



WEB COPY

W.P. No.25692 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>27.03.2025</i>
<i>Pronounced on</i>	<i>25.04.2025</i>

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULAW.P. No.25692 of 2018

C.A.Srinivasan,
Ex-Chief Manager,
The Oriental Insurance Company Limited,
Old No.11/2, New No.4,
Jawaharlal Nehru Street,
T.Nagar, Chennai – 600 017.

...

Petitioner

/vs/

1. The Senior Divisional Manager,
Corporate Business Unit,
2nd Floor, Rosy Towers,
Nungambakkam High Road,
Chennai – 600 034.
2. The Deputy General Manager,
Regional Office,
The Oriental Insurance Company Limited,
4th Floor, United India Life Building,
No.9, Esplanade,
Chennai – 600 018.
3. The General Manager Appointing Authority,
The Oriental Insurance Company Limited,
Oriental House, P.B.No.7037,



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A-25/27, Asaf Ali Road,
New Delhi – 110 002.

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4. The Chairman – cum – Managing Director – cum
Appellate Authority,
The Oriental Insurance Company Limited,
Oriental House, P.B.No.7037,
A-25/27, Asaf Ali Road,
New Delhi – 110 002.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified mandamus to call for the records of the fourth respondent pertaining to order dated 27.05.2019 passed in HO/HR/CDA/1181 A confirming the order passed by the third respondent in proceedings in HO/HR/CDA/1181 dated 30.05.2016, quash the said orders and consequently direct the respondents to treat the petitioner as superannuated with all the attendant promotions and monetary benefits thereof with effect from 30.05.2016.

(Prayer amended vide order dated 28.08.2023 made in W.M.P.No.27793/2022 in W.P.No.25692/2018)

For Petitioner : Mr.P.L.Narayanan, Senior Counsel
for Mr.R.Vigneshkumar

For Respondents : Mr.A.Thayaparan



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ORDER

WEB COPY This writ petition has been filed challenging the order passed by the fourth respondent dated 27.05.2019 in HO/HR/CDA/1181 A and consequently direct the respondents to treat the petitioner as superannuated with all the attendant promotions and monetary benefits thereof with effect from 30.05.2016.

2. During the year 2011-2012 the petitioner worked as a Chief Regional Manager at the Company's Corporate Regional Office at Chennai. The functions of the Chief Regional Manager would involve traveling to the other offices of the company. Since the Head Office of the company is at Delhi, the petitioner would travel often to Delhi on-duty. Whenever the petitioner had to travel by air, there is a procedure of obtaining prior permission from the hierarchy of the officials of the company and only then he could travel by air. It is the Accounts Officer who would arrange the air tickets booked through a travel agent engaged by the company and the Accounts Officer will settle the bills to the travel agent by getting sanction from the company.



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WEB COPY 3. On 09.05.2014 a charge sheet was issued to the petitioner calling for the explanation with regard to the submission of exaggerated travel bill for encashment. Not satisfied with the explanation submitted by the petitioner, he was subjected to departmental enquiry. Basing on the report of the Enquiry Officer, the third respondent has issued the impugned order dated 30.05.2016 by terminating the services of the petitioner. The petitioner filed an appeal challenging the order of disciplinary authority on 07.07.2016 and so far the appeal has not been disposed. Hence the petitioner had filed this writ petition seeking the relief. However, during the pendency of the writ, the appeal was dismissed on 27.05.2019 and thereafter, the petitioner had amended the relief sought to set aside the order of dismissal passed in the appeal also.

4. The sum and substance of the argument made by Mr.P.L.Narayanan, the learned Senior Counsel for the petitioner, is that it is not within the control of the petitioner to book air tickets pertaining to his journey undertaken on-duty and it was done through a travel agent engaged

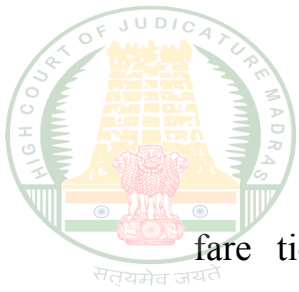


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by the company. Hence, it is submitted that the petitioner could not be found fault without any basis. It is further submitted that the punishment imposed on the petitioner was also disproportionate to the charges.

5. The sum and substance of the argument made by Mr.A.Thayaparan, the learned counsel for the respondents, is that the documentary evidence is available to show that the petitioner is complicit in claiming the excess payments. He further submitted that the charges involved are moral turpitude and financial misconduct. As the misconduct was serious and repetitive, the dismissal from service is proportionate. It is further submitted that the petitioner's appeal was also dismissed on 27.05.2019.

6. The petitioner appears to be not in the habit of booking tickets for travel by himself. The company appears to have got a protocol of arranging travel tickets for the officers through travel agents. The mode of misconduct as alleged by the respondents is that the tickets are booked twice, one when the ticket fare is low and the another when the ticket fare is high and the petitioner had travelled by using the low fare ticket and produced the high



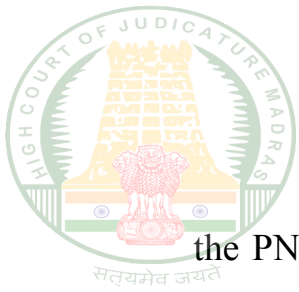
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fare ticket for reimbursement. It is alleged that the petitioner is in connivance with the travel agent and the travel agent used to cancel the high fare tickets and issue the bills with high fare for making claim.

7. When these kind of charges are made against the petitioner, it has to be first established whether the complicity between the petitioner and the travel agent who used to book the air tickets.

8. As per the procedure available in the petitioner's company the officers are not allowed to book tickets on their own. So, if the travel agent gives ticket to the officers it may or may not be within the knowledge of the officers that two tickets were booked and whatever given to them for claiming their ticket booked is with a higher fare.

9. However, it is stated by the respondents that the comparison of the boarding pass which was issued to the petitioner and the bills claimed by him did not match as there was difference in PNR number. It is difficult to imagine whether the officer who claims reimbursement would even compare



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the PNR number between the boarding pass and the bills in order to know that the travel agent had given him a different bill than the ticket with which he travelled. Only in that case a conclusion can be arrived that the officer had suppressed the lower fare tickets to enrich himself unlawfully.

10. It is not alleged that the petitioner had engaged the travel agent in order to get bills suiting to this purpose. Even the travel agent was not examined as a witness during the departmental proceedings. It is submitted by the learned counsel for the respondents that the travel agent would naturally defend the petitioner as he is in conspiracy with the petitioner. Even according to the imagination of the respondents, if the travel agent would not speak truth, the department has always got the liberty to cross-examine him. Without resorting to that course, just by comparing the bills produced by the petitioner with the boarding pass with which he travelled, the Enquiry Officer had found the petitioner guilty.

11. It is true that the jurisdiction of the Court under Article 226 of the Constitution of India, cannot be used for reappraising the evidence or

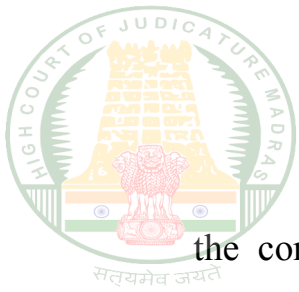


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adopting an alternate method of evaluating the materials presented during the enquiry. In the instant case without the evidence by which the complicity of the petitioner with the travel agent can be inferred, the petitioner was found fault and the Enquiry Officer has arrived at a conclusion that the charges against the petitioner were proved.

12. Instead of changing the pattern by which the travel arrangements for the officers are made and by having the transaction done directly with the travel agent by the company without the involvement of the traveling officer, the officer has been blamed alleging undue and excess claim.

13. It would have been ideal if the respondent company allowed the officers themselves to book tickets and produce the bill for the claim. If this is also not found feasible for any reasons to the respondent's company, it should have arranged a direct transaction method between the company and the agent. Instead of introducing newer methods to avoid complications and wastage of money, a short sighted approach has been taken by punishing the officers without properly ascertaining their complicity. The travel agent is



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the company's travel agent and not the officer's travel agent. Hence, in whatever angle the matter is looked at there is a fundamental flaw and shortage in evidence to fix the complicity on the petitioner.

14. The learned counsel for the respondents submitted that the petitioner had challenged only the conclusion raised by the Inquiry Officer and the punishment imposed and he did not allege that the inquiry is tainted with any illegality and unfairness and only in such case the Court can examine the fairness of the findings of the Inquiry Officer. In support of his above submission, the learned counsel for the respondent relied on the judgment of the Hon'ble Supreme Court in ***U.P. State Road Transport Corporation Vs. Vinod Kumar*** reported in ***2008 1 SCC 105***.

15. Even though the ground of illegality and unfairness has not been raised by the petitioner, the ground of no evidence cannot be ignored without a serious consideration. When there is lack of fundamental evidence to make out a *prima facie* charge, the conclusion of guilt cannot be sustained.



WEB COPY 16. In *Union of India and others Vs. P.Gunasekaran* reported in (2015) 2 SCC 610 the circumstances during which the High Court can examine the evidence available during inquiry has been listed out. The relevant paragraphs of the above judgment are as follows:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*



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i. the finding of fact is based on no evidence.

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Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i). re-appreciate the evidence;*
- (ii). interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii). go into the adequacy of the evidence;*
- (iv). go into the reliability of the evidence;*
- (v). interfere, if there be some legal evidence on which findings can be based.*
- (vi). correct the error of fact however grave it may appear to be;*
- (vii). go into the proportionality of punishment unless it shocks its conscience.”*

17. So one of the grounds for review is whether the finding of the facts is based on evidence or the authorities have disabled themselves in reaching a fair conclusion by considering some materials extraneous to the evidence and merits of the case. Had there been any evidence to make out the complicity of the petitioner with the travel agent and then it may not occasioned the Court to interfere with the conclusions of the Enquiry Officer.



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WEB COPY 18. When it is alleged that the petitioner had managed to get sanction for higher fares despite his tickets were booked for lower fare and when the tickets were booked only through a travel agent as per the norms of the company, the first step would be to prove that there was complicity between the petitioner and the travel agent. So it is not the case of looking up the matter at an another angle than the angle which the Inquiry Officer has appreciated the evidence. As the fundamental aspect of the matter has not been addressed properly, it is obligatory for the Court to deal the same by exercising of power under Article 226 of the Constitution of India.

19. As the allegation of reimbursement of wrong bills can only be proved through the evidence of the travel agent, the conclusion arrived by the Inquiry Officer can only be considered as the one no evidence. Hence, the impugned order passed by the third and fourth respondents are liable to be quashed.

20. In the result, the Writ Petition is allowed and the order passed by



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the fourth respondent dated 27.05.2019 in HO/HR/CDA/1181 A and the order passed by the third respondent in HO/HR/CDA/1181 dated 30.05.2016, are hereby quashed and the respondents are directed to treat the petitioner as retired on superannuation and grant him all the attendant and consequent benefits thereof with effect from 30.05.2016, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

25.04.2025

Index: Yes
Speaking order
Neutral Citation Case : Yes
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R.N.MANJULA ,J.

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To:

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Pre-delivery order made in
W.P. No.25692 of 2018

25.04.2025