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W.P.No.1780 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1780 of 2014

P.Manoharan

...Petitioner

-Vs-

1. The Chairman

Life Insurance Corporation of India,  
“Yogakshema” Jeevan Bima Marg,  
Mumbai – 400 021.

2. The Zonal Manager,

Southern Zonal Office,  
LIC Buildings,  
No.153, Anna Salai,  
Chennai – 600 002.

3. The Senior Divisional Manager,

Divisional Office-1,  
LIC Buildings,  
No.153, Anna Salai,  
Chennai – 600 002.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to passing of the impugned order bearing No.ERD/SZ/M/12-13/3 dated 05.08.2013 and quash the same as illegal.



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For Petitioner : Mr.R.Arumugam

For Respondents : Mr.C.K.Chandrasekhar

### **ORDER**

This Writ Petition has been filed challenging the order dated 05.08.2013 passed by the first respondent bearing No.ERD/SZ/M/12-13/3, thereby ordered reduction in pay scale by six stages.

2. The petitioner is an ex-serviceman and he was joined in the third respondent office on 13.09.1993 as Assistant. While he was working as a Cashier in CBO-02 Chennai Division-I on 31.07.2009 at about 12.30 hours, certain untoward incident viz., physical assault between the petitioner and other member of the SC/ST Association had taken place inside the premises of the City Branch Office of the respondents Corporation. Commotion and tension prevailed in the Branch Office which was brought to normalcy only with the intervention of other staff members. The matter was also reported to the higher office and the police authorities.



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3. On that issue, the petitioner was served with charge memo dated 02.09.2009, framing the following charges:-

*“(i) That on 31.07.2009 when a policyholder complained about non receipt of premium notice, the petitioner made a comment stating that it was all because of one SC sitting in the Accounts department and other sitting in the despatch department which resulted into provocation of some employees in the Branch’*

*(ii) That on 31.07.2009 around 12.40 p.m., outside the DP room of the Branch, the petitioner had physical altercation with K.Karmegam, Record Clerk, SR No.504889 and C.Natarajan, Record Clerk, SR No.563113 in the presence of staff, agents and policyholder spoiling the decorum of the office and tarnishing the image of the corporation”*

4. For the above charges, the petitioner submitted his explanation. Without satisfying the explanation submitted by the petitioner, enquiry was conducted and submitted the enquiry report on 06.04.2010 finding that both charges were proved. Thereafter, the petitioner was served with show cause notice for which also the



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petitioner submitted his objection dated 09.04.2010. On receipt of the same, the Disciplinary authority had passed the final order dated 16.12.2011, wherein reduction in basic pay by six stages in the time scale applicable to him in terms of regulation 39(1)(d) of the LIC of India (Staff) Regulation 1960.

5. Aggrieved by the said order, the petitioner preferred an appeal before the second respondent and the same was also dismissed by an order dated 30.07.2012. Once again, the petitioner filed further appeal before the first respondent and the same was also dismissed confirming the punishment, by an order dated 05.08.2013. Therefore, the petitioner approached this Court by way of this Writ Petition.

6. The learned counsel appearing for the petitioner submitted that while he was working as a Cashier in CBO-02 Chennai Division-I on 31.07.2009 at about 12.30 hours his computer was giving trouble and hence he went to server room to inform the programmer. In the server room, one Karmegam and Natarajan were there and they started beating the petitioner. To safeguard himself, the petitioner ran out of the room



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but they both caught his shirt and assaulted him severely. In order to safeguard himself, the petitioner used his force as his private defence.

This matter was twisted as if the petitioner was in cash counter, when one policy holder came and asked for receipt for the payment of premium amount for which, the petitioner commented about the person who was sitting as senior to him and belongs to SC. Therefore, the policyholder could not get any receipt.

6.1. He further submitted that the person who allegedly asked for receipt for the LIC premium amount was not examined by the enquiry officer. At the time of serving show cause notice itself, the petitioner requested to serve him the complaint which was allegedly given by the first witness dated 31.07.2009. Therefore, the petitioner could not able to submit proper explanation, since the petitioner did not know about the allegations made as against him. No person was examined by the enquiry officer in order to prove that one policyholder came to the petitioner's counter and asked about the receipt for the payment of premium.



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6.2. He further submitted that the witnesses categorically deposed before the enquiry officer that no one was came to the petitioner's counter asking receipt. No such occurrence was happened and the petitioner never scolded anybody using their caste name. There was contradiction between the witnesses and the same was not considered by the enquiry officer and mechanically concluded that the charges were proved as against the petitioner. Further the punishment imposed on the petitioner is very high and disproportionate to the charges framed against the petitioner. Therefore, he prayed to quash the impugned order.

7. The learned counsel appearing for the respondents filed counter and contended that the enquiry officer had examined initially five witnesses and thereafter one Illayaperumal was examined. No one was cross-examined by the petitioner as such all the charges were proved as against the petitioner and the first respondent rightly passed the impugned order by confirming the reduction of pay by six stages. Therefore, he prayed for dismissal of this Writ Petition.



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8. Heard Mr.R.Arumugam, learned counsel appearing for the petitioner and Mr.C.K.Chandrasekhar, learned counsel appearing for the respondents.

9. On 31.07.2009, certain untoward incident had occurred inside the premises of the City Branch Office of the respondent Corporation. While the petitioner was collecting cash, a policyholder enquired him for non issuance of premium receipt for which the petitioner utter certain derogatory remarks which overheard by an office of the branch one Venkatesan. The said Venkatesan was a member of SC/ST Association and he was reported the same to the Office Bearer of the Trade Union viz., Ilayaperumsal to which the petitioner was affiliated with.

10. Thereafter, other member of SC/ST came to know about the derogatory remarks made by the petitioner, they approached the said Ilayaperumal and asked him as to why the petitioner was not questioned on the issue. Therefore, the petitioner was called to the data processing room and he was questioned about the words uttered against the SC



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Officer. When the petitioner totally denied the issue, physical assault between the petitioner and other member of the SC/ST Association had taken place. The matter was reported to the higher officials and also to the police officers.

11. In respect of the said incident, the petitioner was issued a charge sheet dated 02.09.2009 for uttering derogatory comments against the staff and also indulging in physical assault with some employees of the Branch in the presence of staff, agents and policyholders spoiling the decorum of the office and tarnishing the image of the corporation. For the above charges, the petitioner submitted his Written Statement and gave explanation. Without satisfying the explanation submitted by the petitioner, the enquiry officer was appointed and conducted enquiry. Even before starting enquiry, the petitioner requested the copy of the complaint dated 31.07.2009 and he was not furnished.

12. Further in the enquiry, the enquiry officer had examined one Venkatesan, who heard the words uttered by the petitioner. He categorically deposed that one customer came to the petitioner's cash



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counter and asked about the premium receipt, since he was not getting the premium receipt on time. In reply, the petitioner told that one SC Officer was sitting in the department and another SC employee was working in dispatch section and then how could he get the receipt on time. Immediately, he complained about the words uttered by the petitioner to one Ilayaperumal, who is the Secretary of the Association. Thereafter, the petitioner was called and he was questioned about the words uttered by him. Therefore, there was a quarrel between the petitioner and other staff.

13. Witness Nos. 2 to 5 also deposed that on 31.07.2009 at 12.30 pm., the petitioner and three others were fighting each other. Though the petitioner failed to cross-examine any of the witnesses, he offered his statement and the same was recorded by the enquiry officer. During his statement, he deposed that no policyholder had come and complained him. He also denied that he had made any caste based remarks. He has stated that he had some hardware problem in his system as such he was proceeded to data processing room. One Ilayaperumal was inside the room and he enquired about the said remarks about the



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caste based comments. When the petitioner was denied the said remarks, other two persons viz., Karmegam and Natarajan started beating him. Therefore, he lost his balance and fell down. He also sustained injury on his forehead.

14. The evidence of witness No.1 categorically corroborated by one Ilayaperumal who is the Secretary of the Association and he deposed that on 31.07.2009, the first witness called him and informed about the words uttered by the petitioner. Therefore, he questioned the petitioner for which, the petitioner denied the same. The petitioner also failed to cross examine him. Hence, the enquiry officer concluded that both the charges were proved beyond any doubt as against the petitioner.

15. On the strength of the enquiry report, the petitioner was called for explanation by the final show cause notice. On submission of explanation, the third respondent without satisfying the explanation submitted by the petitioner imposed punishment of reduction by six stages in the time scale of pay applicable to him as provided under Regulation 39(1)(d) of the LIC of India (Staff) Regulation, 1960. The



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said punishment imposed by the third respondent also confirmed by the respondents 1 & 2 by way of appeal. Therefore, there was no violation in the Rules and in the procedure.

16. Though the learned counsel appearing for the petitioner vehemently contended that the petitioner was not served with the complaint dated 31.07.2009, on his side the said complaint was marked before the enquiry officer as D.E.2. That apart, the said complaint was lodged by the first witness viz., Venkatesan to the Senior Branch Manager and also to the Police personnel. Thereafter, the Senior Branch Manager, CBO-2 had written a letter to the Sub Inspector of Police, Anna Salai, on the very same day, thereby informed that not to register any case and they amicably settled the issue. Therefore, the petitioner was escaped from the criminal proceedings. However, this Court feels that the punishment imposed on the petitioner is disproportionate to the charges leveled against him. Though the disciplinary committee proved both the charges, higher punishment was imposed on the petitioner and it is liable to be reduced.



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17. Accordingly, the impugned order dated 05.08.2013 passed by the first respondent bearing No.ERD/SZ/M/12-13/3, is confirmed and the punishment of reduction in basic pay by six stages in time scale is reduced as reduction in basic pay by three stages without cumulative effect in the time scale applicable to the petitioner.

18. In the result, the Writ Petition stands partly allowed. There shall be no order as to cost.

07.07.2023

Internet: Yes  
Index : Yes/No  
Speaking/Non Speaking order

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**G.K.ILANTHIRAIYAN. J.**

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