

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/58/2009 Ram Lakhan Shukla V/S W.C.L.		
14.05.2024	<p>Matter taken up.</p> <p>Applicant side is represented by Shri Arun Patel Advocate. Shri Neeraj Kewat present for management. Heard on preliminary issue which is as follows :-</p> <p><i>Whether the departmental enquiry conducted is legal and proper ?</i></p> <p>According to the applicant, the workman Ram Lakhan Shukla, who was working as a Clerk in the Mathani Mines, was his father. He went to Allahabad on 22.01.2001 with his 21 co-workers by a special train to have holy bath in Kumbh but went missing from there. He was searched by his family members and his co-workers but of not avail. A missing report was lodged by his wife on 04.02.2001 in P.S. Kotwali at Allahabad. The management instituted a departmental enquiry against him for the charge of misconduct by way of willfully absenting himself for long period. Notice of the enquiry was sent on his address mentioned by him in his service records which was received by his wife i.e. the mother of the applicant. She filed an application before the Enquiry Officer informing that her husband went missing since 22.01.2001 and his whereabouts were not known to the family. The enquiry proceeded against the workman which was in violation of Rules and Procedures.</p> <p>The case of management, on this issue, is mainly that the workman Ram Lakhan Shukla absented himself continuously from duty. Management decided to conduct an enquiry. A charge sheet was issued against him and was served on his residential address. Management was informed that he was missing. A departmental enquiry was conducted. Notice of the departmental enquiry was sent on his</p>	

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	<p>residential address which was served on his family members. He did not appear in the enquiry rather his family informed that he was missing since 22.01.2001 and his whereabouts were not known. The enquiry was conducted in his absence. According to the management, the enquiry was not bad in law.</p> <p>Management has filed and proved the photocopy enquiry documents. The applicant filed affidavit of the widow and son of the workman and their examination in chief, who were cross examined by management. The management filed affidavit of its witness S.M. Jaiswal, who was cross examined from the side of applicant.</p> <p>On perusal of record in the light of rival submissions, it comes out that during the course of enquiry, the Enquiry Officer was informed by the family of the workman that he was missing since 22.01.2001 and that a missing report was registered with Police at P.S. Kotwali Allahabad (now Prayagraj). It also comes out that the family requested that the notice of enquiry be published in newspapers widely circulated, was not granted by the Enquiry Officer. In such circumstances, the question arises as to whether the natural justice required that the notice of enquiry be published in newspapers.</p> <p>As provided in Clause-28.8 of the Certified Standing Orders, when an employee refuses to receive any order, charge sheet, or other communication offered to him, a copy shall be sent to him by registered post on his address mentioned in company records and one copy shall be pasted on the notice board. Case of management is that they followed this procedure. Since, it was not a case where the workman had refused or neglected to receive of acknowledge the charge sheet and also that after receipt of the charge sheet, sent by the Enquiry Officer by registered post on the address of the workman, his family informed the Enquiry Officer that in fact the workman</p>	

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	<p>was missing since 22.01.2001, his whereabouts not yet known to the family or friends and a missing report was lodged by the family with Police, only sending notice by way of registered post could not be held sufficient in this case. The management and the Enquiry Officer were under legal obligation to publish the notices in news paper widely circulated in the area from where he went missing. Failing to do this, the management is held to have violated the principles of natural justice in conducting the departmental enquiry. Hence, the departmental enquiry is held unjustified in law and preliminary issue is answered accordingly.</p> <p>The management could have been given an opportunity to prove the charges before this Tribunal but in light of the fact that the workman is now deceased before dismissal order was passed by management, no purpose in law will be served by giving opportunity to management to prove the charge before this Tribunal. From the record itself, it transpires that the workman died even before the management passed the order of his termination after the enquiry.</p> <p>Following additional issue is framed :-</p> <p><i>Whether the legal heirs of the workman are entitled to any relief in the light of the fact that the workman was no more on the date of his termination passed by management ?</i></p> <p>List on 02-07-2024 date for final arguments.</p> <p style="text-align: right;">Presiding Officer</p>	