

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

NO. CGIT/LC/ R/26/2015

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Ramdas, Driller,
Piparia, Vartola,
PO Piparia,
Annuppur, M.P.- 484224**

Workman

 V/s

**The Dy. Regional Manager,
Nowrozabad Colliery,
South Eastern Coalfields Ltd.,
PO Nowrozabad,
Umaria M.P.- 484555**

Management

(JUDGMENT)

(Passed on this 22nd day of July, 2026)

As per letter dated **27.02.2015** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under ***Section-10 of Industrial Disputes Act, 1947*** (in short the '**Act**') as per Notification ***No. L-22012/90/2014 (IR(CM-II))*** dt. **27.02.2015**. The dispute under reference relates to:-

[illegible]

The case of the workman is mainly that he was appointed and joined in the Office of Management in May, 1989 as a Loader and

worked till 27.10.2008. He was dismissed by management vide order dated 27.10.2008/30.10.2008 on the basis of a departmental enquiry conducted against him, which was unjust, arbitrary and against principles of natural justice. One Dilip Patel S/o Baijnath Patel filed a complaint to the Collector, stating that the applicant workman, who is working with the management of SECL is Munna S/o Langru Patel. In fact, real Ram Das S/o Ramgarib Patel R/o Village Kansa, Post Pipariya, District Annuppur is working with Cooperative Society, Dulhara, Annuppur as a sales man. Thus, the applicant, who is in fact Munna S/o Langru Patel, has impersonated himself as Ramdas and working with the Management also. A departmental enquiry was conducted against him in his absence which was, as stated earlier, unjust, illegal and arbitrary. The charges were wrongly held proved against him and the punishment was also arbitrary. He raised a dispute in this respect which could not be conciliated. A reference was made to this Tribunal by an appropriate Government. The workman has prayed that set aside his dismissal, he be reinstated with all back wages and benefits.

Case of Management is mainly that the applicant was working as a Driller and was posted at Nowrozabad Colliery. The Collector Annuppur, sent a report to management informing that the person working in name of Ramdas Patel is not the real Ramdas Patel. The real Ramdas Patel is working in Cooperative Society named ADIM JATI SEWA SAHKARI SAMITI and the person working with the Management Colliery is in fact Munna Lal S/o Langru Patel, who is relative of Ramdas S/o Ramgarib. Management issued a charge sheet against the workman with allegation of misconduct under clause 26.1 and 26.9 of the Standing Order. The matter was reported to Station In-Charge, Nowrozabad Police Station. The workman submitted his reply on 23.05.2008 which was found not satisfactory, a departmental enquiry was ordered. The workman was served notice of the enquiry but he did not appear in the enquiry. The management produced documents during the enquiry. On the basis of documents produced by Management, the Enquiry Officer held the workman guilty of the misconduct under clause 26.1 and 26.9 of the Certified Standing Orders, for obtaining employment on the basis of furnishing wrong information with respect to name and identity, as well committing fraud and dishonestly with the management. The workman was issued a show cause notice, after finding his reply on the show cause notice

not satisfactory, the punishment order was passed, by which his services were terminated. According to management, the enquiry was just, legal and proper. The charges were rightly held proved and the punishment is also proportionate to the charges.

In his rejoinder, the workman has mainly reiterated his case.

On the basis of pleadings, following Preliminary Issue was framed vide order dated 16.08.2019, as follows:-

Whether, the Departmental Enquiry conducted is legal and proper?

On the basis of evidence on record and enquiry documents, the preliminary issue was decided vide order dated 18.06.2025, the departmental enquiry was found legal and proper.

Following additional issues were framed, on the basis of perusal of record, in the light of rival arguments.

(1) Whether, the finding of the Enquiry Officer with respect to proof of misconduct has been recorded perversely?

(2) Whether, the punishment is proportionate to the misconduct proved?

Parties were given opportunity to lead evidence, if any, on the additional issues. They have not filed any evidence.

I have heard argument of Mr. Arun Patel, Learned counsel for applicant workman and Mr. Neeraj Kewat, Learned counsel for Management. I have gone through the record as well.

Additional Issue No. 1

The settled proposition of law with respect to proof of charges in a departmental enquiry is that, the charges need not be proved beyond reasonable doubt as it is required in criminal trials. Following judgments are being referred to in this respect:-

“Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other.

Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255

Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge(emphasis supplied). Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasi judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13). (ii) M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)

In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."

In the case of T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct,

exclusive and independent of each other. Standards of proof in the two proceedings are also different.

In the cases of Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425, the distinction between departmental enquiry and criminal proceedings has been drawn as under:

"The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "

Now, considering the material collected during the enquiry, it comes out that the workman did not participate in the enquiry. As enquiry records reveals, on 15.07.2008, the charges were read over, though the workman was not present. The management representative was asked to produce the documents; he produced as many as 11 documents as mentioned in the proceedings. They are; photocopy electoral list of Annuppur Vidhan Sabha Nirvachan Kshetra, in which the name of Munnalal S/o Langru as mentioned at S. No. 629, photocopy service book of Ramdas Patel maintained by the Management, photocopy appointment letter issued by the

cooperative committee regarding appointment of Ramdas Patel and his application. Appointment order Chairman of Cooperative Committee. Information sent to Officer In-Charge of the Police Station, charge sheet issued to the workman, letter dated 24.05.2008 sent to Officer In-Charge for action by the Management, letter of Collector dated 20.03.2008, letter of complaint sent by the complainant Dilip Kumar Patel to the Collector, photocopy of the land Patta issued to Ramgarib S/o Dhaniram and land record Patta issued in favour of Munnalal S/o Langru Patel. The Enquiry Officer, as it is mentioned in the enquiry report, held charges proved on the basis of these documents only. It is worth mentioning that no witness was examined by the Management during the enquiry proceedings. Learned counsel for workman has submitted that simply production of documents without examining the person who prepared the documents or who collected the documents will not be sufficient to held the charges, he has referred to following judgments in this respect:-

In the case of Roop Singh Negi V.s. Punjab National Bank (2009) 2 SCC 570, Hon'ble Supreme Court held that mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses. Relevant extract thereof reads as under:

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

15. Same view was reiterated in State of UP Vs. Saroj Kumar Sinha (2010) 2 SCC 772, wherein, Hon'ble Supreme Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the un rebutted evidence is sufficient to hold that the charges are

proved. The relevant observations made in Saroj Kumar Sinha are as follows: -

"28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether they are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could the charges have been proved against the respondents, not have been taken into consideration to conclude that un rebutted evidence is sufficient to hold that the charges are proved."

In Civil Appeal arising out of SLP (Civil) No. 29758/2018 Stayendra Singh V.s. State of UP (2024 INSC 873), the aforesaid judgments have been relied upon.

Learned counsel for management has submitted that these documents have not been disputed by the workman but, I am not convinced with this argument because in his reply to the show cause, the workman stated that he could not appear due to illness but he has produced documents in his reply.

Crux of the matter is that, only photocopy documents were produced before the Enquiry Officer without examining any witness in this respect, these photocopy documents have been filed before this Tribunal also. The photocopies of these documents was so blurred that identity of the person cannot be deciphered in any of the documents mainly the voter list, society documents and management documents. In absence of original documents and examination of any witnesses who prepared these documents or who collected these documents, it cannot be said that the charges are proved against the workman according to law. **Hence, holding the finding of the Enquiry Officer with respect to charges are perverse, the charges are held not proved against the workman.**

Additional Issue No. 1 is answered accordingly.

Issue No. 2

In light of finding that charges are not proved against the workman, with regards to relief following judgment is being reproduced:-

Before proceeding, Judgment of Hon'ble Supreme Court in the case of *Deepali Gundu Surwase, (2013)10SCC 324* requires to be reproduced hereunder:-

"The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful/ illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should

bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

Consequently, termination of the workman is set aside, he shall be deemed to be in continuous service from the date of his termination till date of his superannuation or till date of Award whichever is earlier with all consequential benefits and back-wages.

Issue No. 2 stands answered accordingly.

Hence, on the basis of above discussions and findings, the reference deserves to be answered accordingly;

AWARD

"Holding the action of the SAM, Nowrozabad Colliery in issuing charge sheet dated 10.05.2008 and after conducting the enquiry, terminating the services of the workman w.e.f. 27.10.2008 vide order No. 1327, illegal and unjustified, the workman is entitled to be reinstated with all back-wages and benefits, the Reference stands answered accordingly."

No order as to cost.

DATE:- 22-07-2026

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**