

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1420 of 2019

In

Civil Writ Jurisdiction Case No.10668 of 2016

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Chandra Mohan Ojha Son of Shri Baikunth Ojha, Resident of Village- Gundi,
P.S.- Barahara, District- Bhojpur.

... .. Appellant/s

Versus

1. The Life Insurance Corporation Of India through its Chairman, having its office at Bombay.
2. The Senior Divisional Manager, Divisional Officer, Fraser Road, Patna.
3. The Branch Manager, L.I.C. of India, Branch Office, Aurangabad.
4. Shri Anirudh Kumar, Administrative Officer of Enquiry Officer, L.I.C. of India, Divisional office, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Awadhesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Rakesh Kumar, Advocate
(LIC)	:	Mr. Abhimanyu Vatsa, Advocate
	:	Mr. Rajni Kant Sinha, Advocate
	:	Mr. Manish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-07-2024

The appellant has assailed the order of the learned Single Judge dated 19.09.2019 passed in CWJC No. 10668/2016. The present case has chequered history for the reasons that appellant was subjected to disciplinary proceeding on 12.04.1991, it was concluded in imposition of dismissal from service on 06.01.1994. Appellant is stated to have preferred an appeal against the order of dismissal and it was dismissed on 15.10.1999. Both the order of disciplinary authority and appellate authority which



were subject matter of CWJC No.6220/1999 and it was allowed on 20.05.2015 while remanding the matter to the disciplinary authority to proceed afresh, while giving an opportunity to the appellant. It is necessary to reproduce paras 7 and 8 of the judgment dated 20.05.2015 and it reads as under:-

“7. In such view of the matter, I find substance in submission made by the learned counsel appearing on behalf of the petitioner that the petitioner was not given due opportunity of dealing with the report of the Inquiry Officer, before the impugned order of the disciplinary authority dated 06.01.1994 was passed. I, therefore, hold that the order of dismissal dated 06.01.1994 impugned in the present writ application having been passed in violation of principles of natural justice cannot be sustained and is, accordingly, quashed. The order of the appellate authority dated 15.10.1999 also stands quashed.

8. The matter is remanded back to the disciplinary authority to proceed after the stage of the receipt of petitioner's reply to the second show cause notice and his comments upon of the Inquiry Officer. The disciplinary authority will be required to pass an order afresh within a period of two months from the date of receipt/production of a copy of this petitioner's reply to the second show cause notice and pass reasoned and speaking order. The petitioner shall be at liberty to make such legal submission before the disciplinary authority as he may be advised by way of supplementary to his reply already filed in response to the second show cause notice, which shall also be considered by the disciplinary authority while passing the final order, if such supplementary is filed within two weeks from today, before the Disciplinary Authority.”



2. The matter was remanded to the disciplinary authority in CWJC No.6220/1999 resultant in passing a fresh order by the disciplinary authority on 27.07.2015 while imposing the penalty of dismissal from service and it was subject matter of CWJC No. 10668/2016. The learned Single Judge after perusal of the records proceeded to dismiss the writ petition while taking note of the alleged fraud in terms of money to the respondent-corporation. This has been narrated in learned Single Judge order in paras 5 to 8. Thereafter, the learned Single Judge has considered non-examination of the customers who had suffered loss in para 9 so also non-supply of documents and there is non- application of mind. In fact certain judicial pronouncements of the Hon’ble Supreme Court has been taken note of while dismissing the writ petition. Feeling aggrieved by the order of the learned Single Judge dated 19.09.2019 passed in CWJC No. 10668/2016. The present LPA is presented.

3. Dates and Events are as follows:-

Sl. No.	Dates	Events
i.	13.09.1989	Suspended (Assistant in LIC)
ii.	12.04.1991	Charge memo
iii.	15.06.1991	Reply to charge memo
iv.	05.03.1993	Enquiry report submitted
v.	17.12.1993	Show cause notice alongwith enquiry report
vi.	03.01.1994	Show cause notice dated 17.12.1993 was received



vii.	06.01.1994	Dismissal from service
viii.	08.01.1994	Appellant's reply to show cause notice dated 17.12.1993 received on 03.01.1994
ix.	28.05.1994	Appellant preferred appeal before the appellate authority
x.	15.10.1999	Appellate authority affirmed the order of dismissal
xi.	06.07.1999	CWJC No.6220/1999 was filed
xii.	20.05.2015	CWJC No.6220/1999 dismissal order was set aside and matter was remanded to the authority for passing a fresh order
xiii.	27.07.2015	Fresh dismissal order was passed
xiv.	09.01.2015	On 26.02.2016 appeal was dismissed
xv.	28.04.2016	CWJC No.10668/2016 was filed
xvi.	19.09.2019	CWJC No.10668/2016 was dismissed
xvii.	25.10.2019	Present Appeal No.1420/2019 is presented

4. Learned counsel for the appellant reiterated the contention that non-examination of the customers, certain demanded documents are not supplied and there is a non-application of mind. All these points have been considered by the learned Single Judge.

5. Learned counsel for the appellant further submitted that the factual aspect of the Cheque Number and other details which are narrated and cited in para 5 of the judgment dated 19.09.2019 passed in CWJC No.10668/2016 for example Annexure-1-6964.70, Annexure-II-3953.20 and Annexure-III-16776.80 total a sum of Rs.27,694.70. The appellant counsel is disputing in respect of the aforementioned material. The same cannot be examined under Article 226 of the Constitution, since, it



touches the factual aspect of the matter and not the legal issues. At this point, it is necessary to take note of Hon'ble Supreme Court decision to the extent under what circumstances courts can interfere in respect of judicial review in particularly departmental enquiry/ domestic enquiry. Hon'ble Supreme Court in the case of **Indian Oil Corporation and others v. Ajit Kumar Singh and another** reported in **AIR 2023 Supreme Court 2388 : AIROnline 2023 SC 414**. It is necessary to reproduce para no.6 it reads as under :

“6. The facts of the case leading to the issuance of chargesheet, initiation of departmental inquiry, the report of the inquiry officer and the punishment inflicted upon respondent No.1 have already been narrated in the preceding paragraphs. It is not in dispute that during the course of inquiry, fair opportunity of hearing was afforded to the respondent No.1 at every stage. This was even found by the learned Single Judge while dismissing the writ petition challenging the punishment inflicted upon him. The judgment passed by the Division Bench of the High Court shows that matter was dealt with in a manner as if it was the first stage of the case, namely, the inquiry was being conducted and inquiry report was being prepared, which is not the scope in judicial review. The views expressed by this Court on the scope of judicial review in Deputy General Manager (Appellate Authority) v. Ajai Kumar Srivastava¹, are extracted below:

"24. It is thus settled that the power of judicial review, of the constitutional courts, is evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any



manner, inconsistent with the rules of natural justice of the High or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of authority as a matter of fact.

25-27 xx xx xx

28. The constitutional court while exercising its jurisdiction of judicial review under would not interfere with the findings of fact Article 226 or Article 136 of the Constitution arrived at in the departmental enquiry proceedings except in a case of mala fides or perversity i.e, where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

(emphasis supplied)

Similar view was expressed in the later judgment of this Court in *Ex-Const/Dvr Mukesh Kumar Raigar v. Union of Indian and Ors* reported in (2023) SCC Online SC 27 : (AIR 2023 SC 482).”

6. In the light of above analysis, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 19.09.2019 passed in CWJC No.10668/2016.

7. Accordingly, LPA No.1420/2019 stands dismissed.

8. At this stage, learned counsel for the appellant submitted that Hon’ble Supreme Court in the case of **Roop Singh**



Negi vs. Punjab National Bank and Ors. reported in **2009 (2) SCC 570** supports his case.

8. This issue cannot be examined for the reasons that appellant has not apprised this court with reference to what is the charge memo and what are the documents, who are the witnesses and which document has not been examined or exhibited during course of the enquiry and which witness has not been cited, examined and cross-examined. In the absence of these materials **Roop Singh Negi vs. Punjab National Bank and Ors.** (*supra*) do not assist the appellant’s case. Accordingly, it is rejected.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

amitkumar/
Sahzad

AFR/NAFR	NAFR
CAV DATE	N/A
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