

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-28498-2018 (O&M)
Date of Decision: 12.11.2018**

Sahib Singh Cheema

... Petitioner

Versus

Life Insurance Corporation of India & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Hemender Goswami, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner, who was serving as an Assistant Branch Manager with the Life Insurance Corporation of India retired on 31.05.2018 upon attaining the age of superannuation. While in service and upon culmination of a regular departmental inquiry/proceedings, the Disciplinary Authority issued order dated 28.02.2009 (Annexure P-3) imposing upon the petitioner penalty of “reduction of five stages in the time scale applicable to him” in terms of Regulation 39(1)(d) of the Life Insurance Corporation of India (Staff) Regulations, 1960.

Instant petition has been filed praying for issuance of a writ of mandamus for directing the respondent/LIC authorities to restore the pay of the petitioner to its original position and consequentially, to re-fix his pay as also his pension/retiral benefits.

The contention raised by Mr. Goswami, learned counsel representing the petitioner is that the effect of the order of penalty dated 28.02.2009 was over upon completion of five years from the date of passing of the order dated 28.02.2009 but still the respondent/authorities have acted

arbitrarily and have not restored the pay of the petitioner to the original position. In support of such contention, counsel has adverted to an order of penalty passed earlier in point of time i.e. on 18.04.2007 at Annexure P-1 and in terms of which a penalty of reduction of three stages in the time scale applicable to him had been imposed 'permanently'. It is urged that in the subsequent order of penalty dated 28.02.2009 (Annexure P-3), the word 'permanent' was not inserted and which in itself would mean that the effect of penalty imposed vide order dated 28.02.2009 would be over after completion of a time frame of 5 years. Yet another submission raised by counsel is that prior to superannuation, the petitioner had been promoted from the post of Development Officer to that of Assistant Branch Manager in the year 2015 and which would also tantamount to the order of penalty dated 28.02.2009 at Annexure P-3 having come to an end.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed.

It is the pleaded case of the petitioner himself that the order of penalty dated 28.09.2009 (Annexure P-3) imposing a punishment of reduction by five stages in the time scale was passed upon culmination of a regular departmental proceedings that were initiated by issuance of a charge sheet dated 29.02.2008. Petitioner had responded to the charge sheet and thereafter an Inquiry Officer was appointed and the petitioner was duly associated with the inquiry proceedings. Findings were returned by the Inquiry Officer against the petitioner and the petitioner was duly furnished

with a copy of the inquiry report to submit objections, if any. Thereafter, even a show cause notice had been served upon the petitioner by the Disciplinary Authority contemplating the imposition of punishment of reduction by five stages in the time scale. In other words, it is after following due procedure as contemplated under the relevant staff Regulations applicable to the employees of the Life Insurance Corporation of India and by complying with the principles of natural justice that the order of penalty dated 28.02.2009 was passed.

The penalty imposed was reduction of five stages in the time scale. Counsel has made an attempt to construe such order of penalty to be operative for a period of five years from the date of issuance i.e. 28.02.2009. Such submission is not well founded. Even though, the word 'permanent' is not mentioned in the order dated 28.02.2009 still if the contention of counsel was to be accepted as regards the period of penalty to operate for five years from the date of passing of the order, it would virtually tantamount to reading something alien in the order of penalty. The same is not permissible. Reduction of five stages in the time scale in actual terms translates into a one time penalty and to be made effective from the date of passing of the order. Counsel concedes that after passing of the order of penalty dated 28.02.2009 and till the date of superannuation i.e. in the month of May, 2018, petitioner had been released annual increments.

No advantage can possibly enure in favour of the petitioner only for the reason that word 'permanent' had been inserted in a previous order of penalty at Annexure P-1. There is a clear distinction between imposition of a punishment of stoppage of annual increments without cumulative effect as

opposed to reduction of certain stages in the time scale. The co-relation that counsel is trying to read in the order of penalty i.e. reduction of five stages in the time scale to a time frame of five years is wholly misconceived.

Even otherwise, the instant petition would be seen as setting up a highly belated and stale claim. The penalty of reduction of five stages in the time scale was imposed vide order dated 28.02.2009. Even if the contention raised by counsel was to be accepted that such penalty has worked out over a period of 5 years i.e. in the year 2014, the petitioner concededly did not agitate the matter in the next 4 years i.e. upto attaining the age of superannuation. It is only post retirement that the instant writ petition has been filed.

In view of the reasons recorded above, this Court is not inclined to accept the prayer made in the instant petition.

No merit.

Dismissed.

12.11.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |