
(2002) 08 JH CK 0120

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5094 of 2001

Shree Krishna Singh

APPELLANT

Vs

Central Coalfields Ltd. and Another

RESPONDENT

Date of Decision : 12-08-2002

Acts Referred:

Citation : (2002) 08 JH CK 0120

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : K. Prasad, for the Appellant; Sheela Prasad, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the order dated 3rd September, 2001 and Notice for further enquiry No. RAS/IA/CCL/2001, dated 8th September, 2001, whereby and whereunder, the respondent-Chairman-cum-Managing Director of Central Coalfields Ltd. (CCL for short) directed to hold further enquiry and the Enquiry Officer issued notice fixing 4th October, 2001 as the next date for enquiry.

2. According to the petitioner, the enquiry in the departmental proceeding having concluded. Enquiry Officer having submitted report exonerating the petitioner, there was no occasion for the disciplinary authority to ask for further enquiry.

3. The brief facts of the case show that a departmental proceeding was initiated against the petitioner vide memorandum dated 15th January, 2000 (Annexure-3) in respect to two article of charges. The petitioner denied the allegations and the competent authority being not satisfied, appointed Enquiry Officer, vide order dated 31st July, 2000 to conduct a departmental enquiry.

4. The day-to-day enquiry was conducted by the Enquiry Officer, wherein the petitioner submitted written statement. On conclusion, the Enquiry Officer submitted report on 21st January, 2001 exonerating the petitioner from the

charges.

5. The disciplinary authority thereafter ordered for further enquiry by the same Enquiry Officer, vide impugned order dated 3rd September, 2001 on three grounds. One of the grounds is that some of the listed exhibits either in original or with due identification, as well as some of the listed witnesses had not been produced by the Presenting Officer during the departmental enquiry, which were necessary. Another ground was that the Enquiry Officer had exceeded his jurisdiction by incorporating in the report certain recommendations on a matter which falls squarely within the ambit of the disciplinary authority and not that of the Enquiry Officer.

6. Similar issue fell for consideration before the Supreme Court in the case of K.R. Deb Vs. The Collector of Central Excise, Shillong, .

In the said case, the Supreme Court held that if there is some defect in the enquiry conducted by the Enquiry Officer, the disciplinary authority can direct the Enquiry Officer to conduct further enquiry in respect to that matter but it cannot direct a fresh enquiry to be conducted by some other Officer.

In the said case, Rule 15 provided for one enquiry, but the Supreme Court held that it may be possible in a particular case there has been no proper enquiry because of some serious defect as crept into the enquiry or some important witnesses were not available at the time of enquiry or were not examined for some other reason. The disciplinary authority may ask the Enquiry Officer to record further evidence.

7. In this case, admittedly, the disciplinary authority has not directed for any fresh enquiry. Further enquiry has been ordered, certain material witnesses and evidences having not brought on record by the Presenting Officer and the Enquiry Officer having exceeded in his jurisdiction.

8. The petitioner is governed by the "Coal India Executives" Conduct, Discipline and Appeal Rules 1978". In Rule 30.4, stipulation is made that if the disciplinary authority considers that a clear finding is not possible or there is any defect in the enquiry, the disciplinary authority may, for the reasons to be recorded in writing, remit the case to the Enquiry Officer for further enquiry and report.

9. In the aforesaid background, as some of the listed witnesses for one or other reason could not be produced by the Presenting Officer and some of the listed evidences were not produced, as the Enquiry Officer had no jurisdiction to exonerate the petitioner, though it was open to the Enquiry Officer to hold the charges "proved" or "not proved", as it is not a fresh enquiry, but further enquiry, as permissible under Rule 30.4 of the Coal India Executives" Conduct, Discipline and Appeal Rules, 1978. I am not inclined to interfere with the orders of the departmental proceeding. However, this order will not stand in the way of the petitioner to take proper defence before the Enquiry Officer and concerned authority.

10. There being no merit, the writ petition is dismissed.