
(2014) 04 JH CK 0069
In the Jharkhand High Court
Case No : W.P. (S) No. 2810 of 2004

Ram Raksha Shaw

APPELLANT

Vs

The Steel Authority of India

RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Citation : (2014) 143 FLR 888 : (2014) 2 JLJR 387

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : R. Krishna, Advocate for the Appellant; G.M. Mishra, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The order of punishment dated 29.6.2002 reducing the pay of the petitioner to the minimum scale of pay of E-5 grade rendered by the Disciplinary Authority is under challenge in the present writ petition. His appeal has also been rejected on 1.10.2003, which is also impugned herein.

2. The petitioner at the relevant point of time was serving as Deputy Chief Materials Manager, under the respondent-Bokaro Steel Ltd. a unit of the Steel Authority of India, when he was charge-sheeted for alleged misconduct under the relevant provisions of the SAIL Conduct, Discipline and Appeal Rules, 1977. The memorandum of the charges indicated that the petitioner, a Deputy Chief Materials Manager in Refractory Planning Cell, was deputed to carry out inspections of Light Weight Insulation Bricks of specified marks at the premises of M/s. Souvenir Ceramics, Faridabad on three occasions i.e. on 6.2.1999, 3.7.1999 and 16.3.2000. The petitioner had issued inspection certificate after inspecting the said materials. On receipt of the same at Bokaro Steel Ltd., out of eleven consignments, eight were found deviating in quality parameters, which were subjected to cross checking at BSL Lab. This resulted in getting substandard materials at BSL, which either have been rejected or used on

rebate. Therefore, the charge-sheet alleged lack of devotion of duty and conduct of the petitioner negligent and prejudicial to the interest of the company in performance of his duty.

3. The said enquiry concluded after due opportunity to the petitioner with a conclusion that the delinquent employee did not take enough precaution on successive occasions of inspections. Had he taken enough precaution on successive occasion of inspection, the story of material passing at suppliers end and failing at R & D Lab test of BSL, would not have been repeated.

4. The disciplinary authority, after serving of second show cause alongwith the enquiry report upon the petitioner, imposed the impugned order of punishment, which has also been upheld in appeal.

5. Learned counsel for the petitioner has submitted that the materials adduced during the course of enquiry revealed that the process of inspection had certain lacuna, which even earlier resulted in the supplier tampering with the inspecting materials and later on supplying inferior quality of materials to the respondent-BSL. He also refers to the conclusion of the enquiry officer to submit that initially the petitioner had not passed the inspected Light Weight Insulation Bricks of the specified marks at the premises of the supplier knowing that it was of substandard. However, on repeated inspections, it is alleged that the petitioner failed to use his skill and experience to avoid any doubt on dispatching substandard materials by the supplier. In such circumstances, learned counsel for the petitioner submits that the whole process of inspection was not full proof. Therefore, fault of such deviated materials being supplied should not have been attributed to the petitioner alone to impose a major penalty by reduction in time scale of pay to the minimum grade of E-5. On the doctrine of proportionality order of punishment has, therefore, been assailed.

6. Learned counsel for the respondent-BSL has argued in support of the impugned order. It has been stated that the role of Deputy Chief Materials Manager i.e. the petitioner was much larger and he is not justified in making of an excuse of supply of deviated materials by the supplier after he had passed the said goods during his inspection. In such circumstances, when the repeated incidences of deviated materials are evident as per the R&D report, which is at Annexure-2 to the writ petition, the negligence and lack of diligence on his part cannot be ruled out. He has referred to different lots of 2(a), 2(b), 3 and 5 referred to in the document at Annexure-2 which during the petitioner's inspection at the supplier end were marked as OK, but were found to be deviated during testing at the R & D Lab. In such circumstances, the petitioner cannot escape his responsibility and therefore, punishment imposed is wholly commensurate with the established misconduct.

7. Upon hearing the learned counsel for the parties and on perusal of relevant materials on record, the factual matrix as are evident point out that the petitioner was not holding a petty job in the respondent-BSL He himself was

posted as Deputy Chief Materials Manager with the responsibility to certify the materials which were to be supplied by the supplier at the supplier end. The materials, which were inspected by the petitioner on different dates as referred to in the charge-sheet though were certified at the supplier end were however found to have deviated from the technical specification during the testing at the R&D Lab of the respondent-BSL. These facts have been found to be established during the course of enquiry in the presence of the petitioner with full opportunity and compliance of the principle of natural justice. The enquiry proceeding does not appear to suffer from any flaw in the decision making process as the copy of the enquiry report and second show cause were served upon him before passing the impugned order of punishment. The petitioner, therefore, cannot claim an excuse from the responsibility to ensure proper inspection of the materials intended to be supplied at the part of the supplier end on the ground of lacuna in the process of inspection. He in fact was required to use his skill and experience to avoid any doubt of dispatching substandard materials being supplied by the concerned company. In such circumstances, when the guilt of petitioner has been found to be established during the course of the departmental proceeding and the procedure prescribed as such has been duly complied with full opportunity to the petitioner, this Court is not convinced that the punishment imposed upon him by reduction to the minimum scale of pay of E-5 grade vide impugned order dated 29.6.2002, Annexure-6, is either shocking or wholly disproportionate to the established misconduct. The Appellate Authority has also considered the matter and upheld the same. Therefore, no grounds for interference are made out in the instant writ petition, the same is, accordingly, dismissed.