$~6

* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ LPA 667/2015

RAM SINGH CHAUHAN ..... Appellant

Through Mr. Piyush Sharma, Advocate along with the petitioner in person

versus

LIFE INSURANCE CORPORATION OF INDIA ..... Respondent

Through Mr. Kamal Mehta and Mr. Sandeep Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

<u>O R D E R</u>

% 04.08.2016

1. This intra-Court appeal impugns the judgment dated 19th February, 2015 whereby the W.P.(C) No.4826/2005 filed by the appellant-Ram Singh Chauhan has been dismissed.

2. Ram Singh Chauhan, an employee of LIC of India was charge-sheeted and the disciplinary authority by order dated 14th December, 2001 had imposed penalty of "bringing him down by three steps in the time scale applicable to him" under Regulation 39(1) (d) of the LIC of India (Staff) Regulations, 1960.

3. The appeal was rejected by the Zonal Manager vide order dated 8th August, 2003.

4. On a memorial filed by the appellant, the Chairman, by order dated 11th February, 2004, reduced the penalty to "reduction in basic pay by one stage".

5. Aggrieved, the appellant had challenged the said action and order in the aforesaid Writ Petition primarily on the factual matrix.

6. The appellant was charged with manipulation of the official records by adding a supplementary page to the Remittance and Receipt Register (RR-Register) to show receipt of a cheque on behalf of Master Lalit dated 26th May, 1998, for Rs.815/- on 28th May, 1998, whereas the said cheque was received on 29th May, 1998. Master Lalit had expired on 28th May, 1998 at 7:00 PM. For the sake of convenience, we would like to reproduce the charge sheet itself.:-

*"**CHARGE SHEET***

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)"

7. The appellant in paragraph 1 of his reply dated 21st June, 2000 had stated as under:-

> *"(i) That on 28.5.1998 some of the Dev. Officers lodged a complaint to the office that the cheques of the 'Cheque Collection Box' have not been deposited for RPF. Then the 'Cheque Collection Box' was opened in the presence of the officials, Dev. Officers and Employees of the Branch after 3 PM and all the cheques including Cheque No.944413 dt.26.5.98 for Rs.815/- drawn on SBI, Delhi, lying in the books were entered in the RR Register by opening a supplementary page No.3445 by putting the factual position as remarks. The photocopy of letter dated 28.5.1998 received by office is enclosed herewith for your ready reference. Thus, while working as HGA, OS Deptt. I never indulged in any irregular act rather I saved the institution for further complications from policy holders."*

8. In support that the entries were made at the behest of Narender Chaudhary, the appellant relies upon letter dated 17th June, 2000 written by Balbir Singh stating that he had made the last four entries in the RR Register. Balbir Singh, it is claimed, asserts that the said entries were made at the behest of the Branch Manager Narender Chaudhary and he had subsequently raised an objection when the appellant was being wrongly implicated. A reading of the aforesaid paragraph from the reply elucidates that the appellant had reiterated his earlier stand that the Cheque Collection Box was opened at 3:00 pm 28th May, 1998, and the cheques, including the cheque in question were taken out and their details entered in the RR-Register by inserting a supplementary page No. 3445. Once the aforesaid factual

position is accepted, then the appellant's assertion that the he had carried out the said entries on the instructions of the Branch Manager-Narender Chaudhary pales into insignificance and is irrelevant.

9. Be that as it may, these are the disputed questions of fact. Narender Chaudhary had appeared in the witness box and had deposed. The appellant did not enter the witness box and give evidence. In fact, the case of LIC is that Narender Chaudhary was on sick leave from 24.4.1998 to 31.5.1998. The photocopy of the RR Register placed on record would show and it is accepted that the first three entries were made by the appellant. The appellant, however, denies the next four entries including the entry of cheque for Rs.815/- towards the policy in favour of Master Lalit. The factual aspects, evidence, and material were examined and evaluated in the departmental proceedings. We would not accept that the factual findings and conclusions are perverse, in the sense that no reasonable person on examining the evidence would have reached the conclusion arrived. The relevant material and the statement of witnesses have all been taken into consideration.

10. The defence raised by the appellant would show that it was submitted that on 28th May, 1998, they had opened the Cheque Collection Box and the cheque in question was found therein. At the same time, it is stated that the entries were made in the RR Register at the behest of the Branch Manager. Contradiction apart, the submission made discloses misconduct and manipulation of records and involvement of the appellant. The object and purpose was to facilitate encashment of a wrong claim. In this, the involvement of the

appellant has been proved and established. The penalty initially imposed was reduced in the memorial. This would show that the Chairman had taken an unbiased and broader view. Noticing the fact that the appellant was to retire in October, 2003, the Chairman was lenient and the penalty imposed by the Disciplinary Authority and upheld in the appeal, was reduced. Quantum and proportionality of the punishment cannot be really challenged or questioned, when we accept the factual findings. We do not, therefore, see any reason to interfere with the impugned judgment on the said aspects.

11. The appellant has drawn our attention to the prayer clauses of the writ petition and it is submitted that the appellant had also prayed for grant of 3rd Stagnation Increment with effect from 1st September, 2001 and promotion to the post of Assistant Administrative Officer with effect from. 1st September, 1996 with the benefit of further promotion to the post of Administrative Officer with effect from 1st September, 2001. The writ petition in which the impugned order was passed was filed on 2nd March, 2005, after the petitioner had retired in October, 2003.

12. The impugned judgment does not refer to or discuss the aforesaid prayer. Counsel for the respondent-LIC, who had also appeared before the Single Judge, submits that the prayer was never pressed and argued. Noticeably, the appellant never filed an application for review, pleading that the prayer for grant of 3rd stagnation increment and promotion to the post of Assistant Administrative Officer was raised but has not been decided.

13. However, to satisfy whether any injustice has been done to the

appellant, we had called upon the respondents to explain and elucidate their stand. The respondents have produced the relevant records.

14. As per the writ petition, the appellant was not granted promotion as Assistant Administrative Officer for he had been placed in "Vigilance Cases List" as investigation relating to leave travel concession (LTC) claim was pending. This is a wrong assertion or assumption, as the appellant in his letter dated 5th May, 2000, has mentioned that he had appeared in the interview for appointment to the post of Assistant Administrative Officer for the last five years but was not selected. As per the Rules, Superintendents, Higher Grade Assistants and Section Heads were eligible for consideration and promotion as Assistant Administrative Officer. Selection was on marks allotted as per qualification, seniority and the candidate's performance in the interview. The promotion was for the available and vacant posts. The respondents have produced before us files relating to several years to show that the appellant was shortlisted and was called for an interview, however, in view of the marks secured, he was not included in the merit list and selected.

15. The appellant had made a representation claiming Stagnation Increment, and vide letter dated 15th March, 2000, was granted one Stagnation Increment from 1st September, 1998. The appellant has not urged or shown us any Rule or Office Memorandum under which he was entitled to the grant of another Stagnation Increment. The appellant also suffered a penalty in terms of the charge sheet as noticed above.

16. In view of the aforesaid discussion, we do not find any merit in the present appeal, the same is dismissed. No order as to costs.

SANJIV KHANNA, J

SUNITA GUPTA, J

AUGUST 04, 2016
rs