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**(2012) 01 JH CK 0033**  
**In the Jharkhand High Court**  
**Case No : CWJC No. 155 of 1998**

P.K. Agnihotri

APPELLANT

Vs

Hindustan Steel Works Construction Limited and Others

RESPONDENT

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**Date of Decision :** 12-01-2012

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2012) 2 JLJR 65

**Hon'ble Judges :** Prashant Kumar, J

**Bench :** Single Bench

**Advocate :** Atanu Benerjee, for the Appellant; Rohit Roy, Nos. 2 to 4, for the Respondent

**Final Decision :** Allowed

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## Judgement

Prashant Kumar, J.—This is an application for quashing the order dated 24/26.12.1997 (Annexure-8) passed by Executive Director, Incharge (respondent no. 4), whereby petitioner has been dismissed from service. It appears that at the relevant time, petitioner was working under the respondents as Senior Manager (Materials). It is alleged that while working so, he purchased HSFG Bolts/Nuts size M 24 x 175 quantity 1000 Kg. and HSFG Bolts/ Nuts size M 20 x 90 quantity 1000 Kg. on a higher rate to favour M/s National Hardware Mart, Chas. On the basis of aforesaid allegation, following three charges framed against the petitioner;--

- (1) Failure to maintain absolute integrity (breach of rules).
- (2) Fraud and dishonesty in connection with the business of the Company.
- (3) Acting in a manner prejudicial to the interests of the Company.

2. It appears that petitioner filed show cause to the charges levelled against him. However, the Disciplinary Authority being dissatisfied with the show-cause of petitioner initiated department inquiry against him and appointed Shri N.K.

Mishra, A.G.M. (SF), as Inquiry Officer. It further appears that after conclusion of inquiry, the Inquiry Officer submitted his inquiry report, wherein petitioner has been exonerated from Charge No. 1, However, he found him guilty of Charge Nos. 2 and 3. It further appears that Disciplinary Authority (respondent no. 4) accepted the findings of Inquiry Officer and, dismissed petitioner from the services of company. Aforesaid order (Annexure-8) is impugned in this writ application.

3. It is submitted by Mr. Atanu Banerjee, learned counsel for the petitioner that in the instant case, there is absolutely no evidence to show that petitioner purchased HSFG Bolts/Nuts on higher price. It is stated that keeping in view the urgency of the matter, petitioner purchased said bolts/nuts from local market after taking approval of Finance Department as well as Executive Director of the Company. It is submitted that another Purchase Committee had gone to Calcutta for bringing quotation of other item i.e. HT Bolt. It is submitted that while proving charges levelled against petitioner, the Inquiry Officer as well as Disciplinary Authority had considered the cost of HT Bolt which is different item. Accordingly, Shri Banerjee submitted that findings of Inquiry Officer and Disciplinary Authority is perverse, being based on conjecture and surmises.

4. On the other hand, Shri Rohit Roy, learned counsel for the respondent-Hindustan Steel Works Construction Limited submitted that Management of the Company had produced purchase file during inquiry, which shows that cost of HSFG Bolts/Nuts are Rs. 54/- and Rs. 71/- per Kg. whereas petitioner purchased them at the rate of Rs. 168/- and Rs. 171/- per Kg. respectively. Thus, petitioner had purchased HSFG Bolts/Nuts on much higher rate, therefore, he has acted against the interest of the Company. Accordingly, he submitted that the impugned order is based on legal evidence, hence it does not require any interference by this Court. It is further submitted that in writ jurisdiction it is not open for this court to reconsider the evidence and set aside the impugned order on facts.

5. It is true that an order of dismissal from service passed in a departmental proceeding cannot be interfered in writ jurisdiction on facts. But it is equally well settled that if findings of Inquiry Officer and Disciplinary Authority is perverse being based on conjecture and surmises, then it is open for this Court to interfere with the said order while exercising jurisdiction under Article 226 of the Constitution of India. Keeping in view the aforesaid law, I am proceeding to consider the present case.

6. As noticed above, in this case, it is alleged that petitioner purchased HSFG Bolts/Nuts size M 24 x 175 quantity 1000 Kg. and HSFG Bolts/Nuts size M 20 x 90 quantity 1000 Kg at the rate of Rs. 168/- and Rs. 171/- per Kg. respectively. It further appears that Company had constituted another Purchase Committee for purchase of HT Bolt/Nut and the said Purchase Committee went to Calcutta for bringing quotation for aforesaid HT Bolts. Quotation brought by aforesaid Purchase Committee reveals that price of HT Bolts/ Nuts were Rs. 55.20 and Rs.

55.50 per Kg. which according to the Company is much lower than the price of Bolts and Nuts purchased by the petitioner. The inquiry report (Annexure-6) reveals that one Shri U.S. Tiwari was examined by the management as prosecution witness no. 2. Shri U.S. Tiwari is a Superintendent Engineer and was member of second Purchase Committee. This witness stated that HSFG and HT Bolts are not similar. He further clarified that HSFG Bolts governed by IS 3757, whereas HT Bolts are governed by IS 1364 and IS 1367. Thus, accordingly to prosecution itself HSFG Bolts and HT Bolts are different item. There is absolutely no evidence except the estimate of the price of HSFG Bolts made by the Company officer in the file. Nothing has been brought on record to show how such estimate was made. Learned counsel for the respondents has not been able to show any evidence from which it can infer that Company also procured quotation of HSFG Bolts from local market or from Calcutta or from any other place to show that petitioner purchased HSFG Bolts on a higher price.

7. Under the aforesaid circumstance, findings of Inquiry Officer that petitioner was knowing that similar items were available in the market at considerably. low rate is beyond the evidence available on record.

8. As noticed above, there is absolutely no evidence to show to that HSFG Bolts are available in the market on a lower price than the price on which petitioner purchased it. It appears that Inquiry Officer hold petitioner guilty on the basis of price of HT Bolts. I find that aforesaid conclusion of Inquiry Officer and/or Disciplinary Authority is perverse, being based on no evidence. Thus, impugned order cannot be sustained. Accordingly, I allow this writ application and quash Annexure-8. Respondents are directed to reinstate petitioner with all consequential benefits.