IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA No. 14467 of 2024

Ajoy Deb Mandal

Versus

The Oriental Insurance Company Limited & Ors.

For the Petitioner	:	Mr. Meghajit Mukherjee, Adv. Ms. Kabita Mukherjee, Adv. Mr. Gourav Das, Adv.
For the Respondent Nos. 1-4	:	Mr. Ranjay De, Ld. Sr. Adv. Mr. Basabjit Banerjee, Adv. Mr. Adityajit Abel Bose, Adv.
Heard on	:	18.09.2026
Delivered on	:	19.11.2026
Uploaded on	:	19.11.2026

Ajay Kumar Gupta, J.: -

1. The instant writ petition has been filed by the petitioner seeking direction to quash the disciplinary proceedings initiated against the petitioner herein, along with withdrawal of the orders dated 8th March, 2021, 20th December, 2021, 30th August, 2022 and 25th September, 2023, passed by the Disciplinary Authority.

2. The petitioner is an employee of the respondent no. 1, the Oriental Insurance Company Limited, a public sector insurer owned by the Government of India. Respondent nos. 2 to 4 are its office bearers. The petitioner was posted at the Magma Cell/Broker Business Cell, Kolkata, from 2010 to 2014, first as Assistant Manager I/C and thereafter as Deputy Manager I/C.

3. The facts of the case are that Respondent no. 4 imposed a major penalty upon the petitioner in a proceeding initiated under the Oriental Insurance Co. (Conduct, Discipline and Appeal) Rules, 2014. Respondent no. 4 was pleased to pass an order dated March 8, 2021, inter alia, holding the petitioner guilty of the charges levelled against him and imposed a penalty by reduction in basic pay by 3 increments in the scale of pay.

4. The allegation, inter alia, was that the petitioner, in connivance with unknown officials of DO-5, OICL, Kolkata, had approved and issued

more than 500 Motor TP stand-alone policies under the Motor Miscellaneous head, in violation of the Motor Tariff applicable to commercial vehicles. He was alleged to have issued Misc-D policies, which carry a lower premium, in place of commercial vehicle policies, which required a higher premium. The period involved was January 2012 to 2014. The loss to OICL was put at approximately Rs. 67 lakhs, with the possibility of more such policies.

5. A disciplinary proceeding under The Oriental Insurance Company (Conduct, Discipline & Appeal) Rules, 2014 was initiated against the petitioner. The Articles of Charge and Statement of Imputation of Misconduct/Misbehaviour along with the List of Documents and Witnesses were communicated to the petitioner. The petitioner denied and disputed all charges in his statement of defence dated December 22, 2018. By communication dated April 9, 2019, respondent No.4 found the reply unsatisfactory, appointed an Enquiry Officer, and directed the petitioner to take part in enquiry proceedings on the date and time to be intimated later for such purposes.

6. The petitioner participated in such enquiry proceedings and presented his defence. By a communication dated 5th February, 2020, the respondent No. 4 forwarded the Enquiry Report dated November 26, 2019 submitted by the Enquiry Officer. Respondent no. 4 further

intimated the petitioner that out of five charges levelled against the petitioner, the Enquiry Officer had arrived at a finding that charge numbers 2, 3, 4, and 5 had been fully proved, while charge number 1 had been partially proved. Be that as it may, the respondent no. 4, however, was of the view that Charge Number 1 had also been fully proved because accepting unlawful and unreasonable orders of the seniors was also misconduct. The petitioner was given an opportunity to submit a representation within 15 days against the findings of the Enquiry Officer and the observation of the Disciplinary Authority.

7. In pursuance of the aforesaid, the petitioner filed a representation dated 4th June, 2020, before respondent no. 4, negating the observations and findings of the Enquiry Officer and the Disciplinary Authority. The petitioner further filed an Addendum dated 11th June, 2020, to the aforesaid representation.

8. Respondent no. 4, after considering the aforesaid and the materials on record, was pleased to pass an order dated 8th March, 2021, inter alia, holding the petitioner guilty of the charges levelled against him and imposed a penalty to the following effect:

> *"REDUCTION IN BASIC PAY BY THREE INCREMENTS IN THE TIME SCALE"*

9. Being aggrieved by and dissatisfied with the aforesaid order passed by the respondent no.4, the petitioner filed an appeal dated 3rd June, 2021 before the respondent no. 2 herein, being the Appellate Authority under The Oriental Insurance Company (Conduct, Discipline & Appeal) Rules, 2014.

10. On the same cause of action, the respondent No.1/OICL had also initiated criminal proceedings against the petitioner and others, which were being investigated by the Central Bureau of Investigation (CBI), being CBI/ACB/S No.RC0102017A003 pending before the Learned 3rd Special CBI Court, Bankshall Court at Calcutta. The CBI had completed the investigation and filed a report in the form of a Charge Sheet dated 28th September, 2019 in such proceedings, *inter alia*, arriving at a finding that "no criminality could be made out against Petitioner and others except one, Sri Tanmoy Ghosh.

11. In view of the aforesaid, the petitioner filed an additional representation dated 13th December, 2021 in the pending appeal before the respondent no. 2, bringing on record the aforesaid Charge Sheet filed by the CBI, exonerating him from the criminal charge.

12. By an order dated 20th December, 2021, the respondent no. 2 rejected the appeal filed by the petitioner. The respondent no. 2 passed a cryptic order, as per the petitioner and came to the finding

that "The disciplinary authority attended to the contentions appropriately while imposing penalty". However, no reasons were cited by the respondent no. 2 in support of such findings. The order dated 20th December, 2021 would also reveal that the Appellate Authority did not go through the specific grounds taken in the appeal nor did it refer to or examine the additional representation dated 13th December, 2021 filed by the petitioner disclosing the Charge Sheet filed by CBI exonerating him from the criminal case.

13. Having no other alternative, the petitioner was constrained to file a representation dated 23rd February, 2022, before the authority to consider his appeal afresh along with the supplementary reply dated 13th December, 2021 on the specific points raised by him in the said appeal.

14. In the meantime, vide order dated 21st April, 2022 passed in CBR/ACB/S No. RC01020174003, the Learned 3rd Special CBI Court, Bankshall Court at Calcutta was pleased to drop the proceedings against the petitioner in view of the final report submitted by the CBI.

15. The petitioner submitted a representation dated 24th May, 2022, to the Hon'ble Vice Chairman, National Commission for Schedule Caste, *inter alia*, bringing the notice of the entire facts on record and

demanding justice specifically in light of the findings of the CBI Court referred to hereinabove.

16. By a communication dated 14th October, 2022, the Manager of the Personnel Department, Regional Office, Kolkata of the respondent No. 1 organization communicated an order dated August 30, 2022 passed by the respondent No.3, inter alia, rejecting the representation dated February 23, 2022 filed by the petitioner by holding as follows:

> *"Your Memorial Representation with documents of the case was placed before the Board Sub-Committee of Appeal & Memorial during the meeting held on 03.08.2022. The Board Sub-Committee, after due deliberations, did not find any new material facts in your Memorial Representation to merit reconsideration of the decision of the Disciplinary Authority and hence the order of the Disciplinary Authority was unanimously upheld."*

17. The petitioner, vide his letter dated 12th December, 2022, requested the respondent No.4 to reconsider his case in its true perspective in light of the findings of the CBI and the order dated 21st April, 2022 passed by the Learned 3rd Special CBI Court, Bankshall Court at Calcutta, dropping the criminal case against the petitioner.

18. By a communication dated 6th March, 2023, the National Commission for Scheduled Castes forwarded to the respondent no. 2 the minutes of the hearing held before the Commission on 24th

February, 2023, wherein the Commission observed that in view of the clean chit given by the CBI, the petitioner was advised to submit his mercy petition before the CMD/OICL and the same was requested to be sympathetically considered within a reasonable period of time.

19. The petitioner submitted a mercy petition dated 13th March, 2023 to the respondent no. 2 requesting him to reconsider the matter afresh and exonerate the petitioner from all charges, especially in view of the Final Report filed by the CBI in the matter and acceptance of the same by the jurisdictional Court.

20. By an order dated September 25, 2023, the respondent no. 2 revised the penalty imposed on the petitioner, *inter alia*, as follows:

> *"Reduction in Basic Pay by Two Increments in The Time Scale"*

21. The respondent no. 2 has held that the only factual scenario which had changed after the disposal of the memorial representation dated 20th February, 2023 was the Closure Report filed by the CBI and the acceptance of the same by the Learned Magistrate vide his order dated 21st April, 2022. The said order dated 25th September, 2023, which is impugned in the present proceedings, is conspicuously bereft of any logical reasoning which could have prompted the respondent no. 2 to arrive at the finding of revision of penalty

imposed on the petitioner; as such, the order dated 25th September, 2023 passed by the respondent no. 2 is bad in law and liable to be set aside.

22. According to the petitioner, the order dated 25th September, 2023 is wholly non-speaking and devoid of reasoning. Reasons are the heartbeat of every conclusion, and without them an order becomes lifeless. The failure to record reasons violates the principles of natural justice and renders the order non est. Reasons ensure transparency and fairness in decision-making, and enable a litigant to know why his prayer has been accepted or rejected. Recording reasons is a requirement of natural justice and the linchpin of the administration of justice, being the link between the mind of the decision-maker and the controversy in question. Failure to give reasons therefore amounts to a denial of justice. Hence the present writ petition.

23. Mr. Mukherjee, the Learned counsel, along with others representing the petitioner, submitted that the respondents, being public authorities, are bound to act fairly and reasonably and not to indulge in any unwarranted action to the detriment of the petitioner herein. The conduct of the respondent authorities, and particularly respondent no. 2, clearly indicates that they have proceeded with a

closed mind in declining/rejecting the petitioner's representation dated 13th March, 2023, as well as advised of the commission.

24. It was further submitted that the respondent authority did not consider the final result of the criminal proceedings, whereby, in the allegation levelled against the petitioner, even a prima facie case has not been established, and finally the CBI had completed the investigation and filed a report in the form of a Charge Sheet dated 28th September, 2019 in such proceedings, inter alia, arriving at a finding that "no criminality could be made out against Petitioner and others except Sri Tanmoy Ghosh. The Learned 3rd Special CBI Court, Bankshall Court at Calcutta, was pleased to drop the proceedings against the petitioner in view of the final report submitted by the CBI vide order dated 21st April, 2022 passed in CBR/ACB/S No. RC01020174003.

25. The learned counsel further contended that mere ritual of repeating the words or language used in the provisions, saying that no illegality or impropriety is found therein without even a whisper of the merit of the matter or nature of pleas raised, does not meet the requirement of a decision-making process. The impugned order dated 25th September, 2023 is bald in reasoning and does not reflect the application of mind of the respondent no. 2 whatsoever.

26. The impugned actions/or decisions of the respondent authorities and particularly the respondent no. 2 are illegal, arbitrary, without and/or in excess of jurisdiction, amount to malice in law as well also in facts, suffer from the vices of Wednesbury Unreasonableness, procedural impropriety and illegality and are unconstitutional, illegal, and violative of the principles of natural justice, highhanded, in colourable exercise of power and/or in wrongful usurpation thereof and is also violative of Article 14 of the Constitution of India as such the writ court may interfere and set aside the order of imposition of penalty.

27. Reliance was placed on the following judgments to bolster his contention that the writ court can interfere with the impugned departmental proceeding and its findings based on without any valid reasoning, while the criminal case against the petitioner has been dropped by the criminal court as under: -

i. ***Satya Narayan Kushwaha v. The State of Madhya Pradesh & Ors.***[1]*;*

ii. ***Raj Kishore Jha v. State of Bihar & Ors.***[2] particularly in paragraph no. 13 thereof*;*

[1] Writ Petition No. 19493 of 2022 dated 13th December, 2022 (M.P. High Court)
[2] (2003) 11 SCC 519;

iii. Vishnu Dev Sharma v. State of U.P. & Ors particularly paragraphs 7 thereof.[3].

28. Learned senior counsel appearing on behalf of the respondent nos. 1-4 vehemently controverted the contention of the petitioner and further submitted that the departmental proceeding had been initiated against the petitioner and the charges were proved by the witnesses and finally, vide order dated 8th March, 2021, inter alia, declared the petitioner guilty of the charges levelled against him and imposed a penalty by reduction in basic pay by 3 increments in the time pay.

29. It was further contended that the petitioner had filed an appeal before the authority, but he could not succeed in the appeal. Thereafter, he made a representation before the National Commission of Scheduled Castes; in turn, the Commission advised him to make a mercy petition before the appropriate authority. Accordingly, he submitted a mercy petition before the authority without challenging the order passed in an appeal preferred by the petitioner in any court of law. The petitioner has admitted the finding of respondent no. 4 and the order passed in appeal; in any event, the same became final and absolute.

[3] (2008) 3 SCC 172;

30. Despite the aforesaid facts, respondent no. 2 considered the petitioner's mercy petition and reduced his penalty to two increments from three increments on humanitarian grounds, as the petitioner belongs to the Scheduled Caste based on request by the Commission of Scheduled Castes. Reduction of penalty on humanitarian grounds need not require assigning any reason as expected by the petitioner. Therefore, the order of reduction of penalty on mercy petition should not be interfered with or entertained by the writ court in exercise of power conferred under Article 226 of the Constitution of India. The writ petition ought to be dismissed in limine.

31. Finally, the learned counsel contended that the disciplinary authority is not bound by the order of dropping of the criminal case against the petitioner by the criminal court, if the evidence that is produced in the departmental inquiry is different from that produced or brought during investigation and/or criminal trial. In the present case, departmental proceeding completed and found him guilty prior to exoneration from the criminal proceeding pending before the trial court.

32. Learned senior counsel has placed reliance on the following judgments to bolster his contentions that the charges were proved and punishment was imposed accordingly; therefore the question of

disproportionality of penalty and illegality according to the alleged charges does not arise: -

i. ***National Fertilizers Ltd. & Anr. Vs. P.K. Khanna[4];***

ii. ***Regional Manager, UCO Bank & Anr. vs. Krishna Kumar Bhardwaj[5];***

iii. ***Karnataka Power Transmission Corporation Limited represented by Managing Director (Administration and HR) Vs. C. Nagaraju and Anr.[6]***.

33. Having heard the arguments and submissions made by the learned counsels for the respective parties and having gone through the materials made available on record, it appears that the petitioner has challenged the aforesaid order, one of which reduced the penalty on the mercy petition. The questions that arise for consideration before this Court are as under: -

i. Whether the findings and penalty in the disciplinary proceedings call for interference?

ii. Whether the final report of the CBI and the order dated 21st April, 2022 have any bearing on the findings of the disciplinary authority?

34. Firstly, this Court is of the opinion that there is no scope for interference with the order dated 25th September, 2023 passed by the

[4] (2005) 7 SCC 597;
[5] (2022) 5 SCC 695;
[6] (2019) 10 SCC 367;

competent authority, whereby the penalty imposed upon the petitioner has been reduced. The petitioner was found guilty of the commission of the offence as alleged in the departmental proceedings. The charges levelled against the petitioner were proved during the departmental proceedings. The punishment was accordingly imposed upon him. He had challenged the said finding of the disciplinary authority by way of appeal. But he could not succeed. In appeal, the order passed by the disciplinary authority was affirmed. He submitted his mercy petition to the competent authority, based on the advice of the Commission for Scheduled Castes.

35. It is admitted fact that the petitioner never challenged the order dated 3rd August, 2022 passed by the Board sub-committee of Appeal & Memorial, which was passed after due deliberations, unanimously upholding the order of the Disciplinary authority. The said order has not been challenged before any forum; rather, he submitted mercy petition before the authority on the basis of the advice of the National Commission of Scheduled Castes. It seems that the petitioner ultimately accepted the decision of the Disciplinary Authority and finally made a prayer before the authority for mercy, and the authority has considered his mercy petition on humanitarian grounds, as the petitioner belongs to a Scheduled Caste. There is no

provision to challenge such order passed on a mercy petition. It is the prerogative of the authority to either accept his mercy petition or deny the same. In the present case, the authority has accepted his mercy petition on humanitarian grounds.

36. It is a settled proposition of law that when the petitioner is found guilty in a disciplinary proceeding, then subsequently dropping his case after investigation bears no consequences on the disciplinary authority and/or appellate authority decisions because both the proceedings are adjudicated by two different forums.

37. The petitioner's principal contention is that the departmental findings cannot survive once the criminal proceedings were dropped. A disciplinary proceeding and a criminal prosecution are distinct proceedings before different forums, with different objects. The first determines whether the employee is guilty of misconduct under the service rules and whether he should continue in service. The second determines guilt of an offence as alleged on the criminal standard of proof.

38. The judgment relied upon by the respondent nos .1 to 4 in the case of ***Karnataka Power Transmission Corporation Limited (Supra)*** is truly and squarely applicable in the present facts and circumstances of the case since in the said case, the Hon'ble Supreme Court held

that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in the departmental inquiry is different from that produced during the criminal trial. The object of the departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a departmental inquiry is not strictly based on the rules of evidence. The order of dismissal, based on evidence before the inquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needs no interference by the High Court. In the present case, the disciplinary authority found him guilty and awarded punishment by "REDUCTION IN BASIC PAY BY THREE INCREMENTS IN THE TIME SCALE", and subsequently, the penalty was further reduced upon consideration of a mercy petition by reducing punishment by "REDUCTION IN BASIC PAY BY TWO INCREMENTS IN THE TIME SCALE" even after unsuccessful appeal preferred by the petitioner only on humanitarian grounds and without touching on merits. Such a decision taken by the competent authority calls for no interference.

39. The judgement relied upon by the petitioner is not at all applicable in the present case since the facts involved are totally different and not identical.

40. Insofar as the order dated 25th September, 2023 is concerned, the petitioner's appeal was rejected on 20th December, 2021. His memorial representation was rejected on 30th August, 2022, after the Board Sub-Committee of Appeal & Memorial, upon due deliberation, found no new material to warrant reconsideration. The petitioner did not challenge either order at the time. After the Commission advised him to submit a mercy petition, he did so on 13th March, 2023, and the competent authority reduced the penalty from three increments to two. That decision rests on humanitarian considerations and does not disturb the finding of guilt. An order of this kind is an act of clemency and not an adjudication of the merits afresh. It operated to the petitioner's benefit by reducing the penalty. The absence of elaborate reasons does not render it bad in law.

41. The petitioner's contention that the order is arbitrary, violates Article 14 of the Constitution, and suffers from Wednesbury unreasonableness and a closed mind cannot be accepted. An authority that reduces a penalty on a mercy petition has not acted with a closed mind towards the delinquent. The petitioner also

sought, through the mercy petition, exoneration on the strength of the CBI's final report. That prayer was in substance a request to reopen the finding of guilt, which had already been upheld on appeal and on the memorial representation. The authority was entitled to decline it, and its choice to grant partial relief on humanitarian grounds is not open to challenge under Article 226.

42. Having sought and obtained a reduction of penalty on a mercy petition, the petitioner cannot now be permitted to contest the penalty on the merits. He allowed the orders dated 20th December, 2021, and 30th August, 2022 to stand unchallenged, and this writ petition was filed in 2024 challenging the order passed based on the mercy petition. Thus, the writ petition is devoid of merits and fails.

43. Accordingly, **WPA No. 14467 of 2024** stands **dismissed** without order as to costs. Pending applications, if any, are also, thus, disposed of.

44. Interim order, if any, stands vacated.

45. Parties shall act on the server copies of this Judgment downloaded from the official website of the High Court at Calcutta.

46. Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon compliance of all the necessary and legal formalities.

(Ajay Kumar Gupta, J.)

P.A.