

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 687 of 2016

The Oriental Insurance Company Limited ... Appellant

Versus

Dev Singh and others ... Respondents

With

Appeal from Order No. 688 of 2016

The Oriental Insurance Company Limited ... Appellant

Versus

Chaudhary and others ... Respondents

Present: Mr. V.K. Kohli, Senior Advocate assisted by Ms. Rajni Supyal,
Advocate for the appellant

Hon'ble Sharad Kumar Sharma, J.

List has been revised. None appears for the respondents, although, an intimation of the case being taken up has been stated, was given by Mr. Kanti Ram Sharma, Advocate, a colleague of Mr. V.K. Kohli, learned senior counsel for the appellant to the respondents' counsel, Ms. Anjali Noliyal. In this eventuality, Review being heard in their absence.

2. This Court, by order dated 12.06.2018, after finding that the explanation given by the two officers, namely, Mr. Arvind Kumar Saxena and Mr. Anand Swaroop of the appellant-Insurance Company not satisfactory had found that prima facie the finding which has been recorded in the earlier order of the coordinate Bench of this Court rendered on 14.05.2018 to be correct, had directed that an appropriate disciplinary proceedings may be drawn against the erring officials in furtherance of orders dated 14.05.2018 and 30.05.2018. One of the officers, namely, Mr. Arvind Kumar Saxena

has filed the present Review Application (CLMA No. 10544 of 2018). His contention in the review application is that the disciplinary proceedings as directed to be carried against him may not be appropriate, for the reason being that according to his submission, as he was transferred on 30.03.2012 to the Human Resource Department, New Delhi he ought not be harnessed with the responsibility of derelicting from performance of his duty. His contention in the Review Application is that the Amendment Application in the proceeding before the Court below was filed on 30.01.2013 i.e. much after his transfer and the same was allowed by the learned Motor Accident Claims Tribunal on 19.03.2014, and hence he expresses his ignorance that since he was not in the helm of affairs at that point of time when the application was filed or at the time when it was considered and allowed. Hence, the order directing to conduct an inquiry against him by order dated 12.06.2018 requires to be reviewed.

3. Recording the above submission, this Court is of the view that it would not be appropriate to review the judgment at this stage, however, it is clarified that when the Chairman proceeds with inquiry in compliance of the orders dated 14.05.2018 and 30.05.2018 and the consequential order dated 12.06.2018, the he would first look into the aforesaid fact about the impact of his transfer on 13.03.2012 to Human Resource Department, New Delhi and his involvement over the issue of filing of amendment and its allowing and thereafter only proceed with the disciplinary proceedings against Mr. Arvind Kumar Saxena, if at all required.

4. Subject to the above observations, Review Application (CLMA No. 10544 of 2018) stands disposed of. As far as the Review

Application (CLMA No. 10543 of 2018) sought by Mr. Anand Swaroop is concerned, that would stand rejected.

5. This order will simultaneously dispose of the Review Application (CLMA No. 10543 of 2018) filed in AO No. 688 of 2016. Let the copy of this order be placed in the connected Appeal (AO No. 688 of 2018).

(Sharad Kumar Sharma, J.)
30.07.2018

Mahinder/