



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4632 of 2011

and

M.P.No.1 of 2011

C.Rathinam

... Petitioner

Vs.

1.The Deputy General Manager,
United India Insurance Co. Ltd.,
P.B.No.676, 24, Whites Road,
Chennai – 600 014.

2.The Chief Regional Manager,
Officer of the United India Insurance Co. Ltd.,
Regional Office, Dr. Nanjappa Road,
Coimbatore.

3.The Chairman Cum Managing Director,
United India Insurance Co. Ltd.,
P.B.No.676, 24, Whites Road,
Chennai – 600 014.

... Respondents

*R3 impleaded vide order dated 28.06.2023 made in M.P.No.1/2014 in
W.P.No.4632 of 2011.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of certiorarified mandamus calling for the records relating to
the second respondents proceedings made in Ref.No.CBE:RO:PER:209:2007
dated 12.04.2007 as confirmed by the first respondents order made in



HO:2003-49:36:2010 dated 06.05.2010 and that of the 3rd respondents order made in Ref: HO:2003-49:49:2011 dated 16.03.2011, to quash the same and consequently directing the respondents to extend all benefits both service and monetary including back wages, etc.

*Prayer amended vide order dated 28.06.2023 made in M.P.No.2 of 2014 in W.P.No.4632 of 2011.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.T.S.Baskaran

ORDER

This writ petition has been originally filed seeking writ of certiorarified mandamus to call for the records relating to the proceedings bearing Ref.No.CBE:RO:PER:209:2007 dated 12.04.2007 passed by the 2nd respondent as confirmed by the 1st respondent by his order dated 06.05.2010 and to quash the same while seeking a consequential direction to the respondents to extend all consequential benefits including backwages to the petitioner. Subsequently, the prayer in the writ petition has been amended duly challenging the orders passed on the memorial by the 3rd respondent as well.

2. The petitioner herein was originally appointed as Sub-Staff in the respondent Insurance Company on 11.05.1988 and thereafter, he was



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promoted to the post of Assistant (Clerical) during the year 1998. While the petitioner was working as such, he was subjected to disciplinary proceedings on the allegation of misappropriation to the tune of Rs.30,500/- from 7 different persons and a charge memo dated 19.11.2003 was issued under Rule 29 of the General Insurance (Conduct, Disciplined and Appeal) Rules, 1975 consisting of in all 7 charges, came to be served on the petitioner by the respondent Insurance Company. In response thereto, the petitioner herein submitted his explanation, and thereafter, an enquiry officer was appointed and a detailed enquiry has been conducted by the enquiry officer and submitted his report dated 29.08.2006 holding that the Charge Nos.1, 2, 4, 6 & 7 as proved and Charge Nos.3 & 5 as not proved. A copy of the enquiry officer report was furnished to the petitioner by the 2nd respondent, calling for his objections and accordingly, the petitioner submitted his objections, through letter dated 10.10.2006 and 05.03.2007, raising various objections against the report of the enquiry officer and on the procedure that was followed during the course of the enquiry.

3. The brief objections that are raised by the petitioner are as under:

“1. That the Inquiring Authority submitted his report in ex-parte manner.

2. That he did not cause any financial loss to the Company



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W.P.No.4632 of



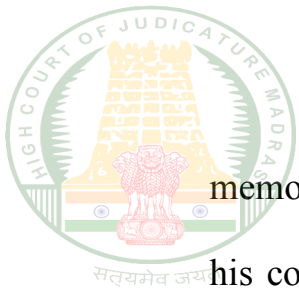
even to one naya paise.

3. That some of the listed Management witnesses did not give evidence, consent of witnesses not taken while taking signature on deposition and documents were not proved.

4. That the Inquiring Authority received additional documents from the witnesses other than the documents mentioned in the list of documents of the chargesheet which is in violation of the inquiry procedure and rules and regulations.”

4. All the above said four objections were dealt with by the 2nd respondent in detail, and each and every objection has been answered in detail, and a final order dated 12.04.2007 was passed, imposing the punishment of removal from service, which shall not be a disqualification for future employment of the petitioner in terms of Rule 23 (g) of Government of India (CDA) Rules, 1975. Aggrieved by the said order, the petitioner filed an appeal before the 1st respondent, dated 06.08.2007, and the said appeal was also rejected by the 1st respondent appellate authority by passing an order dated 06.05.2010. It was thereafter, the petitioner filed a memorial before the 3rd respondent and simultaneously approached this Court by filing the present writ petition for the relief as noted above, which was subsequently amended.

5. Mr.L.Chandra Kumar, learned counsel appearing for the petitioner contended that the enquiry officer failed to follow the principles of natural justice, and the documents which are not referred to in the charge



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memo were relied upon by the enquiry officer for the purpose of arriving at his conclusions on all the charges that are held to have been proved against the petitioner. He also contended that the petitioner has rendered 19 years of unblemished service and therefore, the punishment of removal from service is shockingly disproportionate to the alleged misconduct on the part of the petitioner. He also further submitted that no financial loss is caused to the respondent Company, and therefore, the findings recorded by the disciplinary authority cannot be sustained. He also further contended that, though several persons were shown as management witnesses in the charge memo, only some of them were examined, thereby not affording the petitioner an opportunity to cross-examine those witnesses.

6. On the other hand, Mr.T.S.Baskaran learned counsel appearing for the respondents strenuously contended that the petitioner was afforded fullest opportunity during the course of enquiry, and he was allowed to cross-examine all the witnesses who were examined by the respondent Company. He also contended that though effective steps have been taken to produce all the witnesses mentioned in the charge memo, some of them has not chosen to appear for enquiry and therefore, the respondent Company has given up those management witnesses. He also further contended that it is only basing upon



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the oral and documentary evidence that was adduced before the enquiry officer, the enquiry officer recorded his finding, without being influenced by any extraneous consideration, and ultimately, disciplinary authority and appellate authority have also discussed the matter in elaborate while passing the impugned orders. He also contended that no interference is called for in the orders of punishment passed against the petitioner and also contended that this Court, while dealing with the petition filed under Article 226 of the Constitution of India, cannot act as an appellate authority or re-appreciate the entire evidence.

7. This Court has carefully considered the submissions made on either side and also perused the entire material on record.

8. In substance, only objections that are raised by the learned counsel for the petitioner, which can be considered by this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, is only about the procedure that was followed by the enquiry officer as well as the disciplinary authority while passing impugned orders. All the four objections as noted above raised by the petitioner against the procedure that was followed by the enquiry officer were dealt with in elaborate by the 2nd



respondent while passing an order dated 12.04.2007. In the considered view of this Court, it is not necessary to discuss the same in detail and instead, it

would be appropriate to extract the reasoning assigned by the disciplinary authority for discarding or rejecting the objections raised by the petitioner.

The same reads as under:

“I have carefully perused the memorandum of charges, enquiry report dated 29.08.06 along with detailed enquiry proceedings, letter dt. 15.12.06, representations dt. 10.10.06 and 05.03.07 and other relevant records. As regards the point no. (1), it is observed from the records of the enquiry that Shri C.Rathinam was given ample opportunity and was also given sufficient time to defend his case. It is also found from the records that the enquiry was conducted as per prescribed procedure laid down in GI (CDA) Rules 1975. As regards the point no. (2), it is observed from the records that Shri C.Rathinam had generated nil endorsement and issued the same to the insureds by collecting relevant premium which he did not deposit in the Office. By issuing such nil endorsements to the insureds, he exposed the Company to the risk without getting premium. Hence this point is not acceptable. As regards point No. (3), Inquiring Authority had issued summons to all listed Management witnesses but a few had not turned up. It is the responsibility of the Presiding Officer to produce the Management witnesses in the enquiry. Non-production of Management witnesses may affect management case but not on defence side. The enquiry proceedings show that the recording of deposition of witnesses and consideration of documents was done in a proper manner. As regards the point no. (4), it is observed that in the written brief submitted to the Inquiring Authority, Shri C.Rathinam has alleged that Inquiring Authority has not provided a copy of the management document MEX-4 and not allowed the defence to re-cross



examine the witness MW-4 for which there was violation of principles of natural justice. In this context, the Inquiring Authority has mentioned in his enquiry report that “Here it is submitted that the protest was lodged by the DA at the time of signing of the deposition of MW-4 only and not earlier. There was no pleading by the DA during the proceedings as claimed. The same can also be inferred by reference to the conduct of depositions of other witnesses and daily order sheets. Hence, there is no violation of natural justice.” After going through the proceedings, I observe that the article of charge at SI.No. (1) stands proved even if the document MW-4 is not taken into consideration. The other points raised by Shri C.Rathinam in his representation are devoid of merits. It is amply proved through documentary and oral evidences that Shri C.Rathinam had fraudulently collected premium from the parties concerned and misappropriated the same. In order to camouflage his act of misappropriation, he issued fake nil endorsements to the said parties. Hence, I agree with the findings of the Inquiring Authority and hold him guilty of the articles of charge at SI.No. (1), (2), (4), (6) & (7) levelled against him. The misconduct of collecting cash premium from the insured, issuing fake nil endorsements in lieu of the same and misappropriating the said cash premium is very grave in nature which warrant a deterrent penalty.”

9. The disciplinary authority, having rejected the objections raised by the petitioner as above, proceeded to impose the punishment of removal from service on the petitioner. Aggrieved by the said order dated 12.04.2007, the petitioner filed an appeal before the 1st respondent, and the 1st respondent also having taken note of the grounds raised by the petitioner once again considered the same in elaborate and by an order dated 06.05.2010 confirmed

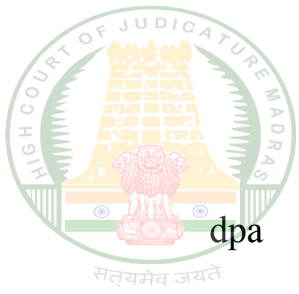


the orders passed by the 2nd respondent.

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10. This Court, having taken note of the seriousness of the charges levelled against the petitioner and held as proved, is convinced that the charges levelled against the petitioner are very serious and grave in nature and the petitioner also admitted the misconduct committed by him. In the light of the above, this Court does not see any reason to interfere with the impugned punishment imposed against the petitioner either on the ground that the petitioner has rendered 19 years of unblemished service or on any other ground. In the light of the above, this Court is thoroughly convinced that it is not a fit case for exercising certiorari jurisdiction under Article 226 of the Constitution of India, especially when the impugned punishment has been imposed based upon the relevant evidence and no perversity has been pointed out in the conclusions arrived at by the disciplinary authority as well as the appellate authority.

11. In the light of the above, this Court does not find any merit in the writ petition and the same is accordingly dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.



W.P.No.4632 of



15.07.2025

Index : Yes / No

Speaking order / Non-speaking order

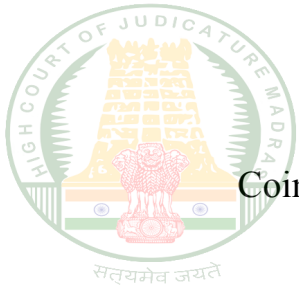
Neutral Citation : Yes / No

To

- 1.The Deputy General Manager,
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- 2.The Chief Regional Manager,
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Page 10 of 12



Coimbatore.

W.P.No.4632 of



WEB COPY

3. The Chairman Cum Managing Director,
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MUMMINENI SUDHEER KUMAR, J.

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WEB COPY

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