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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 20th April, 2023*

+ W.P.(C) 11298/2019 & CM APPL. 2732/2020, 2733/2020,
660/2021, 7987/2021, 1199/2023

SHALINI SINGH Petitioner

Through: Mr. Ravi Kumar, Advocate
versus

UNITED INDIA INSURANCE COMPANY LIMITED &
ORS Respondents

Through: Ms. Meenakshi Arora, Sr. Adv.
with Mr. Nikhil Jain, Mr. Sagar
Juneja, Advocates for R-1
(M:9810693383,email:officeofn
ikhiljain@gmail.com)
Ms. Ananya De, Advocate for
R-6 (M:9953787794)
Mr. Arnav Kumar, Mr. Gurudas
Khurana, Advocates for R-
8/Union of India
(M:9416841536)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with the following prayers:

“(i) Direct R - 1 for initiation of disciplinary proceedings against R- 3, 4 &5 for criminal misconduct and for willful acts of corruption, directly contravening the rules of discipline and code of conduct.

(ii) Direct Respondent No. 6 &7 to initiate vigilance inquiry w.r.t. the creation of dummy / false agencies by

respondents for obtaining pecuniary advantage by abuse of position and breach of trust in collusion with several insurance agents and furnish action taken report,

(iii) Direct respondent no. 8 to explain the requirement of insurance agents / middlemen by R- 1 and the purpose served by inclusion of such 3rd parties other than inducing corruption in public sector insurance companies.

(iv) Direct Respondent No. 8 to explain the action taken on the O.M. issued by CVC (R - 7) to public sector insurance companies about the increase in corruption through other service channels (insurance agents /middlemen),

(v) Direct removal of R - 3 from the post of 'Branch Manager' of petitioner's office in public interest and in view of prima facie evidence of corruption and criminal misconduct,

(vi) Direct appointment of petitioner as 'Branch Manager' in accordance with the recommendation, qualification and merit of petitioner,

(vii) Direct the award of costs of this petition with compensation for mental agony and harassment

(viii) Pass such other directions as necessary to meet the ends of justice.”

2. This Court on the last date of hearing, i.e., 16.01.2023 had directed the respondents to bring to the court the enquiry report conducted by respondent No. 6 against respondent no. 2 to 5, in a sealed cover for perusal of the court.

3. The enquiry report has been produced by respondent No.6, i.e., Chief Vigilance Officer of United India Insurance Company Limited before this Court and this Court has perused the same.

4. Respondent No.1 has also filed an affidavit in compliance of the last order dated 16.01.2023 and has brought forth the findings which are there in the enquiry report of the vigilance department.
5. As per the affidavit, there were four allegations that were raised by the petitioner. Investigation Report dated 21.08.2020 has given a detailed findings of all the allegations as raised by the petitioner herein.
6. The affidavit dated 02.02.2023 filed on behalf of respondent No.1, thus deposes as follows:

“AFFIDAVIT IN COMPLIANCE OF ORDER DATED 16.01.2023

I, G. Narayanaswamy S/o Late Shri V.G. Subramanian Posted as Regional Manager in United India Insurance Company Limited, Delhi Regional Office-II, Core-I & 4, Second Floor, Scope Minar, Laxmi Nagar, District Centre, Delhi-92 Aged about 59 Years, on behalf of the Respondent No.1 herein, in compliance of order dated 16.01.2023 passed by this Hon 'ble Court in the present matter, on the instructions of Competent Authority, do hereby state on solemn affirmation as under:

1. The Competent Authority at United India Insurance Company Ltd. has gone through the investigation report and it has been observed that the same has taken into account the following four allegations raised by the petitioner:

- a. False/Fictitious/dummy agencies are created by respondents in motor insurances for personal gains in connivance with agents (99 cases)*
- b. Refusal to pass travel advance by Branch-in-charge (R-3) for official training of petitioner.*
- c. Non-clearance of lease rent of petitioner under the housing lease agreement for September 2019.*
- d. Refusal to pass routine brief-case allowance of*

petitioner by Branch-in-charge (R-3).

2. The aforesaid investigation report dated 21.08.2020 mentions the findings on above allegations as under:

a. Regarding the allegation related to dummy agencies, the report mentions, "on the basis of statements of the agent, employees and insureds (obtained from a few of them) and their examination and verification / scrutiny of the related relevant documents, I am of the opinion that the allegations made by Ms. Shalini Singh, AM, BO Patparganj, DO-15, RO II, New Delhi that the false/fictitious /dummy agencies are created in motor insurance for personal gains in connivance with agents doesn't hold good and therefore not true."

b. Regarding the allegation related to travel advance, the report mentions, "On the basis of reply and certified copies of voucher report - travel advance and GL view -- travel advance (attached in annexure -- 8). Since reply and certified documents are received from Branch Office, we may have concluded our findings that after getting approval from higher office (DO), payment could have been done earlier without sending reminders from employees' end. Travelling advance was paid 22 days after applying/ submission of papers. It was not refusal but delayed payment on part of Branch Office & please note that but it was paid to her before commencement of journey/ training period. Hence, allegation made by Ms. Shalini Singh, AM found to be correct. "

c. Regarding the allegation related to non-clearance of lease rent of petitioner, the report mentions "Rent of September 2019 was paid on 01/10/2019. On the basis of e-mails and certified documents, we observed that it was a delayed payment on the part of Branch Office. Owner's e-mail dated 01/10/2019 indicated that lease rent was to be paid on 1st of every month. It means it was to be paid on 1st September, 2019 instead of 01/10/2019. Hence, allegation of non-clearance of lease rent timely of petitioner under the housing lease agreement for

September, 2019 found to be correct. "

The report further mentions the reply of Branch Manager, "Payment made on 01/10/2019, UTR - CITIN19041406455. After transfer of Shri Vivek Kumar, AO account dept. was allocated to Shri Abhay Kumar, AO. As he was new for the department, he missed to process all such payments. He processed lease rent payment of Smt. Shalini Singh AM along with office lease rent and undersigned house lease rent on 01/10/2019 of for the month of September 2019. "

d. Regarding the allegation related to brief-case allowance the report mentions, "Officer has withdrawn her briefcase application request by petitioner (Mrs. Shalini singh, AM, BO Patparganj, DO 15, RO II, New Delhi) on dated 30/09/2019"

It has also been noted in the investigation report that "Petitioner Mrs. Shalini Singh has purchased 4-wheel stalwart trolley instead of briefcase and Office-in-charge, also informed Mrs. Shalini Singh, AM vide mail dated 30/09/2019 (copy of email attached, annexure-8) that officers are entitled for reimbursement of briefcase not for 4-wheel trolley and prior approval is mandatory from General Administration dept. Regional Office for purchasing the briefcase. Hence, on the basis of documents and certified copies of e-mails available, allegation of refusal to pass routine briefcase is found to be not correct."

3. On the basis of the contents and findings of the report it is found that two allegations of the petitioner are found to be incorrect.

4. Regarding the allegation related to travel advance, on the basis of the investigation report, it is observed that the payment of travel advance was already made well before the commencement of journey by the petitioner, therefore it doesn't warrant any action.

5. Regarding the allegation related to payment of rent, on the basis of the investigation report and explanations

thereto, it appears to be reasonable and there is no malafideness in the matter.

6. Taking a considered view on the outcomes of the investigation no disciplinary proceeding is warranted against respondents 2, 3, 4 and 5.

7. In view of the above, it is humbly prayed that the Hon'ble High Court may please to dismiss the present writ petition."

7. Thus, it is clear that after a preliminary enquiry, the vigilance department has come to a categorical conclusion that no disciplinary proceedings are warranted against respondent Nos. 2, 3, 4, 5.

8. During the course of hearing, Id. Counsel for petitioner submitted that he may be provided with copy of the said investigation report. However, the said request is vehemently opposed on behalf of the Id. Counsel for respondent No.1.

9. Ld. Counsel for respondents submits that the petitioner had filed an RTI application and had asked for the very same Investigation Report of the vigilance department, which request was rejected. Against the said rejection under The Right to Information Act (RTI Act), the petitioner herein filed an appeal before the Appellate Authority, which was also rejected. Thereafter, the petitioner approached the Central Investigation Commission (CIC) against the refusal to provide the Investigation Report of the Vigilance Department. However, the appeal filed by the petitioner before the CIC was also rejected. Thus, Ms. Meenakshi Arora, Id. Sr. Advocate appearing for respondent No.1 submits that when the request of the petitioner with regard to obtaining Investigation Report of the

vigilance department has already been rejected in the RTI proceedings, the petitioner cannot seek such Investigation Report in the present proceedings.

10. On the other hand, Id. Counsel for petitioner has relied upon the judgment of this Court in the case of ***Union of India Vs. Balendra Kumar***, order dated 29.09.2010 in ***W.P.(C) No. 120/2010***. Id. Counsel for petitioner relies upon the said judgment in order to submit that once in the investigation report it has been decided not to proceed with the disciplinary proceedings, then there is no impediment for providing of such investigation report.

11. I have heard Id. Counsels for the parties.

12. This Court notes that on 28.11.2022, this Court had passed the order as follows:

“1. Learned counsel appearing for the petitioner submits that he shall be satisfied if copy of the Investigation Report dated 21.08.2020 is provided to him and that he shall not press the other reliefs in the present writ petition.

2. Learned counsel for the petitioner relies upon judgment dated 29.09.2010 passed by Co-ordinate Bench of this Court in W.P.(C) No.120/2010.

3. None appears for the respondent Nos. 2 to 8 when the matter is taken up. Proxy counsel for respondent No. 1 is present, who submits that the main counsel is in some personal difficulty.

4. Re-notify on 08.12.2022.”

13. Thus, it transpires that submissions had been made on behalf of the petitioner that the only relief which was pressed by him was supply of copy of the Investigation Report dated 21.08.2022 of the

vigilance department.

14. Considering the fact that the petitioner has already initiated proceedings under the RTI Act and the matter has gone right upto the CIC, wherein the petitioner has already suffered orders against herself, this Court cannot make directions for supply of the Investigation Report in question to petitioner in the present proceedings

15. The plea of the petitioner that he is entitled to supply of Investigation Report in view of the judgment of this Court in the case of *Union of India Vs. Balendra Kumar*, cannot be accepted. It is held that plea in this regard would be available to the petitioner as and when petitioner challenges the order passed by the Id. CIC, wherein this request has been rejected.

16. This Court has perused the Investigation Report of respondent No. 6, i.e., Vigilance Department as well as the affidavit filed on behalf of respondent No.1 in compliance of the order dated 16.01.2023.

17. In view of the aforesaid affidavit and the Investigation Report, as produced before this Court, no further orders are required to be passed in the present writ petition.

18. At this stage, Id. Counsel for the petitioner submits that directions may be given to respondent No.1 to file Investigation Report of the vigilance department in the criminal proceedings which are pending in *W.P. (CRL) 1509/2022*.

19. This prayer is opposed by Id. Counsel for the respondents.

20. However, liberty is granted to the Id. Counsel for the petitioner to make such request before the appropriate Bench where the criminal

proceedings are pending.

21. With these directions, the present writ is disposed of alongwith all the pending applications.

MINI PUSHKARNA, J

APRIL 20, 2023

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