

IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-4322 of 2018

Date _____ Order with signature of Judge _____

Present: *Mr. Justice Muhammad Junaid Ghaffar*
Mr. Justice Agha Faisal

Petitioners: Niaz Ahmed Shaikh & others
Through Mr. Abdul Salam Memon and
Ms. Rabya Javed, Advocates.

Respondent No. 1: Federation of Pakistan
Through Mr. S. Yasir Ahmed Shah,
Assistant Attorney General.

Respondent Nos. 2 to 4: The Chairman, State Life Insurance
Corporation & others,
Through Mr. Waqas Asad Sheikh,
Advocate.

For hearing of main case.

Date of hearing: 19.10.2022.
Date of Order: 19.10.2022.

ORDER

Muhammad Junaid Ghaffar, J: Through this Petition, the Petitioner has impugned a decision of the Board of Directors of Respondents No.2 to 4 (“State Life Insurance Corporation of Pakistan”) taken in the 242nd meeting of the Board of Directors dated 08.12.2015 along with Office Order dated 06.01.2016, whereby, the mode and manner of payment of Professional Qualification Allowance to the employees has been revised.

2. Learned Counsel for the Petitioners has contended that the Impugned Office Order and the decision of the Board of Directors is in violation of Regulation 9 of the State Life Employees (Service) Regulations, 1973 (“Regulations”) inasmuch as the allowance is to be paid only on the basis of qualification and not designation of the employees of the Respondents. He further submits that since promulgation of the Regulations till issuance of the Office Order in question, the said Regulations were being followed and allowance was only paid on the basis of qualification of the employees; however, from 2016, it has been revised by the Board of Directors; but such revision is against the Regulations; hence this Petition.

3. On the other hand, learned Counsel appearing on behalf of the said Respondents has submitted that firstly, except Petitioner No.1, all other petitioners have joined Respondents after issuance of the impugned office

order, hence, cannot challenge the same; and secondly, due to financial implication and for the reason that various employees were dissatisfied with the earlier mode and manner of payment of the said allowance; a revision has been made by the Board of Directors, which is competent to do so and no case is made out.

4. We have heard both the learned Counsel and have perused the record. Regulation-9 of the Regulations, 1973 deals with Technical Allowance, which provides that every employee shall be entitled to Technical Allowance on completion of certain professional examinations at the rates approved by the Board; but not being less than those mentioned therein. The Rule further provides various minimum rates of the allowance in question to be paid on the basis of prescribed qualifications. It is a matter of admitted position that since promulgation of these Regulations, the allowance was being awarded and paid to the employees on the basis of their individual qualification, and there was no disparity amongst the employees insofar as their designation is concerned. However, on 06.01.2016 on the basis of decision taken by the Board of Directors in its meeting held on 08.12.2015, the following Office Order was issued:-

“Office Order NO.P&GS/PO/14/2016

Subject: **Revised Professional Qualification Allowance ACA/ACMA & FCA/FCMA.**

In pursuance of the Board of Director's resolution passed at its 242nd meeting held 08.12.2015. The following revised Professional Qualification Allowance has been enhanced w.e.f. 1st January 2016.

S. #	Designation	Qualification	
		ACA/ACMA	FCA/FCMA
01.	Up to Manager	20000	25000
02.	Assistant General Manager	25000	30000
03.	Deputy General Manager	35000	40000
04.	General Manager / Divisional Head	40000	50000

The qualification allowances are eligible for those Officers who qualified from the following institutions:-

- i) Institute of Chartered Accountants of Pakistan (ICAP)
- ii) Institute of Cost & Management Accounts of Pakistan (ICMAP)
- iii) Institute of Chartered Accountants England & Wales, UK (ICAE &WUK)
- iv) Chartered Institute of Management Accountants UK (ACCA, UK)
- v) Association of Certified Chartered Accountants UK (ACCA, UK)
- vi) Association of Institution of Certified Public Accountants USA (AICPA)

It is also approved that in future technical/qualification allowance would only be admissible to those in service employees, who acquire/complete these qualifications while being in regular service.

All other terms and condition(s) (if any) shall remain unchanged.

This issues with the approval of the Acting Executive Director (P&GS).

Sd/-
(Arif Ebrahim)
Oftg. Asstt. General Manager (P&GS)”

5. Perusal of the aforesaid office order reflects that now the payment of allowance is being made at different rates to the officers/employees by categorizing them in Category of Manager / Assistant General Manager / Deputy General Manager / General Manager / Divisional Head and accordingly, different rates have been approved for payment of the allowance in question as to their respective qualification. This categorisation on the basis of designation apparently appears to be in clear violation of Regulation-9 *ibid*, which does not provide for any distinction as to the designation of the employees. It only permits the Board of Directors to prescribe rates over and above the minimum rates. It does not empower the Board of Directors to make a category of the employees as it is to be paid to eligible employees as per their individual qualification and not otherwise. There is nothing in Regulation 9 *ibid*, so as to suggest any other mode or mechanism for categorisation of employees according to their designation. Despite our repeated requests learned Counsel for Respondents No. 2 to 4 has not been able to assist us in this regard as to competency of the Board of Directors to act in violation of the Regulations nor we have been assisted that these Regulations have been amended empowering the Board to take any such decision by introducing categorisation of employees by designation.

6. In view of hereinabove facts and circumstances of this case, since the decision of the Board of Directors taken in the 242nd meeting held on 08.12.2015, and the impugned Office Order No.P&GS/PO/14/2016 dated 06.01.2016 appear to be in contravention of the Statutory Regulations, as above; we do not see any justifiable reason to sustain the same and accordingly, by means of a short order passed in the earlier part of the day we had allowed this petition by setting aside the same and these are the reasons thereof.

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