

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3262 of 2009**

- Gurdip Singh Virdi S/o Late S. Arjun Singh Virdi, Aged about 52 years, R/o E-110, Surya Vihar Colony, Junwani, Bhilai, District Durg (CG)

---- Petitioner**Versus**

1. Oriental Insurance Company Limited, through: its Chairman-cum-Managing Director, Oriental House, A 25/27, Ashaf Ali Road, New Delhi.
2. Senior Divisional Manager and Disciplinary Authority, The Oriental Insurance Company Limited, Divisional Office-3, 11-B, Ratlam Kothi, Opposite Indore Bank, Zonal Office, Indore (MP)
3. Deputy General Manager, The Oriental Insurance Company Limited, Oriental House, A-25/27, Ashaf Ali Road, New Delhi
4. Branch Manager, The Oriental Insurance Company Limited, Ambedkar Chowk, Ambikapur, District Surguja (CG)

---- Respondent

For Petitioner	Mr. Ansul Tiwari, Advocate on behalf of Mr. Manoj Paranjpe, Advocate
For Respondents	Mr. Abhishek Sinha, Advocate

Hon'ble Mr. Justice Prashant Kumar Mishra**Order On Board****28/11/2019**

1. Heard.
2. Assail in this petition is to the order dated 30.5.2008 passed by the Chairman cum Managing Director, Oriental Insurance Company Limited, informed to the petitioner vide Annexure P-

1 dated 30.6.2008, reducing his basic pay by **one stage** in the Time Pay of Scale. By order dated 30.5.2008 passed by Chairman cum Managing Director, the order passed by the Disciplinary Authority dated 12.12.2006 has been interfered, inasmuch as, the Disciplinary Authority has imposed punishment of reduction in Basic Pay by **four stages** in the Time Scale of Pay, which has been upheld by the Appellate Authority, but the Chairman cum Managing Director in his above order reduced the punishment by directing reduction in Basic Pay by **one stage**.

3. While the petitioner was working as Development Officer in the Oriental Insurance Company Limited (henceforth "Oriental Company"), Division Office, Manendragarh (respondent), he was served with a charge sheet constituting a Departmental Enquiry against him on the charge, which reads as follows :

"Shri GS Virdhi while working as Dev. Officer at Branch Office, Ambikapur during the year 1994 committed the misconduct described herein under :-

He with malafide intention and in negligent manner issued a motor covernote No.665581 putting time at 11.30 A.M. on 07.07.1994 granting Act Only Insurance cover to an accidental Tractor No. CPL – 7065 & Trailer No. CPL – 6115 A/c Shri Kadeem Akhtar Khan for the period from 07.07.94 to 06.07.95 without ascertaining previous insurance details and physical inspection of the vehicle thereby put the Company into unwarranted liability due to accident to the said vehicle on 07.07.94 at 4.00 P.M.

He by his above act, failed to maintain absolute integrity,

devotion to duty, acted dishonestly in a manner unbecoming of a Public Servant and prejudicial to the interest of the Company, thereby violated Rule 3(1) (i) (ii) (iii) 4(1) & (5) of General Insurance (CDA) Rules, 1975.”

4. The petitioner replied to the charge sheet denying the charge, however, in a duly conducted enquiry, the charge was found partly proved vide the Enquiry Report, which is part of Annexure P/13. The petitioner was served with the Enquiry Report along with Annexure P/13 seeking his representation to which the petitioner again replied but having found the reply unsatisfactory, the Disciplinary Authority decided to impose punishment as stated supra.
5. Mr. Anshul Tiwari, learned counsel for the petitioner, would argue that the petitioner had mentioned the time of commencement of risk in respect of several cover notes, therefore, the charge is not proved. He would also submit that the Enquiry Officer having found the charge to be partly proved, the petitioner should not have been visited with major penalty. It is further argued that the charge sheet was served on the petitioner after 10 years i.e. in the year 2005 for the cover note issued in the year 1994, therefore, the issuance of charge sheet and the consequent enquiry being enormously delayed, it should be quashed for this reason alone.
6. Per contra, Mr. Abhishek Sinha, learned counsel for the Insurance Company, would submit that the petitioner has admitted major part of the charge in his reply, which is

otherwise proved on bare perusal of the cover notes, which is part of the record before the Enquiry Officer. He would also submit that the matter was pending consideration before the Motor Accident Claims Tribunal, Manendragarh, in which, the award was passed in May 2000, thereafter, the Preliminary Enquiry was conducted and the charge sheet was issued, therefore, there is no such delay which would affect the enquiry. He would further submit that it is not open for the High Court to interfere with the quantum of punishment imposed by the Disciplinary Authority.

7. The charge sheet served on the petitioner clearly mentions that while issuing the cover note, the petitioner did not carry physical inspection of the vehicle nor ascertained the previous insurance details, therefore, the same occasioned liability on the Insurance Company resulting in financial loss. For a Development Officer of an Insurance Company, the integrity is measured in terms of his diligence in issuance of cover note to ensure a person, which ultimately affects one way or the other the liability of the Insurance Company. In course of enquiry, the petitioner admitted that he has issued cover note No.665581 without inspection of vehicle and without verifying the previous insurance details. The subject vehicle met with an accident at 4 p.m. on 7.7.1994, on which date itself, the cover note was issued without inspection and ascertaining the insurance details.

8. Had the petitioner inspected the vehicle and ascertained the previous insurance details, it might have come to the fore that the vehicle was not previously insured. Inspection and ascertainment might have prevented the financial liability which the Insurance Company incurred subsequently. Even otherwise, once the delinquent admits the facts constituting the charge, the imputations are not required to be proved further in enquiry as has been held by the Supreme Court in the matter of **Channabasappa Basappa Happali Vs. The State of Mysore**¹ in the following words :

“5. It was a departmental enquiry, on facts of which due notice was given to him. He admitted the facts. In fact his counsel argued before us that he admitted the facts but not his guilt. We do not see any distinction between admission of facts and admission of guilt. When he admitted the facts, he was guilty. The facts speak for themselves.....

9. This Court in **Awadh Ram v. Steel Authority of India Ltd. And another (WP No.383 of 2004 (decided on 11-9-2014))** held thus

“14. Even otherwise, the guilt is fully proved from the petitioner's statement in his own handwriting (Ex-P/5) and his statement before the enquiry officer recorded on 18.8.89 vide Ex.-P/7 wherein he admitted the charges and the guilt. It is also to be seen that in his averment in paragraphs 7 & 8 of the first case, he admitted his signatures on Ex-P/5. Therefore, once the delinquent has admitted his guilt, no further evidence to prove misconduct is necessary.”

10. The order passed in **Awadh Ram** (supra) travelled up to the Supreme Court and the Supreme Court dismissed the Special

1 AIR 1972 SC 32

Leave to Appeal (C) No.6719 of 2015 by order dated 23.02.2015.

11.It is also settled that ordinarily the High Courts shall not interfere in the quantum of punishment unless the punishment imposed is grossly disproportionate to the nature of misconduct.

12.Having examined the nature of charge, I do not find present to be such a case where the imputation was of a very trivial nature and yet the major punishment has been imposed. It is also to be seen that the Chairman has already reduced the punishment of deduction in Basic Pay by **four stages** in the Time Scale of Pay to **one stage**.

13.For the foregoing, the writ petition has no substance, it deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)

Judge

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