

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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RSA-2576-2017

Date of decision: 07.03.2019

SHAM LAL

...APPELLANT

VS.

LIFE INSURANCE CORPORATION OF INDI AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amandeep Singh Manaise, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Batala dated 09.03.2012 , whereby suit for declaration preferred by the appellant to the effect that the order dated 17.12.2004 passed by the Senior Divisional Manager, Life Insurance Corporation of India, Amritsar Division, Amritsar, removing him from service and the order of the Appellate Authority i.e. The Zonal Manager, Northern Zonal Office, Life Insurance Corporation of India, New Delhi dated 15.06.2005 rejecting the appeal of the appellant-plaintiff, stands dismissed, appeal against which preferred by the appellant was dismissed by the Additional District Judge, Gurdaspur vide judgment dated 19.12.2016.

It is the contention of the learned counsel for the appellant that five employees of the respondent-Life Insurance Corporation of India were

charge-sheeted for their mis-conduct, out of which, one was found not guilty whereas the other four employees including the appellant were found guilty by the Enquiry Officer. He contends that for the similar charges, the appellant has been treated differently as the punishment, which has been imposed upon the remaining three employees, is limited to the extent of reduction in basic pay to the minimum of pay on the posts, on which they were working whereas the appellant has been given the extreme punishment of removal from service. He, thus, contends that there is violation of Article 14 of the Constitution of India. His further contention is that the appellant had been given a disproportionate punishment to the mis-conduct, which has been proved against him and, therefore, the punishment of removal, being too harsh, should have been interfered with by the Courts below. That apart, he asserts that the real culprit was one Sh. Pritam Dass, who had, during enquiry proceedings, deposited the cheque amount of ₹33,598/-. He contends that the appellant has only been made a scapegoat. He, therefore, contends that the judgments and orders passed by the Courts below cannot sustain and deserve to be set aside and the suit of the appellant decreed with all consequential benefits.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

A perusal of the judgment passed by the Lower Appellate Court would clearly show that the principles and parameters, within which the Civil Court has to exercise its powers, have been rightly dealt with and keeping those principles in light, the Courts below have rightly appreciated the evidence, which has been led. Appellant has been provided with the

charge-sheet, summary of the charges and the list of witnesses. The Enquiry Officer has given full opportunities to the appellant to participate in the enquiry proceedings, in which the appellant has fully participated and cross-examined the witnesses. Appellant was given an opportunity to lead his defence evidence but he opted not to do so. What glaringly comes out is that the Presenting Officer has submitted his written submissions as well as oral submissions, wherein it has been specifically mentioned with regard to the earlier conduct of the appellant where he was found guilty by the Enquiry Officer leading to the passing of the order of removal, which, on an appeal preferred by the appellant in the year 1989, the Appellate Authority had taken a lenient view and modified the penalty of removal from service to bringing him down to the minimum of the Assistant's Scale as per the provisions of the Life Insurance Corporation (Staff) Regulation, 1960. He was, therefore, made aware of the fact that the said evidence was also going to be taken into consideration against him and, therefore, it cannot be said that the punishing authority has, out of the blue, taken into consideration his earlier conduct. The enquiry, as held by the Enquiry Officer, was, therefore, in consonance with the statutory Rules governing the said enquiry as also within the ambit of the principles laid down including the fulfilment of the principles of natural justice. No fault, therefore, has rightly been found by the Courts below in the departmental proceedings, which were held against the appellant.

Now coming to the contention of the learned counsel for the appellant that the punishment awarded to the appellant is not proportionate to the gravity of the mis-conduct, which has been found to be proved against him having the effect of returning a finding of guilt against him as

also the factum of he having been treated differently from the other three co-delinquent employees, suffice it to say that firstly, the Civil Court cannot act itself as a disciplinary authority or as an appellate authority and, therefore, has a limited jurisdiction as far as the interference in the punishment, which has been imposed upon an employee, is concerned. It is for the punishing authority and the appellate authority to decide the nature of punishment to be given to a delinquent employee keeping in view the nature of the misconduct attributed to him and proved against him. The Courts are not required to interfere in the quantum of punishment except for where it has been specifically provided. Reference has been made with regard to the judgment passed by the Supreme Court in **Apparel Export Promotion Council vs. A.K. Chopra**, 1999 (1) SCC 759.

As regards the assertion of the counsel for the appellant that Article 14 of the Constitution of India has been violated as the appellant has been differently treated from the other co-delinquent employees, suffice it to say that the appellant was earlier also found guilty for having committed a similar fraud with the respondent-Corporation in the year 1989, wherein, after holding a departmental enquiry, the punishing authority proceeded to pass an order of removal from service, which, on an appeal preferred by him and taking a lenient view rather on compassionate ground, the appellate authority modified the penalty of removal from service to bringing him down to the minimum of the Assistant's Scale. This distinguishes the case of the appellant from the other co-delinquent employees, who have been found guilty of the mis-conduct, as has been attributed to him. It, therefore, cannot be said that there has been a different treatment given to him although he is similarly placed as the other delinquent employees. None of

the grounds, therefore, as pressed by the counsel for the appellant, would impress this Court to interfere with the well-reasoned judgments passed by the Courts below.

There being no merit in the present appeal, the same stands dismissed.

March 07, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No