

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
Case No. CGIT/LC/RC/16/2018 B. Triuptayya V/S. Bhilai Steel Plant		
29.01.2025	<p><u>Order on Preliminary Issue</u></p> <p>The preliminary issue, framed by the order dated 09.05.2022 is as follows:-</p> <p><i>Whether, inquiry conducted against the workman is just, legal and proper ?</i></p> <p>According to the workman, he remained sick and was under treatment from 09.11.2014 till 23.09.2017. When he became fit to join his duties, he reported at his workplace, but was informed that he has been terminated from the services w.e.f. 16.09.2016 on the allegation and charges of remaining willfully absent from duty without intimation and getting leave sanctioned. When inquired, he came to know that he was issued a charge-sheet alleging misconduct on his part as defined under Section 29(5) of the Certified Standing Orders by way of habitually and willfully absenting himself from duty for a period of 297 days from November 2014 to October 2015. He also came to know that the show cause notice/ charge-sheet was sent to him on his local and permanent address which returned unserved. Also the notice of inquiry as well punishment order was sent on his local and permanent addresses, which were returned unserved. According to the workman, he was receiving treatment in different hospitals and was not at his address mentioned in his service records.</p> <p>Case of management is that, the workman is a habitual absentee, he absented himself in 2003, 2004 and 2011</p>	

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	<p>for 70, 41 and 54 days respectively and was punished accordingly. A report regarding his unauthorized absent w.e.f. 16.06.2015 was received by management on 12.11.2015. He was issued a notice on his address advising him to report on his workplace. This notice returned back as he was not found on the address. He was against issued a charge-sheet dated 12.12.2015 no reply sent by him. Hence, management conduct an inquiry. Notice of inquiry was sent to him by registered post, which returned unserved as addressee not found. It was also pasted on the General Notice Board. The workman did not participate in the inquiry, though he was given sufficient opportunity to defend himself. The Inquiry Officer submitted his inquiry report. The workman was issued a show cause notice with a copy of inquiry report by way of registered post sent on his address, mentioned in his service records, but return unserved with an endorsement addressee not found. The notice was also pasted on the notice board. Thereafter punishment order was passed.</p> <p>In evidence, on this issue the workman has filed his affidavit as his examination in chief, he has been cross examined by management. In his cross examination, he admits that he used to live in company residence, but was in Pune during treatment also that he had not informed the management that he was living in Pune with respect to treatment.</p> <p>Management has filed photocopy inquiry papers, not admitted by workman side these include photocopy envelopes also. Inspite of specific direction by Tribunal, original inquiry papers have not been filed by management. Management has also not filed any</p>	

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	<p>affidavit of its witnesses.</p> <p>When there is specific averment by workman side that no notice was ever served on him, burden lies on management to prove that notices were sent and were returned unserved as pleaded by management. In absence of any evidence on this point and in view of the fact that adverse presumption may be drawn against management in not filing original inquiry papers including envelopes inspite of specific direction by this Tribunal, the inquiry is liable to be held unjust and in violation of principles of natural justice. Holding the departmental inquiry unjust and in violation of principles of natural justice, preliminary issue is answered accordingly.</p> <p>Management is at liberty to prove the charges before this Tribunal.</p> <p>Management has filed an application raising the point of maintainability of the petition in the light of Repeal and Amendment Act 2016. Copy has been served on workman side. Management has also filed an application for amendment in written statement, which is unsigned, hence no cognizance taken.</p> <p>List on 12.03.2025 for evidence of management regarding proof of charges as well disposal of application filed as mentioned above.</p> <p>Upload this order.</p> <p>Presiding Officer</p>	