

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
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Case No. CGIT/LC/R/23/2019

Devaram Rajwade, Rajkumar Rajwade & Rajdhani Rajwade V/S S.E.C.L.

15.05.2024	<p><u>Order on preliminary issue</u></p> <p>Matter taken up.</p> <p>Management filed 03 sets of documents as per list taken on record. Be indexed.</p> <p>Heard argument of Ld. Sr. Counsel Adv. Anoop Nair for Management, Assisted by Adv. Neeraj Kewat on Preliminary Issue. Argument of Ld. Counsel for Workman have been heard yesterday, Perused record.</p> <p>The Preliminary Issue, is as follows:-</p> <p>Whether the departmental enquiry conducted is legal and proper ?</p> <p>The legality of the enquiry has been challenged on two grounds viz - First, The complainant was not examined during the enquiry and Secondly the documents filed by the Management representative during enquiry were not proved.</p> <p>Defending the enquiry, Ld Sr. Counsel has submitted that none examination of complainant does not affect the legality of enquiry. Regarding the non proving documents filed by Management representative, he has submitted that this is not required because Workman never asked to cross examine the maker of the documents. The burden to prove the charge is on Management though Indian Evidence Act is not strictly applied in departmental enquiry, the basic formality of proving the documents must also be observed in an enquiry and only filing of documents is not sufficient. I am supported by decision of Supreme Court and High Court of Allahbad in the Case of Roop Singh Negi Vs Punjab National Bank & Others, (2009) 2 SCC 570 (paras 14, 15 & 23) and Naresh Singh Vs State of UP & Others, 2013 (1) ESC 429 (Allahabad)(DB)(LB) on this point where is has been laid down that only filing of documents without proving them is not sufficient.</p>	
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	<p>As regards the argument that complainant was not examined, I am in agreement with the argument of Ld. Sr. Counsel on this part.</p> <p>Accordingly, holding the departmental enquiry vitiated in law Preliminary Issue is answered against Management. Management is given opportunity to prove the charges before this Tribunal.</p> <p>List on_____For filing of witness affidavit/evidence on charge.</p> <p style="text-align: right;">Presiding Officer</p>	