



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जन जाति आयोग

National Commission for Scheduled Tribes

(A Constitutional Body set up under Art. 338A of the Constitution of India)

File No. VSM/1/2018/MFIN6/SEHRMT/RU-IV

Dated: 21.01.2020

To,

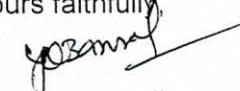
The Chairman & Managing Director,
United India Insurance Company Ltd.,
No. 24, Whites Road,
Chennai – 600 014 (Tamil Nadu).

Sub: Proceedings of the sitting taken by Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 23.12.2019 in the case of Shri Vinay Singh Mehta, Prena Niwas, Lower Panthaghathi, Shimla (HP) regarding illegal dismissal and re-instatement in service in United India Insurance Company Limited.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 23.12.2019 under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action and submission of compliance report to this Commission, within 30 days from the receipt of the letter for placing the same before the Hon'ble Chairperson, NCST

Yours faithfully,


(Y.K. Bansal)
Research Officer

447-48
22/1/2020

Copy to:-

Shri Vinay Singh Mehta,
Prena Niwas,
Lower Panthaghathi,
Shimla – 171 009 (Himachal Pradesh).



NATIONAL COMMISSION FOR SCHEDULED TRIBES

F. No. VSM/1/2018/MFIN6/SEHRMT/RU-IV

PROCEEDINGS OF SITTING HELD ON 23.12.2019 CHAIRED BY DR. NAND KUMAR SAI, HON'BLE CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES IN THE CASE OF REPRESENTATION OF SHRI VINAY SINGH MEHTA, SHIMLA (MP) REGARDING ILLEGAL DISMISSAL AND RE-INSTATEMENT IN SERVICE IN UNITED INDIA INSURANCE COMPANY LIMITED.

Date of Sitting : 23-12-2019

List of Participants present in the sitting is annexed.

The petitioner Shri Vinay Singh Mehta, Shimla (MP) vide his representation dated 15.05.2018 has submitted the grievances of illegal dismissal and re-instatement in service in United India Insurance Company Limited.


He alleged that in the year 2005, a false compliant was registered by the CBI against him and Shri Rajesh Gupta, Divisional Manager in the Company alleging that both officers entered into a criminal conspiracy with each other and one Shri Diwan Chand, Agent of UIICL. Due to aforesaid conspiracy the Govt. of HP had caused loss of Rs. 12.38 lakhs. However, fact was that he and others have acted in the interest of the company after due approval of premium rates and commission components. In pursuance of expressed approval of competent authority of the company, the case, file of recommendation of the commission processed by the accounts Department of the Divisional Office, Shimla and after compliance with due process, the case file was approved. There was no question of abusing of position as a public servant. The CBI investigated the case and during the course of enquiry it was revealed that the commission in favour of agent Shri Diwan Chand was payable in accordance with the approval from Regional office as well as Head office of the company.

The Company management did not follow the due process and awarded penalty of dismissal without giving any opportunity and consideration of evidence. He has requested the Commission to call for all records of the case and direct the company management to reinstate him in service.

2. The NCST sought a report from the CMD, UIICL, Chennai vide notice dated 12.06.2018. Subsequently a report was received from UIICL, wherein it was reported that the CBI, Chandigarh had registered a case No. 2(A)/2005 against Shri V.S. Mehta, under sections 420,409,120-B of IPC and 13(2) of Prevention of Corruption Act, 1988 for accepting bribe and criminal conspiracy with collusion of agent Shri Diwan Chand. The Hon'ble Special CBI Court, Shimla had pronounced judgement in (CC No. 3-S/7 of 2006) dated 30.06.2011 and a punishment of "Sentence of RI for one year each and fine of Rs. 5,000/- each under sections 420,120-B IPC and 13(2) of the Act was imposed against him. In default of payment of fine, the accused person shall undergo further SI for two months each on each count. Substantive sentence of imprisonment to run concurrently. Under the Rule 30(i) of General Insurance (Conduct, Discipline and Appeal) Rules 1975, the Competent/Disciplinary Authority imposed a major penalty of "Dismissal from service" under rule 30 (i) r/w 23 (h) of General Insurance (Conduct, Discipline and Appeal) Rules 1975 vide order dated 24.08.2011.

Shri V.S. Mehta has preferred an appeal against the said conviction and sentence before the Hon'ble High Court of Himachal Pradesh in Cr. App 241/2011. The Hon'ble High Court has by an Order dated 03.11.2011 in Cr. M P No. 846 of 2011 stayed the conviction. Taking into account the stayed conviction and sentence imposed, the Competent Authority under Rule 39 (d) of GI (C D & A) Rules, 1975 directed Shri V.S. Mehta to resume duty immediately at DO-Shimla and function until further orders. He was also directed to keep his Superiors informed without any delay on any order of the High Court in the Criminal Appeal or

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डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India

in the Cr. M P, which may be passed by the High Court subsequent to the Order, for suitable action at this end. Subsequently Shri V.S. Mehta was reinstated in service of the Company.

Subsequently, the Hon'ble High Court of Himachal Pradesh dismissed his Criminal appeals and pending applications and cancelled the Bail bonds of Shri V.S. Mehta in judgment on Cr. Appeal No. 248/249/2011 dated 18.07.2016 and found him convicted under Section 420 and 120-B IPC and Section 13(2) of the Prevention of Corruption Act. Although Shri V.C. Mehta has preferred a Special Leave to Appeal against the said conviction and sentence before the Hon'ble Supreme Court in Cr Appeal No. 6593/2016. Upon hearing the learned counsels for both sides the Hon'ble Supreme Court held that there is no legal and valid ground for its interference and consequently dismissed the Special Leave Petitions vide judgement dated 07.10.2016.

The Disciplinary Authority in exercise of powers conferred on him under Rule 30(i) read with 23(i) of United India Insurance Company (conduct, Discipline and Appeal) Rules, 2014, imposed a major penalty of dismissal which shall ordinarily be a disqualification for future employment on Shri V.S. Mehta vide order dated 08.05.2017. The petitioner's appeal was also rejected by the Appellate Authority.

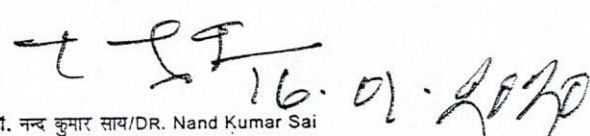
3. The Commission finds report of the UIICL unconvincing and therefore, a sitting was held on 23.12.2019 in the Commission. In the sitting, the Chairman and Managing Director, UIICL along with Chief Manager & Chief Liaison Officer, UIICL appeared. The petitioner was also present.

4. In the sitting, the petitioner informed the Commission that while working as an Administration Officer, UIICL, Branch Shimla, brought huge insurance premium of Govt. employees of State Govt. of HP. However, he was dismissed from service on the grounds of conviction order passed by the CBI Court in a criminal case. Whereas the fact was that he had obeyed the Company's instructions/orders on payment of commission to the Agent of the Company in GPA policy issued in favour of NGO Fed. In addition, the commission amount of Rs. 12.38 lakhs was paid to the Agent of the Company after the due approval from the Regional Office. Thus, he acted in the interest of the Company. The Company has not followed the mandate of the Constitution of India and CDA Rules, 23 of 2014 where there is specific provision for lesser penalty by retaining the applicant in service of the Company. No departmental inquiry was conducted and thereby principle of natural justice and other provisions available under the Constitution was denied. The Company management has also not taken care of the petitioner's interest at the time of CBI enquiry and pending Court cases as the petitioner has acted in the interest of the Company. It is a fact that the CBI trapped him in false case and convicted him without hearing his defence documents. At the time of CBI prosecution, the Company management did not defend him and also taken care the Company's employee. His review against conviction was also dismissed by the Hon'ble High Court and Hon'ble Supreme Court without considering his points of view. In addition, the punishment imposed against him is discriminatory as the Hon'ble High Court of Manipur in its judgment has held that "*it is also a settled principle of law that the conviction on criminal charge does not automatically entail dismissal, removal or reduction in the rank of the concerned Government servant*". Thus, the imposition of punishment of dismissal from service is not justified as no departmental inquiry was held in this case. Hence, the UIICL management be asked to provide natural justice to him and take action for reinstatement into services.

5. The CMD, UIICL has apprised the facts of the case and further informed the Commission that imposition of punishment of dismissal from service was based on conviction in corruption charges and criminal conspiracy by CBI court and subsequently upheld by Hon'ble High Court and Hon'ble Supreme Court, in exercising of powers conferred under Rule 30(i) read with 23(i) of United India Insurance Company (conduct, Discipline and Appeal) Rules, 2014. Since, the petitioner was convicted in a criminal case, hence, as per rules, no departmental inquiry was held.

6. The case was discussed in detail. The Commission, observed that the petitioner was employee of the UIICL and has acted as per Company's rules/orders for providing commission to the Agent of the Company against receiving huge insurance premium. He has also taken due approval of the competent authority. However, he was dismissed from service on the grounds of conviction in criminal case by CBI Court without conducting any departmental inquiry and providing any opportunity to defend his case. The Commission felt that the petitioner has acted in the interest of the Company. The Company management has not defended the interest of the petitioner in the Court and the Court was not intimated about rules position of providing commission to Agent of Company. The Commission also observed that the major penalty of dismissal from service is disproportionate to the nature of allegation and there is also Hon'ble High Court of Manipur's ruling which says conviction on criminal charge doesn't automatically entail dismissal, removal or reduction in rank of Government servant concerned. Thus, it appears that no natural justice was given to the petitioner.

7. In the light of the above observations, the Commission, recommends that the CMD, UIICL will review the petitioner's case afresh and will conduct a departmental inquiry taking into consideration petitioner's defence documents and Hon'ble High Court of Manipur's judgment to provide justice to the petitioner. The inquiry should be fair and impartial and an opportunity to defend the case be provided to the petitioner. The UIICL management will also consider the petitioner's reinstatement into services in positive way. The petitioner is also advised to submit a review petition to the UIICL management for consideration and further appropriate action by the Company management. The UIICL will also submit an action taken report to the Commission within 15 days.


16.01.2020
डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

NATIONAL COMMISSION FOR SCHEDULED TRIBES

(File No. VSM/1/2018/MFIN/BEHRM/10/19)

List of participants

NCST

1. Dr. Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Shri K. Touthang, Joint Secretary
3. Dr. Lalit Latta, Director
4. Shri Y.K. Bansal, Research Officer
5. Shri. H.R. Meena, Sr. Investigator

Officers of United India Insurance Company Ltd.

1. Shri Girish Radhakrishnan, CMD
2. Shri L. Narayana, Chief Manager & CLO

Petitioner

Shri V.S. Mehta