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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration OA. No. 507 of 1988

V.S. Pandey ... ... ... Applicant.

Versus

Chairman, Standing Committee  
Employees State Insurance  
Corporation and others ... ... ... Respondents.

Hon. Mr. Justice S.K. Dhaon, Vice-Chairman  
Hon'ble Mr. K. Obayya, Member (A)

( By Hon. Mr. Justice S.K. Dhaon, Vice-Chairman)

The applicant, an Upper Division Clerk in the office of the Employees State Insurance Corporation (hereinafter referred to as the Corporation) challenges the order dated 15.9.1983 passed by the Disciplinary Authority (Regional Director) awarding the penalty of withholding next three increments without cumulative effect, the order dated 3.10.1985 passed by the appellate authority (Director General) dismissing the appeal/revision preferred by the applicant and the order dated 2.10.1987 passed by the Chairman, Standing Committee of the Corporation are being impugned in the present application.

2. The applicant <sup>(w)</sup> subjected to disciplinary proceedings. It appears that one Faisul Islam who held the Insurance No. 21-2620577 claimed some medical reimbursement. He could not produce the doctor's certificate. He approached ~~the~~ manager of the Corporation and testified ~~him~~ that he was entitled to reimbursement of Rs. 250/- The certificate

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was issued by the Manager. The file went to the Claim Clerk and thereafter it came to the applicant who was a Checker on the relevant date, ultimately, the Cashier passed the bill and made the payment. The article of charge ~~which~~ which forms the basis of the disciplinary proceedings against the applicant, in substance, was that the certificate issued by the Manager contained over-writings and cuttings and the applicant in his capacity as the checker while passing the document which contained the said cuttings and over-writings exhibited lack of integrity and lack of devotion to duty, therefore, his conduct was unbecoming of an employee of the Corporation.

3. It appears that common proceedings were initiated against the Manager, the Claim Clerk, the applicant (Checker) and two cashiers. The enquiry officer passed a detailed order. He held that since the documents had been issued by the Manager, that was passed through the Claim Clerk, it cannot be said that the applicant while passing the bill committed any fault. He, therefore, exonerated him (the applicant). The disciplinary authority, it appears, ~~did not~~ did not issue any notice to the applicant to show cause as to why, he should not agree with the recommendation of the enquiry officer. He, however, recorded a finding that even though the conduct of the applicant did not show lack of integrity, it certainly shows lack of devotion to duty, therefore,

his conduct was unbecoming <sup>of</sup> an employee of the Corporation. The two higher authorities endorsed the view point of the disciplinary authority as already indicated.

4. It is stated in the Bar by the learned counsel for the applicant that the Cashiers were given entries 'Censure'. It is not known to us as to what happened in the cases of Manager and the Claim Clerk. The question will remain as to whether the findings of the disciplinary authority that the applicant having passed the bill without raising any objection amounted over the cuttings and over-writings, really to lack of devotion to duty. The findings of the disciplinary authority clearly is as inferential one but what has been close to other all the three authorities below is the intention of the applicant. Before the applicant, there was the sanctioned bill of the and Manager. The Claim Clerk had ~~seen~~ passed the said bill. A petty official like a checker could not be expected to be bold enough to question the judgment of the Manager and point out the irregularity, if any, committed by the higher authority. The possibility of the applicant acting bonafide and in the normal course of business can not be ruled out. Indeed, that establishes that the matter has not been considered at all, by the three authorities below. It is true that our jurisdiction in this Tribunal is very limited. <sup>he</sup> Inspite of it, we may ~~be~~ entitled to examine the question as to whether the findings arrived at is preferential

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or irrational. We are also entitled to see whether  
the inference drawn by the punishing authority is  
logical one. Having considered the matter, we carefully  
we feel that this is a case where we can safely  
record the findings that the inference drawn by  
the punishing authority is not a reasonable one  
and is rather irrational. The conclusion, therefore, is  
that the findings cannot be sustained. ~~.....~~  
~~.....~~ The two higher authorities  
have committed the same mistake and the punishing  
authority also. Therefore, these three orders are  
hereby quashed.

5. Now we come to the matter of confirmation of the applicant. A communication dated 7.10.1983 issued by the Regional Director indicates that the Departmental Promotion Committee found the applicant 'not fit' for substantive appointment. Annexure-1 to the Rejoinder Affidavit filed by the applicant is a communication dated 7.8.1989 of the Regional Director to the applicant informing him that the Departmental Promotion Committee passed its recommendation regarding the applicant on the sole ground that he had been punished in the departmental proceedings. In view of the fact that we have quashed the order of the punishing authority, the recommendation of the Departmental Promotion Committee stands automatically vitiated. It is, therefore, quashed so far as it pertains to the applicant. It shall consider again the case of the applicant for consideration on the footing that on the relevant date, no punishment was

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subsisting against the applicant. The Regional Director shall, therefore, confirm the applicant in accordance with the recommendation of the Departmental Promotion Committee. It goes without saying that the applicant shall be given confirmation from the due date. Once this done, the seniority of the applicant will automatically follow.

6. With these directions, the application is disposed of finally.

7. No order as to costs.

*Parvez*  
Member (A)

*guy*  
Vice-Chairman

Dated: 25.11.1992  
(n.u.)