

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/R/55/2015 Shri Rajesh Bharatlal Nayak V/S MOIL.		
07.03.2025	<p>Order on preliminary issue.</p> <p>The preliminary issue, framed vide order dated 23.02.2024 is as follows :-</p> <p>Whether the departmental enquiry conducted against the workman is just proper or legal ?</p> <p>Case of the Workman on this issue is that, he was appointed on 06.11.1996 on compassionate ground, he was transferred from Mansor Mines where he was working to Bharveli Mines vide order of Management dated 02.12.1999 and was relieved on 08.12.1999 with a direction to report on at the place of his transfer. He could not report on place of his transfer because he met an accident while shifting his family and received serious injuries. He informed the Management about the accident and requested them to extend time for reporting at the place of transfer. He was issued a charge-sheet on 14.09.2005 alleging him misconduct by way of unauthorized leave and willfully absenting himself from work without any information to management or getting any leave sanctioned. According to him, he submitted reply of the charge sheet. Management, issued a second charge sheet with same allegations on 18.06.2013 and conducted enquiry within one year without following principles of natural justice and rules. No opportunity of cross-examination of witness was given to the Workman.</p> <p>Case of the Management on this issue is mainly that, they have panel of doctors, qualified enough to treat the</p>	

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	<p>sick employees of management, the Workman never reported sick nor did he informed management about his sickness and he did not submit any application for leave with medical certificates. He kept himself absenting for 5 years. He was issued a charge sheet on 14.09.2005, he submitted reply to the charge sheet on 26.09.2005. Thereafter, he again absented himself from duty without information for another 7 years. And reported at workplace thereafter. He was issued a second charge sheet with regard to his unauthorized absence from 09.12.1999 to 11.12.2012 on date 18.06.2013.</p> <p>Charges against him were as follows: -</p> <p>Clause 29(A)(10) :</p> <p><i>Leaving work without permission.</i></p> <p>Clause 29(B)(5) :</p> <p><i>Habitual late attendance and habitual absence without leave or without sufficient cause.</i></p> <p>Clause 29(B)(9) : ★</p> <p><i>Habitual indiscipline.</i></p> <p>Clause 29(B)(15) :</p> <p><i>Continuous absence without permission or without satisfactory reason for more than 10 days.</i></p> <p>He submitted his reply on 09.07.2013, considering his reply not sufficient, Management decided to conduct a departmental enquiry in which the Workman participated.</p> <p>Evidence of the management was taken on that date which was mainly documents. The Workman cross-</p>	

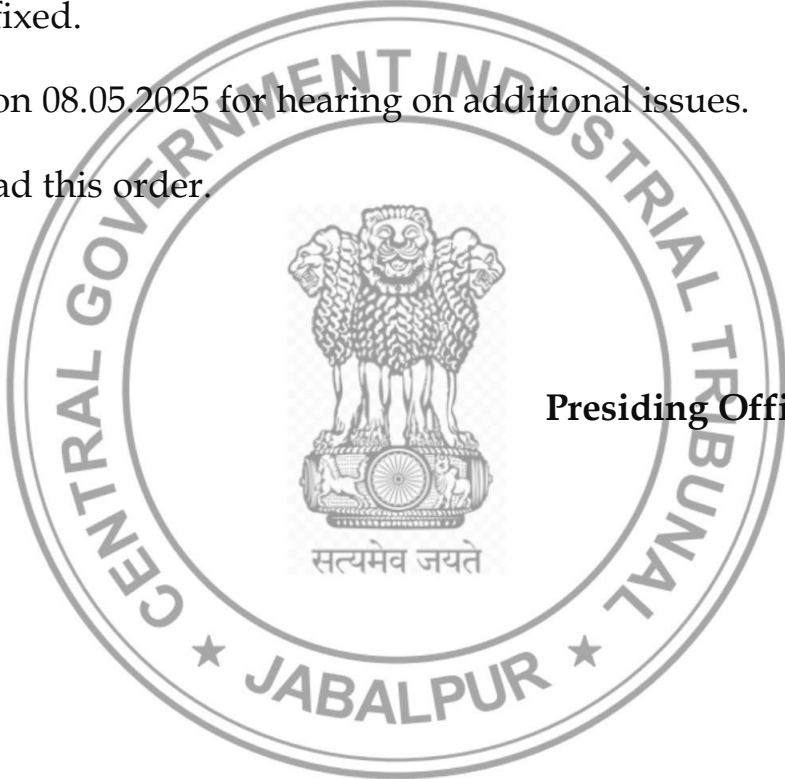
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	<p>examined himself in the enquiry. The Enquiry Officer submitted his report on 18.09.2013 holding the charges proved. The Workman submitted reply of the show-cause notice issued to him and enquiry report on 26.11.2013 which was found unsatisfactory and order of dismissal of his services was passed by Disciplinary Authority on 09.04.2013. Thus according to management there is no illegality or material irregularity of any kind in the enquiry.</p> <p>Management has filed and proved enquiry documents. They have filed affidavit of its witness as his examination-in-chief. He has been cross-examined by Workman side.</p> <p>The Workman filed his affidavit as his examination-in-chief he has been cross-examined by management.</p> <p>I have heard arguments of Learned Counsel Mr. Uttam Maheswari for Workman and Learned Senior Counsel Mr. Anoop Nair for Management on preliminary issue and have gone through the record.</p> <p>From the evidence on record, documents showed that show-cause notices were issued from time to time before instituting enquiry and with a copy of Enquiry Report before issuing order of punishment.</p> <p>From perusal of enquiry papers, it comes out that, no were the request of the Workman to cross-examine any witness was refused. He participated in the enquiry and produced his defence. Hence, holding that there is no illegality or material irregularity with respect to substance or procedure in conducting the enquiry, the departmental enquiry is held just legal and proper. Preliminary issue is answered accordingly.</p>	

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	<p>Following additional issues are framed :</p> <ol style="list-style-type: none"><i>Whether the charges have been rightly held proved from evidence in enquiry.</i><i>Whether punishment is proportionate to the charges?</i><i>Whether the Workman is entitled to any relief?</i> <p>Parties are directed to file their evidences in form of affidavits/documents on additional issues till or before date fixed.</p> <p>List on 08.05.2025 for hearing on additional issues.</p> <p>Upload this order.</p> <div></div> <p>Presiding Officer</p>	