

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

+ **W.P.(C.) No. 8007/2009**

% **Date of Decision: 04.02.2010**

Iqbal Nath Sharma Petitioner
Through Mr. B.S. Verma, Advocate

Versus

Union of India & Ors. Respondents
Through Mr. R.V. Sinha and Mr. R. Upadhyay,
Advocates

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | <i>Whether reporters of Local papers may be allowed to see the judgment?</i> | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | NO |

ANIL KUMAR, J.

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The petitioner has challenged the order dated 3rd December, 2008 in OA 1690/2008 titled as Iqbal Nath Sharma Vs. UOI dismissing the petition of the petitioner and upholding the punishment imposed upon him on account of fraud played by the petitioner in claiming medical reimbursement on account of fictitious medical bills.

Pursuant to disciplinary proceedings, an order dated 17th November, 2006 imposing a penalty of removal from service had been passed against the petitioner. The order of removal from service dated

17th November, 2006 was assailed in an appeal which was also dismissed by an order dated 12th March, 2007 which was also assailed in OA 912/2007.

The said OA titled as Iqbal Nath Sharma Vs. UOI & Ors. was disposed of by order dated 24th January, 2008 setting aside the appellate order dated 12th March, 2007 and the matter was remanded back to the Appellate Authority to pass a fresh reasoned order.

Consequent to the order dated 24th January, 2008, remanding the matter back to the Appellate Authority, the respondents have again passed the order dated 25th April, 2008 considering the contentions and pleas and in exercise of power vested under Rule 27(2)(c)(i) CCS(CCA) Rules, 1965, have confirmed the penalty of removal of service imposed by Disciplinary Authority Sh. I.N. Sharma and rejected the appeal.

The petitioner had joined the Indian Army as a Sepoy in 1969 and on completion of 17 years of service after retirement on 31st July, 1986, he was re-employed in Cabinet Secretariat on 23rd August, 1986. The inquiry was conducted against the petitioner for submitting forged acknowledgement receipt dated 28th July, 1998 showing false receipt of his medical bills amounting to Rs. 52,304.10 allegedly submitted by him to Senior Field Officer, Training Institute, Gurgaon. Allegations

were also made against him and he was charged with submitting false receipt dated 26th October, 1998 showing receipt of his medical bills for the amount of Rs. 52968.45. Another false receipt dated 24th January, 1999 showing receipt of his medical bills amounting to Rs. 54753.15 was also alleged. The allegations were also made for submitting many other forged acknowledgement receipts for various amounts. Beside submitting false receipts for the medical bill, he was also charged with submitting false medical bill for Rs.1,50487.40 for his treatment purportedly from one Dr. V.P. Agarwal at ENT, Supercare Centre, Uttam Nagar, Najafgarh Road, New Delhi. On enquiry it was found that at the address given by the petitioner, no such doctor was running any nursing home or clinic in that name or in any other name. The cash memo attached with the bills were also found to be from non-existent chemist shop.

The Tribunal while considering the pleas and contentions have noted that de-novo inquiry initiated against the petitioner did not prejudice him in any manner and could not be a ground for setting aside the punishment imposed on the petitioner. Regarding submission of the forged bills it was also found that at the address of the bill instead of M/s. Jain & Sons, Moti Nagar, a provision store under the name of M/s. Khalsa Provision Store was in existence. The provision store, however, never dealt with drugs and consequently, the finding

that the petitioner has submitted fictitious and manipulated bills was sustained.

Learned counsel for the petitioner has very emphatically contended that the shops from where the medicines were purchased had been demolished. Learned counsel for the petitioner however, has failed to show any evidence regarding this.

The case of the petitioner is not that there is no evidence against him. The evidence established against him is sufficient for action against him. There is no such illegality or irregularity in the order of the Tribunal which will entail interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The petitioner has submitted forged receipts of large number of medical bills for various amounts and have also submitted fictitious medical bills. In the circumstances, the decision of the Appellate authority and the Disciplinary Authority to remove him from the service cannot be faulted. The plea of proportionality has also been considered by the Tribunal and considering the facts and circumstances we do not find any ground to interfere with the same. We also obtained photocopies of the evidence produced before the Inquiry Officer and perused the same. After perusing the same, we do not feel that it is a fit

case to interfere with the order of the Disciplinary Authority and the Appellate Authority. The writ petition in the facts and circumstances is without any merit. The writ petition is therefore dismissed.

ANIL KUMAR, J.

FEBRUARY 04, 2010

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MOOL CHAND GARG, J.