

(2026) 02 JH CK 1817

In the Jharkhand High Court

Case No : Writ Petition (L) No. 3866 Of 2012

Employers in relation to the Management of M/s Central
Coalfields Limited

APPELLANT

Vs

Their Workman Dasrath Gope, son of Deonath Gope

RESPONDENT

Date of Decision : 03-02-2026

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(d), 11A

Citation : (2026) 02 JH CK 1817

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : A.K.Mehta, Shubham Malviya, Saurabh Shekhar

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. Heard learned counsel for the parties.

2. The instant writ petition has been filed by the Management of M/s Central Coal Fields Limited (CCL) seeking to quash the award dated 23/11/2011 passed by the Central Government Industrial Tribunal No. 1, Dhanbad (hereinafter referred to as the "Tribunal") in Reference No. 279 of 2000. By this award, the Tribunal directed the reinstatement of the Respondent-Workman, Dasrath Gope, with 50% back wages from the date of his dismissal until his reinstatement, along with all consequential benefits.

Factual Background:

3. The facts of the case are in a narrow compass. The Respondent, Shree Dasrath Gope, was allegedly appointed as a Trainee in Category 1 by an appointment letter dated 10/13/1995 under the Land Loser Scheme. He represented himself as the grandson of Sahdeo Kurmi, the landowner whose property was acquired by CCL for mining. However, the Management later

discovered that the Respondent had entered service by providing incorrect information and committing fraud, as he was not related to Sahdeo Kurmi. In fact, Sahdeo Kurmi's son, Sohrai Kurmi, had already been appointed in exchange for the land acquired by CCL through another appointment letter dated 02/12/1995.

4. Following this discovery, the Petitioner served a charge sheet dated 08/10/1997 to the Respondent, seeking his explanation. In his response, the Respondent denied being appointed under the Land Loser Scheme. He claimed that his name was sponsored by the local employment exchange and that he underwent the selection process, which included a written examination and interview, after which he was found eligible and selected for employment as a trainee. He denied any fraudulent act or misconduct that would warrant disciplinary action.

5. The Management conducted a domestic enquiry, and the disciplinary authority, after supplying a copy of the enquiry report and considering the finding of guilt in the enquiry, dismissed the Respondent from service. Subsequently, the Respondent raised an industrial dispute, and conciliation proceedings were undertaken. The resolution through conciliation efforts failed, leading to the following reference under Section 10(1)(d) of the Industrial Disputes Act, 1947:

"Whether the action of the Management of Central Coal Fields Limited, P.O. Kathara, District Bokaro to dismiss Shree Dasrath Gope, workman category 1 from service is legal and justified? If not, to what relief is the workman concerned entitled?"

6. The Tribunal registered this reference as Reference No. 279 of 2000. Given that the dispute involved termination for alleged misconduct, the validity of the Management's enquiry was taken up as a preliminary issue. The Tribunal followed the proper procedure by first determining whether the domestic enquiry was fair and proper.

Tribunal's Proceedings and Findings:

7. By order dated 08/03/2011, the Tribunal found the domestic enquiry to be fair and proper. After reaching this conclusion, it obviously did not call for any additional evidence. The Tribunal then purportedly, exercised its jurisdiction under Section 11A of the Industrial Disputes Act, 1947. However, at this point, rather than evaluating the proportionality of the punishment, the Tribunal comprehensively re-appreciated the evidence from the enquiry and concluded that the punishment order was illegal and unsustainable. Thus, despite holding the enquiry to be fair and proper, the Tribunal once again revisited the enquiry process and ultimately found in the award that a second show cause notice had not been issued to the Respondent-Workman.

Petitioner's Submissions:

8. The Petitioner contends that the Tribunal's procedure was outside the scope of

Section 11A and that the Tribunal exceeded its jurisdiction by setting aside the punishment order and directing reinstatement with 50% back wages and consequential benefits. The Management also argues that, upon finding the enquiry to be fair and proper, the Tribunal could only review whether the punishment imposed was disproportionate to the charges, not re- appreciate the evidence or act as an appellate authority and examine the sufficiency or quality of evidence led in the domestic enquiry. The Tribunal is not empowered to overturn the findings of the enquiry officer but is limited to examining the proportionality of the penalty.

Respondent's Submissions:

9. Per contra, the Respondent fully supports the Tribunal's award, asserting that there is no illegality as the Management failed to prove the charges during the enquiry proceedings. The Respondent maintains that the Management did not establish that he was appointed under the Land Loser Scheme and claims he was selected through a competitive process, not by misrepresentation. He denies ever submitting any application claiming to be the grandson of a landowner whose property was acquired by CCL.

10. The Respondent emphasizes that Section 11A of the Industrial Disputes Act, 1947, vests wide discretionary powers in the Tribunal, including the authority to re- appreciate evidence and reach conclusions different from the enquiry officer, citing relevant Supreme Court decisions to support this position viz. *Workmen v. Balmadies Estates*, (2008) 4 SCC 517 (116), FLR 731 (SC) and 2010 (125) FLR 187 (SC).

Legal Framework:

11. This case turns on the interpretation and application of Section 11A of the Industrial Disputes Act, 1947, which provides:

"11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.-

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

12. The object and reason for inserting Section 11A was to incorporate the recommendations of the International Labour Organization (ILO) on the termination of employment. The ILO recommended that any aggrieved worker should be able to challenge termination before a neutral body such as an arbitrator, court, or tribunal. Before Section 11A was enacted, the role of Labour Courts and Tribunals was limited. The Supreme Court in *Indian Iron and Steel Company Limited and Others vs. Their Workman* AIR 1958 SC 138 held that such bodies could only interfere with dismissal or discharge if there was evidence of bad faith, victimization, or unfair labour practice, and not by substituting their own judgment for that of the Management.

13. The pivotal case following the insertion of Section 11A is *Workman vs. Firestone Tyre and Rubber Company*, 1973 (1) SCC 813. The Supreme Court held that after Section 11A, the Industrial Adjudicator is not restricted to interfering with punishment only in limited circumstances. The Tribunal has the discretion to examine the proportionality of the punishment, mould the relief, and even award lesser punishment if warranted. The Labour Court or Tribunal has a duty to assess whether the punishment is disproportionate to the charges proved. The decision summarises the principles of law in paragraph no. 32 which is reproduced below:-

"32. From those decisions, the following principles broadly emerge:

"(1) The right to take disciplinary action and to decide upon the quantum of punishment are mainly managerial functions, but if a dispute is referred to a Tribunal, the latter has power to see if action of the employer is justified.

(2) Before imposing the punishment, an employer is expected to conduct a proper enquiry in accordance with the provisions of the Standing Orders, if applicable, and principles of natural justice. The enquiry should not be an empty formality.

(3) When a proper enquiry has been held by an employer, and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimisation, unfair labour practice or mala fide.

(4) Even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, had to give an opportunity to the employer and employee to adduce evidence before it. It is open to the employer to adduce evidence for the first time justifying his action, and it is open to the employee to adduce evidence contra.

(5) The effect of an employer not holding an enquiry is that the Tribunal would

not have to consider only whether there was a prima facie case. On the other hand, the issue about the merits of the impugned order of dismissal or discharge is at large before the Tribunal and the latter, on the evidence adduced before it, has to decide for itself whether the misconduct alleged is proved. In such cases, the point about the exercise of managerial functions does not arise at all. A case of defective enquiry stands on the same footing as no enquiry.

(6) The Tribunal gets jurisdiction to consider the evidence placed before it for the first time in justification of the action taken only, if no enquiry has been held or after the enquiry conducted by an employer is found to be defective.

(7) It has never been recognised that the Tribunal should straightaway, without anything more, direct reinstatement of a dismissed or discharged employee, once it is found that no domestic enquiry has been held or the said enquiry is found to be defective.

(8) An employer, who wants to avail himself of the opportunity of adducing evidence for the first time before the Tribunal to justify his action, should ask for it at the appropriate stage. If such an opportunity is asked for, the Tribunal has no power to refuse. The giving of an opportunity to an employer to adduce evidence for the first time before the Tribunal is in the interest of both the management and the employee and to enable the Tribunal itself to be satisfied about the alleged misconduct.

(9) Once the misconduct is proved either in the enquiry conducted by an employer or by the evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation.

(10) In a particular case, after setting aside the order of dismissal, whether a workman should be reinstated or paid compensation is, as held by this Court in *Management of Panitole Tea Estate v. Workmens* [(1971) 1 SCC 742] within the judicial decision of a Labour Court or Tribunal."

14. There is no dispute regarding the legal principle that the Labour Court can interfere with a punishment order if it is found to be disproportionate or excessive. The Tribunal ignored the mandate that "When a proper enquiry has been held by an employer, and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body."

15. The Respondent is heavily banking on the decision in the case of *Workmen v. Balmadies Estates*, reported in (2008) 4 SCC 517 Paragraph no. 10 is the fulcrum of the defence and reads as follows:-

"10. It is fairly well settled now that in view of the wide power of the Labour Court it can, in an appropriate case, consider the evidence which has been considered by the domestic tribunal and in a given case on such consideration

arrive at a conclusion different from the one arrived at by the domestic tribunal. The assessment of evidence in a domestic enquiry is not required to be made by applying the same yardstick as a civil court could do when a lis is brought before it. The Evidence Act, 1872 (in short "the Evidence Act") is not applicable to the proceeding in a domestic enquiry so far as the domestic enquiries are concerned, though principles of fairness are to apply. It is also fairly well settled that in a domestic enquiry guilt may not be established beyond reasonable doubt and the proof of misconduct would be sufficient. In a domestic enquiry all materials which are logically probative including hearsay evidence can be acted upon provided it has a reasonable nexus and credibility."

16. In this case, the Tribunal has delved into the procedure of enquiry and non-production of documents which could be grounds for holding that the enquiry was not fair. Even otherwise, the decision cited above has to be read in the context of powers conferred by Section 11A of the Industrial Disputes Act, 1947. The power to draw a different conclusion has to be read in the context of proportionality of punishment. In exceptional cases where there is complete or manifest perversity, the Tribunal can surely interfere. However, the Tribunal cannot in one stroke hold that the enquiry of the Management was fair but the conclusion that the workman is guilty is incorrect. The Hon'ble Apex Court in the case of *Standard Chartered Bank v. R.C. Srivastava*, (2021) 19 SCC 281 has held that in the disciplinary proceedings, the tribunal cannot convert itself into court of appeal and also cannot revisit the evidence and in excess of its jurisdiction conferred by Section 11-A of the Industrial Disputes Act, 1947. Relevant Paragraphs of the Judgment are reproduced hereunder:

"9. The learned counsel for the appellant submits that after the domestic enquiry was held to be fair and proper, the Tribunal has a limited scope to interfere with the findings recorded in the domestic enquiry and unless the finding is perverse and not supported by a piece of evidence, it was not open for the tribunal to interfere within the scope of Section 11-A of the Industrial Disputes Act, 1947 (hereinafter being referred to as "the 1947 Act").

10. However, in the instant case, the Tribunal converted itself into a court of appeal and has not only revisited the evidence in toto but has proceeded on the assumption that the management has to prove the charges beyond reasonable doubt and despite the material evidence of three officers, who were abused by respondent workman in drunkenness condition, have been completely disowned on the premise that one Watchman (DW 1) and an ex-employee of the Bank (DW 2) have stated in their deposition that such incident has not occurred and to justify it, a document was placed on record i.e. the attendance register of the time in question and to confront it further with the fact that the delinquent had not appeared in the domestic enquiry and still a finding has been recorded by the Tribunal that such incidence has not occurred is something which has appeared from blue and without there being any iota of the factual foundation, the interference made by the Tribunal in the finding of guilt recorded in the

course of enquiry is not only perverse but is unsustainable in law.

11. The scope of judicial review in the matter of domestic enquiry is to examine whether the procedure in holding domestic enquiry has been violated or the principles of natural justice has been complied with, or any perversity in the finding of guilt recorded during the course of domestic enquiry has been committed. The basic error which was committed by the Tribunal in its impugned award has not been appreciated even by the High Court and dismissed the writ petition without appreciating the finding recorded in the domestic enquiry keeping into consideration the principles laid down by this Court of preponderance of probabilities while holding guilt in the domestic enquiry and exceeded in its jurisdiction defined under Section 11-A of the 1947 Act. To the contrary, the officers with whom the alleged occurrence of gross misconduct has been committed have been put to notice that their allegation on the face of it is unfounded, baseless and has not at all occurred which is something beyond imagination. More so, when it was established during the course of enquiry after affording an opportunity of hearing to the delinquent respondent, enquiry officer held the charges proved and confirmed by the disciplinary authority followed with the penalty of dismissal upon the respondent.

17. In this case the Tribunal did not consider whether the punishment was disproportionate. Instead, the Tribunal re- appreciated the entire evidence and material from the enquiry and concluded that the charge was not proved as the enquiry was defective. Once such a conclusion is reached, the enquiry itself becomes improper and Section 11A requires that the Management be given another opportunity to prove the charges directly before the Tribunal. A defective enquiry is the same as no enquiry and the workman does not succeed at this stage as the charges can be proved directly in the Tribunal. In this case, no such opportunity was provided. The Management was unprepared, as it did not anticipate having to prove the charges again after the enquiry was found to be fair and proper. When a finding is recorded that charges are not proved in the enquiry, the Management must be given a second chance to establish the charges before the Tribunal. Moreover, the Tribunal's contradictory findings-first upholding the enquiry as fair and proper, then finding fault with it by recording a finding that the second show cause notice was not given-cannot be sustained in law. The award cannot record that there was procedural error in not serving second show cause notice to the delinquent workman. The Tribunal has committed grave error, and the award deserves to be quashed as there is a manifest jurisdictional error. The award is liable to be quashed.

18. Consequently, the writ application stands allowed. Pending I.A.s, if any, also stands disposed of.