* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 15th April, 2026.
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\+ W.P.(C) 1676/2023

B L KOLI .....Petitioner

Through: Mr. Rajender Gulati, Mr. V.C. Bharti and Mr. I.P. Singh, Advocates.

versus

UNITED INDIA INSURANCE COMPANY LTD & ORS. .....Respondents

Through: Mr. Abhishek Kumar Gola, Advocate for R-1.

\+ W.P.(C) 8050/2013 & CM APPLs. 5717/2019, 73344/2025

BABU LAL KOLI .....Petitioner

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UNITED INDIA INSURANCE CO. LTD .....Respondent

Through: Mr. Abhishek Kumar Gola, Advocate for R-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. These two writ petitions are being disposed of by this common order because they arise from the same service relationship, concern overlapping claims to retiral and service benefits, and substantially converge upon the legal effect of the disciplinary proceedings initiated against the Petitioner while he was in service and continued after his retirement. The earlier petition, W.P.(C.) 8050/2013, was directed principally to promotional and

retiral consequences. The later petition, W.P.(C.) 1676/2023, assails the disciplinary action itself, namely the memorandum of charges dated 2nd September, 2009, the inquiry report dated 12th August, 2019, communicated on 16th September, 2019, the penalty order dated 22nd March, 2021, the addendum dated 13th May, 2021, and the communication dated 7th June, 2021 declining an appeal under Rule 31 of the General Insurance (Conduct, Discipline and Appeal) Rules, 1975.[1]

2. By order dated 29th November, 2024, W.P.(C.) 8050/2013 was directed to be listed along with W.P.(C.) 1676/2023. For the sake of completeness, it is noted that an earlier challenge carried in W.P.(C.) 1995/2022 had also been withdrawn on 6th July, 2022 with liberty to file a fresh petition incorporating a challenge to the communication dated 7th June, 2021.

3. In this backdrop, it is necessary to delineate the surviving issues. In W.P.(C.) 8050/2013, the original reliefs comprised promotion to the cadre of Manager (Scale IV) w.e.f. 26th November, 2008 with consequential benefits, and release of retiral dues including subsistence allowance for the period from 3rd November, 2011 to 3rd May, 2013. During the hearing, the claim for promotion was not pressed. The claim for subsistence allowance also does not survive, in view of the Respondent's additional affidavit stating that no such allowance was payable from 3rd November, 2011 to 11th February, 2013 under Rule 21(3) of the CDA Rules; that entitlement arose from 12th February, 2013 (date of bail in the CBI case); and that a sum of INR 90,206/- was computed and paid in May 2013, with no balance remaining. The payroll record annexed thereto reflects the same under the head "Subsc

[1] "CDA Rules"

Alw". W.P.(C.) 8050/2013 therefore survives only in a limited and largely residual sense.

4. The real controversy now lies in W.P.(C.) 1676/2023, which assails the validity of the disciplinary proceedings and the resultant pensionary consequences under the General Insurance (Employees') Pension Scheme, 1995.[2]

Factual Background

5. The Petitioner served the Respondent Company for many years and had been posted at different places including Divisional Office No. 17, New Delhi. The record also shows that he had later been transferred out of Delhi and, after revocation of suspension, was posted to Delhi Regional Office-II. He superannuated on 31st August, 2013.

6. The disciplinary proceedings commenced with the memorandum dated 2nd September, 2009 issued under Rule 25 of the CDA Rules, whereby six Articles of Charge were framed against the Petitioner in respect of his tenure at DO-17, New Delhi. The first four articles pertained to motor cover notes issued by the Petitioner upon receipt of premium, without depositing the corresponding copies and premium with the office, thereby exposing the Company to consumer and MACT claims. The fifth and sixth articles related to the irregular acceptance of break-in insurance without proper pre-inspection, and the issuance of a policy in the name of a person other than the registered owner, contrary to established underwriting norms and the principle of insurable interest. The memorandum concluded by alleging failure to maintain absolute integrity and devotion to duty and conduct prejudicial to the interests of the company within Rule 3(1) read with Rules

[2] "Pension Scheme"

4(1), 4(5) and 4(9) of the CDA Rules.

7. Shortly after the memorandum, the Petitioner sought the documents referred to in Annexure III of the memorandum. By letter dated 13th October, 2009, the Disciplinary Authority declined to furnish those documents at that stage, citing the explanation to Rule 25(3) of the CDA Rules, and required the Petitioner to submit his written statement within five days, failing which the inquiry could proceed *ex parte*.

8. The Petitioner submitted a written defence. He asserted that pre-signed motor cover notes were issued as a prevailing business practice to brokers and authorised agents for procuring business and meeting targets; that such a practice was followed because brokers and agents were not themselves authorised to sign the cover notes; and that the misuse, non-deposit of premium and misappropriation were, in truth, acts of the brokers and authorised agents. He claimed that he himself had complained against them and had brought the matter to the notice of senior officers and authorities. On that basis, he sought to shift responsibility for Articles I to IV to the broker-agent side and, in respect of Articles V and VI, sought to explain the processing of the underlying insurance and claims on the basis of documents available in office records.

9. The record demonstrates that the matter remained pending for years. The inquiry report later noted a change in the inquiry officer. It records that, while the original inquiry officer had been appointed in 2009, a retired officer was subsequently appointed on 4th June, 2015 in place of the earlier inquiry officer, and a new presenting officer was also appointed thereafter.

10. The Petitioner superannuated on 31st August, 2013. However, the disciplinary matter was not brought to an end. The Petitioner was paid

provisional pension till the imposition of penalty by order dated 22nd March, 2021, and the proceedings were continued.

11. The inquiry report dated 12th August, 2019, communicated on 16th September, 2019, sets out the management case Article-wise, records the witnesses examined, and notes the Petitioner's conduct during the proceedings. It records that the Petitioner failed to appear on multiple dates; that he cross-examined only one witness, and that too on a single occasion; and that, despite repeated opportunities, he did not participate in the proceedings thereafter. The proceedings were consequently closed on 29th June, 2018, and no defence brief was submitted by him. The report ultimately held all six Articles of Charge proved; the Disciplinary Authority recorded tentative agreement and afforded the Petitioner an opportunity to submit a representation before further action.

12. The Petitioner submitted a representation dated 1st October, 2019, attacking the inquiry report as false and factually unsustainable, complaining that the inquiry officer had ignored the written defence and daily order sheets, alleging that principal actors had not been properly examined, and again maintained that the real wrongdoing lay elsewhere. He also relied on the closure of the CBI case in the Delhi cover-note matter and on judicial decisions pertaining to continuation of disciplinary proceedings after retirement and validity of the CDA Rules.

13. The Disciplinary Authority perused the memorandum of charge, the Petitioner's reply, the inquiry proceedings, along with the Petitioner's representation, and imposed the penalty of "withholding of full pension" under Rules 42 and 44 of the Pension Scheme read with the CDA Rules. On 13th May, 2021, an addendum was issued, clarifying that the expression

"withholding of full pension" was to be read as "withholding of full pension permanently". Thereafter, by letter dated 7th June, 2021, the Petitioner was informed that, since the order had been issued under Rules 42 and 44 of the Pension Scheme and not under Rule 23 of the CDA Rules, no appeal lay under Rule 31 of the Rules.

14. Aggrieved, the Petitioner has filed this petition, seeking setting aside of the aforesaid memorandum and orders.

Petitioner's Case

15. Mr. Rajender Gulati, counsel for the Petitioner, raises the following grounds of challenge:

15.1. The disciplinary proceedings are void because the memorandum of charges was issued by a Deputy General Manager even though the competent disciplinary authority for the Petitioner, being a Deputy Manager, was the General Manager. The same objection is directed against the final disciplinary order. It is further contended that the CDA Rules are *non-est* in law, having neither been laid before the Parliament nor published in the Official Gazette. In support of these contentions, reliance is placed on the decisions of the Supreme Court in ***Union of India v. B.V. Gopinath***[3] and ***State of Karnataka CBI, ACB Bangalore v. K.T. Uthappa***.[4]

15.2. The disciplinary proceedings could not lawfully continue after the Petitioner's retirement; however, the inquiry lingered on for years after his superannuation. Once the employer could no longer remove or dismiss the Petitioner from service, it had no authority to proceed further against him. On this aspect, the Petitioner relies on the judgement of the Supreme Court

[3] (2014) 1 SCC 351.
[4] Crl. Appeal Nos. 1872-1873/2014, decided on 3rd November, 2015.

in ***Dev Prakash Tewari v. UP Cooperative Institutional***,[5] which proceeds on the footing that, in the absence of a specific rule, no disciplinary proceedings can continue after retirement for the purpose of reducing retiral benefits.

15.3. The punishment order is mechanical and non-speaking, and does not deal with the Petitioner's written defence, his later representation against the inquiry report, or the effect of the CBI closure. The addendum dated 13th May, 2021, changing the punishment to "withholding of full pension permanently", only compounds the illegality.

15.4. The Petitioner presses delay as an independent ground, contending that the allegations pertain to 2004-2006; the charge-sheet was issued in September 2009, the inquiry report only in August 2019, and the final order in March 2021. Such prolonged delay is destructive of fairness, especially when the proceedings were continued long after retirement and when full pension was not released in the meantime. Reliance is placed on ***Prem Nath Bali v. Registrar, High Court of Delhi***,[6] to emphasise that disciplinary proceedings are required to be concluded within a reasonable time and that long-drawn proceedings can cause serious prejudice to an employee.

15.5. While the proceedings were initiated and carried through under Rule 25 of the CDA Rules, the punishment was ultimately imposed by invoking Rules 42 and 44 of the Pension Scheme. This shift is impermissible.

15.6. Rule 47 of the Pension Scheme, which provides for continuation of departmental proceedings after retirement, requires prior consultation with the Board before passing any final order; however, no such consultation is

[5] Civil Appeal Nos. 5848-49/2014, decided on 30th June, 2014.
[6] Civil Appeal No. 958/2010, decided on 16th December, 2015.

shown on the present record. Reliance is placed on the recent decision of the Supreme Court in ***Vijay Kumar v. Central Bank of India***,[7] to emphasise that where pension is reduced in exercise of disciplinary or allied powers, prior consultation with the Board is a valuable mandatory safeguard.

15.7. The Petitioner further contends that the appointment of a retired government servant as the Inquiry Officer was contrary to Rule 25(2) of the CDA Rules. It is also alleged that Rule 25(6) was violated, inasmuch as the Petitioner was denied the assistance of a Defence Assistant and was thereby deprived of an effective opportunity to present his defence.

15.8. The Petitioner assails the inquiry as factually unfair, alleging denial of documents at the threshold, non-supply of originals, and failure to examine the actual actors, while portraying the Petitioner as a scapegoat to shield the broker/agent and other officials. He emphasises that he had himself lodged complaints against the broker/agent side. Reliance is also placed on the closure order dated 22nd February, 2013 of the Special Judge, CBI, noting absence of sufficient evidence that the premium collected by the agent was ever handed over to the Petitioner, which undermines the very foundation of the disciplinary proceedings.

Respondent Company's Case

16. On the other hand, Mr. Abhishek Kumar Gola, counsel for the Respondent Company, has advanced the following submissions:

16.1. The challenge on the competence of the Disciplinary Authority rests on a misunderstanding of nomenclature and cadre equivalence. Although the Petitioner is described as "Deputy Manager", he remained a Scale III officer. Under the old nomenclature, a Scale III officer was designated "Assistant

[7] 2025 INSC 848.

Manager", a Scale IV officer "Deputy Manager", and a Scale VI officer "Assistant General Manager". After redesignation with effect from 21st December, 2005, these became "Deputy Manager", "Manager" and "Deputy General Manager" respectively. On that footing, the Respondent Company contends that the Deputy General Manager was the competent disciplinary authority in the Petitioner's case.

16.2. It is contended that the Petitioner himself prolonged the inquiry by repeatedly failing to appear and by not carrying his defence to completion. In this regard, Rule 47 of the Pension Scheme squarely authorised the continuation of proceedings after retirement. As to the requirement of Board consultation under Rule 47, it is submitted that the same was inapplicable in the present case, as the impugned penalty was not one of recovery for pecuniary loss but of withholding pension for grave misconduct, imposed under Rules 42 and 44 of the Pension Scheme.

16.3. The Petitioner scarcely contested the inquiry in any meaningful way. According to the inquiry record, he appeared only sporadically, cross-examined just one witness in part, did not pursue the same thereafter, produced no defence evidence, and filed no defence brief. The inquiry, therefore, moved substantially on unrebutted management evidence and the Petitioner cannot now convert his own absence into a plea of denial of opportunity.

16.4. On the question of continuation after retirement, the Respondent relies on Rule 47 of the Pension Scheme, which deems departmental proceedings instituted while the employee was in service to continue after retirement as proceedings under that paragraph. It also relies on Rule 45 relating to provisional pension and states that continuation of the disciplinary action

after retirement was expressly contemplated by the Pension Scheme.

16.5. Finally, on the Petitioner's challenge to the legal status of the CDA Rules, the Respondent relies on the judgment of the Division Bench of the Madras High Court in ***Chairman-cum-Managing Director, United India Insurance Co. Ltd. v. K. Rajendra Kumar***,[8] and the order of the Supreme Court declining interference therewith.

Issues

17. In light of the pleadings, the documents placed on record, and the submissions advanced, the following issues arise for determination:

(i) Whether the disciplinary proceedings suffer from want of competence on the ground that the memorandum was issued by a Deputy General Manager, and whether the final penalty order and addendum also suffer from the same infirmity.

(ii) Whether the disciplinary proceedings, though instituted while the Petitioner was in service, lawfully continued after his retirement, and whether the case is governed by Rules 42 and 44 of the Pension Scheme, Rule 47 of that Scheme, or a combined reading of those provisions.

(iii) Whether the long delay in conclusion of the disciplinary proceedings, viewed in the facts of the case and the conduct of parties, is sufficient to vitiate the inquiry, the findings, or the punishment.

(iv) Whether the inquiry stood vitiated by denial of procedural fairness, including non-supply of documents, non-consideration of the Petitioner's written defence and representation, and the limited nature of the Disciplinary Authority's final reasoning.

(v) Whether the Petitioner, having filed an initial written defence but

[8] W.A. 484/2020, decided on 1st July, 2022.

thereafter not meaningfully contesting the inquiry on facts, can still persuade the Court to reopen the factual findings recorded in the inquiry report.

(vi) Whether the six articles of charge, taken individually or cumulatively, disclose grave misconduct or negligence during service of a character sufficient to justify pensionary consequences.

(vii) What is the effect, if any, of the CBI closure order and the materials emerging from the criminal investigation upon the disciplinary findings recorded in these proceedings.

(viii) Whether prior consultation with the Board under Rule 47 of the Pension Scheme was mandatory in the circumstances of the present case and, if so, whether the absence of material showing such consultation vitiates the final order or requires a limited remand.

(ix) Whether the communication dated 7th June, 2021 declining an appeal under Rule 31 of the CDA Rules is legally sustainable.

Analysis and findings

A. *Competence of the authority*

18. The Petitioner's first attack is that the memorandum and penalty order are void because they were issued by a Deputy General Manager, while the competent disciplinary authority for the Petitioner, being a Deputy Manager, was the General Manager. That objection would have been attractive only if the expression "Deputy Manager" as used in relation to the Petitioner referred to the old Scale IV cadre. However, the record does not permit such a reading. The Respondent Company has taken a specific plea that the Petitioner, till his retirement, remained a Scale III officer; that under the old nomenclature, a Scale III officer was designated "Assistant Manager"; and that, after redesignation with effect from 21st December, 2005, that

nomenclature became "Deputy Manager".

19. The Administrative Instructions dated 27th December, 2005 placed on record by the Respondent Company indicates that, while the nomenclature was altered, the underlying scale/category remained distinct. On that footing, the mere appearance of the words "Deputy Manager" in the memorandum or in the later orders does not, by itself, establish that the proceedings were initiated or concluded by an authority lower than the competent disciplinary authority.

20. The Petitioner has attempted to resist this by contending that there is no reference to scale in the CDA Rules and that he was in the rank of Deputy Manager, equivalent to Divisional Manager. However, that answer does not meet the Respondent's case as the dispute is not over the drafting style of the CDA Rules but over the meaning of the rank-description after redesignation.

21. The reliance placed on ***B.V. Gopinath*** does not carry the Petitioner across this hurdle. The principle that proceedings initiated by an authority not competent under the governing rules cannot be sustained is unexceptionable. However, that principle helps only after the foundational fact is established, namely, that the authority concerned was indeed incompetent under the applicable service structure. Here, for the reasons already noted, that foundation is not made out.

22. The challenge to competence must therefore fail. Once the redesignation structure is taken into account, the premise on which the Petitioner builds this objection does not hold. Neither the memorandum of charges nor the disciplinary order can thus be said to be void on that ground.

B. *Whether the CDA Rules were non-est for want of gazette publication*

23. The Petitioner's contention that the CDA Rules are *non-est*, as they were neither laid before Parliament nor published in the Gazette, principally rests on the decision of the Karnataka High Court in ***K.T. Uthappa*** and the subsequent refusal of the Supreme Court to interfere. However, this submission cannot be accepted in view of the later judgment of the Division Bench of the Madras High Court in ***K. Rajendra Kumar***, against which the Supreme Court has also declined to interfere.

24. ***K.T. Uthappa*** was, in essence, a criminal proceeding in which the prosecution failed on multiple grounds, including lack of a valid sanctioning authority and absence of essential evidentiary links. The Karnataka High Court was thus concerned with the standard of proof beyond reasonable doubt and the legality of sanction for prosecution, and not with the general enforceability of disciplinary action under the CDA Rules. Although the Supreme Court declined to interfere with that judgment, ***K. Rajendra Kumar*** subsequently clarified that the observation of the Supreme Court regarding the CDA Rules, even if accepted as a statement of fact, *"cannot be said to be even obiter dicta, much less law"*. It was further held that the observations in ***K.T. Uthappa*** concerning non-publication of the CDA Rules in the Gazette cannot be read as laying down any general proposition invalidating all disciplinary proceedings under those rules.

25. In view of that judgment, it cannot be held in the present case that the CDA Rules were *non-est* and that every disciplinary proceeding under them necessarily stood vitiated. The Petitioner's challenge on that ground is, therefore, rejected.

C. *Continuation of proceedings after retirement*

26. The Petitioner contends that, after his retirement on 30th August,

2013, the employer lacked authority to continue the disciplinary proceedings or to impose any order affecting retiral benefits, placing reliance on ***Dev Prakash Tewari***, which holds that, in the absence of an enabling provision, such proceedings cannot continue post-retirement for the purpose of reducing pension or retiral dues.

27. While that principle is well-recognised, the determinative question is whether the statutory framework contains an enabling provision. In the present case, it does. The second proviso to Rule 47 of the Pension Scheme expressly provides that departmental proceedings instituted during service shall, after retirement, be deemed to continue under that provision and be concluded by the competent authority in the same manner as if the employee had remained in service.

28. In view of this provision, the contention that the proceedings lapsed upon retirement cannot be sustained. The proceedings herein were initiated during service by memorandum dated 2nd September, 2009, and, by virtue of Rule 47, validly continued beyond superannuation. The principle in ***Dev Prakash Tewari*** is therefore inapplicable in the present factual and statutory context.

D. *Objection to the use of Rules 42 and 44*

29. The Petitioner contends that, since the proceedings were initiated under Rule 25 of the CDA Rules, the imposition of punishment under Rules 42 and 44 of the Pension Scheme is impermissible. This contention, however, overlooks the statutory scheme.

30. Upon superannuation, the employer can no longer impose penalties such as dismissal or removal. Where misconduct during service is established in proceedings validly initiated while in service and continued

thereafter, the field of sanction necessarily shifts to pensionary consequences. This is precisely what Chapter IX of the Pension Scheme contemplates. Rule 42 provides for withholding or withdrawal of pension upon conviction for a serious crime or proof of grave misconduct; Rule 44 mandates adherence to the CDA procedure before passing such orders; and Rule 47 deals specifically with recovery or withdrawal of pension where, in departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during service, and by its second proviso carries in-service proceedings beyond retirement. These provisions, read together, make it clear that recourse to the Pension Scheme is the natural statutory consequence of retirement intervening before culmination of proceedings.

31. In that sense, the Petitioner is correct only to a limited extent: post-retirement, the source of authority is not Rule 25 of the CDA Rules. The proceedings may have originated there, but thereafter continued by virtue of the provisions of the Pension Scheme.

32. That said, the reference to Rules 42 and 44 in the final order is not happily expressed. On a proper reading, the present case more appropriately falls under Rule 47, as it concerns misconduct during service, proceedings instituted while in service, and their continuation post-retirement by virtue of the second proviso. However, such infelicity in drafting does not vitiate jurisdiction. The real question, therefore, is whether, upon treating Rule 47 as the governing provision, its mandatory requirements have been duly complied with; this aspect is examined in the sections that follow.

E. *Delay*

33. The allegations of delay pertain to events between 2004 and 2006, with the Petitioner contending that the span of the departmental proceedings

is unduly prolonged. Reliance is placed on ***Prem Nath Bali***, where the Supreme Court emphasised that disciplinary proceedings ought to be concluded within a reasonable time, preferably within six months and, in any event, not ordinarily beyond one year.

34. However, ***Prem Nath Bali*** does not lay down that delay, by itself, vitiates the proceedings. The Court therein did not set aside the disciplinary action on this ground, but granted limited relief concerning the treatment of the suspension period for computing pensionary relief. The emphasis is on unreasonable delay causing prejudice. The issue, therefore, is not the existence of delay, which is evident, but whether it has, in the facts, impaired the fairness of the process so as to warrant annulment of proceedings.

35. On the present record, such a conclusion cannot be drawn. While the Petitioner filed a detailed written defence in 2009 and a representation against the inquiry report in October 2019, he did not effectively participate in the inquiry in the intervening period. The record reflects non-appearance on material dates, partial cross-examination of only one witness, failure to pursue the same thereafter, closure of proceedings due to non-participation despite repeated opportunities, and absence of any defence brief. In these circumstances, the delay cannot be attributed solely to the employer.

36. The Court is therefore not persuaded to hold that the proceedings must fail solely on delay. The delay, though substantial and unsatisfactory, does not, in the facts of the case, warrant setting aside of the proceedings.

F. *Appointment of retired inquiry officer and defence assistance*

37. Two ancillary objections may be dealt with, at this stage. The first pertains to the appointment of a retired Inquiry Officer. The Petitioner

contends that Rule 25(2) of the CDA Rules did not permit such an appointment in the manner adopted. This submission is untenable as Rules 25(2) and 25(4) expressly envisage an inquiry being conducted by a retired officer or a public servant appointed as the Inquiring Authority. The objection is, accordingly, rejected.

38. The second objection concerns the refusal to permit Shri Trilok Chand, Deputy Manager, Oriental Insurance Company, to act as Defence Assistant in the absence of a no-objection certificate, which the Petitioner asserts is not mandated by Rule 25(6). This issue, however, did not assume substantive significance. The core difficulty lies in the Petitioner's failure to effectively pursue his defence during the inquiry despite opportunity. In that backdrop, this objection does not go to the root of the matter so as to vitiate the proceedings.

G. *Whether the punishment order is mechanical and non-speaking*

39. The order dated 22nd March, 2021 is undoubtedly brief. It does not deal separately with each limb of the Petitioner's reply of 2009 or the representation dated 1st October, 2019, nor does it undertake an independent article-wise reappraisal of the evidence. To that extent, the Petitioner is justified in describing the order as brief.

40. However, brevity does not render an order unreasoned. The Disciplinary Authority records that it considered the memorandum of charges, the reply, the inquiry report and proceedings, relevant records, and the representation, and thereafter concluded that, in view of the proved grave misconduct, the penalty of withholding full pension was warranted. Where the authority concurs with the inquiry report, the law does not require a reiteration of reasons in detail; what is essential is application of mind, not

duplication.[9] One can also not lose sight of the fact that the Petitioner did not meaningfully contest the inquiry proceedings and his participation remained minimal. The inquiry report thus rested largely on uncontroverted material. In this backdrop, the impugned order, though terse, and perhaps more so than desirable in a matter of this nature, cannot be characterised as devoid of reasons.

41. The addendum dated 13th May, 2021 elucidates that the "withholding of full pension" would operate permanently. Notably, Rules 42 and 44 of the Pension Scheme contemplate the withholding or withdrawal of pension either for a specified period or permanently. The disciplinary order did not expressly stipulate such duration; the addendum, therefore, merely clarifies the extent of the withholding by specifying that it is permanent. It does not introduce any new element, but only gives precision to the effect of the original order. Nonetheless, the determinative issue is not the form of expression, but whether the statutory framework authorised such curtailment and whether the prescribed conditions were satisfied. That leads directly to the one point which does require closer scrutiny.

H. *Board consultation under Rule 47*

42. Here the Petitioner's contention carries considerable force. Once the case is properly viewed as one where departmental proceedings were instituted during service and continued post-retirement by virtue of the second proviso to Rule 47, the first proviso thereto cannot be disregarded. That proviso mandates, in clear terms, that the Board of the Corporation or the Company shall be consulted before any final order is passed. The language is plainly imperative.

[9] Tara Chand Khatri v. MCD, (1977) 1 SCC 472; S.N. Mukherjee v. Union of India, (1990) 4 SCC 594.

43. The Respondents seek to contend that Rule 47 is confined to recovery of pecuniary loss, and that the impugned action, being one under Rules 42 and 44 for grave misconduct, falls outside its ambit. A close reading of the scheme does not support this submission. Rule 47 is not limited to recovery; it expressly contemplates withholding or withdrawal of pension where, in departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during service.

44. It is apposite, at this stage, to advert to the framework of the Pension Scheme; the relevant provisions whereof are extracted hereinbelow for ease of reference:

> *41.* ***Pension subject to future good conduct*** *- Future good conduct shall be an implied condition of every grant of pension and its continuance under this scheme.*
>
> *42.* ***Withholding or withdrawal of Pension*** *- The competent authority may by order in writing, withhold or withdraw pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct: Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the minimum pension per mensem payable under this scheme.*
>
> *...xx...xx....xx...xx...*
>
> *44.* ***Pensioner guilty of grave misconduct*** *- In a case not falling under paragraph 43 if the Competent Authority considers that the pensioner is prima facie guilty of grave misconduct, it shall, before passing an order, follow the procedure specified in the General Insurance (Conduct, Discipline and Appeal) Rules framed by the Board of the Corporation or of the Company.*
>
> *...xx...xx....xx...xx...*
>
> *47.* ***Recovery of Pecuniary loss caused to the Corporation or a Company*** *-*
>
> *(1) The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Corporation or a Company if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service:*
>
> *Provided that the Board of the Corporation or a Company shall be*

consulted before any final orders are passed:

Provided further that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under this paragraph and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service:

Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution."

45. Similar provisions exist in other pensionary frameworks. For instance, Rules 8 and 9 of the CCS (Pension) Rules, 1972, contains analogous stipulations, including the requirement of consultation with the Union Public Service Commission before passing final orders curtailing pension, to the following effect:

"8. ***Pension subject to future good conduct***
(1) (a) Future good conduct shall be an implied condition of every grant of pension and its continuance under these rules.
(b) The appointing authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

...xx...xx....xx...xx...

9. ***Right of President to withhold or withdraw pension***
(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement
Provided that the Union Public Service Commission shall be consulted before any final orders are passed:
Provided further that where a part of pension is withheld or withdrawn the amount of such pensions shall not be reduced below the amount of rupees three hundred and seventy-five per mensem.
(2) (a) The departmental proceedings referred to in sub-rule (1), if

instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service."

46. The Pension Scheme is thus broadly aligned with the CCS (Pension) Rules. Rule 41 embodies the foundational principle that pension is conditioned upon future good conduct; Rule 42 provides the power to withhold or withdraw pension upon proof of grave misconduct; and Rule 47 operates as the enabling bridge where misconduct during service is established in departmental or judicial proceedings, including those continued after retirement. The Supreme Court, in ***Union of India v. B. Dev***,[10] observed that Rule 8(1)(a) makes the grant and continuance of pension subject to the Pensioner's future good conduct, while Rule 9 vests in the President the authority to withhold or withdraw pension or gratuity, wholly or in part, upon proof of grave misconduct or negligence in departmental or judicial proceedings, subject to mandatory consultation with the UPSC before passing such orders. The power under Rule 8(1)(b), enabling withholding or withdrawal of pension upon conviction or proof of misconduct, thus flows from and is conditioned by Rule 8(1)(a), whereas Rule 9 constitutes a distinct provision governing cases instituted while the pensioner was in service. This distinction between the two provisions is material.

47. Read in this light, a similar structural distinction must inform the interpretation of the present Pension Scheme. Rule 42, like Rule 8 of the CCS Rules, provides the substantive basis for withholding or withdrawal of

[10] (1998) 7 SCC 691.

pension upon conviction or proof of grave misconduct, flowing from the overarching condition of future good conduct under Rule 41. Rule 47, however, is not merely an adjunct but a specific and self-contained provision governing cases where misconduct during service is established in departmental or judicial proceedings, including those continued post-retirement. It is within Rule 47 that the statute expressly engrafts the requirement of prior consultation with the Board before passing final orders. Once a case falls within the ambit of Rule 47, as in the present instance, where proceedings instituted during service are continued after retirement, the safeguard of mandatory consultation embedded therein, cannot be bypassed by resort to Rule 42 alone.

48. The recent decision of the Supreme Court in ***Vijay Kumar*** though arising under a different pension regulation, elucidates the governing principle. The Supreme Court held there that where the statutory scheme requires prior consultation with the Board before awarding pension less than full pension, such consultation constitutes a valuable mandatory safeguard; that the requirement cannot be diluted by a disjoint and independent reading of different clauses; and that *post facto* approval is not a substitute for prior consultation. The Court reiterated that pension is a valuable right, and any statutory safeguard governing its curtailment must be strictly observed.

49. On the present record, there is no material indicating that such consultation was undertaken prior to the order dated 22nd March, 2021 or the addendum dated 13th May, 2021. The orders are silent on this aspect, and the counter affidavit does not assert compliance, but proceeds on the footing that no such requirement arose. For the reasons noted above, that position is untenable.

50. This, therefore, constitutes a substantial and unanswered infirmity in the impugned action. Whether that should lead to outright invalidation of the pensionary order or to a limited remand for fresh consideration after compliance is a matter best addressed after the Court turns, in the next part, to the merits and the gravity of the findings recorded against the Petitioner.

I. *Scope of review and the effect of the Petitioner's conduct in the inquiry*

51. Before adverting to the individual Articles of Charge, one aspect of the record requires reiteration. The Petitioner did file a written defence and also a representation against the inquiry report; thus, he was not wholly silent. However, beyond placing his defence on record, as highlighted above, he did not effectively pursue it during the inquiry. The proceedings were ultimately closed due to his non-participation.

52. This bears directly on the scope of judicial review. It is well settled that, where an inquiry is conducted by a competent authority in accordance with prescribed procedure and principles of natural justice, the writ court does not reappreciate evidence as an appellate forum. Interference is warranted only where findings are perverse, unsupported by evidence, or vitiated by breach of statutory provisions or natural justice; not merely because another view is possible.[11]

53. This does not place the disciplinary findings beyond scrutiny, but confines the review to its proper limits. Had the Petitioner fully contested the case by effective cross-examination and leading rebuttal evidence, the review might have assumed a different character. On the present record, however, the defence remained largely unsubstantiated for want of

[11] Union of India v. Subrata Nath, (2024) 20 SCC 402; Union of India v. Managobinda Samantaray, 2022 SCC OnLine SC 284.

participation, thereby narrowing the permissible scope of interference.

J. *Articles I to IV: the cover-note episodes*

54. Articles I to IV proceed on a common factual footing: cover-note books were issued to the Petitioner; specific cover notes therefrom were issued for certain vehicles; corresponding office copies and premiums were not deposited; and the Respondent Company was thereby exposed to consumer or MACT claims. The Petitioner's answer, in substance, is that pre-signed cover notes were handed over to brokers and agents as a working practice, that misuse was committed by Anil Kumar Jain and Vinita Kaul, and that he himself raised complaints against them.

55. This defence is not wholly implausible. The record also reflects that the Petitioner did lodge complaints regarding misuse of cover notes, including proceedings before the Magistrate under Section 156(3) Cr.P.C. As regards the FIR registered against the Petitioner, the CBI closure report, accepted on 22nd February, 2013, notes absence of sufficient evidence to establish that premium collected by the agent had reached the Petitioner in the manner alleged in the criminal case.

56. That, however, does not conclude the issue. The inquiry did not proceed on a bare accusation that the Petitioner had personally pocketed money. The charge was wider and open. The evidence of PW-1, V.P. Kaul, pointed to the issuance of the relevant cover-note books to the Petitioner and non-accounting of specific cover notes in office records. As regards Articles I to III, the report records that consumer claims had arisen, that later policies had been issued outside the relevant accident period, and that no corresponding premium deposits were reflected in the Company's computerized system. PW-4, T.D. Kajla, corroborated the same and claimed

that responsibility lay with the officer to whom the cover-note books were issued. For Article IV, MACT claims arose and the office was unable to confirm insurance due to absence of the cover note or policy in records.

57. Certain features, such as subsequent issuance of policies for the same vehicles in Articles I and II and the dishonoured cheque in Article III, do suggest presence of irregularities in the system, lending some support to the Petitioner's contention that responsibility could not automatically be fastened on him merely because the books had originally been issued through him. However, the management evidence remained largely uncontroverted. The inquiry report expressly records the Petitioner's absence and lack of effective rebuttal. The Petitioner did not cross-examine PW-1, and only partially cross-examined PW-4. The allegation against the brokers thus remained a pleaded explanation, not a defence established through evidence.

58. Further, the Petitioner failed to substantiate the working practice on which he relied. While asserting that pre-signed cover notes were handed over to agents to facilitate business, he did not produce any circular, instruction, resolution, or approved procedure conferring legitimacy on such a practice. At best, the plea suggests an informal arrangement. Even if the same is assumed in the Petitioner's favour, it may explain the manner of misuse, but does not exonerate the officer in whose name the cover notes were issued and who was responsible for their control and accounting.

59. In sum, while Articles I to IV are not free from factual complexity, the findings cannot be characterised as perverse, so as to warrant interference.

K. *Articles V and VI: underwriting and claims handling*

60. Articles V and VI stand on a firmer footing for the Respondents. Unlike the earlier articles, they are not premised on alleged misuse of signed cover notes by brokers or agents, but relate to underwriting and claims-handling decisions attributed directly to the Petitioner.

61. Article V alleges that a cover note was issued by the Petitioner in a break-in insurance case without requisite pre-inspection, without obtaining the mandatory proposal form and additional questionnaire, and with cover granted from the same day. It is further alleged that the cheque was retained for two days and that the Petitioner subsequently approved an own-damage claim of INR 53,799/- despite evident discrepancies. The statement of imputations elaborates that the pre-inspection report was false, the supporting survey and bills were doubtful, and the cause of accident did not align with the photographs, yet the claim was processed and paid for. PW-3, Sudhir Malhotra, corroborated these irregularities, and the inquiry report records that the Petitioner did not appear to rebut this evidence.

62. Article VI alleges that the Petitioner accepted insurance on the basis of a photocopy of the registration certificate reflecting ownership in the name of Ms. Sudha Kardam, but issued the policy in the name of Mr. Salim, in a break-in insurance case, again without proper pre-inspection or proposal material, and thereafter approved a claim of INR 46,331/-. The inquiry report notes that no oral witness was examined specifically for this charge, and that reliance was placed on the underwriting docket and documentary record.

63. While there may be no oral evidence to corroborate the charge under Article VI, one cannot lose sight of the fact that the Petitioner was aware of the allegation from the charge memorandum and denied it in his written

defence, but did not pursue the matter further by leading evidence or effectively testing the documentary record. In these circumstances, while the absence of oral evidence somewhat attenuates the charge, it does not render the finding unsupported.

64. The essential point is that on Articles V and VI, the Petitioner's theory of broker misuse carries little weight. The gravamen is not the issuance of a cover note, but the failure to adhere to underwriting norms in a break-in case and the subsequent approval of a questionable claim, matters squarely within internal decision-making. Accordingly, Articles V and VI materially reinforce the conclusion that the disciplinary findings are neither baseless nor perverse.

L. *Effect of the CBI closure and the criminal-law material*

65. The Petitioner has placed considerable reliance on the CBI closure order, noting that the criminal investigation did not yield sufficient evidence to establish that premium collected by the agent had reached him in the manner alleged. It is contended that this undermines the disciplinary case.

66. The submission, however, overstates the effect of the closure order. Criminal and disciplinary proceedings operate in distinct spheres. While the former is concerned with establishing guilt beyond reasonable doubt, the latter examines whether the conduct of the employee, on a preponderance of probabilities, amounts to misconduct, negligence, or conduct prejudicial to the employer's interests. The difference is not a matter of rhetoric. It is a difference in legal purpose and standard.

67. It is also incorrect to equate absence of proved "wrongful loss" in criminal law with absence of departmental misconduct. An insurer may suffer serious prejudice through irregular issuance of cover notes, failure to

account for premium, exposure to consumer and MACT claims, and breakdown of internal controls, even where criminal culpability is not established.

68. This is another reason why reliance on ***K.T. Uthappa*** is of limited assistance to the Petitioner. That case arose from a criminal prosecution in which the Karnataka High Court found significant gaps in the prosecution case, including missing records and uncertainty regarding access to systems, leading to acquittal for failure to meet the criminal standard of proof. Such reasoning cannot be transposed into service law, where the inquiry proceeds on a different footing.

M. *Whether the findings are perverse*

69. Viewed holistically, the Court is unable to hold that the findings of the inquiry are perverse. The record indicates that the Petitioner did advance a defence theory which was perhaps not entirely without substance, and certain aspects of the factual matrix and subsequent office actions are not free from complexity. It is also true that the final order of punishment could have been more elaborately reasoned.

70. While these considerations are acknowledged, they do not cross the threshold of perversity. The management case rested on the charge memorandum, documentary evidence regarding issuance of cover-note books, office correspondence, absence of premium in official and computerized records, testimony of management witnesses, and the underwriting and claims material. The Petitioner did not effectively contest this material during the inquiry. Having failed to substantiate his defence when the opportunity arose, he cannot now invite the writ court to reconstruct a case that was not pursued at the appropriate stage.

N. *The communication dated 7th June, 2021*

71. By communication dated 7th June, 2021, the Petitioner was informed that his representation dated 28th April, 2021 was not maintainable as an appeal under Rule 31 of the CDA Rules, since the penalty had been imposed under Rules 42 and 44 of the Pension Scheme and not under Rule 23 of the CDA Rules. In substance, this position is correct. The penalty imposed was not one of the service penalties under Rule 23 of the CDA Rules, but a pensionary consequence under the Pension Scheme; Rule 31 of the CDA Rules, therefore, did not provide an appellate remedy against such an order.

72. That, however, does not conclude the matter. The sustainability of this communication is contingent upon the validity of the underlying disciplinary order. If the final order is vitiated for non-compliance with Rule 47 of the Pension Scheme, this communication cannot stand independently.

Conclusion

73. Once the analysis is stripped of side issues, the position is fairly clear. The Petitioner fails in his challenge to the competence of the Disciplinary Authority, once the cadre structure and redesignation are properly appreciated. He also fails in his contention that the CDA Rules are *non-est* for want of gazette publication, and in the submission that the inquiry lapsed upon retirement, in view of the express provision contained in Rule 47 of the Pension Scheme. The challenge to the disciplinary findings likewise fails, as no case of perversity, absence of evidence, or grounds warranting interference in writ jurisdiction is made out, particularly where the defence now urged was not substantiated during the inquiry.

74. The Petitioner succeeds only on a limited but significant ground. Once the proceedings stood continued post-retirement under Rule 47 of the

Pension Scheme, the proviso mandating consultation with the Board prior to passing final orders could not be disregarded. The present record does not indicate that such consultation took place, nor do the Respondents assert compliance; their position is that no such requirement arose. For the reasons already noted, that contention is untenable.

75. The appropriate relief, therefore, lies neither in dismissing W.P.(C.) 1676/2023 in its entirety nor in annulling the disciplinary proceedings as a whole. The memorandum of charges, the inquiry proceedings, and the inquiry findings do not call for interference on the grounds urged by the Petitioner. The defect lies at the stage of the final pensionary consequence. In the opinion of the Court, that defect is best addressed by setting aside the final disciplinary order and remitting the matter to the competent authority for a fresh decision confined to the question of pensionary consequence, after compliance with Rule 47 of the Pension Scheme. Such a course preserves the integrity of the inquiry while ensuring adherence to the mandatory statutory safeguard.

76. W.P.(C.) 8050/2013 is accordingly disposed of in the following terms: The relief relating to promotion is recorded as not pressed. The claim relating to subsistence allowance is treated as having worked itself out in view of the Respondent Company's additional affidavit and the supporting computation/pay material showing payment of INR 90,206/- for the relevant period after grant of bail, no further surviving monetary dispute on that score having been pressed before the Court. No further directions are required in that writ petition.

77. W.P.(C.) 1676/2023 is partly allowed to the limited extent indicated below:

(i) The challenge to the memorandum of charges, the conduct of the inquiry, the appointment of the inquiry officer, the objection to the competence of the Disciplinary Authority, the challenge founded on delay, the challenge to continuation of proceedings after retirement, and the broader attack on the inquiry findings are rejected.

(ii) The order dated 22nd March, 2021 imposing the penalty of withholding of full pension, together with the addendum dated 13th May, 2021 clarifying that such withholding was permanent, is set aside on the limited ground of non-compliance with the first proviso to Rule 47 of the Pension Scheme, requiring consultation with the Board before final orders were passed.

(iii) The communication dated 7th June, 2021, being consequential to the aforesaid order, shall also stand set aside.

(iv) The matter is remitted to the competent authority of the Respondent Company to take a fresh decision only on the question of pensionary consequence arising out of the disciplinary proceedings. Such decision shall be taken after giving the Petitioner an opportunity of hearing or representation on the proposed pensionary outcome, and after prior consultation with the Board, as required by Rule 47 of the Pension Scheme.

(v) It is clarified that this remand is limited. The disciplinary proceedings shall not be reopened from the stage of evidence. The findings recorded in the inquiry report are not set aside by this judgment. What is reopened is only the final question as to what pensionary order, if any, is to be passed in accordance with law, after complying with Rule 47.

(vi) The Respondents shall take the fresh decision within eight weeks from the date of receipt of this judgment. If no such fresh decision is taken

within that period, the Petitioner shall be entitled to full pension with effect from the date of his superannuation, subject to any lawful order that may thereafter be passed if the delay is condoned by a competent court or otherwise explained in accordance with law. This direction is necessary to ensure that the safeguard contained in Rule 47 is not rendered illusory by further administrative drift.

(vii) It is also made clear that the Respondents shall be at liberty, while taking the fresh decision, to consider the gravity of the misconduct found proved in the disciplinary proceedings, the nature of the charges, the inquiry record, the Petitioner's representation, and any other relevant material permissible in law. At the same time, the decision shall not proceed on the footing that Board consultation is a dispensable formality.

78. Before parting, the Court considers it necessary to observe that the disciplinary proceedings were unduly protracted. While this, in the facts of the case, does not warrant quashing the inquiry, it has contributed to the present situation and to the prolonged uncertainty surrounding the Petitioner's pensionary rights. The remand directed above shall therefore be treated as requiring prompt and earnest compliance, and not a fresh cycle of avoidable delay.

79. Subject to the above directions, both writ petitions stand disposed of. Pending application(s), if any, are also disposed of.

SANJEEV NARULA, J

APRIL 22, 2026
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