

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6220 of 1999

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Sri Chandra Mohan Ojha, Son of Shri Baikunth Ojha, resident of
village-Gundi,P.S. Barahara, District Bhojpur

.... Petitioner/s

Versus

1. The Life Insurance Corporation of India through its Chairman,
having its office at Bombay
2. The Senior Divisional Manger, Divisional Office, Fraser Road,
Patna.
3. The Branch Manager, LIC of India, Branch Office Aurangabad
4. Shri Anirudh Kumar, Administrative Officer, (or), Enquiry Officer,
LIC of India, Divisional Office, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. A.B. Ojha, Sr. Advocate
 With Mr. Awadesh Kumar Mia

For the Respondent/s : Mr. Rajiv Ranjan Prasad

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
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ORAL JUDGMENT

Date: 20-05-2015

1. This writ application has been filed seeking quashing of an order dated 06.01.1994 passed by the Divisional Manager, Life Insurance Corporation of India, Division, Patna (hereinafter referred to as the Corporation), whereby, punishment of dismissal from service was imposed upon him. The petitioner had preferred an appeal against the order of dismissal which was subsequently dismissed by an order dated 15.10.1999. The petitioner has sought to challenge

the said appellate order also by seeking amendment in relief portion of the writ application by filing I.A. No. 3543 of 2000. I.A. No. 3543 of 2000 is allowed. The contents of the I.A. No. 3543 of 2000 as well as the relief sought for therein for quashing of the appellate order shall form part of the writ petition.

2. The petitioner was an Assistant in Aurangabad Branch of Life Insurance Corporation of India.

3. Shorn of all unnecessary details, only such facts are being mentioned in the present order which are essential for adjudication of the present case, on the short point as to whether the petitioner was given reasonable opportunity to deal with the report of the Inquiry Officer or not.

4. A disciplinary proceeding was initiated against the petitioner, alleging certain misconduct and departmental enquiry was held. The Inquiry Officer is said to have submitted his report on 5.3.1993 holding the charges levelled against the petitioner in the departmental proceeding to have been proved.. It is the assertion of the petitioner in the writ petition that a copy of the enquiry report dated 5.3.1993 was sent to the petitioner along with second show cause notice dated 17.12.1993 issued under the signature of Senior Divisional Manager, whereby, the petitioner was required to submit his report within seven days



from the date of receipt of said show cause notice. It is specific assertion of the petitioner that he received the said notice on 3.1.1994 and he was, therefore, required to file his reply to the second show cause notice by 10.1.1994 in terms of the said notice dated 17.12.1993. The allegation is that without waiting for the petitioner's reply to the second show cause notice and his comments on the report of the Inquiry Officer, the disciplinary authority passed an order on 06.01.1994, imposing upon the petitioner punishment of dismissal from service. The petitioner is said to have sent his reply to the second show cause notice on 08.01.1994, well within the stipulated time given to him for submission of the reply to the second show cause notice, however, by that time the disciplinary authority had already passed an order of dismissal on 06.01.1994, which was communicated to the petitioner subsequently. The petitioner thereafter, preferred appeal before the appellate authority against the order passed by the disciplinary authority, dismissing the petitioner from service. The said appeal preferred by the petitioner, came to be rejected by an order dated 13.10.1999 passed by the Zonal Manager of the Corporation- cum-Appellate Authority, which is also under challenge in the present writ proceeding, as has been noted

above.



5. A counter affidavit has been filed on behalf of the Respondent Corporation stating in paragraph 20 that an attempt was made to serve a copy of the second show cause notice on the petitioner by the Branch Manager of the Corporation personally which he had refused and only thereafter, the second show cause notice was dispatched on 18.12.1993, through registered post. It has been asserted that the petitioner should have received registered post within a week and thereafter he must have replied to the show cause notice as he was fully aware of an order passed by the Court, dated 22.11.1993 in CWJC No. 2216 of 1993 whereby, the Disciplinary Authority was required to pass final order within one month from the date of receipt of a copy of the said order dated 22.11.1993 passed in CWJC No. 2216 of 1993.

6. When the matter was last heard on 06.05.2015, in order to sort out the dispute as to whether in fact any effort was made to serve the second show cause notice to the petitioner which he had refused to accept, as asserted in paragraph 20 of the counter affidavit in reply to the statement made in paragraph 15 of the writ application, this Court had required learned counsel appearing on behalf of the Corporation to seek



instruction on this point and produce original records in support of the plea that petitioner had refused to receive the said second show cause notice which was attempted to be served upon him by the Branch Manager. The order dated 06.05.2015 has not been complied with. The assertion in the counter affidavit that there was any attempt made by the Branch Manager to serve a copy of the second show cause notice upon the petitioner is thus, not substantiated.

7. In such view of the matter, I find substance in submission made by the learned counsel appearing on behalf of the petitioner that the petitioner was not given due opportunity of dealing with the report of the Inquiry Officer, before the impugned order of the disciplinary authority dated 06.01.1994 was passed. I, therefore, hold that the order of dismissal dated 06.01.1994 impugned in the present writ application having been passed in violation of principles of natural justice cannot be sustained and is, accordingly, quashed. The order of the appellate authority dated 15.10.1999 also stands quashed.

8. The matter is remanded back to the disciplinary authority to proceed after the stage of the receipt of petitioner's reply to the second show cause notice and his comments upon



the report of the Inquiry Officer. The disciplinary authority will be required to pass an order afresh within a period of two months from the date of receipt/production of a copy of this order. The disciplinary authority will be required to consider the petitioner's reply to the second show cause notice and pass reasoned and speaking order. The petitioner shall be at liberty to make such legal submission before the disciplinary authority as he may be advised by way of supplementary to his reply already filed in response to the second show cause notice, which shall also be considered by the disciplinary authority while passing the final order, if such supplementary is filed within two weeks from today, before the Disciplinary Authority.

11. Needless to say that if the petitioner is aggrieved by the said order of the disciplinary authority passed in compliance of the present order, he will have the liberty to approach the appellate authority.

10. A prayer has been made in the writ application for reinstatement of the petitioner after quashing of the order of the disciplinary authority. It is observed that the question of petitioner's reinstatement in service will depend upon final order of the disciplinary authority, passed in compliance of the present case.

11. The writ application is accordingly, allowed.

12. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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