*   IN THE HIGH COURT OF DELHI AT NEW DELHI

\+   W.P.(C) No. 4826/2005

%   **19th February, 2015**

SHRI RAM SINGH CHAUHAN ..... Petitioner

Through: Mr.R.K.Saini, Advocate.

versus

LIFE INSURANCE CORPORATION OF INDIA ..... Respondent

Through: Mr.Kamal Mehta with Mr.Sudeep Singh, Advocates.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Articles 226 and 227 of the Constitution of India, petitioner, an erstwhile employee of the respondent/Life Insurance Corporation of India (LIC) impugns the penalty order imposed by the Chairman of the respondent dated 11.2.2004 of reduction in basic pay by one stage. The Chairman of the respondent reduced the punishment imposed by the Disciplinary Authority vide order dated 14.12.2001, and as per which order the petitioner was imposed the penalty of being brought down three steps in the time-scale applicable to

him, and which was confirmed by the Appellate Authority vide order dated 08.8.2003.

2. Petitioner was issued a charge-sheet dated 29.5.2000 in which in substance effectively the charge against the petitioner is of manipulation of the official records by adding a supplementary page to the Remittance and Receipt (RR) Register to show that a cheque was given to the respondent/employer/LIC on 28.5.1998 though that cheque was received on 29.5.1998. This manipulation was done because the policy holder had died at 7 PM on 28.5.1998 and he could have had the benefit of getting the LIC policy amount only if the cheque was deposited with the respondent/employer/LIC on 25.8.1998. Payment to the beneficiary however could not take place in view of the timely detection by the respondent/employer/LIC of the manipulation of its official records. The charge-sheet against the petitioner reads as under:-

> " <u>CHARGE SHEET</u>
>
> You, Sh. R.S. Chauhan, HGA, SR No.130673, BO 11-L, Delhi are hereby charged as under:-
>
> That while working as HGA O.S. Department you indulged in the most irregular act by opening a supplementary page no.3445 in the RR Register for the month of May 98 which was against the prevalent practice in the branch office and without having any precedence, giving it the date of 28.5.98 and putting the remark "Received after 3.00 PM" at the top of the page and entered three cheques in the same in your own handwriting and

further got entered four cheques including cheque no. 944413 dt. 26.5.98 for Rs. 815/ drawn on State bank of India, Delhi pertaining to Policy No. 120462288 through Sh. Balbir Singh working under you.

That on 29.5.98 the RPR was issued against Policy No. 120462288 in favour of master Lalit (LA), whereas the Life Assured, Master Lalit had already died on 28.5.98 at 7.00 pm.

That sequence of events that took place in this case, viz., death of Life Assured on 28.5.98 at 7.00 PM, subsequent opening of the Supplementary page of RR Register and thereafter issuance of RPR at 12.08 PM on 29.5.98 clearly indicate that you have manipulated the office records and got entered the premium cheque against the policy in question after the death of the Life Assured and got the Policy inforce by making fictitious entries in R.R. Register with ulterior motive and vested interest in connivance with claimant and Sh. Sanjay Nagpal, Dev. Officer with the intention of defraud the Corporation. Thus you tried to defraud the corporation and misused your official power as supervisor O.S. department.

That in your written statement dated 24.6.99 you have stated that the action of opening the supplementary page in the RR Register to enter the said cheques was on the instructions of the Branch Manager whereas the records reveal that the Branch Manager was on leave with effect from 24.4.98 to 31.5.98 and there were no such instructions from him to this effect. You have tried to falsely implicate the Branch Manager by making a false statement which reflects lack of integrity and honesty on your part.

Thus by your aforesaid acts, you have failed to maintain absolute integrity and devotion to duty, failed to serve the Corporation honestly and faithfully, acted in a manner detrimental to the interest of the Corporation and prejudicial to good conduct and thereby committed breach of Regulations 21 and 24 read with Regulations 39(1) of LIC of India (Staff) Regulations, 1960 for which anyone or more of the penalties specified under Regulations 39(1) (a) to (g) of the aforesaid (Staff) Regulations 1960 can be imposed on you.

However, before I proceed further in the matter you are hereby directed to state in writing within a period of 15 days from the date hereof, as to whether or not you plead guilty to the charges mentioned above. If you admit the charges, a statement of admission and if not, a statement of denial should be submitted to the undersigned within 15 days from the date of this Charge Sheet together with a list of witness through whom as also a list of document (s) by which you would like to defend yourself.

Please not that if your written statement alongwith a list of witnesses and documents as mentioned above is not received by the undersigned within the period stipulated or if your statement of denial is not found to be satisfactory further proceedings in the matter shall ensue according to the LIC of India (Staff) Regulation, 1960 and other standing instructions.

A provisional list of documents/Witness (es) relied upon to prove the aforesaid charges is attached herewith.

Dated at Delhi this 29th day of May 2000.

Sd/-

Sr. Divisional Manager
(Disciplinary Authority)"

3. Petitioner gave a reply to the said charge-sheet by his reply dated 21.6.2000 in which the defence of the petitioner essentially was that the supplementary page was opened at the direction of the Branch Manager, Mr.Narendra Chaudhary and that actually the cheque no.944413 dated 26.5.1998 was received in the branch not on 29.5.1998 as contended by the respondent/employer/LIC but on 28.5.1998 itself after 3 PM. Therefore it was contended on behalf of the petitioner that the same could not be said to be a manipulation as contended by the respondent/employer/LIC. Petitioner has also stated in his reply that though the Branch Manager was officially on leave

on 28.5.1998, however, since the residence of the Branch Manager was near to the office, he had come to the branch.

4. Before I turn to the findings of the Enquiry Officer and acceptance of the said findings by the Disciplinary Authority and the Appellate Authority, it is required to be stated that orders passed by the Departmental Authority can be challenged only if any one of the four grounds exist being either of violation of the principles of natural justice or of violation of law or the rules of the organization or that the findings of the Departmental Authority are wholly perverse or in case the punishment imposed is disproportionate. In the present case on behalf of the petitioner, no grounds are urged with respect to violation of the principles of natural justice or of punishment being disproportionate or the orders of the Departmental Authority being violative of the law or the rules, and, it is only contended that findings of the Enquiry Officer are perverse and hence the report of the Enquiry Officer and the orders of the Disciplinary Authority and the Appellate Authority be set aside.

5. I would like at this stage to state that as under ordinary civil law cases, the case before the Departmental Authority is also proved on preponderance of probability. It is also settled law that strict rules of Evidence Act, 1872 or

other procedural requirements of the Code of Civil Procedure, 1908 do not apply to the proceedings before the Departmental Authority.

6. One important supervening aspect which is also required to be noticed in the present case is that whereas the respondent/employer/LIC proved its case both by oral and documentary evidence, the petitioner/charged officer did not lead evidence by bringing any witness and in fact the petitioner himself also did not step into the witness box. Therefore, the respondent/employer/LIC has proved its case by leading evidence, and which thus should not ordinarily be disbelieved because the petitioner besides having not lead any evidence, he did not even have the courage of conviction to depose in his favour and stand to the test of cross-examination.

7. Let us now turn to the findings of the Enquiry Officer and the Departmental Authority in order to determine whether there is any perversity in the findings as argued on behalf of the petitioner. The Enquiry Officer by his report dated 18.11.2000 has on the basis of the evidence led before him arrived at the following salient conclusions:-

(i) There is no practice of the respondent/employer/LIC for a supplementary page to be opened in the RR Register, and, the petitioner admits that a supplementary page was indeed added to the RR Register.

(ii)(a) The case of the petitioner that the cheque in question of the policy holder namely Master Lalit (minor) who died at 7 PM on 28.5.1998 was in fact given on 28.5.1998 after 3 PM was found to be false for various reasons including that the letter dated 28.5.1998 allegedly of development officers of the respondent/employer/LIC relied upon by the petitioner is a fabricated document because this letter was not proved by the petitioner by leading any evidence either of his own or of summoning of any of the five signatories to this letter. This letter was filed by the petitioner to show that the drop box of the cheques was not opened on 28.5.1998 and thus the cheque of the policy holder was deposited in the drop box on 28.5.1998 and not on 29.5.1998 as per the case of the respondent/employer/LIC.

To the aforesaid finding I would like to add that the petitioner in order to show that this letter dated 28.5.1998 of development officers was genuine could have well summoned the dispatch and receipt register of the respondent/employer/LIC, inasmuch as, if this letter was duly received by the respondent/employer/LIC on 28.5.1998, the endorsement of receipt would have been shown in the dispatch and receipt register, but the petitioner admittedly did not summon the dispatch and receipt register of the respondent/employer/LIC to show that such a letter was ever received by the respondent/employer/LIC on 28.5.1998.

(b) The case of the petitioner that the cheque in question was received on 28.5.1998 after 3 PM was also false because as per the procedure of the branch if this cheque was put in the drop box after 3 PM then this would have been shown in the morning on 29.5.1998 when this drop box is duly opened as per the standing instructions of the respondent/employer/LIC so that persons whose cheques are given on 28.5.1998 after 3 PM are given the benefit of cheques having been given on 28.5.1998 itself, however, this was not the factual position in the present case, inasmuch as if the cheque in question was deposited on 28.5.1998 after 3 PM, then entry of this cheque would have been in the first few cheques' entries with the cashier on 28.5.1998, whereas the subject cheque is shown to be received by the cashier much later around 12 noon on 29.5.1998.

(c) The concerned Branch Manager, Sh.Narendra Choudhary was in fact on sick leave from 24.4.1998 to 31.5.1998 and which was established by the relevant records with the respondent/employer/LIC and proved by Sh.Narendra Choudhary, the Branch Manager himself.

(d) The petitioner has falsely tried to implicate the Branch Manager for an illegal action done by the petitioner himself.

8. In my opinion, the Enquiry Officer, on the principle of preponderance of probabilities was totally justified in view of the evidence of the respondent/employer/LIC having come on record and no evidence being led by the petitioner to arrive at the aforesaid conclusions, and I therefore do not find any perversity in the findings and conclusions of the Enquiry Officer.

9. Learned counsel for the petitioner basically argued two aspects before this Court and which were firstly that the impugned show cause notice and the order of the Enquiry Officer wrongly mentions that the petitioner is a supervisor under whom Sh.Balbir Singh was working and which Sh.Balbir Singh had made four of the seven entries in the supplementary page of the RR Register because the petitioner was not the supervisor on 28.5.1998, and secondly that the policy in question in favour of Master Lalit had already lapsed on account of two earlier premiums having not been paid, and therefore there was no reason why for a lapsed policy the petitioner will be a part of a conspiracy for making of payment under a policy which stood lapsed. In support of the second argument, it is stated that since the 30 days grace period with respect to the earlier payments due had expired many

months back, the policy had lapsed and therefore for a lapsed policy, no benefits could have been taken by the policy holder, and therefore the petitioner could not have been a part of such a futile exercise. Both the arguments on behalf of the petitioner are without any basis and the same are therefore rejected for the reasons given hereinafter.

10. The first argument that the petitioner was not a supervisor on 28.5.1998, since the petitioner became a supervisor much later than the incident of 28.5.1998, this argument is an argument which really has no bearing with respect to manipulation of the official records by adding a supplementary page to the RR Register and showing the receipt of the said cheque on 28.5.1998 when the same was actually received on 29.5.1998. It is immaterial as to the position the petitioner was holding because what is relevant in the enquiry proceedings was not the position of the petitioner i.e at what position the petitioner was working, but the enquiry was with respect to adding of a supplementary page in the RR Register without the same being authorized by any rules of the respondent/employer/LIC and of fabricating such records stated to be of 28.5.1998 whereas actually the supplementary page was made on 29.5.1998 after the death of the policy holder Master Lalit on 28.5.1998. Therefore, mere mentioning of certain

wrong facts which have no effect and bearing on the conclusions with respect to the manipulation of the official records by the petitioner, the same cannot be a ground for setting aside the orders of the Appellate Authority.

11. The second argument of the policy having been lapsed again is an argument which begs the question, inasmuch as the question and the issue was that the official records were manipulated with respect to making an entry of a cheque in question having been received on 28.5.1998, not for one premium due, but the cheque was for all the premiums due as on 28.5.1998 and not only for the last premium due on 28.5.1998, and once the cheque in question which was actually received on 29.5.1998 after the death of the policy holder on 28.5.1998 and which was with respect to all the premiums due, the object was obviously to somehow or the other seek revival of the policy subsequently which had lapsed i.e the manipulation was done as a step-in-aid of the intention to get the policy revived by showing a lump-sum payment of various premiums due, although the policy holder had died before deposit of the cheque. But for the timely detection of the illegal act, the respondent/employer/LIC would have been caused monetary loss of having made payment under the policy in question of the policy holder

Master Lalit although such payment under the policy could not have been claimed.

12. In my opinion, the present is possibly a case of a much harsher penalty for being imposed upon the petitioner, inasmuch as the integrity of the petitioner was itself doubted and proved to be so lacking, and in such cases the petitioner could have been visited the penalty of dismissal from the services, but it is found that the Chairman has been more than liberal towards the petitioner by imposing only the punishment of reduction in basic pay by one stage, and which punishment was a lesser punishment than the punishment imposed by the Disciplinary Authority of reduction in basic pay by three stages.

13. In view of the above, there is no merit in this petition, and the same is therefore dismissed, leaving parties to bear their own costs.

FEBRUARY 19, 2015 **VALMIKI J. MEHTA, J**
KA