



W.A.(MD)No.911 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.911 of 2017

and

C.M.P.(MD)No.6113 of 2017

1.The Chairman-cum-Managing Director,
The Oriental Insurance Company Limited,
Oriental House, P.B.No.7037,
A-25/27 Asaf Ali Road,
New Delhi-110 002.

2.The General Manager & Appellate Authority,
The Oriental Insurance Company Limited,
A-25/27, Asaf Ali Road,
New Delhi-110 002.

... Appellants

Vs.

1.D.Suresh

2.The Deputy General Manager & Disciplinary Authority,
The Oriental Insurance Company Limited,
P.B.No.1877, U.I.L.Building,
IV Floor, No.4, Esplanade,
Chennai-600 018.

...Respondents



W.A.(MD)No.911 of 2017

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.16500 of 2013, dated 19.01.2017 on the file of this Court.

For Appellants : Mr.C.Karthik
For R1 : Mr.K.Appadurai
For R2 : No Appearance

JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

This Writ Appeal has been instituted challenging the order dated 19.01.2017 passed in W.P.(MD)No.16500 of 2013.

2.The appellants are the respondents in the Writ proceedings. The 1st respondent / employee instituted the Writ proceedings, challenging the order of removal from service imposed on him. The 1st respondent was initially appointed as Sub Staff in the Divisional Office-II, Madurai and disciplinary proceedings were initiated against the 1st respondent by framing the following charges:-

“Instance No.1

Claim No.013/2000/JAB/Policy No.48825/99 in the name of Shri. S. Teslenic.

The above said Policy was issued in the name of Shri. S. Teslenic, No.28, Lourdu Nagar West Main Road, K. Pudur,



Madurai-7. As per the claim document, intimation letter is not available. The insured was issued with Discharge Summary and Treatment Bill for Rs. 3,200/- dt.25.03.99 in the cyclostyled bill of Kannan Sahaya Maruthuvamani by Dr. A. Chinnadurai who was a visiting Doctor of that hospital. The treatment expensed shows, Doctors fess of Rs.300 X 3 = 900/-; Bed charges Rs. 250X3 = 750/-; Medicines and Injection- Rs. 1,250/- and service charges Rs. 100 X 3 Rs.300/- totalling Rs. 3,200/-, The pharmacy cash bill of Ms. Meenakshi Medicals, Madha Koil Main Road, K. Pudur, Madurai for Rs. 866-30 and Rs. 292-40 are enclosed. Investigation revealed that the M/s. Meenakshi Medicals was functioning in the said address during 01.04.1995 to 06.11.1997. The Proprietor of the shop was one Shri. Jothibas. On 06.11.1997 M/s. Meenakshi Medicals was sold to one Shri. R. Sreenivasan and he changed the name of the Shop as Bhuvana Medicals".

Investigation also revealed that Shri. S. Teslenic is an employe of Aavin and presently he is staying at NO. 792, Karpaga Nagar, Ill Street, K. Pudur, Madurai-7 along with his family. Shri. S. Teslenic was shown the Claim Docket file No. 013/2000/JAB/ and other connected papers. After perusing the same, he stated that he undergone treatment at Kannan Sahaya Maruthuvamanai, No.95/1, Alagar Koil Road, K. Pudur, Madurai. Investigation revealed that the Claim paper was filled and submitted by him and he stated that the signatures found in the claim form is of him. Intimation letter and Policy scheduled are not available in the claim docket. Investigation



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W.A.(MD)No.911 of 2017

also revealed that Shri. D. Suresh is a distant relative of Shri. S. Teslenic who has requested him to take a JAB Policy.

Accordingly, he gave Rs. 250/- or so for which no policy or any receipt was given to him. Investigation also revealed that Shri. S. Teslenic has not received any cheque from Oriental Insurance Co. Ltd. investigation also revealed that the signature available in the Original Cheque NO.121817 dt. 16.04.1999 for Rs. 5,000/- in his name is not of him and he has not received any amount towards the said claim. Investigation further revealed that the signature of Shri. S. Teslenic found in the cheque is in Tamil, normally he never used to sign in Tamil and disown the signature found in the said cheque.

Investigation also revealed that as per the procedure, the claim form was processed by Shri. S. Vaidyanathan, Assistant of Oriental Insurance Company, Divisional Office-II, Madurai whether all the documents viz. Discharge Summary Sheet, Case Sheet, Cash Bill/Treatment Bill, prescriptions, X-ray, Scan report and etc. are available along with the claim form and then only it would be forwarded to the Department Officer, i.e. (Assistant Divisional Manager) A-1 Smt. N. Santhanaletchumi for sanctioning the same. Accordingly, the claim papers were processed by Shri. S. Vaidyanathan and it was forwarded to Department Officer (A-1). Afterwards the claim forms and documents were forwarded to Accounts department for issuing the cheque. Accordingly cheque No. 121817 dt.16.04.1999 for Rs.5,000/- was issued in favour of Shri. S. Teslenic drawn on 10B, North Vadambokki Street Branch, Madurai.



The signature of Shri. D. Suresh is available on the reverse side of the said cheque just below the forged signature of Shri.S. Teslenic.

During the course of investigation, specimen signatures of Shri. S. Teslenic were collected in the presence of independent witness. In this connection expert opinion was sought from the Scientific Officer and he gave negative opinion in this regard stating that the questioned documents could not be connected with the specimen signatures of Shri. S. Teslenic. The expert opinion in respect of Shri. D. Suresh's signature is positive. In this instance OIC caused a wrongful loss of Rs. 5,000/- and wrongful gain to Shri. D. Suresh.

INSTANCE NO.2.

Claim No.080/2000/JAB/Policy No.48907/ in the name of Smt. Thavamani Arocklamary.

The above Policy pertaining to Smt. Thavamani Arcokiamary who is working as ANM Meenakshi Mission Hospital & Research Centre, Lake area, Melur Road, Madurai. Sh was admitted in the hospital on 18.03.1999 for PID with UTI and after the treatment ch was discharged on 20.03.99. On 22.03.99 Intimation letter was sent by Smt. Thavaman Arockiamary in which she signed on the same and body of the letter was written b insurance section of hospital staff.

As per endorsement made in the claim form, the claim form was received by Smt. N. inthanaletchumi who was working as Assistant Divisional Manager, on 05.04.1999. terwards it was



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processed by Shri. 5. Vaidyanathan, Assistant and he has made marks and stated that there is change in address and the name in the receipt and acy differs from proposal form" for which Smt N. Santhanletchumi (the then sistant Divisional Manager) made remarks on 04.08.99 that Since the patient insured or the policy got married subsequent to inceptor of the policy new address of his dence is mentioned in the claim form. Clarrified with the patient insured. Again on 09.99 Smt. N. Santhanaletchurni made the remarks that she verified the policy and nctioned by her stating that "yes the claim is approved". Finally the claim was settled Rs. 4,206/- by Smt. N. Santhanaletchumi. Then the claim form was sent to Accounts ction for issuing the cheque. Accordingly Cheque No.575271 dt. 12.10.1999 for Rs. 06 was issued in the name of Smt. Thavamani Arocklamary drawn on 108, North dambokki Street Branch, Madurai. The signature of Shri. D. Suresh is available on the verse side of the said cheque just below the forged signatures of Smt. Thavamani xcklamary.

Investigation revealed that Smt. Thavamani Arockiamary is working as ANM in Meenakshi Medical Hospital and Research Centre, Madurai for the last 11 years. She has shown the claim file No,080/2000/JAB. She identified his signature in the page No.37 GENL 57-A and Schedule of Expenses incurred by the claimant form. She further stated that the signatures were taken by the insurance staff of the Hospital when she was undergoing treatment. But she did not receive any claim from the Insurance Company. She was also shown the cheque No.575271 dt. 12.10.99 for Rs. 4,206/- in her



name. After using the same, she stated that the signatures found on the reverse side of the cheque is not of her and she disowned the signature. Investigation further revealed that did not receive any amount from the Insurance Company.

Investigation revealed that Meenakshi Mission Hospital & Research Centre, Madurai not collected any amount from Smt. Thavamani Arockiamary since she is a staff of hospital and the amount was also debited from the hospital account by the account treatment.”

3.Explanations submitted by the 1st respondent, denying the charges were not accepted by the disciplinary authority and an enquiry officer was appointed and enquiry was conducted by affording opportunity to the 1st respondent / employee, who in turn participated and defended his case. The enquiry officer submitted a final report, holding that the charges against the 1st respondent / employee have not been proved. The findings in the enquiry report were not deviated by the disciplinary authority. Contrarily, the disciplinary authority passed an order of removal from service by taking an independent view regarding the charges framed against the 1st respondent.

4.In the event of not accepting the findings of the enquiry officer, the disciplinary authority is empowered to deviate the findings, only after issuing



show cause notice to the delinquent employee and by assigning reasons for such deviation. However, in the present case, the disciplinary authority has formed an independent opinion, which is running counter to the findings of the enquiry officer and admittedly, no show cause notice or opportunity was afforded to the delinquent employee to defend his case with reference to the reasons furnished in the order of removal from service. Thus, the procedures as contemplated for deviation of the findings of the enquiry officer had not been followed by the disciplinary authority.

5.The order of dismissal was taken by way of an appeal by the 1st respondent / employee and the said appeal was also rejected and a revision was filed, which was also dismissed. Thereafter, the 1st respondent has preferred the Writ Petition before this Court.

6.The learned Single Judge, considering the issues elaborately, formed an opinion that the enquiry officer categorically held that the charges against the employee had not been proved. The said findings were not deviated by the disciplinary authority nor show cause notice was issued to the delinquent employee for the purpose of defending his case in respect of the independent



W.A.(MD)No.911 of 2017

opinion formed by the disciplinary authority after receiving the enquiry report from the enquiry officer. However, the learned Single Judge found that the punishment of removal from service is not in proportionate and consequentially, remitted the matter back to the disciplinary authority for fresh consideration and for imposing lesser penalty.

7.The findings of the learned Single Judge is in consonance with the established principles and more so, the order of removal from service passed by deviating the findings of the enquiry officer without issuing any show cause notice to the delinquent employee is perverse and therefore, we do not find any infirmity in respect of the order passed by the learned Single Judge, which is under appeal before us. Accordingly, the order dated 19.01.2017 passed in W.P.(MD)No.16500 of 2013 stands confirmed. Therefore, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

19.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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WEB COPY



W.A.(MD)No.911 of 2017

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

W.A.(MD)No.911 of 2017

19.10.2023