

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P.No. 4182 of 2013**

Between:

Md. Ebadulla Khan

... Petitioner

And

1. The Life Insurance Corporation of India Limited.  
Rep. by its Senior Divisional Manager.
2. Senior Divisional Manager,  
The Life Insurance Corporation of India Limited

... Respondents

JUDGMENT PRONOUNCED ON: 22.07.2022

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to  
see the fair copy of the Judgment? : yes

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No. 4182 of 2013**

% 22.07.2022

Between:

# Md. Ebadulla Khan

..... Petitioner

And:

\$ The Life Insurance Corporation of India Limited  
and another

..... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners: Mr. J.Vasudeva Reddy

^ Counsel for the Respondents: Mr Bathula Raj Kiran  
Standing counsel for LIC

? Cases Referred:

<sup>1</sup> (1999) 3 SCC 60

<sup>2</sup> 2020(12) SCC 426

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 4182 of 2013**

**ORDER:**

Heard Sri K. Vasudeva Reddy, learned counsel for the petitioner and SriBathula Raj Kiran, learned Standing Counsel for LIC.

2. This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondent in issuing impugned proceeding No.P&IR dated 16-01-2013 as illegal and arbitrary and set aside the same and consequently, direct the respondents to reinstate the petitioner into service duly granting all other consequential benefits, such as continuity of service and back wages etc.

**3. Brief facts of the case are as follows:**

The petitioner is appointed as Peon on temporary basis in the office of the 2<sup>nd</sup> Respondent in the month of March, 2003 and consequently, after putting more than 8 years of service as temporary employee, the petitioner was appointed as peon on regular basis on 18.02.2012 after passing written test conducted on 26.06.2011, oral interview on 11.07.2011. The petitioner joined on 22.02.2012 and after completing six months, his probation was declared on 21.08.2012. When an anonymous complaint was received that the certificates produced by the petitioner i.e. transfer certificate No. 45400 dated 26.08.1995 and the 9<sup>th</sup> class marks memo from Government High School, Padmanagar, Karimnagar

District are fake, proceedings dated 02.01.2013 was issued to the petitioner to submit his explanation. The petitioner submitted his explanation on 05.1.2013 categorically pleading that the allegation made against him is incorrect and false and that the certificates submitted by him are from Government High-School, Peddapally, but not basing on the alleged certificate of Government High School, Padmanagar. However, without considering any of the submissions made by the petitioner impugned proceeding dated 16.01.2013 was issued by the 2<sup>nd</sup> Respondent terminating him service with immediate effect on the premise that the petitioner is a probationer. In this regard, the petitioner submitted that, his probation period was only limited to 6 months, which is extendable on completion of probationary period. However, the fact remains that his probation has not been extended by the authorities, at any point of time. Therefore, the petitioner is deemed to be a regular employee. However, the 2<sup>nd</sup> respondent issued the impugned order by imposing penalty of removal from service under Regulation 39(1) (A) of LIC of India Staff Regulations, 1960 with immediate effect. The said proceeding dated 02.01.2013 was issued exclusively basing on an alleged complaint submitted by some unknown persons and also the alleged report received from the Head Master, Govt. High School, Padmanagar dated 16.08.2012. Basing on the said documents, which were obtained without petitioner's knowledge, the 2<sup>nd</sup> respondent is not expected to terminate petitioner's services. A regular employee cannot be terminated without holding any regular departmental enquiry. Further, the

termination of the petitioner is not one of the enumerated penalties under the staff regulations. It is incumbent on the part of the 2<sup>nd</sup> respondent to hold a regular departmental enquiry before arriving at a conclusion. However, in the instant case, no enquiry was conducted. None of the petitioner's submissions were considered by the disciplinary authority before terminating his services. As such impugned order of termination of the 2<sup>nd</sup> respondent dated 16.01.2013 is liable to be set aside. Hence, this writ petition is filed.

4. **The respondents filed counter contending as follows:**

The employment notice dated 20.05.2011 stipulates that the candidates, who do not satisfy the eligibility conditions are liable to be disqualified at any stage of selection. Appointment letter was issued to the petitioner, based on the certificates viz., Form of Transfer Certificate No.45400, dated 26.08.1995 and Memorandum of Marks of 9<sup>th</sup> class pass in the month of April, 1990 mentioning Date of Birth of the petitioner as 20.07.1975, with admission No. 3864, issued by Government High School, Padmanagar, Karimnagar produced by the petitioner along with the application dated 03.06.2011, duly following the process of recruitment, as laid down in the Hon'ble Supreme Court Order dated 18.01.2011 in CA Nos. 953 - 968 of ***D V Anil Kumar and Others v. LIC of India***. The contention of the petitioner that his probation was completed by 21.08.2012, is not correct. The petitioner's services were not confirmed in the cadre, because of a complaint received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai. In this

connection, it is to submit that in the appointment letter issued to the petitioner, Appointing Authority categorically mentioned as follows:

*"During the probationary period, which may be extended by another six months, you are liable to be discharged without notice and without any cause whatsoever being assigned to you for such discharge."*

*"This appointment is offered to you on the basis of information given by you in your above-mentioned application with regard to your educational qualification."*

*"Please note that if any untrue statement is contained in the form of application submitted by you or the declaration to which you subscribed therein is found to be untrue, you are liable to be dismissed from the services of the Corporation and the terminal benefits, if any, accrued to you shall be forfeited".*

On a complaint received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai, alleging that some of the Sub-Staffs recruited in Karimnagar Division, as per the order of the Hon'ble Supreme Court had produced fake certificates for obtaining employment. Since a complaint is pending against the employee on producing fake certificates for getting employment, the Appointing Authority has not confirmed petitioner's services in the Corporation as per Regulation 14 (3) of LIC of India (Staff) Regulations, 1960. On an investigation, it was found that the certificates produced by the petitioner for getting employment viz., Form of Transfer Certificate No. 45400 dated 26.08.1995 and Memorandum of Marks with Admission No. 3864 issued by Government High School, Padmanagar, Karimnagar are found to be fake and the Head Master, Government High School, Padmanagar, Karimnagar has confirmed the same, vide his letter dated 16.08.2012. The Petitioner has submitted his explanation dated

05.01.2013 informing that he has studied 10th class in Government High School, Peddapally during the year 1984-85 and submitted the copies to that effect, which are not in agreement with the documents submitted along with the application. The date of birth mentioned in the petitioner's application is 20.07.1975, which is also reflected in the T.C. No. 45400, dated 26.08.1995 with Admission No. 3864 said to be issued by Government High School, Padmanagar. Though the petitioner denied the submission of the said fake certificate along with the application, he has mentioned the date of birth as 20.07.1975 only which is contained in the said fake certificate. But, as per the enclosures i.e. T.C. submitted by the petitioner along with the S.S.C. Memo of Marks (duplicate) submitted along with the explanation letter, the date of birth is 20.07.1970. If this date of birth i.e. 20.07.1970 is to be reckoned, then, he is not eligible even to apply for the post, as he has crossed 33 years as on the date of his entry into temporary service, in the year 2003. It is submitted that the certificates submitted along with the application seeking employment were also confirmed by the Head Master, Government High School, Padmanagar, Karimnagar that they are not genuine. In view of the above facts, the order dated 16.01.2013 issued by 2<sup>nd</sup> Respondent is in accordance with the Staff Regulations, 1960. The 2<sup>nd</sup> Respondent is the Appointing Authority and it was clearly mentioned in the offer of appointment letter as follows:

*"This appointment is offered to you on the basis of information given by you in your above-mentioned application with regard to your educational qualification."*

*"Please note that if any untrue statement is contained in the form of Application submitted by you or the declaration to which you subscribed therein is found to be untrue, you are liable to be dismissed from the services of the Corporation and the terminal benefits, if any, accrued to you shall be forfeited."*

The statement of the petitioner that the 1<sup>st</sup> respondent acted in an arbitrary manner is not based on any facts and hence, not tenable. The petitioner was appointed as Sub Staff on the basis of certificates produced by him along with the application. Since a complaint was received and an investigation revealed that the petitioner has submitted fake certificates for getting employment which was also authenticated by the Head Master, Government High School, Padmanagar, Karimnagar, the petitioner was removed from the services of the Corporation. Therefore, the writ petition is liable to be dismissed *in limini*.

**5. The main contentions put forth by the counsel for the petitioner are as follows :**

(i) The petitioner is appointed as Peon on temporary basis in the office of the 2<sup>nd</sup> respondent in March, 2003.

(ii) After putting more than 8 years of service as a temporary employee the petitioner was subjected to the process of selection for being appointed as Peon on regular basis and accordingly the petitioner was selected vide proceedings dated 18.02.2012 and he was appointed as Peon on regular basis. The petitioner joined the post on 22.02.2012 and the probation was completed by 21.08.2012. The fact that the



probation of the petitioner has not been extended by the authorities at any point of time, petitioner is deemed to be a regular employee.

iii) On the ground that the petitioner gave an untrue statement in the form of application submitted by the petitioner a show cause notice dated 02.01.2013 was issued to the petitioner and the petitioner submitted a detailed explanation dated 05.01.2013. In petitioner's explanation the petitioner denied the submission of fake 9<sup>th</sup> and 10<sup>th</sup> Class certificate vide T.C. No. 45400, dated 26.08.1995 at the time of petitioner's appointment as Peon. However, ignoring the said explanation the impugned order of termination has been passed. The termination order has been passed without conducting the departmental enquiry and hence the termination order has to be set aside, since the same is illegal and arbitrary.

iv) The petitioner was not provided with reasonable opportunity to prove that he did not indulge in any suppression of facts or misrepresentation when he submitted the form of application or the declaration.

v) It was hastily and unilaterally decided behind the back of the petitioner that the petitioner submitted false certificates and on that ground the order of termination has been passed.

vi) The order impugned is not a termination simpliciter but it is an order that attaches stigma and therefore the petitioner is entitled for reasonable opportunity to defend himself and to prove that the allegations levelled against him are false and without a departmental

enquiry the petitioner cannot be said to have given an untrue statement in the form of application submitted by the petitioner at the time of his initial appointment.

**6. The main contentions advanced by the counsel for the respondents are :**

- a) The employment notice dated 20.05.2011 stipulates that the candidates, who do not satisfy the eligibility conditions are liable to be disqualified at any stage of selection.
- b) The services of the petitioner were not confirmed in the cadre due to lodging of a complaint received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai.
- c) The Appointing Authority has ordered for discreet investigation into the specific allegations made in the complaint. On an investigation, it was found that the certificates produced by the petitioner for getting employment viz., Form of Transfer Certificate No. 45400 dated 26.08.1995 and Memorandum of Marks with Admission No. 3864 issued by Government High School, Padmanagar, Karimnagar are found to be fake and the Head Master, Government High School, Padmanagar, Karimnagar has confirmed the same, vide his letter dated 16.08.2012.
- d) The certificates submitted by the petitioner in order to get employment were fake, as was noticed by the Corporation, based on a complaint and subsequent investigation and later it inflicted the punishment under regulation 39 (1) (f) of LIC of India (Staff) Regulations, 1960 with immediate effect.

**7. Perused the record.**

**8. The impugned order of termination dated 16.01.2013 issued by the 2<sup>nd</sup> respondent herein reads as follows :**

*"This has reference to our letter dated 02.01.2013 regarding submission of false certificates at the time of joining as Sub Staff.*

*We have received your explanation with regard to submission of false certificates. The same is not found satisfactory.*

*As per Regulation 14 (4) of Life Insurance Corporation of India (Staff) Regulations, 1960 "during the period of probation an employee shall be liable to be discharged from service without any notice".*

*Further in the appointment order issued to you, dated 18.02.2012 wherein it was mentioned that "this appointment is offered to you on the basis of information given by you in your above mentioned application with regard to your educational qualification".*

*And further "If any untrue statement is contained in the form of application submitted by you or the declaration to which you subscribed therein is found to be untrue, you are liable to be dismissed from the services of the corporation and the terminal benefits, if any, accrued to shall be forfeited".*

*AND WHEREAS, I am satisfied that due and proper opportunity has been afforded to you to defend yourself.*

*NOW, THEREFORE, I, as the Disciplinary Authority, am satisfied that Sri Md. Ebadulla Khan, Sub Staff, S.R. No. 675356, has no satisfactory explanation to offer. I hereby order imposing of penalty of removal from service under Regulation 39 (1) (f) of LIC of India (Staff) Regulations, 1960 with immediate effect".*

**9. A bare perusal of Clause-4 and Clause-5 of the order of appointment dated 18.02.2012 reads as under :**

*4. You will be on probation for a period of six months from the date of your joining duties in terms of this letter of appointment.*

*5. During the Probationary Period, which may be extended by another six months, you are liable to be discharged without notice and without any cause whatsoever being assigned to you for such discharge.*

**10. The counter affidavit filed on behalf of the respondents at Para No. 7 and 8 reads as under :**

*"7. A complaint was received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai, alleging that some of the Sub-Staffs recruited in Karimnagar Division, as per the order of the Hon'ble Supreme Court had produced fake certificates for obtaining employment. Appointing Authority has ordered for discreet investigation into the specific allegations made in the complaint. Since a complaint is pending against the employee on producing fake certificates for getting employment, the Appointing Authority has not confirmed his services in the Corporation as per Regulation 14 (3) of LIC of India (Staff) Regulations, 1960.*

*8. The Appointing Authority has ordered for discreet investigation into the specific allegations made in the complaint. On an investigation, it was found that the certificates produced by the petitioner for getting employment viz., Form of Transfer Certificate No. 45400 dated 26.08.1995 and Memorandum of Marks with admission No. 3864 issued by Government High School, Padmanagar, Karimnagar are not genuine and found to be fake. The Head Master, Government High School, Padmanagar, Karimnagar has confirmed, vide his letter dated 16.08.2012 that the petitioner did not study in their school during 1979 to 1990 and the admission No. 3864 with T.C. No. 45400 dated 26.08.1995 do not pertain to their school records at all and are not issued by them".*

**11. The Apex Court in [Dipti Prakash Banerjee V. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta and others](#)<sup>1</sup>**

observed in its two paras as follows:

***"In the matter of "stigma", this Court has held that the effect which an order of termination may have on a person's future prospects of employment is a matter of relevant consideration. In the seven-Judge Bench decision in [Samsher Singh v. State of Punjab Ray. C.J](#) (1974(20 SCC 881) observed that if a simple order of termination was passed, that would enable the officer***

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<sup>1</sup> (1999) 3 SCC 60

*to "make good in other walks of life without a stigma". It was also stated in [Bishan Lal Gupta v. State of Haryana](#) (1978 (1) SCC 202) that if the order contained a stigma, the termination would be bad for "the individual concerned must suffer a substantial loss of reputation which may affect his future prospects".*

*"The above decision is, in our view, a clear authority for the proposition that the material which amounts to stigma need not be contained in the order of termination of the probationer but might be contained in any document referred to in the termination order or in its annexures. Obviously, such a document could be asked for or called for by any future employer of the probationer. In such a case, the order of termination would stand vitiated on the ground that no regular enquiry was conducted.*

12. **The Hon'ble Supreme Court in a case reported in (2013) 16 SCC 59 (Registrar General, High Court of Gujarat and Another Vs. Jayshree Chamanlal Buddhbhatti)** was examining as to whether the order of termination was simplicitor or stigmatic. At paragraph Nos.20 and 31, it held as follows:

*"20. The question, therefore, comes for consideration, as stated earlier, as to whether this is a case of termination simpliciter of the services of a probationer on account of her unsuitability for the post that she was holding, or whether it is a termination of her services after holding an enquiry behind her back, and without giving her an opportunity to defend.*

*31. Having gone through the salient judgments on the issue in hand, one thing which emerges very clearly is that, if it is a case of deciding the suitability of a probationer, and for that limited purpose any inquiry is conducted, the same cannot be faulted as such. However, if during the course of such an inquiry any allegations are made against the person concerned, which result into a stigma, he ought to be afforded the minimum protection which is contemplated under [Article 311 \(2\)](#) of the Constitution of India even though he may be a probationer. The protection is very limited viz. to inform the person concerned about the charges against him, and to give him a reasonable opportunity of being heard."*

**13. The Apex Court in Vijayakumaran C.P.V v Central Univerity of Kerala and others<sup>2</sup> at para 8 observed as under:**

*"It is well established position that the material which amounts to stigma need not be contained in the order of termination of the probationer, but might be contained in "any document referred to in the termination order". Such reference may inevitably affect the future prospects of the incumbent and if so, the order must be construed as exfacie stigmatic order of termination."*

**14. Regulation 39 of the Life Insurance Corporation (staff) Regulations, 1960 reads as under:**

*39. Penalties. - (1) Without prejudice to the provisions of other regulations, [any one or more of] the following penalties for good and sufficient reasons, and as hereinafter provided, be imposed [by the disciplinary authority specified in Schedule-I] on an employee who commits a breach of regulations of the Corporation, or who display negligence, inefficiency or indolence or who knowingly does anything detrimental to the interest of the Corporation, or conflicting with the instructions or who commits a breach of discipline, or is guilty of any other act prejudicial to good conduct –*

*(a) Censure;*

*(b) Withholding of one or more increments either permanently or for a specified period;*

*(c) recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Corporation by negligence or breach of order;*

*(d) reduction to a lower service, or post, or to a lower time scale, or to a lower stage in a time-scale;*

*(e) compulsory retirement;*

*(f) removal from service which shall not be a disqualification for future employment;*

*(g) dismissal.*

*(2) No order imposing on an employee any of the penalties specified in clauses (b) to (g) of sub-regulation (1) supra, shall be passed by the disciplinary authority specified in Schedule I without the charge or charges being communicated to him in writing and without his having been given a reasonable opportunity of defending himself against such charge or charges and of showing cause against the action proposed to be taken against him.*

*(3) The disciplinary authority empowered to impose any of the penalties, (b), (c), (d), (e), (f) or (g) may itself enquire into such of the charges as are not admitted or if it considers it necessary so to do, appoint a board of enquiry or an enquiry officer for the purpose.*

### **CONCLUSION:**

15. In the present case the respondent herein even as per the counter affidavit has conducted a discreet enquiry into the allegations made in the complaint. The counter affidavit says that the complaint was received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai but the counter does not indicate the date of receipt of the complaint nor the person from whom the said complaint has been received by the Central Vigilance Officer, LIC of India, Central Office, Mumbai. Admittedly the petitioner also is unaware of the contents of the said complaint made against the petitioner herein. The disciplinary authority though as per the Regulation 39 (2) (3) of Life Insurance Corporation of India (Staff) Regulations, 1960 is empowered to impose any of the penalties but at the same time it is mandatory to give reasonable opportunity to the petitioner herein so as to enable, conduct of enquiry into the charges, which are not admitted by the employee and if required appointment of board of enquiry or an enquiry officer for the purpose. But in the present case curiously though the petitioner in his explanation dated 05.01.2013

specifically made a request for enquiry into the matter clearly contending that even prior to petitioner's appointment as Peon in LIC of India, Karimnagar, the petitioner had rendered services as watchman from the year 2002 and further even during the said period there was no complaint against the petitioner, in spite of the same however no departmental enquiry was conducted.

16. The petitioner has been appointed on 18.02.2012, the petitioner joined the post on 22.02.2012 and as per the order of the appointment dated 18.02.2012 the petitioner has completed his probation on 21.08.2012 itself and there was no letter issued to the petitioner, extending the period of probation and the petitioner received show cause notice only on 02.01.2013, after a period of more than 4 months. It is not the case of the petitioner that he is discharged on account of being unsuitable for the post held by him. But the present case is a case where it is alleged that the petitioner had submitted an untrue statement/declaration at the time of joining the services and the petitioner submitted fake certificates at the time of joining service and therefore, the impugned order cannot be said to be a termination *simpliciter* since the order of termination is a stigmatic order.

17. A bare perusal of the order of termination clearly indicates that it is not termination *simpliciter* and it causes stigma since the allegations mentioned in the impugned order that is submission of false certificates at the time of joining as sub-staff bring serious disrepute to the petitioner



herein. Admittedly, as borne on record no charges were framed against the petitioner nor any opportunity has been given to the petitioner nor any disciplinary enquiry has been conducted prior to the passing of the impugned order.

18. In the present case on hand, what is alleged against the petitioner is submission of false certificates at the time of joining as Sub-staff. Going by the tenor of the impugned order, it is in comprehensible as to how the same can be construed as a termination simplicitor. The order impugned was in pursuance to a complaint made behind the back of the petitioner and after the appointing authority has ordered for discreet investigation which certainly indicated serious issues and that was made the basis for a decision to terminate the petitioner without any regular departmental enquiry being conducted in the matter. In such situation it is unfathomable to construe the impugned order dated 16.01.2013 as order of termination simplicitor. **A bare perusal of Regulation 39 of the Life Insurance Corporation (staff) Regulations, 1960 clearly indicates that the impugned order is passed in clear violation of Regulation 39(2) and 39(3) and the petitioner, admittedly, as borne on record, had been denied a reasonable opportunity of defending himself against the charges alleged against him.**

19. This Court opines that it is mandatory for the appointing authority to conduct enquiry and thereafter, discharge the petitioner. It is well settled position of law that a probationer/employee could be discharged

from service for unsuitability and not on imputing allegations. The impugned order dated 16.01.2013 is not an order of discharge simplicitor but it is an order of discharge imputing allegations against the petitioner which attaches stigma.

20. Under these circumstances, taking into consideration the law laid down in the Apex Court judgments referred to above, I am inclined to dispose of the writ petition on the following terms.

(i) The following impugned Proceeding No. P & IR dated 16.01.2013 issued by the 2<sup>nd</sup> respondent is set aside.

(ii) The 2<sup>nd</sup> respondent is entitled to proceed from the stage of issuing a charge memo and conduct the enquiry afresh and take a decision in accordance with law in the matter either by permitting the petitioner to rejoin or by placing him under suspension.

(iii) In view of the afflux of time, such an exercise to be carried on within a period of three months from the date of receipt of copy of the order. The petitioner is not awarded any back wages at this stage and the same will be decided only after the outcome of the ultimate enquiry to be conducted by the 2<sup>nd</sup> respondent. There shall be no order as to costs.

21. Miscellaneous petitions pending, if any, pending in this writ petition shall stand closed.

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**SUREPALLI NANDA, J**

Date: 20.07.2022

Note : L.R.copy to be marked b/o kvrm