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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2023 OF 2018**

KUMAR MANOJ

...PETITIONER

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

.....

Ms. Rohini M. Dandekar, Advocate appointed for the petitioner.

Mr. H.V. Mehta along with Mr. P.M. Palshikar, Advocate for
respondent Nos. 3 & 4.

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**CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 20th FEBRUARY, 2018.

ORDER (PER M.S.KARNIK, J.) :-

The petitioner by filing this petition under Article 226 and 227 of the Constitution of India challenges an order dated 3/2/2015 passed by the Disciplinary Authority of the Employee's State Insurance Corporation ('ESIC' for short) imposing punishment of removal from service.

2. The material facts in brief are thus :-

The petitioner was appointed on 23/10/2008 as an Insurance Inspector (now called as Social Security Officer). He was served with the memorandum of charge-sheet dated 4/9/2012 alleging that “he has deliberately suppressed the fact of his previous employment with Indian Oil Corporation Ltd.” (‘IOCL’ for short).

3. It appears that the petitioner while applying for the said post with ESIC in the application form against Column “Experience” regarding previous employment has suppressed the fact that he was employed with IOCL and dismissed from service. He has also submitted a declaration that information furnished in the application are true and correct to the best of his knowledge and belief. As against the Column “Period of Employment” the petitioner has not provided any details of his previous employment. In response to a letter dated 8/6/2011 issued by the respondents, the IOCL informed that the petitioner

was in employment of the IOCL from 17/11/1999 to 20/4/2005 and he ceased from said service since he was dismissed by an order dated 14/4/2005. The charge-sheet came to be issued and pursuant to the disciplinary proceedings held, punishment of dismissal was imposed on him. The charge that “he had deliberately suppressed the fact of his previous employment with IOCL” was duly proved.

4. We have gone through the order passed by the Tribunal. The Tribunal took into consideration the application made by the petitioner. As against Column 13 the petitioner was expected to state full details of his experience viz. name, full address of employer, designation/duties of post, scale of pay and period employment – from – to. The Tribunal was of the opinion that the information sought was necessary if the candidate who applies for the post of SSO in ESIC is serving elsewhere or has already served and has left that job or dismissed or removed therefrom. The petitioner as against the Column – Experience has not mentioned anything.

5. A detailed inquiry was conducted. Based on the evidence the charges levelled against the petitioner were held to be proved.

6. We are unable to persuade ourselves to accept the arguments advanced by learned Counsel for the petitioner that experience as SSO was not desired as per advertisement nor it was essential for appointment to the post of SSO with the respondents. We are also not in agreement with learned Counsel for the petitioner that it was not necessary for the petitioner to make mention about his previous employment in the application form as the previous experience could be ignored. We do not find any error with the view taken by the Tribunal that if specific information as regards the experience of the previous employment is sought, failing to do so, amounts to deliberate suppression of material fact of previous employment to get a Government job. It is obvious that dismissal from service in previous employment after a duly concluded disciplinary

proceedings would have come in the way of the petitioner in getting employment with the respondents.

7. In these circumstances, we do not find any reason to interfere with the well reasoned order passed by the Tribunal. Not only has the Tribunal dealt with the question that there is no violation of prescribed rules while conducting inquiry or while imposing penalty but it has also considered the aspect of material suppression and that the petitioner deliberately failed to disclose the information regarding his previous employment in Column – Experience. We are in agreement with the view taken by the Tribunal that the petitioner has given a false declaration. There is thus no reason to interfere with the well considered order passed by the Tribunal. The Tribunal has also for the reasons recorded rejected review petition filed by the petitioner.

8. Though learned Counsel for the petitioner submitted that the Writ Petition has been filed challenging order of dismissal passed by the IOCL, however, the same can have no bearing on the present petition. If the petitioner succeeds in challenge to the order of dismissal passed by the IOCL the consequences as against IOCL will follow. We therefore do not find any merit in this petition. The same is accordingly dismissed.

9. Rule is discharged with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)