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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22635-2013 (O&M)
Date of Decision : August 24 , 2018

Tarlochan Singh

.... Petitioner.

Versus

United India Insurance Co. Limited
and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Animesh Sharma, Advocate
for the petitioner.

Mr. D.R. Bansal, Advocate,
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing the charge sheet dated 15.11.2006 (Annexure P/1), impugned order dated 9.5.2013 (Annexure P/24) whereby penalty of "reduction in basic pay by ten steps in the time scale" has been imposed by respondent No.2; order dated 30.7.2013 (Annexure P/26) passed by the Appellate Authority, respondent No.3 and the inquiry report dated 11.3.2013 (Annexure P/21), being illegal, arbitrary and vitiated.

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2. At the time of arguments, learned counsel representing the respondents has taken a preliminary objection as contained in the written statement that the writ petition is not maintainable and is liable to be dismissed because the petitioner has not availed the alternative remedy of filing Memorial before the Chairman-cum-Managing Director under Regulation 40 of the General Insurance (Conduct, Discipline & Appeal) Rules, 1975 as amended from time to time and as are applicable to the employees of the United India Insurance Company Ltd. The relevant provision of Regulation 40 is extracted below:-

“40 Memorial

An employee whose appeal under these Rules has been rejected by the Appellate Authority subordinate to Chairman/Chairman-cum-Managing Director or in whose case such Appellate Authority has enhanced the penalty either on appeal under Rule 37 or on review under Rule 39(2) may address a memorial to the Chairman/Chairman-cum-Managing Director in respect of that matter within a period of 06 months from the date, the appellant received a copy of the order of such Appellate Authority.”

3. Reliance on this point has been placed upon judgment of Hon`ble Division Bench of this Court in CWP No. 2601 of 2005 **Subhash Chander Aggarwal Vs. United India Insurance Co. Ltd. and others**, decided on 18.10.2007 and judgment from a Co-ordinate Bench of this Court in CWP No.2095 of 2009, **Jagmohan Sharma Vs. National Insurance Company Limited, Kolkata and others**, decided on 27.1.2011.

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4. Learned counsel representing the petitioner contended that as appeal has already been dismissed by the Appellate Authority, the petitioner has remedy of filing the present writ petition.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the record and the admitted fact that no Memorial has been filed by the petitioner as laid down in Regulation 40, as reproduced above, this Court is of the considered view that the present writ petition is not maintainable as per view taken by this Hon`ble Court in **Subhash Chander Aggarwal and Jagmohan Sharma's cases (supra)**.

6. In view of the above, the present writ petition is dismissed with liberty to the petitioner to avail his alternative remedy and in case the petitioner prefers such Memorial, the same shall not be rejected on the ground of delay.

(SHEKHER DHAWAN)
JUDGE

August 24, 2018.

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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes