

(2011) 09 GAU CK 0015

Gauhati High Court

Case No: Writ Petition (C) No. 5940 of 2006

Sri Shibaprasad Das

APPELLANT

Vs

Oriental Insurance Co.
and othersRESPONDENT

Date of Decision: Sept. 30, 2011**Citation:** (2012) 2 GLD 209**Hon'ble Judges:** Biplab Kumar Sharma, J**Bench:** Single Bench**Advocate:** S.K. Borkataki and Mr. D. Sharma, for the Appellant; S.K. Goswami, for the Respondent**Final Decision:** Dismissed

Judgement

B.K. Sharma, J.

The petitioner is aggrieved by the penalty imposed on him pursuant to a departmental proceeding. According to the petitioner, the particular charge levelled against him having not been established in the enquiry proceeding, the Disciplinary authority could not have imposed the penalty, disagreeing with the findings recorded by the Enquiry Officer. The petitioner while was functioning as Branch Manager, Branch Office, Beltola, Guwahati, under the respondent Insurance Company, was served with the charge-sheet dated 15.1.2003 along with the statement of imputation of misconduct, list of documents and list of witnesses. The charge was issued for major penalty proceeding under Rule 25 of General insurance (Conduct, Discipline and Appeal) Rules, 1975. The charge was manipulation of particular insurance coverage to favour the claimant. According to the charge, the vehicle in question had already met with an accident, which did not have any insurance coverage, but the petitioner by way of manipulating the documents showed the vehicle to have been covered by insurance-policy issued on the same date. The insurance policy transaction was shown to have taken place on the same date prior to the accident. For a ready reference, the charge is quoted below :

ARTICLE OF CHARGE FRAMED AGAINST SH. S.P. DAS, BRANCH MANAGER, BO NARENGI

Shri S.P. Das, while posted and functioning as Branch Manager, Branch Office, Beltola under CDO II Guwahati (now posted as Branch Manager, Branch Office Narengi under CDO II Guwahati) during the year 1996-97 committed the following misconduct:-

He has manipulated to cover an already accidental Vehicle No. AS-01-D-5977 by cutting made on the Cover-note No. 00963, specially on the effective time and date of the Cover-note and time of inspection. He cancelled the Cover-note No. 00963 and issued another Cover-note No. 00964 mentioning the time of issuance as 3.45 p.m. dated 10.10.96. The time of accident was 4.00 p.m. on same day i.e. 10.10.96. This mala fide act of Sh. S.P. Das resulted in unwarranted litigation for the company in the form of MACT Case No. 08/97 at Morigaon Assam. Further, it is mentioned in the cancelled Covernote No. 00963 that vehicle was inspected on 05.10.96 at 4 p.m. and the Covernote was issued w.e.f. 10.10.96 which is violative of Company's underwriting instructions.

Thus, Shri S.P. Das, Branch Manager, Branch Office Beltola by his above acts exhibited lack of integrity, dishonesty and acted in a manner prejudicial to the interest of the Company and committed act which is unbecoming of public servant, thus, violated 3 (1) (i), (ii) and 4 (1) & (5) of the General Insurance (Conduct, Discipline & Appeal) Rules, 1975.

Head Office
New Delhi

(B.K. SARKAR)
ASSTT. GENL. MANAGER
&
DISCIPLINARY AUTHORITY

2. As stated in the writ petition, the particular car bearing registration No. AS-01 D-5977 met with an accident on 10.10.1996 at 4.00 p.m. at a place called Nellie through which National Highway No. 37 passes. Because of the accident a girl child of aged about 8 years, who had tried to cross the road being knocked down by the car died on the spot. It is relating to this incident, the entire episode has arisen with the question of fact as to whether at the time of accident, the vehicle was insured with the respondent Insurance Company or not. According to the Insurance Company, the vehicle was shown insured by the petitioner manipulating the documents as a result of which out of the MACT claim, the Insurance Company had to suffer financial loss.

3. Although in paragraph-5 of the writ petition, the petitioner has stated about his written statement of defence dated 24.9.2003, but the copy thereof has not been annexed to the writ petition. However, the petitioner has stated about the contents of the reply as follows.

4. According to the petitioner, the particular cover note bearing No. 00963 had to be cancelled by shifting of the page as the unwanted figures and over writings occurred. It was the stand of the petitioner that since the cover note itself was cancelled, the contents thereof could not have been placed reliance on by the Disciplinary Authority while framing the charge. The stand of the petitioner was that because of the mistake and overwriting in the cover note, the same was cancelled and abandoned and new cover note bearing No. 00964 which was the next page of the earlier cover note page was made use of. It was the further stand of the petitioner that the cover note No. 00964 was issued by him at 3.45 p.m. of 10.10.1996 consequent upon deposition of insurance premium and that the accident took place at 4.00 p.m. on the same date. Since the vehicle stood insured with the Insurance Company and the accident occurred thereafter, there was no escape for the Insurance Company to pay compensation.

5. After explaining the particular circumstances under which the vehicle was insured with the Insurance Company, the petitioner has stated in paragraphs 6 and 7 of the writ petition that the insured one Sri Anupam Bora had filled in the proposal form for insuring the vehicle in question on 10.10.1996. In acceptance of the proposal on receipt of the required insurance premium in the office at 3.45 p.m. on 10.10.1996, the policy was issued on the basis of the cover note No. 00964, which was also issued on 10.10.1996 at 3.45 PM. The policy date was entered into the computer (F.O.C. system) on 14.10.1996 and it was generated on 14.10.1996.

6. According to the petitioner, one Mr. Jivanta Chetia, who had entered the policy records into the computer made a mistake in mentioning the effective time, but corrected the error using pen after finishing entry and generating the connected money receipt in connection with the proposal form and the policy was at 3.45 p.m. of 10.10.1996. It has also been stated that since it was a late receipt premium after cash hours of the day, the money receipt was generated and issued on 14.10.1996 as the office remained closed on 11.10.1996, 12.10.1996 and 13.10.1996. According to the petitioner, there was no breach of warranty while accepting the premium after the cash hours (cash hour closes at 3.30 p.m.) on 10.10.1996 and depositing the same on 14.10.1996 against the first money receipt duly computerised.

7. further stand of the petitioner in the writ petition is that the vehicle in question was inspected by the petitioner at Guwahati near Beltola office at 10.20 a.m. on 10.10.1996 as the insured proposed to insure the vehicle with the respondent Insurance Company. It has been stated in the writ petition that the insured signed the proposal form, but the proposal did not materialise as the premium amount was insufficient to cover the policy. Thereafter the representative of the insured returned to the office of the petitioner at 3.37 p.m. with the required amount, but by that time, the cash hours was already over. However, the cashier received the insurance premium of Rs. 6062/- towards insuring the vehicle at 3.45 p.m. on 10.10.1996 and cover note No. 00964 was issued at 3.45 p.m. of 10.10.1996.

8. The reply furnished by the petitioner in response to the charge being not satisfactory, the Disciplinary Authority appointed an Enquiry Officer to enquire into the charge. The Enquiry Officer conducted the enquiry by examining the witnesses. Various documents were also exhibited by the parties. On conclusion of the enquiry, the Enquiry Officer submitted his report dated 25.3.2004 with the following findings :

Findings :

On the basis of thorough enquiry proceedings involving evidences and witnesses from both defence and prosecution sides it is found that:

(a) The charged officer had no doubt prepared the cover note No. 00963 for issuance but subsequently cancelled it after several overwriting and re-prepared cover note No. 00964 and issued to the client.

(b) The charged officer's making overwriting on the face of cover note No. 00963 is true but involvement of mala fide intention on his part in doing so could not be proved by any witness.

(c) Since the mala fide intention in respect to issuance of cover note Nos. 00963 and 00964 could not be proved, the aspect of manipulating to cover already accidented vehicle No. AS-01-D-5977 could not be proved.

(d) The allegation that the time of inspection of vehicle No. A5-01-0-5977 as mentioned on the cover note No. 00963 was at 4 p.m. on 05/10/1996 could not be proved.

Sd/-

(B. BASUMATARY)
DEPUTY MANAGER
&
ENQUIRY OFFICER

PLACE : GUWAHATI

DATE : 25/03/2004

9. As per the above findings, although there was several overwriting on the previous cover note No. 00963 and the cover note No. 00964 was issued thereafter, in absence of proof of mala fide intention, the charge of manipulating transaction could not be established. Being not satisfied with the findings recorded by the Enquiry Officer, the Disciplinary Authority while disagreeing with the said finding and recording reasons thereof communicated the same to the petitioner. This aspect of the matter has not been mentioned in the writ petition. The stand taken in the writ petition is that since the Enquiry Officer having exonerated the petitioner from the charge, the Disciplinary Authority could not have imposed the penalty. Be it stated here that after assigning the reasons for

disagreement and getting the reply thereof from the petitioner, the petitioner was imposed with the penalty of reduction in basic pay by three stages in the time scale of pay besides recovery of 50% of the financial loss (Rs. 1,17,225/-) caused to the Insurance Company. For a ready reference, the impugned order of penalty dated 21.9.2005 as was communicated to the petitioner vide letter dated 27.9.2005 is quoted below :

ORDER

WHEREAS Major penalty Proceeding in terms of Rule 25 of General Insurance (Conduct, Discipline & Appeal) Rules, 1975 were initiated against Sri S.P. Das, AO, CDO 2 Guwahati on the following charges :

Shri S.P. Das, while posted and functioning as Branch Manager, 80 Beltola, under CDO II Guwahati during the year 1996-97 committed the following misconduct:--

He has manipulated to cover an already accidental Vehicle No. AS-01-D-5977 by cutting made on the Cover-note No. 00963, specially on the effective time and date of the Covernote and time of inspection. He cancelled the Covernote No. 00963 and issued another Covernote No. 00964 mentioning the time of issuance as 3.45 p.m. dated 10.10.96. The time of accident was 4.00 p.m. on same day i.e. 10.10.96. This mala fide act of Sh. S.P. Das resulted in unwarranted litigation for the company in the form of MACT Case No. 08/97 at Morigaon Assam. Further, it is mentioned in the cancelled Covernote No. 00963 that vehicle was inspected on 05.10.96 at 4 p.m. and the covernote was issued w.e.f. 10.10.96 which is violative of Company's underwriting instructions.

AND WHEREAS a Departmental Enquiry was held and Shri B. Basumatary, Enquiry Officer has returned the findings that the charges were partly proved against Shri Das. The undersigned disagreed with the findings of the Enquiry Officer on the charges which were not proved and conveyed the reasons for disagreement to Sri Das. Now the undersigned has received his reply, who pleads that issuing the Covernote No. 00964 is lawful and does not breach any rule of the company. He also pleads that striking out Covernote No. 00963 due to over writing & immediately issuing Covernote No. 00964 is neither a manipulation nor a dishonest act and also there is no such rule which says that Covernote is required to be issued only after inspection of vehicle.

AND WHEREAS the undersigned being the Assistant General Manager and Disciplinary Authority after having gone through the charge sheet, Enquiry Report, reply of Shri Das and other connected records/documents of the case observes that the pleas taken by Shri Das are not tenable. Shri Das without ascertaining previous insurance particulars of the vehicle issued the Covernote, when there was break in insurance for several months. He also without inspecting the vehicle issued covernote in gross violation of underwriting norms and exposed the company to an unwarranted financial loss. Shri Das has not given satisfactory explanation for overwriting in the cancelled Covernote No. 00963 in respect of time. Thus his conduct is blameworthy.

THEREFORE, the following penalty is hereby imposed on Shri S.P. Das :

Reduction in basic pay by three stages in the time scale of pay besides recovery of 50% of loss (Rs. 1,17,225/-) caused to the company.

Shri S.P. Das be informed accordingly.

(P. MAHAJAN)
ASSTT. GENERAL MANAGER
AND
DISCIPLINARY AUTHORITY

10. Being aggrieved by the said order of penalty, the petitioner preferred departmental appeal, but to no favourable result.

11. the respondents have filed their counter affidavit denying the contentions raised in the writ petition. According to the respondents, the facts narrated in the charge exhibited lack of integrity and dishonesty on the part of the petitioner and that he had acted in a manner prejudicial to the interest of the company and committed the act unbecoming of a public servant and thus violated Rules 3, 4 and 5 of the General Insurance (Conduct, Discipline and Appeal) Rules, 1975. According to the respondents, the insurance cover note was obtained fraudulently by the insurer in collusion with the petitioner.

12. Dealing with the own stand of the petitioner in the writ petition that the vehicle met with an accident at 4.00 p.m. at Nellie after the insurance coverage at 3.45 p.m, it is the stand of the respondents that the own stand of the petitioner would go to show that the petitioner was involved in the fraud towards covering the vehicle inasmuch as Nellie at a distance of about 70 KM from Guwahati could not have covered the distance within 15 minutes from Guwahati.

13. As regards the filling of the documents of the insurance coverage on 14.10.1996, it has been stated that the same no way corroborates the preparation and signing of proposal form on 10.10.1996. It has been denied that the cash hour of the company stood closed at 3.30 p.m. According to the respondents, closing time was. 4.30 p.m. Thus, the respondent company has raised the question as to why the petitioner did not deposit the premium which he allegedly received at 3.45 p.m. on 10.10.1996. The Insurance Company has also questioned as to why the money receipt and the policy were issued to the insurer only on 14.10.1996 instead of 10.10.1996.

14. As regards the allegation of the petitioner that the Disciplinary Authority acted in an illegal manner, it has been stated that the said authority passed the impugned order with due application of mind and the petitioner was given due opportunity to have his say on the note/point of disagreement to the enquiry report. In a nutshell it is the stand of the respondents that the petitioner was guilty of misconduct inasmuch as he by manipulating the records got the insurance coverage of the vehicle issued, which had already met with

an accident because of which the Insurance Company had to bear the compensation awarded by the MACT.

15. I have heard Mr. S.K. Borkataki, learned counsel for the petitioner as well as Mr. S.K. Goswami, learned counsel for the Insurance Company. I have also perused the entire materials on record including the records of the departmental proceeding and my conclusion and findings are as follows.

16. As per the own showing of the petitioner in the writ petition the vehicle in question was insured on 10.10.1996 at 3.45 p.m. immediately and thereafter within 15 minutes the car met with an accident at 4.00 p.m. and that too at a distance of about 70 KM. It was impossible on the part of the vehicle (stated to be a Fiat) to cover the distance of 70 KM within 15 minutes. Another aspect of the matter is that the petitioner had admitted that the vehicle was inspected at 10.20 a.m. in the office premises on 10.10.1996, but could not be insured in absence of full premium amount. Later on, representative of the owner of the car came to the office at 3.45 p.m. with full premium amount and in acceptance of the same, the cover-note was issued meaning thereby that the vehicle was not inspected after 10.20 a.m. The plea of the petitioner that the cash amount could not be deposited as by that time the cash counter was closed and consequently could be deposited only on 14.10.1996 because of the intervening holidays on 11.10.1996, 12.10.1996 and 13.10.1996 has been stoutly rebutted by the respondents in their counter affidavit clearly stating that as per the prevailing practice followed, the counter remains open upto 4.30 p.m.

17. In the reply affidavit filed by the petitioner, the petitioner has taken the plea that at the time of the accident, the driver of the vehicle was not in possession of the insurance cover note and after the accident could not produce the same to the police. Which will go to show that the vehicle was driven without insurance coverage at the time of accident and it was only after the accident, the insurance cover note was produced. This position the petitioner seeks to explain by stating that since the vehicle was inspected at 10.20 a.m. of the fateful day and the premium amount was deposited at 3.45 p.m. of the same date, the cover note was issued at 3.45 p.m. However, the fact of the matter is that the petitioner did not enquire as to whether in the meantime the vehicle had met with any accident. It will be pertinent to mention here that before the particular insurance coverage issued by the petitioner, the vehicle was not covered any insurance coverage and thus was being run without any insurance coverage.

18. It is in the above backdrop, cancellation of the earlier cover note bearing No. 00963 and issuance of later cover note on the next page bearing cover note No. 00964 will have to be considered. As per the allegation in the charge, the effective time and date as were indicated in the earlier cover note No. 00963 were cut across the line. Thereafter the second cover note No. 00964 was issued mentioning issuance time and date as 3.45 p.m. of 10.10.1996 respectively. Further in the cancelled cover note, it was written that the vehicle was inspected on 5.10.1996 at 4.00 p.m, but cover note was issued on

10.10.1996.

19. All the above aspects of the matter have been indicated in view of the fact that the petitioner has been imposed with the penalty upon a disagreement note of the disciplinary authority with the enquiry report. In the enquiry report, the Inquiry Officer while noting that the vehicle was inspected by the petitioner at Guwahati in the office premises at Beltola at 10.20 a.m. of 10.10.1996 and that the petitioner did not inspect the vehicle again at 3.45 p.m. and granted the cover note has stated that the same was on good faith. Such good faith as indicated by the inquiry Officer has no place in business transaction of insurance coverage. The Inquiry Officer has also stated in the report that because of the mistake and overwriting occurred in the first cover note, the same was cancelled and thereafter later cover note was issued at 3.45 p.m. without discussing the circumstances in which the second cover note was issued. The Inquiry Officer exonerated the petitioner inspite of the finding that in the first cover note, there was double figures on effective date and time of commencing of insurance, date of expiry of the insurance, date of issuance, date of vehicle inspection etc. and under the said column double figures were visible and held that the subsequent issuance of the cover note No. 00964 by putting the clock back was not possible. In this connection, the particular observation of the Inquiry Officer in the enquiry report is quoted below :

The important points of the cover note No. 00963 like effective date and time of commencement of insurance, date of expiry of insurance, date of issue, date of vehicle inspection have been overwritten for which double figures are visible in it. Only the vital information left untouched is the time of inspection i.e. 4.00 p.m. and the period of validity of the cover note i.e. expiry date has been mentioned as 26.10.1996. Since the cover note No. 00963 had been prepared with an intention to issue to the insured as per M.V. Act; 1988 for 15 days, the date of commencement of cover note No. 00963 would be probably 11.10.96 after putting back the dates. The vehicle inspection date has been overwritten and looking like 05.09.10, 11.10.1996. The time of inspection has been shown as 4.00 p.m. by interlinkings this fact; subsequent issuance of cover note No. 00964 by putting the clock back to a lower time and date i.e. 10.20 a.m. of 10.10.1996 is not possible.

20. Lastly the Inquiry Officer, while believing the story of the petitioner that he had inspected the vehicle at 10.20 a.m. and not at the time of insurance at 3.45 p.m. of 10.10.1996 believed the good faith story of the petitioner "inspite of clear finding that the vehicle in question was earlier insured with another Insurance Company and there was break in continuity for several years. The Inquiry Officer even after holding that the petitioner did not adduce any evidence to the effect that inspection of the vehicle was not insured at the time of commencement of risk held the petitioner not guilty of the charge. In this connection the relevant portion of the enquiry report is also reproduced below :

The next point Mr. Das brought to record that he had inspected the vehicle at 10.20 a.m. when the insured came to office and the insured had filled the proposal form by putting

his signature with date and time. The insured had been summoned as defence witness but he did not turn up in the enquiry proceeding. The proposal form marked as Exts.5-6 is found unfilled at the appropriate place of Vehicle Inspection Report. Though cover note No. 00964 had been given commencement time of insurance as 3.45 p.m. of 10.10.1996, the vehicle had not been inspected by Sri Das at that time again in the name of good faith knowing very well that the vehicle in question was insured earlier with National Insurance and there was break in continuity of insurance for several years and he had stated that inspection was required for ascertaining only the roadworthiness of the vehicle. But he did not adduce any evidence to the effect that inspection was not required by him at the time of commencement of risk.

Further, Sri Das has stated that the insured Sri Anupam Bora had not brought the required premium at that time and his representative had come to the office at 3.37 p.m. of 10.10.1996 with requisite premium of Rs. 6022/-. In spite of this the charged official failed to show the premium amount in the cover note terming it as unintentional mistake and rather it has been surprisingly shown as "As per Policy" and in this case the policy has been prepared on 14.10.96.

The charged official and defence witnesses have failed to convince about non-maintenance of late receipt register as pointed out by the Presenting Officer.

21. On the basis of the evidence on record and the aforesaid observations and findings of the Inquiry Officer, the disciplinary authority disagreed with the findings of the Inquiry Officer and the reasons for such disagreement was also conveyed to the petitioner asking him to furnish his reply. The petitioner had chosen not to annexe the note of disagreement conveyed to the petitioner by the disciplinary authority and his reply thereto. But the records produced by Mr. Goswami, learned counsel for the Insurance Company bears the testimony of the same. Even the impugned order dated 21.9.2005 speaks of the said course of action in the impugned order and the reasons for disagreement. The disciplinary authority has held that on the basis of the charge, the enquiry report and other related materials, the pleas taken by the petitioner were not tenable. The said authority has recorded the clear findings that the petitioner without ascertaining the previous insurance particulars of the vehicle issued the cover note when there was break of insurance for several months. As admitted by the petitioner himself, he also without inspecting the vehicle issued the cover note in gross violation of the norms being followed in the Insurance Company and exposed the company to an unwarranted financial loss.

22. For a ready reference/the reasons for agreement, as was communicated to the petitioner vide letter dated 21.7.2004 is quoted below :

REGD & HEAD OFFICE

21st July, 2004

Deptt: Personnel
Ref: HO/PERS/CDA/693
Shri S.P. Das
ADM
CDO-2 GUWAHATI

Dear Sir,

Re : Major Penalty Proceedings in terms of Rule 25 of General Insurance (Conduct, Discipline & Appellate) Rules, 1975 (Amended).

Major Penalty Proceedings were initiated against you vide Office Memorandum dated 15.1.2003 under Rule 25 General Insurance (Conduct, Discipline & Appellate) Rules, 1975.

The Departmental Enquiry was held in the matter and the Enquiry Officer Sh. B. Basumatary Deputy Manager RO Guwahati has now submitted his Enquiry Report. A copy of which is enclosed for your reference.

I have since perused the Enquiry Report and gone through the other connected records of the case and observe that the Enquiry Officer returned the findings that the charges stand partly proved against you. I am in agreement with finding of the Enquiry Officer to the extent of the proved charges but not in agreement with the remaining charges, which are not proved. During the enquiry it is found/established that you without ascertaining previous insurance particulars of the vehicle in question when there was break in insurance for several months, issued the cover-note. Further, your plea that you failed to issue the cover-note in the morning due to short premium and on receipt of the same at evening, you issued the cover-note without inspecting the vehicle covering the risk from, 4 p.m. in good faith is not tenable which is considered as gross violation of the underwriting norms and regulations. You had also not given satisfactory explanation for overwriting in the cancelled cover-note No. 00963 particularly in respect of time, earlier you had mentioned 4 p.m. in the cancelled cover-note and later it was changed as 10.20 a.m. in subsequent cover-note. You should have inspected the vehicle at the time of issuance cover-note as per the Rules in the interest of the company.

Thus, the pleas that involvement of mala fide intention on your part and manipulating the cover-note not proved are not tenable. The word mala fide intention is irrelevant in proving misconduct as it is not necessary element of it, every act of a public servant is expected to be honest, bona fide and reasonable. You have exhibited conduct which is unbecoming of public servant and acted in a manner prejudicial to the interest of the company causing the company unwarranted liability to tune Rs. 1,17,225/- in connivance with insured. Thus your conduct is blame worthy. However, before proceeding further in the matter, the undersigned would like to give you an opportunity to submit Representation, if any, against the observations.

Your representation should reach the undersigned within 15 days from the date of receipt of this letter failing which it would be presumed that you have got nothing to say and the undersigned would proceed further in the matter.

Yours faithfully

(P. MAHAJAN)
ASSTT. GENERAL MANAGER
&
DISCIPLINARY AUTHORITY

23. The aforesaid reasons for disagreement and findings and also recorded in the order of penalty dated 21.9.2005 cannot be said to be arbitrary and/or illegal. The only ground on which the petitioner has structured the writ petition is that the Inquiry Officer having exonerated him from the charge, the disciplinary authority could not have passed the impugned order of penalty. By now the law in this regard is well settled. In this connection, we may refer to the Apex Court decisions reported in [Punjab National Bank and Others Vs. Sh. Kunj Behari Misra](#), ; [Yoginath D. Bagde Vs. State of Maharashtra and Another](#), ; AIR 2001 SC 2398 (SBI & Ors. v. Arvind K. Shukla) and [The High Court of Judicature at Bombay, Through Its Registrar Vs. Shashikant S. Patil and Another](#), .

24. The disciplinary authority is not bound to accept the findings recorded in the enquiry report and is entitled to disagree with the same for valid reasons. However, such reasons for disagreement are required to be conveyed to the delinquent entitling him to make the effective representation against such disagreement, In the instant case, the disciplinary authority after recording the reasons for disagreement, conveyed the same to the petitioner and in response to the same the petitioner also submitted his reply dated 20.8.2004 as available on record. It is only after this exercise, the disciplinary authority took the decision to impose the penalty of reduction in the stage of pay scale. Such a course of action adopted by the disciplinary authority after affording the petitioner the reasonable opportunity of being heard on the reasons for disagreement cannot be said to be arbitrary and illegal.

25. The fact speaks for itself. As has been held by the Apex Court in [Channabasappa Basappa Hoppali Vs. The State of Mysore](#), , admission of fact indicated in the charge amounts to admission of guilt. As noted above, the petitioner himself has admitted in the writ petition the related facts. Such admission of fact itself amounts to admission of guilt relating to the charge that was levelled against the petitioner.

26. In Sashikant S. Patil (supra), the Apex Court dealing with the legal position in the matter of disagreement with the findings of the Inquiry Officer observed thus :

19. The reasoning of the High Court that when the Disciplinary Committee differed from the finding of the enquiry officer it is imperative to discuss the materials in detail and contest the conclusion of the enquiry officer, is quite unsound and contrary to the

established principles in administrative law. The Disciplinary Committee was neither an appellate nor a revisional body over the enquiry officer's report. It must be borne in mind that the enquiry is primarily intended to afford the delinquent officer a reasonable opportunity to meet the charges made against him and also to afford the punishing authority with the materials collected in such enquiry as well as the views expressed by the enquiry officer thereon. The findings of the enquiry officer are only his opinion on the materials, but such findings are not binding on the disciplinary authority as the decision-making authority is the punishing authority and, therefore, that authority can come to its own conclusion, of course bearing in mind the views expressed by the enquiry officer. But it is not necessary that the disciplinary authority should "discuss materials in detail and contest the conclusions of the enquiry officer". Otherwise the position of the disciplinary authority would get relegated to a subordinate level.

20. The legal position on that score has been stated by this Court in *A.N. D"-Silva v. Union of India* that neither the findings of the enquiry officer nor his recommendations are binding on the punishing authority. The aforesaid position was settled by a Constitution Bench of this Court way back in 1963 (*Union of India v. H.C. Goel*). The Bench held that "the Government may agree with the report or may differ, either wholly or partially from the conclusions recorded in the report." Their Lordships laid down the following principle:

If the report makes findings in favour of the public servant and the Government disagrees with the said findings and holds that the charges framed against the public servant are prima facie proved, the Government should decide provisionally what punishment should be imposed on the public servant and proceed to issue a second notice against him in that behalf.

27. In the case reported in [Additional District Magistrate \(City\) Agra Vs. Prabhakar Chaturvedi and Another](#), the Apex Court emphasizing on the probative value involved in a departmental inquiry held that the delinquent involved in the said case having voluntarily admitted the fact of non-deposit of the amount of Rs. 21,000/-, the charge against him already stood proved. In the case reported in [Canara Bank Vs. V.K. Awasthy](#), the Apex Court dealing with the proportionality of punishment imposed on a delinquent bank employee, held that the action of the delinquent being prejudicial to the bank's interest, dismissal from service was proper.

28. The basic fact, which cannot escape the notice of any, prudent man are that the vehicle in question was not under any insurance coverage when the same was allegedly inspected at 10.20 am of 10.10.1996. However, according to the petitioner, no insurance coverage could be provided in absence of the premium amount. Later on, a representative of the insurer allegedly came to the office at 3.45 p.m. and deposited the same and the petitioner without any further inspection of the vehicle accepted the same and issued the cover note No. 00964 after striking out the earlier cover note bearing No. 00963. Certain amount of overwriting in a document is understandable, but when the enquiry report itself reveals that there was numerous overwriting on vital pages of the

cover note, it could not have simply brushed the same by saying that the earlier cover note had to be cancelled because of overwriting etc. The matter does not end here. The premium amount was deposited only on 14.10.1996 and that too with certain mistakes, about which the petitioner himself has stated in the writ petition. The money receipt was also generated in the computer and issued on 14.10.1996. The policy records were general in the computer with correction of certain errors by using pen. The said error was in respect of the effective time.

29. All the above aspects of the matter will go to show the manner and method in which the insurance coverage was made through the process of manipulation. Unlike a criminal case, a charge in a departmental proceeding can be sustained with the preponderance and probability, which are evident on the basis of the records, which in the instant case stare on the face of it.

30. For all the aforesaid reasons, I do not find any infirmity in the impugned order and consequently no relief can be granted to the petitioner. The writ petition is dismissed, without, however, any order as to costs.