Anr. Etc. Vs. D.V. Anil Kumar Etc.) That matter related to a Scheme for absorption of class IV employees and this Court accepted the Scheme as enumerated in the affidavit of the LIC for holding one time limited examination for the temporary employees who were working in the LIC for more than five years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into LIC of India. For this purpose, LIC of India was directed to hold a limited written examination in the vernacular language with a limited syllabus to be announced in advance.

We agree with the course of action in above noted

orders and reiterate the observations to the effect that the standard of examination shall be of such standard that persons who have left academic studies long back but have earned practical experience for a long number of years can take the examination with some amount of confidence of their success.

We direct the L.I.C to conclude this exercise within a period of four months and submit a report to this Court.

Post after four months. If need arises, the fairness of other conditions/clauses of the Scheme shall be considered during further hearing.

(Madhu Bala)
Court Master

(Madhu Narula)
Court Master