
(2005) 07 JH CK 0040
In the Jharkhand High Court
Case No : LPA No. 690 of 2003

Steel Authority of India Ltd. and Others	APPELLANT
Vs	
Niranjan Mandal	RESPONDENT

Date of Decision : 05-07-2005

Acts Referred:

Citation : (2005) 4 JCR 177

Hon'ble Judges : Altamas Kabir, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : P.K. Prasad and Ananda Sen, for the Appellant; V. Shivnath and B.V. Kumar, for the Respondent

Judgement

1. This appeal has been filed by the Steel Authority of India Ltd and its officers against the judgment and order dated 2nd September, 2003 passed by the learned Single Judge in the writ application filed by the writ petitioner-respondent, Niranjan Mandal, being CWJC No. 2082 of 1995.
2. The respondent herein challenged an order by which punishment was inflicted on him by his disciplinary authority by reduction of his pay to an amount equivalent to two increments vide order dated 24th August, 1988 on the ground that two of the charges levelled against him in the disciplinary proceeding had been established.
3. As will appear from the judgment under appeal, the respondent No. 1, at the relevant point of time, was the Store Keeper in the Store Department of the Bokaro Steel Plant. In 1985, a theft was committed in the godown in respect of which the respondent was in charge. A criminal case was started which ultimately concluded in the acquittal of the respondent, on the ground that although the theft of the articles had been established, no connection could be established between the accused persons including the respondent and the commission of either theft or criminal misappropriation of the articles in question.
4. Although, the respondent No. 1 was acquitted of the charges in the criminal

case in the year 1987 and punishment in the disciplinary proceeding was awarded on 24th August, 1988, the respondent did not choose to question the said order of the disciplinary authority or of the appellate authority passed in 1989 and, on the other hand, two Departmental Promotion Committees found the respondent unfit for promotions in the years 1992 and 1994.

5. As has been submitted by Mr. V. Shivnath, appearing for the writ petitioner, it was only after the Departmental Promotion Committee found the respondent unfit for promotion, presumably on the basis of the punishment awarded to him, that the respondent decided to challenge the order of the disciplinary authority and accordingly he filed the writ petition in 1995. The writ petition was ultimately heard by the learned Single Judge in 2003 and following the decision of the Hon'ble Supreme Court in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, , the learned Single Judge came to the conclusion that the punishment awarded to the respondent was not sustainable in law. On such finding, the learned Single Judge quashed the punishment inflicted on the respondent and directed that the respondent would be entitled to be considered for promotion by the Departmental Promotion Committee.

6. Aggrieved by the said order of the learned Single Judge, the Steel Authority of India Ltd has filed the instant appeal and appearing in support of the appellant, Mr. Prasad contended that the learned Single Judge had erroneously relied on the decision in Capt. M. Paul Anthony's case (supra) in setting aside the order of punishment on account of the fact that while the facts in the criminal case and the writ petition were the same, the offences complained of in the criminal case and the disciplinary proceeding, were different. Mr. Prasad urged that while in the criminal proceeding, the charge was basically one of criminal breach of trust and theft; in the disciplinary proceeding, the charge against the respondent and some of his other colleagues was one of negligence, leading to the theft.

7. In Capt. M. Paul Anthony's case (supra); the facts in the criminal case and in the disciplinary proceedings were not only the same but even the charges were the same, which prompted the Hon'ble Supreme Court to set-aside the order of the Division Bench in appeal. In the instant case, while theft of the articles by the respondent has not been proved in the criminal case, in the departmental enquiry, which was conducted over a considerable period of time, it was ultimately found that the respondent along with four others were jointly negligent, as a result of which the theft could take place.

8. In our view, the learned Single Judge appears to have wrongly applied the ratio of the decision in Capt. M. Paul Anthony's case, in the facts of the instant case. Although, Mr. Shivnath as strenuously emphasized the fact that the criminal Court had found that the articles said to have been stolen had never been entrusted to the respondent herein, in our view, such a submission will not be available to the respondent on account of the fact that in the departmental proceeding, the question of entrustment was not material. What was material, was the fact that the respondent was the Store Keeper and some goods were

removed from the Store or the godown, at a point of time, when he was said to be in charge thereof.

9. We are not, therefore, inclined to accept the view taken by the learned Single Judge and the judgment and order under appeal is accordingly set-aside. However, we make it clear that since the incident is alleged to have taken place as far back as in the year 1985, the same should not be treated as a bar for the respondent's further promotion and the facts thereof should not be taken into consideration when the case of the respondent is once again considered by the Departmental Promotion Committee for the purpose of promotion.

10. The appeal is thus disposed of. There will be no order as to costs.