

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR [M.P.]

NO. CGIT/LC/ R/27/2024

Present: P.K.Srivastava

H.J.S..(Retd)

**Ashok Mandal,
B, 90, nsc Jayant Singrauli,
Singrauli,
Madhya Pradesh- 486890**

Workman

V/s

**General Manager, Jhingurda,
Singrauli,
Madhya Pradesh- 486890**

Management

(JUDGMENT)

(Passed on this 17th day of February, 2026)

As per letter dated **23/01/2024** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under **Section-10 of Industrial Disputes Act, 1947** (in short the 'Act') as per Notification **No. SH-1(27)/2023** dt. **23/01/2024**. The dispute under reference relates to:-

“Whether the action of the NCL Jhingurda management to terminate the services of Shri Ashok Mandal workmen without conducting proper and just departmental enquiry as per principle of natural justice is correct? If not what relief the workmen is entitled to?”

According to the workman, he was employed by management. His services were terminated by management i.e., General Manager, NCL vide his order dated 21.06.2010. After three years of his service, he was issued a charge sheet with allegation that he had obtained appointment on the basis of false and forged caste certificate, which was misconduct in the Certified Standing Order. He did submit his

reply and stated that his certificate was genuine and was issued by a Competent Authority. The management conducted a departmental enquiry framed the charges without giving him full opportunity of defense and against basic principles of natural justice. The enquiry officer submitted his enquiry report with his finding against evidence collected during the enquiry by way of ignoring the letter sent by the Joint Collector in Panna in this respect on 08.09.2010. His services were terminated on the basis of enquiry report hence, the whole action of conducting enquiry and passing termination order is unjust, illegal and arbitrary. He challenged this order by way of Writ Petition No. 4314/2014 before Hon'ble High Court of M.P. at Jabalpur. Later on, he withdrew the said writ under permission of Hon'ble High Court on the basis of pursuing remedy before proper forum. Thereafter, he raised a dispute in this respect before concerned Labour Commissioner after failure of conciliation. Hence this Reference.

The workman has prayed that holding the order of termination of his services passed by the disciplinary authority illegal, he be held entitled to be reinstated with all back-wages and benefits.

The case of management is that there was a special drive for appointment from Schedule Tribe Community in the year 2007. The applicant claimed himself to be a member of Schedule Tribe Community and was appointed by management as Technician Electrician Category-III, vide order dated 19.07.2007. It was specifically mentioned in his appointment letter that, in case his documents with respect to his educational qualification, caste certificate/license and declaration found incorrect at enquiry his service could be terminated, he accepted these conditions and joined his service. His caste certificate, issued by Tahsildar Panna on 08.02.1999 was sent to Collector, Panna, for verification. Collector, Panna informed the management after enquiry, vide his letter dated 18.08.2008 that the said certificate dated 08.02.1999 was infact not issued by Tahsildar, Panna and there was no entry in the relevant registers in this respect maintained in the office of Tahsildar. He was issued a charge-sheet for misconduct on 20/22-06-2009, he did file his reply dated 30.06.2009 and denied the allegations. He filed letter of Deputy Collector, Panna dated 29.06.2009, sent by him to the Sub-Divisional Officer (Revenue) directing him to conduct enquiry in this respect and send his report to

Deputy Collector, Panna. But, the workman did not produce any report, said to be submitted by the Sub-Divisional Officer (Revenue) to the Deputy Collector of eight months. Hence, enquiry was conducted in which he was given opportunity to defend himself and based on the documents/letter of Collector, Panna which stated that his caste certificate was in fact not issued by Tahsildar as claimed by him, the enquiry officer held him guilty of the misconduct and based on the enquiry report, the workman was terminated by the Competent Authority, after his reply with respect to show cause notice issued on the basis of enquiry report, was found not sufficient.

Vide order dated 27.11.2024, following Issues were framed:-

- 1) ***Whether the departmental enquiry conducted is legal and proper?***
- 2) ***Whether the finding of Enquiry Officer holding the charge proved is correct in law?***
- 3) ***Whether the punishment awarded is proportionate to the charge proved?***
- 4) ***Whether the workman is entitled to any relief?***

Issue No.1,

This issue was decided as a preliminary issue on the basis of evidence on record, vide order dated 25.11.2025 a departmental enquiry was held vitiated in law, management was granted opportunity to prove the charges before this Tribunal, this order is part of this Award.

Management examined its witness Kamla Prasad Sharma, he proved two documents, no other witness was examined by management in proof of charge.

I have heard argument of Learned Counsel for workman, Mr. Shailesh Mishra and Mr. Amit Kumar Jaiswal, Learned Counsel for management. Parties have filed written submissions also which are part of record. I have gone through written submissions and the record as well.

Issue No. 2

This issue stands amended to the extent whether management had successfully proved the charge before this Tribunal.

The charge against the workman is as follows:-

That he produced his caste certificate dated 08.02.1999 and got appointment on the post of Electrician Category-III in Schedule Tribe quota by way of claiming himself to be a member of Schedule Tribe which was found not genuine hence, committed misconduct under clause 26.1, 26.9 and 26.43 of the Certified Standing Orders which are as follows:-

26.1:- *Theft, fraud or dishonestly with respect to business or property of the employer.*

26.9:- *Furnishing wrong information with respect to name, age, father's name, qualification, etc for seeking employment with the management.*

26.43:- *Violating the standing orders.*

The management witness, who has been cross-examined by management to prove the charges has proved two documents which are:-

- (1) Letter of Collector, Panna M.P., dated 16.06.2011, signed by Collector, Panna, this letter is being reproduced as follows:-

"Please take the trouble to see the referenced letter in which it is written regarding the caste certificate of Shri Ashok Kumar Mandal that information has been sought regarding the contradiction in different letters issued from this office, after the issue of letter no. 597/Shika/ID 3050/2008 dated 11/08/2008, no. 352/General/09 Panna dated 23/3/09 from this office, on the application of applicant Ashok Mandal, the case was re-investigated by letter no. 668 dated 29/6/09 from Sub-Divisional Officer (Revenue) Panna. According to the investigation report received from the Sub-Divisional Officer (Revenue), Panna, letter no. 447 / Complaint / ID 3050/2010 dated 08/09/10 has been issued (photocopy of which is enclosed). With the effect of this letter, the earlier issued letter no. 597 dated 11/08/08 and letter no. 352 dated 23/03/09 automatically become void." (English translation of Hindi text)

- (2) The contents of second document proved, which is a letter dated 30.08.2011, signed by Deputy Collector on

behalf of Collector Panna, are being reproduced as follows:-

"Please review the referenced letter. Mr. Rajesh Chaudhary of your office appeared in this office. The referenced letter, No. 764/Complaint/ID3050/2011, dated June 16, 2011, was not issued by this office. Please be informed."

Thus, the situation which emerges **firstly**, there was a report from Collector for the caste certificate was infact not issued by the Tahsildar. **Secondly**, the letter dated 16.06.2011 issued by Collector that, on re-enquiry it was found that the said certificate was infact issued by the Tahsildar. **Thirdly**, letter dated 30.08.2011 is issued by Deputy Collector which states that the letter dated 16.06.2011 have infact not been issued by the Office. The management witness who has filed his affidavit and has appeared for cross-examination, states in his cross-examination that he does not recognize the signature of Collector and Deputy Collector, he also cannot tell on the basis of which enquiry these letters have been issued, it was incumbent on management, to prove clearly and specifically that the latest letter issued by the Deputy Collector, as mentioned above. In absence of such evidence, it cannot be held that the management has successfully proved the charges.

Issue No. 2 stands answered accordingly.

Issue No. 3

In light of above discussion and findings, the workmen are held entitled to no relief. The Judgment passed by the Hon'ble High Court, in the case of Deepali Gundu Surwase, is referred hereunder:-

"In the referred case itself, Hon'ble High Court has referred to a judgment of Hon'ble High Court in the case of Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & others (2013)10SCC 324

The relevant paragraphs of the said judgment are being reproduced as follows:

The Supreme Court in the said case has observed as under:-

"The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration

the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful/ illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the

termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

Issue No. 3 stands answered accordingly.

Issue No. 4

In light of above, proposition of law, the workman is held entitled to be reinstated with continuity of service and back-wages.

Issue No. 4 stands answered accordingly

In the light of above discussion and findings, the reference is answered as follows:-

AWARD

सत्यमेव जयते

"Holding the action of the NCL Jhingurda management to terminate the services of Shri Ashok Mandal workman, unjust and illegal, the workman is entitled to be reinstated with back-wages and benefits, deeming him to be in continuous service of the management."

No order as to cost.

DATE:- 17-02-2026

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**