

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.494 of 2015

Bijay Chandra Nayak

Appellant
....
Mr. P.R. Dash, Advocate

-versus-

***Life Insurance Corporation of
India, Mumbai and others***

Respondents
....

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
26.09.2022**

Order No.

- 02.
1. The challenge in the present appeal is to a judgment dated 13th July, 2015 passed by the learned Single Judge dismissing the Appellant's W.P.(C) No.3930 of 2004 whereby the Appellant had challenged the order imposing the punishment from removal of service passed by the Respondents Life Insurance Corporation of India (LIC) pursuant to a disciplinary enquiry.
2. The background facts are that while he was working as Assistant at the Phulbani Branch Office under the Berhampur Divisional Office of the LIC, a departmental proceeding was initiated against the Appellant for certain irregularities. The charge against the Appellant was that he had committed serious financial irregularities by prefixing one or two digits in the Agents' Register of Commission paid to the Agents and

Bonus Commission Bills of 52 Agents. The financial loss caused to the LIC was to the tune of Rs.3,46,200/-. The Appellant accepted the handwritings and signatures of the concerned ledger. On the basis of the handwriting identification by the Appellant himself, the EO concluded that the charge had been proved.

3. Initially on the enquiry officer submitting a report holding the charges against the Appellant to be proved, the Disciplinary Authority (DA) issued a show cause notice (SCN) to the Appellant and after considering his reply the DA in exercise of power under Regulation 48(2) of the Regulation, 1960 imposed the punishment of reduction in basic pay by six stages in terms of Regulation 39(1)(d) of the LIC of India (Staff) Regulations, 1960.

4. The Reviewing Authority in exercise of power under Regular 48(2) of the Regulation was of the view that the punishment awarded was not in consonance with the gravity of charge. Accordingly, he issued a second SCN to the Appellant asking him to explain why the penalty of removal from service should not be imposed. After considering the Appellant's reply, the said penalty was imposed.

5. The Appellant then approached this Court with Writ Petition (C) No.3305 of 2002 challenging the order of removal of service passed by the Reviewing Authority. The said writ petition was disposed of granting liberty to the Appellant to

prefer a Memorial to the Chairman, LIC. After the Chairman rejected the memorial, W.P.(C) No.3930 of 2004 was filed in which the impugned order has been passed.

6. The only issue before the learned Single Judge concerned the proportionality of the punishment imposed. The learned Single Judge has relied on the decision of the Supreme Court in the case of *Union of India v. P. Gunasekaran AIR 2015 SC 455* and concluded that given the gravity of the charge for which the Appellant has been found guilty, the punishment of removal from service could not be said to be disproportionate. The learned Single Judge has noticed that the Chairman has passed a conscious and detailed order after discussing every aspect of the matter. Since the charge related to the integrity of an employee, the punishment awarded was considered appropriate.

7. Having heard learned counsel for the Appellant and having perused the impugned order of the learned Single Judge in light of the materials placed on record, this Court is unable to come to a different view in the matter. An employee who is found guilty of misconduct concerning finances loses the confidence of the employer. His continuation in service becomes untenable. As rightly pointed out by the learned Single Judge, this is an issue touching the integrity of the employee and with there being a proven lack of integrity, it cannot be said that the punishment of removal from service is disproportionate.

8. No grounds have been made out for interference of the impugned order of the learned Single Judge. The appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

KC Bisoi

