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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH .

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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(~~the~~ 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^(was) 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 ^{to} the manager of 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, ~~Schast~~ 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,

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his conduct was unbecoming^{of} 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 Manager. The Claim Clerk had seen^{and} 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. In spite of it, we may^{he} be entitled to examine the question as to whether the findings arrived at is preferential

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are
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. ~~There is no doubt that~~
~~the two higher authorities~~ The two higher authorities
have committed the same mistake and the punishing
authority also. Therefore, these three orders are
hearby 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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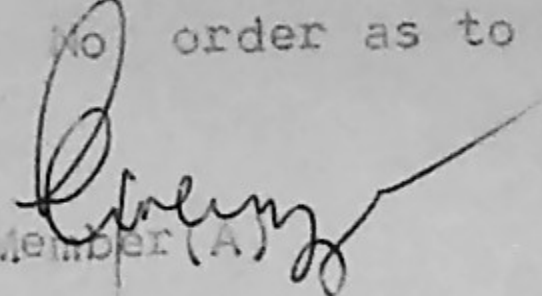
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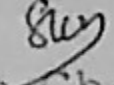
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subsisting against the applicant. The Regional Director shall, therefore, confirm the applicant in accordance with the recommendation of the Departmental Promotion Committee. It goes without saying that the applicant shall be given confirmation from 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.


Member (A)


Vice-Chairman

Dated: 25.11.1992
(n.u.)