
(2025) 06 JH CK 0971
In the Jharkhand High Court
Case No : W.P.(L) No. 4314 Of 2003

Amirul Mian

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 30-06-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 167(5)
Indian Penal Code, 1860 — Section 287, 304
Industrial Disputes Act, 1947 — Section 11A

Citation : (2025) 06 JH CK 0971

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Suraj Singh, Anoop Kr. Mehta, Manish Kumar, Pratyush

Final Decision : Dismissed

Judgement

Deepak Roshan, J

1. The instant writ application has been preferred by the Petitioner for quashing the Award dated 17.12.2002 passed by the 2nd Respondent (Annexure-9), whereby the reference has been answered against the workman.

2. The brief fact of the case is that the petitioner was a permanent employee of 3rd Respondent and was posted as Dumper Operator under the 4th Respondent. On 28.09.1994, when the petitioner was driving the Dumper; a Mining Sirdar, namely Basudeo Rabidas, met with an accident resulting into his death.

Due to this act of negligence, on 13.11.1994 a chargesheet was issued by the 4th Respondent to which the petitioner submitted his explanation on 30.11.1994 and after the enquiry, the petitioner was dismissed from service on 03.04.1995. Thereafter, he being not succeeded in appeal or review; the petitioner through his Union raised his grievance before the Assistant Labour Commissioner (Central) Dhanbad which ended into failure and a reference was made.

Thereafter, the 2nd Respondent after dealing each and every aspect of the

matter held that the concerned workman is not entitled to get any relief.

3. Learned counsel for the petitioner has contended that copy of the enquiry report was not provided to him, therefore, he was not in a position to defend his case before the disciplinary authority and the learned Tribunal has failed to deal this aspect of the matter that principles of natural justice has not been complied and even otherwise learned Court has also failed to consider that termination of the petitioner for an accident, is very harsh and he should have been given a lesser punishment because in service jurisprudence termination is equal to capital punishment. Accordingly, learned counsel prays that the Award may be set aside and the respondents may be directed to reinstate the petitioner.

4. Learned counsel for the respondents submits that the fairness of domestic enquiry has not been challenged and the scope of Section 11A of the I.D Act, 1947 is very clear and further finding of facts cannot be assailed under writ jurisdiction and so far as quantum of punishment is concerned; the said contention is baseless in view of the fact that it is only due to the petitioner one Mining Sirdar had succumbed to death who met with the accident.

5. Having heard learned counsel for the parties and after going through the Award it appears that learned Tribunal in Para 5 has categorically held as under:

"5. ...In course of hearing learned Advocate for the concerned workman did not raise any challenge in relation to the fairness and propriety of the domestic enquiry conducted by the enquiry officer against the concerned workman. Accordingly, no evidence was adduced on behalf of the concerned workman. The management too did not adduce any evidence as the learned Advocate for the concerned workman did not raise any objection relating to the

fairness of domestic enquiry. ..."

6. In the said paragraph the learned Tribunal has further held as under:

"5. ... In view of the submissions of learned Advocates on both sides the order on preliminary point was delivered on 07.06.2002 vide order no.21 and it was observed clearly after considering all materials on record that the enquiry conducted by the E.O against the concerned workman was fair, proper and in accordance with the principle of natural justice. ..."

7. After going through the aforesaid finding, on the one hand, the Order No.21 dated 07.06.2002 was not challenged by the petitioner and on the other hand, the question of not submitting the enquiry report has no substance at this stage in view of the fact that in the trial proceeding before the Tribunal the petitioner was having ample opportunity for adducing evidences.

8. On the second contention of the petitioner that the quantum of punishment is not proper and some lesser punishment should have been awarded to him; in this regard, learned Tribunal has dealt this issue and has held as under:

"...A dumper has to be considered as a very heavy vehicle and naturally

experienced drivers are entrusted to drive such heavy vehicle. It is seen that the concerned workman for his negligent act operated the said Dumper in a very negligent manner and for which the said accident took place and a precious life was lost. Accordingly, if this aspect is considered, I hold that the Management did not commit any illegality in dismissing the concerned workman from his service. ..."

9. Having gone through the Award, this Court is having no hesitation in holding that the Tribunal has come to a definite conclusion that Dumper is a heavy vehicle and only experienced drivers are entrusted to drive such heavy vehicles. The Tribunal also rightly held that the concerned workman, for his negligent act, operated the said Dumper in a negligent manner for which accident took place and a precious life was lost. It further appears that the concerned workman was a permanent Dumper Operator of South Tisra Colliery and during the course of duty on 28.9.1994 in 'C' shift, he met with the accident due to his rash and negligent driving resulting into death of another workman Basudeo Rabidas, the Mining Sirdar.

10. The contention of the Petitioner-workman that in criminal case before the Trial Court he has been discharged has no substance. It is well settled principle that acquittal in a criminal case would not automatically mean that the workman in a disciplinary proceeding is to be exonerated of the charge. The standard of proof in a criminal case and in a departmental proceeding are completely different. In the instant case, as the Investigating Officer failed to submit the Final Report, the learned Chief Judicial Magistrate, Dhanbad vide his order dated 21.09.1995 directed the Investigating Officer to stop further investigation of the case under Section 167 (5) of the Code of Criminal Procedure on account of non-submission of Final Form in the criminal case pending against the accused persons under Sections 287/304 of the Indian Penal Code.

11. Accordingly, I hold that there is no infirmity in the Award and no relief can be granted to this Petitioner. Therefore, the instant writ application stands dismissed.