

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.2301/2010**

% **January 31, 2013**

SANJAY KUMAR

..... Petitioner

Through: Mr. A.P. Dhamija, Advocate.

versus

LIFE INSURANCE CORPORATION OF INDIA & ANR. .... Respondents

Through: Ms. Meghna Sankhla, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VALMIKI J.MEHTA**

To be referred to the Reporter or not?

**VALMIKI J. MEHTA, J (ORAL)**

1. By this writ petition, the petitioner who was terminated from

services of respondent No.1-Life Insurance Corporation of India during the probationary period, seeks the relief of quashing the orders refusing to extend the probation period and thereby terminating his services. The impugned orders are dated 16.12.2008 and 2.1.2010.

2. The facts of the case are that the petitioner was appointed as an Apprentice Development Officer by the respondent No.1 as per the appointment letter dated 17.12.2007. Paras 2 and 10 of the said appointment letter read as under:-

“2. **PROBATIONARY PERIOD:**

You shall be on probation initially for a period of twelve months from the date of your joining duties as a probationer, but the Corporation may, in its sole discretion, extend your probationary period, provided that the total probationary period including the extended probationary period shall not exceed 24 months counted from the commencement of the probationary appointment. During the probationary period (which includes extended probationary period, if applicable) you shall be liable to be discharged from the services of the Corporation without any notice and without any cause being assigned.

10. **MINIMUM BUSINESS:**

i) During the probationary period you shall secure through the agents recruited at your instance minimum completed life business of Rs. 3.5 crores yielding a Scheduled First Year Premium Income of not less than Rs. 10.00 lacs provided, however, that in case the pay and/or allowance admissible to you, under Clause I are increased

during the period, the minimum business and the premium income which you should secure shall be increased proportionately.

ii) The minimum business set out in (i) shall be spread over not less than 550 lives and shall be secured regularly through a network of dependable agencies.

iii) You will be required to recruit minimum of 35 agents out of which 35 agents should have become active, 35 agents should individually have put in during that period the minimum business required of them in an agency year according to Rule (9) of the LIC of India (Agents) Rules, 1972 and 15 agents should become Productive agents i.e one who has completed either at least 20 lives or 12 lives with Scheduled First Year Premium Income of Rs. 1,00,000 in the agency year.

iv) If your probationary period is extended, you shall secure during the extended period such business as may be intimated to you.”

3. As per the respondent No.1, the petitioner did not bring in the necessary minimum business as per para 10 of the appointment letter and therefore the probationary period of petitioner was not extended and his services were terminated.

4. The respondent No.1 has given the following chart with respect to various personnel, some of whom were confirmed and others terminated, and petitioner is found at serial No.16 of this chart:-

						Performance (from probation to 15-12-2008)					No. of count			
						No. Of policies	Agents rec.	Schedule FPI	Qual. Agents	Prod. Agents	Target achieved			
						Target 550	Target 35	Target 10 lacs	Target 35	Target 15		App cost rate	CR	
Sl. No.	Name (Sh./Ms.)	COD E	BR CODE	Dt. Of Prob.	Conf. Due on									Action
1.	Manoj Kumar	5206	11E,SSO	17.12.2007	17.12.2008	106	34	6.23	1	1	Nil	25.04	Outstanding	Confirmed
2.	Sh. Kirti	5211	123,SSO	17.12.2007	17.12.2008	430	51	15.8	5	11	1	9.87	Outstanding	Confirmed
3.	Sh. Rajesh	5313	123,SSO	17.12.2007	17.12.2008	175	35	7.51	2	3	1	20.77	Outstanding	Confirmed
4.	Sh. Manoj Kumar	5219	12K	17.12.2007	17.12.2008	243	30	10.4	6	4	1	15.54	Outstanding	Confirmed
5.	U.P.Singh	5221	12L	17.12.2007	17.12.2008	340	20	7.7	7	2	Nil	20.26	Outstanding	Confirmed
6.	Sh. Sajal	5209	123	17.12.2007	17.12.2008	195	28	6.51	1	3	Nil	23.96	Outstanding	Confirmed
7.	Sh. Praveen Prakash	5194	116	17.12.2007	17.12.2008	88	26	5.69	0	0	Nil	27.42	Outstanding	Extended
8.	S.K. Gautam	5197	326	17.12.2007	17.12.2008	50	16	2.23	0	0	Nil	69.96	Average	Extended
9.	Maneesh Khatri	5198	327	17.12.2007	17.12.2008	71	21	3.94	0	0	Nil	39.59	Well above average	Extended
10.	Amit Kumar	5200	12D	17.12.2007	17.12.2008	84	18	2.07	0	0	Nil	75.36	Outstanding	Extended
11.	Abhishek Kumar	5201	12D	17.12.2007	17.12.2008	93	31	3.55	1	0	Nil	43.34	Outstanding	Extended
12.	Sh. Rajiv Rajnaji	5202	11B,SSO	17.12.2007	17.12.2008	74	19	2.03	4	1	Nil	76.85	Well above average	Extended
13.	Ms. Anshita Kale	5203	11B,SSO	17.12.2007	17.12.2008	62	15	2.61	1	0	Nil	59.77	Well above average	Extended
14.	Sh. Ritesh Sagar	5204	11B,SSO	17.12.2007	17.12.2008	98	9	3.64	2	2	Nil	42.86	Well above average	Extended
15.	Sh. Amit Kumar Dahiya	5208	11L	17.12.2007	17.12.2008	118	16	6.89	3	2	Nil	22.64	Average	Extended
16.	Sanjay Kumar	5199	327	17.12.2007	17.12.2008	53	9	1.74	1	0	Nil	123%	Below average	Terminated
17.	Sh.M.S. Brijwal	5215	12C	17.12.2007	17.12.2008	20	7	0.74	1	0	Nil	213%	Average	Terminated
18.	Gajendra Singh	5216	12J	17.12.2007	17.12.2008	3	2	0.47	0	0	Nil	3275%	Outstanding	Terminated

Manager(Sales)

Delhi DO-II

5. A reading of the aforesaid chart shows that indubitably the petitioner failed to comply with the requirement of bringing in business as per clause 10 of his appointment letter. The petitioner was below the mark whereas 15 other persons achieved the necessary business for the respondent No.1-corporation and therefore their probationary periods were extended and they were subsequently confirmed. The petitioner as also two other persons, namely, Sh. M.S. Brijwal and Sh. Gajendra Singh were terminated from services during the probationary period on account of failure to bring in the requisite business.

6. The contention of the petitioner that he has been discriminated as against other persons who did not bring in the necessary business but were confirmed is therefore incorrect in view of the chart reproduced hereinabove.

7. It is settled law that it is not necessary that a probationer has to be confirmed to his services. In fact, in the present case, the decision taken by the respondent No.1 is not a subjective decision but an objective decision based on performance parameters and therefore the probation of the petitioner was not extended alongwith two others, whereas 15 other persons were given extensions and thereafter confirmed by the respondents.

8. In view of the above, there is no merit in the petition which is accordingly dismissed, leaving the parties to bear their own costs.

**VALMIKI J. MEHTA, J**

**JANUARY 31, 2013**  
Ne