

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2268 OF 2011

Hashmuddin & Ors.

...Appellants

Vs.

Life Insurance Corporation of India
and Ors.

...Respondents

WITH

CIVIL APPEAL NOS.7676/2019, 4629/2011 AND 2571/2013

O R D E R

1. We have heard learned counsels at length and perused the orders passed from time to time.

2. The respondent-Life Insurance Corporation, in pursuance to its own initiation and some prodding from the Court has taken some beneficial steps to help the employees who were given temporary status initially but continued to work for long period of time in that capacity. The Scheme in question was devised so as not to make such temporary employees compete with persons who would be entering afresh. Thus, all such people who may or may not have appeared in the examination in the past were given an opportunity to take the examination in pursuance to the directions of this Court dated 20th October, 2016.

3. A very limited aspect based on the submission of the learned counsel for the appellants has been crystalised by us in our last order dated 5th December, 2019 as under:

"Thus, the question which would have to be examined would be that are the appellants entitled to counting of their period spent in temporary posts towards fixation of their pay on permanent status after they have been given the said permanent status."

4. It is in the conspectus of the aforesaid that we have heard learned counsel for the parties. In order to frame our opinion on the aforesaid issue, it would be useful to refer to the seminal judgment in the case of *Secretary, State of Karnataka & Ors. v. Umadevi (3) & Ors.* (2006) 4 SCC

1. The relevant portion is as under:

"One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V.Narayanappa, R.N.Nanjundappa* and *B.N.Nagarajan* and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this court in the cases aboverereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take

steps to regularise as a one-time measure, the services of such *irregularly* appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

5. It is in the view of the aforesaid observations, we find that a scheme ought to have been devised by the respondent-Corporation within a period of six months as set out in the aforesaid judgment. It would naturally require some time to carry out the scheme and thus learned senior counsel for the respondent-Corporation contends that such process does take about year and a half. This is being the position, we are of the view, that atleast from the date of initial appointment in the temporary status, a period of twelve years could be set to suffice for purposes of carrying out the necessary process of the absorption of such persons on a permanent basis. However that did not happen and a longer period of time has been taken on account of various proceedings filed and orders passed by different

courts from time to time. It is thus the contention of the learned senior counsel for the respondent-Corporation that the respondent should not be burdened with giving the appellants a permanent status from their original date of appointment on a temporary basis.

6. Learned counsels for the appellants have taken a reasonable stand before us. They have confined their contention to the benefits being available on a basis of a requirement that the temporary status should have been converted into a permanent status after twelve years from the initial date of appointment and it is on the expiry of the said period that the time period should be computed for fixation of their pay on permanent status. They have also stated that they are not claiming any backwages, that is an aspect not even noted by us to be examined as per our last order.

7. We are thus of the view that the appellants should be entitled to the counting of their period spent in temporary status post twelve years from their initial date of appointment on the temporary basis towards the fixation of their pay on a permanent basis with all consequential benefits without any backwages (the benefit will accrue from 31st December, 2016). On aspects of gratuity, contributory pension etc., we are not specifically dealing with as that will depend in turn on the provisions of the Scheme, provisions of the Act and Regulation concerned and that can be worked out on that basis.

8. We hope that this should put a quietus to the lis inter-se the parties and the questions raised before us.

9. The appeals are accordingly disposed of leaving the parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

New Delhi;
January 15, 2020.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2268/2011

HASHMUDDIN & ORS.

Appellant(s)

VERSUS

LIFE INSURANCE CORPORATION OF INDIA & ORS.

Respondent(s)

([RETAIN ITS POSITION])

WITH C.A. No. 7676/2019

C.A. No. 4629/2011 (IA No. 2/2016 - MODIFICATION OF COURT'S ORDER)

C.A. No. 2571/2013 (IA No. 1/2016 - MODIFICATION OF COURT'S ORDER)

C.A. No. 4703-4735/2016 (IA No. 11919/2017 - DIRECTION)

Date : 15-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPHFor Appellant(s) Mr. R.Basant, Sr. Adv.
in CA Nos. 2268/2011, Mr. Pramod Swarup, Sr. Adv.
7676/2019 and Mrs. Anjani Aiyagari, AOR
2571/2013in CA 4629/2011 Mr. Anurag Dubey, Adv.
Ms. Anu Sawhney, Adv.
Mr. Meenesh Dubey, Adv.
Mr. Sat Pal Wadhwa, Adv.
Mr. Bhupender Kr. Bhardwaj, Adv.
Mr. S. R. Setia, AORin CA 4703-4735/2016 Mr. Kailash Vasdev, Sr. Adv.
Mr. Puneet Taneja, AOR
Ms. Laxmi Kumari, Adv.For Respondent(s) Mr. Kailash Vasdev, Sr. Adv.
-LIC Mr. Ashok Panigrahi, AOR
Mr. S. Vinay Ratwakar, Adv.
Mr. Anmol Tayal, Adv.
Mr. Nabab Singh, Adv.

Mr. Sanjay Parikh, Sr. Adv.
Mr. Anurag Dubey, Adv.
Mr. Pramod Kumar, Adv.
Ms. Manisha Yadav, Adv.
Mr. S. R. Setia, AOR

Mr. Pramod Swarup, Sr. Adv.
Mrs. Anjani Aiyagari, AOR

Mr. Anmol Chandan, Adv.
Dr. Nishesh Sharma, Adv.
For Mrs. Anil Katiyar, AOR

Mr. A. V. Rangam, AOR

Ms. Divya Roy, AOR

Mr. Aniruddha P. Mayee, AOR
Mr. K. Subba Rao, Adv.
Mr. A. Rajarajan, Adv.

Mr. Chandra Bhushan Prasad, AOR

Mr. Sarvam Ritam Khare, AOR

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

CIVIL APPEAL NOS. 2268/2011, 7676/2019, 4629/2011 AND
2571/2013

The appeals are disposed of in terms of the signed order.

Pending applications shall also stand disposed of.

Civil Appeal Nos. 4703-4735/2016

On hearing learned counsel for the parties, we have put to learned senior counsel for the appellant-Corporation that it may be appropriate to treat the respondents at par keeping in mind that directions passed in Civil Appeal No. 2268 of 2011 on 20th October, 2016 read with order passed today. The net effect of this would be that such of the

respondents who will clear a limited examination in terms of order dated 20th October, 2016 to be held now would be entitled to the benefits in terms of the orders passed by us today.

This course of action is acceptable to the learned senior counsel for the respondents on instructions.

Learned senior counsel for the appellant-Corporation seeks some time to obtain the requisite instructions.

List for directions on 31st January, 2020 on the Miscellaneous Board.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file.)