



CWP-7184-1999 (O&M) and CWP-17919-2000 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-7184-1999 (O&M)

Date of Decision:-20.12.2024

K.C. Jain

.....Petitioner

Versus

Life Insurance Corporation of India and Ors.

.....Respondents

CWP-17919-2000 (O&M)

K.C. Jain

.....Petitioner

Versus

Life Insurance Corporation of India and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Paras Chander, Advocate for the petitioner(s).

Mr. Prateek Mahajan, Advocate and
Mr. Daanish Mahajan, Advocate for the respondents.

ALOK JAIN, J.

1. The writ petition bearing **CWP-7184-1999** has been filed under Article 226/227 of the constitution of India, seeking issuance of writ, order or direction specially in the nature of the certiorari for quashing of the charge sheet

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dated 16.10.1996 (Annexure P-10) including all consequential proceedings including the order dated 18.07.1998 (Annexure P-19), whereby the penalty of reduction in the basic pension by ₹94/- was imposed upon the petitioner and the writ petition bearing **CWP-17919-2000** has been filed for the issuance of an appropriate writ, order or direction in the nature of certiorari for quashing the letters dated 27.06.2000/03.07.2000 (Annexure P-10) and 27.07.2000 (Annexure P-12), whereby the petitioner was directed to remit the amount ₹23,381/- previously disbursed to him as penal interest and informed that the petitioner is not entitled to any penal interest.

Factual Matrix

2. Both writ petitions are being taken up together as the facts of both cases are inter-related, with one being a subsequent event of the other. Consequently, it is deemed necessary to address them together.

3. The petitioner had joined as a Development Officer in the respondent-Corporation, Ambala, on 23.12.1971 and served diligently for over 24 years. On 26.04.1996, the petitioner submitted an application for voluntary retirement w.e.f. 30.06.1996, under the LIC of India (Pension) Rules, 1995. However, prior to his relieving, the respondent-Corporation vide letter dated 18.06.1996, sought explanation regarding Moral Hazard Reports (MHRs) submitted by the petitioner for policies issued to Shri Gobind Ram Chawla and consequently, deferred his request for voluntary retirement vide order 29.06.1996. It was alleged that the MHRs omitted crucial details about the policyholder's medical history, to which petitioner had submitted detailed reply on 01.07.1996. The respondent-corporation later informed the petitioner through



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letter dated 25.07.1996 that the petitioner's voluntary retirement will subject to the final outcome of the issue of false MHRs. Eventually, the petitioner's voluntary retirement was sanctioned on 19.08.1996 and he was relieved from duties w.e.f 21.08.1996. Despite of his retirement, the respondent withheld the retiral benefits illegally.

4. Post-retirement, the respondent-Corporation served charge-sheet dated 16.10.1996, upon the petitioner on 30.11.1996, by alleging gross negligence and misconduct. The petitioner submitted reply to the charges on 09.12.1996, asserting that MHRs solely assess financial capacity and not medical fitness. Nevertheless, the Enquiry Officer found the petitioner guilty. The respondent-Corporation on the basis of the enquiry report dated 18.06.1997, imposed a penalty vide order dated 18.07.1998, reducing his basic pension by ₹94. The pension rules, provided no recourse for an appeal against the penalty. Therefore, the petitioner has challenged the departmental proceedings and penalty, in the **CWP- 7184-1999**, which was admitted vide order dated 18.07.1998.

5. Subsequently, the respondent-corporation vide letter dated 19.08.1996 withheld substantial retiral benefits of the petitioner i.e. gratuity, leave encashment, and commutation of pension. Consequently, due to the inordinate delay on the part of the respondent-corporation in releasing pensionary benefits, the petitioner had served a legal notice dated 16.08.1998 upon the respondent-corporation for the payment with interest, but the same was refused by the respondent citing the absence of provision in the (Staff)

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Regulations/Pension Rules, 1995 for payment of interest on withheld gratuity during the pendency of disciplinary proceedings.

6. The petitioner reiterated his request vide letter dated 10.01.1999 addressing to the Senior Divisional Manager, LIC, Divisional Office, Karnal, by citing relevant legal provisions and judicial precedents to assert his entitlement to interest on the delayed payment of leave encashment, additional gratuity and gratuity. In response, the respondent-corporation vide letter dated 17.07.1999, informed that the competent authority has approved penal interest @10% p.a. on delayed payment of gratuity for 1 year 11 months and 1 day and on additional gratuity for 2 months and 2 days @ 9% p.a. which amounts to ₹23,381/-. The petitioner acknowledges the receipt of the said amount under protest, and continued with his case with the respondent-corporation for payment of interest @ 18% p.a.

7. The respondent-corporation vide letter dated 27.06.2000/03.07.2000 (Annexure P-10) demanded the remittance of the previously paid penal interest, claiming it to have been erroneously disbursed. Although, the petitioner submitted a detailed reply, but the respondent-Corporation, through letter dated 27.07.2000 (Annexure P-12), countered the same by contending that since the charge sheet had been served on 18.07.1998, the earliest date on which the gratuity could have been due was 18.07.1998, thus the penal interest had been incorrectly disbursed.

8. Later on, the respondent-corporation started deducting the amount already disbursed, from petitioner's monthly pension by reducing the same to 50%. Aggrieved thereby, the impugned letters dated 27.06.2000/03.07.2000



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(Annexure P-10) and 27.07.2000 (Annexure P-12) was challenged in the **CWP-17919-2000**.

Petitioner's Arguments in CWP No. 7184 of 1999

9. The learned counsel for the petitioner submitted that till the date of voluntary retirement of the petitioner, no disciplinary proceedings were initiated by the respondent-corporation and once the petitioner was retired, no disciplinary proceedings could be initiated by the respondent-corporation against the petitioner under the Life Insurance of India (Staff) Regulations, 1960, especially under Regulation 39 under which the charge sheet dated 16.10.1996 was issued against him.

10. It is further argued that the charge-sheet didn't find mention of any relevant rule of Pension Rules, 1995, which had been invoked by the respondent-corporation for initiating the disciplinary proceedings, which otherwise is relevant to check the authenticity or legality of the proceedings and the penalty. It is vehemently submitted that the Regulation 39 of the Life Insurance of India (Staff) Regulations, 1960, could not be attracted as he was already retired, and the relevant provision is reproduced as under:

“Penalties: 39. (1) Without prejudice to the provisions of other rules, 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-1 on an employee who commits a breach of rules 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 –

Minor Penalties: (a) censure;



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(b) withholding of one or more increments for a specified period not exceeding three years;

(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 orders;

(d) withholding of promotion;

(e) reduction to a lower stage in a time-scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting his pension. Major Penalties:

(f) reduction to a lower stage in a time scale of pay for a specified period exceeding three years with or without cumulative effect and with further direction as to whether or not the employee will earn increments of pay during the period of such reduction;

(g) reduction to a lower service or post or to a lower time scale or to a lower stage in a time-scale;

(h) compulsory retirement;

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

(j) dismissal.;

No order imposing on an employee any of the penalties specified in clauses (f) to (j) of sub- rule (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 major penalties under clauses (f) to (j) of sub-rule (1) may itself enquire into such of the charges as are not admitted or if it considers necessary so to do, appoint a board of enquiry or an enquiry officer for the purpose;

(ii) the disciplinary authority or any higher authority as specified in Schedule I may impose any of the penalties specified in rule 39;

(iii) where it is proposed to impose any of the minor penalties under clauses (b) to (e) of sub- rule (1), the employee concerned shall be informed in writing of the imputation of lapses against him and given an opportunity to submit his written statement of defence within a specified period not exceeding fifteen days or such extended period as may be granted by the disciplinary authority and the defence statement, if any, submitted by the employee shall be taken into consideration by the disciplinary authority before passing



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orders. However, where the disciplinary authority is satisfied that an inquiry is necessary it shall follow the procedure for imposing a major penalty under clauses (f) to (j) of sub-rule (1);

(iv) where the disciplinary authority is of the opinion that the penalty to be imposed is any of the penalties specified in clauses (f) to (j) of sub-rule (1), and if it is lower in rank to the appointing authority in respect of the category of employees to which the employee belongs, it shall submit to the appointing authority its recommendations regarding the penalty that may be imposed and records of the enquiry shall also be submitted to the appointing authority in such cases and thereafter the appointing authority shall make an order imposing such penalty, as it considers appropriate;

(v) where there is a complaint of sexual harassment within the meaning of rule 24A of the Life Insurance Corporation of India (Staff) Rules, 1960, the Internal Complaints Committee established in each Divisional or Zonal or Central Office for inquiring into such complaints shall be deemed to be a board of enquiry or an enquiry officer appointed by the disciplinary authority for the purpose of clause (i) of sub-rule (3);

(vi) where two or more employees are involved in a case, the authority competent to impose a major penalty on all such employees may make an order directing that departmental enquiry against all of them may be taken in a common proceeding.

(4) Notwithstanding anything contained in sub-rules (1) and (2) above- (i) where a penalty is imposed on an employee on the grounds of conduct which had led to a conviction on a criminal charge; or

(ii) where the authority concerned is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to follow the procedure prescribed in this rule; or

(iii) Where an employee has abandoned his post, the disciplinary authority may consider the circumstances of the case and pass such orders thereon as it deems fit.

Explanations: 1. For the purpose of this rule, an employee shall be deemed to have abandoned his post if he absents himself from duty without leave or overstays his leave for a continuous period of ninety days without any intimation there for in writing.

2. All communications under this rule and copies of orders passed there under may be delivered personally to the employee if he is attending office; otherwise they shall be sent by registered post to the address noted in the service record. Where such communications or copies of orders cannot be served on him personally or by registered post, copies thereof shall be affixed on the notice board of the office in which the employee is employed, and on such affixing



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such communications and orders shall be deemed to have been properly served on him.

(iv)(A) Employees other than employees governed by the Life Insurance Corporation of India (Employees) Pension Rules, 1995 against whom disciplinary proceedings have been initiated shall cease to be in service on the date of superannuation, but the disciplinary proceedings shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.

(B) The concerned employee shall not receive any pay or allowance after the date of superannuation and he shall not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except in the case of his own contribution to Provident Fund. Provided that no disciplinary proceedings if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution;

(v) Notwithstanding anything contained in clause (iv), the Disciplinary Authority may, on the basis of merits of each case release retirement benefits during pendency of the disciplinary proceedings.”

11. The Counsel further submits that even if any Rules of Pension Rules, 1995, had been invoked then also there is nothing which could show that the petitioner was found guilty of grave misconduct. To substantiate his arguments, he further relies upon Rule 45 which suggests that where the pensioner is prima-facie found guilty of grave misconduct then only Regulation 39 of the Staff Regulations, 1960 can be followed. The Rule 45 upon which the petitioner relied upon is read as under:

“45. Pensioner guilty of grave misconduct -In a case not falling under rule 44 if the Competent Authority considers that the pensioner is prima facie guilty of grave misconduct, it shall, before passing an order, follow the procedure specified in regulation 39 of the Staff Regulations.”

12. The counsel for the petitioner submitted that while imposing penalty specific reference had been made to Rule 48(1) of the Pension Rules,



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1995, which otherwise deals with recovery of pecuniary loss caused to the corporation and the counsel submitted that in the present case no such financial loss had ever been caused to the respondent-corporation as all the claims made by the LRs of Shri Gobind Ram Chawla were repudiated by the corporation. Rule 48 of the Pension Rules, 1995, can be read as under:

“48. Recovery of Pecuniary loss caused to the Corporation (1)
The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Corporation if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service :

Provided that the Executive Committee shall be consulted before any final orders are passed:

Provided further that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service:

Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution.

(2) Where the Competent Authority orders recovery of the pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of the employee: Provided that where a part of pension is withheld or withdrawn, the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these rules.”

13. The counsel further raised his argument to the point that the main allegation *qua* the petitioner was that he had not submitted correct Moral Hazard Report (MHR) of Shri Gobind Ram Chawla. However, the petitioner was only required to submit report *qua* personal habits, standard of living and income, etc.

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and as regards to medical health of Gobind Ram Chawla, the doctors of the respondent-corporation were the competent person to state about the health status of the deceased.

Petitioner's Arguments in CWP No. 17919 of 1999

14. The Counsel for the petitioner submits that the right to gratuity is an incontrovertible statutory right and at the time of petitioner's voluntary retirement, neither there was any departmental proceeding nor any charge-sheet was pending against him. Despite which, the retiral benefits were unjustly delayed, and consequently thereto the respondent-corporation itself remit the penal interest on the delayed payment, although at a lesser rate. It is further submitted that the impugned Letter dated 27.06.2000/03.07.2000 (Annexure P-10) was unilaterally issued by the respondent-corporation without granting any opportunity of being heard to the petitioner. It is argued that none of the grounds mentioned in the Regulation 77 can be invoked to justify the forfeiture of the gratuity of the petitioner.

15. The counsel for the petitioner further submitted that since the penal interest was itself rightly paid by the corporation, the subsequent retraction of said payment and the initiation of recovery by the respondent-corporation, without affording opportunity for hearing are arbitrary, capricious, and patently illegal.

Respondent's Arguments

16. The counsel for the respondents at the outset had submitted that the petitioner was posted as Assistant Branch Manager (Sales) when he requested of for his voluntary retirement, which was considered by the competent authority

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and it was decided to relieve the petitioner on 29.06.1996, however before his retirement it was found that the petitioner had submitted false MHR under six policies on the name of Shri Gobind Ram Chawla which resulted into claims, amounting to ₹ 6 Lacs on account of demise of Gobind Ram Chawla, due to which the competent authority deferred his retirement and duly informed him that the respondent-corporation intends to initiate disciplinary proceedings against the petitioner to which the petitioner submitted his reply and he was relieved on 21.08.1996. It is further submitted that the petitioner was duly informed about his entitlements as to provisional pension and his own contribution to PF and GSI benefits. However, the gratuity was withheld till the completion of the disciplinary proceedings. Thereafter, the petitioner was served with the charge-sheet dated 16.10.1996. Due opportunity of hearing was given to the petitioner and penalty of reduction in basic pension by ₹94/- was imposed. It is further clarified by the counsel that the agent and Medical Examiner involved in these policies were also terminated and much lesser punishment has been given to the petitioner. Hence there is nothing by which it can be inferred that the proceedings and the penalty imposed on the petitioner was unfair, unjust or contrary to the principle of natural justice.

17. The counsel for the respondent submitted that there is no provision in the Staff Regulations or Pension Rules for payment of interest on gratuity withheld during pendency of disciplinary proceedings, however, inadvertently an order for payment of penal interest to the petitioner was made, which was later on corrected by further order of the respondent-corporation, directing the petitioner to remit the same. As admittedly, the final order on the charge-sheet was issued



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on 18.07.1998, therefore the gratuity fell due for payment to him on this date at earliest and the same was released on 04.08.1998, hence there was no delay on the part of the respondent-corporation.

18. The counsel further stated that as already two notices/letters were sent to the petitioner to remit the amount and due to the failure on the part of the petitioner the order of recovery was fairly passed by the competent authority. It was stated that only part of the amount i.e. ₹ 9716/- was recovered and further recovery was stayed by this Hon'ble Court vide order dated 30.01.2001.

19. The counsel vehemently argued that due procedure and the law had been followed during the proceedings and imposing the penalty. It was averred that the procedure under Regulation 39, was duly complied with before imposing major penalty. Moreover, explanation (b) to Rule 46 of the Pension Rules, did not gave any exhaustive definition of the term "grave misconduct". Considering the conclusion drawn by the Inquiry officer the petitioner was guilty of grave misconduct and hence was rightly imposed the penalty.

20. Heard counsel for the parties at length, and no other argument raised by the counsel for the parties.

21. The arguments raised by the counsel for the petitioner in **CWP No. 7184 of 1999** is that the Moral Hazard Reports(MHRs) were merely given by the petitioner as an additional document for consideration by the authorities and therefore, a minor wrong information with regard to the health of the insured would not fall under the definition of "grave misconduct". This Court, however, does not find merit in the said argument for the reason that, the petitioner, was a



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responsible Officer of the Corporation and was working in the field as an Assistant Branch Manager (Sales). It was his bounden duty to report accurately, and had he submitted the correct report, the matter could have been clarified at the initial stage. However, apparently it seems that the petitioner along with the Medical Officer and others acted in collusion to maintain consistency and similarity across all reports, so as to substantiate each other's report which demonstrate connivance. The act of "grave misconduct" has to be seen in terms of intention behind it, and it need not necessarily relate to the gravity involved. The modus operandi was apparently to simply get the policies issued. The petitioner failed in discharging his duties to the best of his ability and, therefore, it would amount to a grave misconduct.

As to the other arguments raised by the counsel for the petitioner, as to which rule would be applicable has become irrelevant. The fact that the Corporation did not suffer any loss as the claims of Shri Gobind Ram Chawla were repudiated is of no consequence, as the petitioner was never interested with the outcome of the claims. The petitioner, was posted as Assistant Branch Manager(Sales) was performing the duties and was required to independently analyze and report the medical condition, which he failed to do. The fact that the medical report was submitted by the Doctors also does not come to the rescue of the petitioner for the reason that the concerned officials were also subjected to a major punishment of termination. However, taking a lenient view and the fact that the petitioner had retired from the service, only a penalty of reduction in the basic pension by ₹94/- was rightly imposed upon the petitioner.



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In light of the above, discussion, the present petition deserves dismissal, as the respondents were well within their rights and followed due process of law. Furthermore, the other two officials involved in the wrong sanctioning of the policy were duly subjected to a major penalty. Considering, the lenient view taken by the authorities and the fact that the petitioner had been granted voluntary retirement and authorities imposed only the penalty of reduction in the basic pension by ₹94/-, there seems to be no illegality in the said order. Therefore, the present **CWP No. 7184 of 1999**, stands dismissed.

22. As regards the contention raised by the respondents in **CWP No. 17919 of 2000**, the same does not deserve acceptance, as the respondent failed to provide any cogent document to demonstrate the basis on which the penal interest on delayed payment granted to the petitioner was declared as incorrect. The delay in the administrative functioning cannot be attributed to the petitioner, and it is apparent that the respondents cannot recall the relief or reverse the sanction/disbursement of delayed payment. More so, there is no misrepresentation by the petitioner at any stage in claiming interest on the delayed payment, to which he was rightly held entitled.

Considering that the interest on the delayed payment was sanctioned and was remitted by the authorities, therefore, the authorities could not have recalled the said order, more so without issuing the proper notice to the petitioner. Although the respondents have submitted that the petitioner was issued notice before the recovery, however there is no cogent proof with regard to the service of the said notices upon the petitioner. The stand taken by the respondents is apparently appears to be an attempt to cover up the act and conduct of the



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authorities and to undermine the petitioner’s claim for a higher rate of interest on the delayed payment, which was being agitated by the petitioner. Accordingly, the impugned letters dated 27.06.2000/03.07.2000 and 27.07.2000 are quashed and the respondents are directed to refund the amount of ₹9716/-along with simple interest @7.5% p.a. within a period of 03 months from today, failing which the pay of the concerned official shall be automatically stayed.

- 23. Pending application(s), if any, stands disposed of.
- 24. Photocopy of this order be placed on the file of another connected case.

December 20, 2024
manju

(ALOK JAIN)
JUDGE

Whether speaking/reasoned:- Yes
Whether Reportable:- Yes