

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11853 OF 2016**

Shri Sunil Sadanand Bokil

....Petitioner

Versus

Life Insurance Corporation of India
Through Chairman and Ors.

....Respondents

.....

Pranil Sonawane a/w Pranali Shetye i/by KLS Legal - Adv. For the
Petitioner

Mr. Ramesh K. Cheulkar - Adv. for the Respondent No. 1.

.....

CORAM : PRASANNA B. VARALE &

S. M. MODAK, JJ.

DATE : 6th DECEMBER, 2021.

P.C. :

1. The issue involved in this petition is whether this Court is justified in exercising the equity jurisdiction under Article 226 of the Constitution by setting aside the order dated 21/12/2013 'of removing Petitioner from service' passed by Respondent No. 2. Whereas Respondent No. 3 confirms the said order by dismissing the appeal vide order dated 20/09/2014 and the Chairman of Respondent No. 1 – LIC dismissed the review vide order dated 19/10/2015 presented by the Petitioner.

2. Apart from the merits of the matter, both the learned advocates

apprised us about the scope of judicial review by placing reliance on various judgments. According to learned advocate for the Petitioner the penalty is shockingly disproportionate to the nature of misconduct. Whereas according to learned advocate for Respondents-LIC and its officers, the penalty is perfectly proportionate to the nature of misconduct and in fact this Court cannot decide whether the penalty is proportionate or not and it can only be done only in exceptional circumstances and which is not before us.

3. On this background, we have heard learned Advocate Shri Pranil Sonawane for Petitioner/delinquent employee and learned advocate Shri Ramesh K. Cheulkar for the Respondents. For deciding the controversy few of the facts needs to be stated. They are as follows:

Facts	Happened
Joined LIC as development officer	In 1987
Due to his hard work promoted to the post of Senior business associate	In June 2010
Order of suspension	on 27/08/2012
Charge-sheet issued	on 22/11/2012
Shri V. G. Pandit appointed as Enquiry officer and Shri D. K. Mane appointed as presenting Officer	on 02/01/2013
Shri S. S. Shikharkhane was permitted to act as an employee assisting the Petitioner	on 24.01.2013
Proceedings conducted	on 28/01/2013, 07/02/2013,

	21/03/2013
The Petitioner admitted his guilt	on 21/03/2013
Enquiry Officer submitted his report vide letter	on 22/03/2013
Petitioner's comments were called on the report	on 23/03/2013
Petitioner's reply	on 02/12/2013
Impugned order	on 21/12/2013
Appeal dismissed on	on 20/09/2014
Review dismissed	on 19/10/2015

4. On hearing the arguments of learned advocate for the Petitioner we may find that he has made the following grievances in nutshell -

- a) the Petitioner admitted the guilt only due to pressure and advice of Senior officers to the effect that his case will be considered sympathetically.
- b) Except this incidence he was having unblemished record and in fact he was also honored.
- c) The policy holder of one Mr. Satav and concerned development officer was Mr. Nimbalkar and he was having criminal antecedents.
- d) None of the witnesses were examined on behalf of the presenting officer.
- e) When there is grievance of misuse of the cheques issued by the policyholder towards payment of LIC premiums, real aggrieved person is said Satav and he has not made any complaint.

5. By way of reply, the learned advocate for the Respondents supported the impugned order on the following grounds:-

- a) He justified the departmental inquiry on account of failure to maintain absolute/financial integrity by the Petitioner and devotion to the duty and the acts of the Petitioner were detrimental to the interest of the Corporation and there is breach of regulation no. 21 and 24 of LIC of India (Staff) Regulations 1960.
- b) The allegations of obtaining admission to the guilt by the Petitioner are denied and he relied upon the documents to that effect which are self-explanatory.
- c) The Petitioner was given fullest opportunity to defend the inquiry and he was given fullest opportunity to challenge the impugned order.
- d) In order to rebut the allegation of unblemished character, reliance is placed on the order dated 22/07/2004 thereby withholding four future increments permanently of the Petitioner and it is on account of excess payment made by the Petitioner and it was disclosed due to the audit objection.

6. Learned advocate for the Respondents relied upon following judgments:

- (a) Pravin Kumar Vs. Union of India (2020) 9 Supreme Court cases 471.
- (b) Union of India Vs. Ex-constable Ram Karan in Supreme Court of India in Appeal No. 6723 of 2021.
- (c) State of Meghalaya and Ors. Vs. Mecken Singh N. Marak (2008) 7 Supreme Court cases 580.
- (d) Suresh Patheria Vs. Oriental Commerce Bank (2006) 10 Supreme Court cases 572.
- (e) Disciplinary Authority cum Regional Manager and Ors. Vs. Nikunja Bihari Patnaik (1996) 9 Supreme Court cases 69.
- (f) Additional District Magistrate Vs. Prabhakar Chaturvedi and Ors. (1996) 2 Supreme Court cases 12.

(g) Premkumar Shankar Nair Vs. LIC of India. In Civil W.P. No. 10380 of 2015.

(h) Diwan Singh Vs. LIC of India and Ors. in Civil Appeal No. 3655 of 2010.

7. We have read all these judgments minutely. The law on the point of judicial review is well settled. It is different from the Appellate power exercised by Appellate authority. It has been clarified that judicial review is not evaluation of merits of the decision but it is evaluation of decision making process. Even the grievance made about putting up question by the inquiry officer was turned down because there was no malice or bias on the part of inquiry officer. When division bench of High Court of Delhi has altered the penalty of removal from service to single day confinement, it was deprecated by the Hon'ble Supreme Court. If at all Court feels that the penalty is shockingly disproportionate, it has been observed that this Court instead of altering the penalty should leave it to the disciplinary authority. When the Division bench of High Court of Guwahati has remitted the matter to the appellate authority, Hon'ble Supreme Court has set aside the order as no reasons were given which has amounted to the denial of justice. What is the effect of admission in departmental inquiry matters was considered by Hon'ble Supreme Court in case of Prabhakar Chaturvedi. The grievance of securing admission through coercion was turned down on the basis of the facts.

8. With the help of both the learned advocates, we are perused

the record made available. The allegations made against the Petitioner in departmental inquiry was “he has not deposited the cheques handed over to him by the agent Shri Nimbalkar in time and though cheques were issued by policyholder Shri Satav and it has resulted into lapsing of those policies”. The Petitioner faced the inquiry on the charges of misconduct falling under the category not maintaining absolute/financial integrity and lack of devotion towards the duty as per regulation no. 21 and 24 of the LIC of India (Staff) Regulation 1960. What we find is that the Appellate Authority and Reviewing Authority has dealt with all the grievances made before them by giving cogent and convincing reasons. The Petitioner made grievance that he was forced and kidnapped by said Nimbalkar on 28/06/2012 and was forced to sign one compromise paper. In respect of that he protested about this act by complaining to the Divisional Commissioner on 19/03/2013. The authorities observed that “this allegations was not substantiated during the inquiry and seems to be after thought”. The Petitioner also raised grievance that “during the inquiry none of the witnesses were examined. The authorities dealt with this allegation and observed that when the Petitioner has admitted the guilt voluntarily, there is no question of examining the witnesses”.

9. The Petitioner also made a grievance that the admission of guilt was not voluntarily but it was induced on the basis of promise to take a lenient view. Even this allegation was turned down for the reason that it was not substantiated and it was after thought one. We have

perused the minutes of the meeting dated 21/03/2013. The inquiry officer has taken utmost precaution and ascertained himself that the admission of the guilt was truly voluntary. We can find it from the questions put and answers given by the delinquent. Even the Petitioner was asked about denial of the charges in his earlier letter dated 21/12/2012. The delinquent has answered that the fresh letter supersedes his earlier letter.

10. There was also grievance about denial of an opportunity to take assistance during inquiry. The authorities have dealt with this grievance. Even though it may be true that his request for taking assistance was rejected on 16/01/2013 and on 01/02/2013, it was accepted on 24/01/2013. The authorities have considered the reasons for denial of two requests as justifiable reasons.

11. The authorities have also considered the reply given vide the letter dated 02/12/2013 to the show cause notice why a penalty should not be inflicted on the basis of inquiry report. The averments in that reply and the grievances were considered simultaneously and the grievances were found untrue. The authorities have considered the decision not to grant advance towards mediclaim as extraneous.

12. When the analogies laid down in the above mentioned judgment are considered, we may find that none of the grievances made before us can be accepted. We have perused the record and verified whether the procedure prior to initiation of departmental

inquiry during inquiry and procedure after the inquiry officer submitted the report as per the regulation and was followed as per rules or not. It is true that there are LIC (Staff) Regulations 1960. It contains the Regulations wherein the obligations and liabilities of the employees were laid down. It consists of 'obligation to maintain secrecy', 'to promote the interest of the Corporation'. It also lays down different kinds of penalties from the censure to dismissal. It recognizes the right of appeal and the procedure for conducting the appeals. It also lays down the remedy of review by filing memorial. It also lays down the appointing, disciplinary and appellate authorities depending upon category of the employees.

13. On going through the record we do not find any infirmity in the procedure followed prior to issuing the Charge-sheet. Even though earlier request for appointing Assisting employee was turned down, it was allowed as per the order dated 24/01/2013.

14. We have perused the minutes of the three meetings conducted. On 28/01/2013, the Petitioner was asked whether he admits the charges. He has not admitted the same. It is recorded in question and answer form. Whereas in the meeting dated 07/02/2013, the inquiry officer verified about receiving the documents by the delinquent/Petitioner. When hearing took place on 21/03/2013 the delinquent has admitted the charges. The inquiry officer satisfied himself by asking the Petitioner about the earlier denial of charges. The delinquent has clarified that the present letter dated

21/03/2013 supersedes his earlier reply dated 21/12/2012. The inquiry officer also verified about the voluntariness of the admission and it was confirmed by the delinquent. In view of this the inquiry officer closed the inquiry and submitted the report to the disciplinary authority vide letter dated 22/03/2013.

15. After the report, show cause notice was issued on 23/03/2013 and the delinquent gave his reply on 02/12/2013. On this background, the impugned order came to be passed on 21/12/2013.

16. For the above reasons, we do not find that there are any lapses in following procedure. The Appellate authority and the Reviewing authority has dealt with the grievances of involuntariness of the admission. The said grievances was turned down for the reason that it was not substantiated and even it was held that said grievances is after thought. So we are satisfied that there is no error in the procedure followed while arriving at the decision. We find no extraordinary reason for dis-agreeing with the findings of the guilt. It is on the basis of voluntary admission. If it is so there is no need to examine the witnesses and the delinquent cannot make an issue out of that.

17. We have seen the obligations and responsibilities casted as per the Regulation. The employees bound to protect the interest of the Corporation and is bound to maintain secrecy. If we consider the allegations made against the Petitioner, we do not find that the

penalty of removal from service is shockingly disproportionate. Regulation 39 (1) (f) lays down this penalty. There is no disqualification for future employment attached to it. The Hon'ble Supreme Court in case of Union of India and Ors. Vs. Ex. Constable Ram Karan, as referred above has differentiated in between the dismissal and removal from service. It is as per the Central Reserve Police Force Rules, 1955. So we do not find any merit in this writ petition. Hence it is dismissed.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)