

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR, (M.P.)

NO. CGIT/LC/ R/55/2015

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Rajesh Bhratlal Nayak,
 Gandhi Ward, Near talkies cinema,
 Mukam Post- Ramtaik, Tehsil- Ramtaik,
 Distt.- Nagpur(MS)-Nagpur - 441106**

Workman

Vs

**The Mines Manager,
 Balaghat Mines of MOIL,
 PO- Bharveli, Tehsil & Distt.- Balaghat(MP),
 Balaghat – 481102**

Management

(JUDGMENT)

(Passed on this 10th day of December, 2025)

सत्यमेव जयते

As per letter dated 05/06/2015 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**'), now The Industrial Relations Code 2020 (in short the Code) as per Notification **No. L-27012/2/2015(IR(M))** dt. 05/06/2015. The dispute under reference relates to:-

“क्या खान प्रबंधक बालाघाट मार्फिन्स ऑफ मॉयल लिमिटेड, पो.आ. भरवैली, तहसील व जलि - बालाघाट (मध्य प्रदेश) द्वारा आवेदक श्री राजेश भरतलाल नायक, पूर्व पीस रेट कामगार को उनको दिये गये आरोप-पत्र क्रमांक BGT/Aroppatra/4679, दिनांक 14/09/2005 पर कोई कार्यवाही न कर पुनः लगभग 13 वर्षों बाद आरोप-पत्र क्रमांक 39(1)/CS/BGT/13-14/853, दिनांक 18/06/2013 जारी कर अपने आदेश क्रमांक BGT/39/(1)73, दिनांक 08/09/2014 द्वारा सेवा से निष्कासित

करना उचित है? यदि नहीं तो कर्मकार क्या अनुतोष पाने का अधिकारी है?"

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

The case of the workman is mainly that he was appointed on 06.11.1996 on compassionate ground, 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 unauthorizedly 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.

The case of the management is mainly that, they have panel of doctors, qualified enough to treat the sick employees of management, the Workman never reported sick nor did he inform 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.

Charges against were as follows: -

Clause 29(A) (10):

Leaving work without permission.

Clause 29(B) (5):

Habitual late attendance and habitual absence without leave or without sufficient cause.

Clause 29(B) (9):

Habitual indiscipline.

Clause 29(B) (15)

Continuous absence without permission or without satisfactory reason for more than 10 days.

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.

Evidence of the management was taken on that date which was mainly documents. The Workman cross-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 management there is no illegality or material irregularity of any kind in the enquiry.

Following preliminary issue was framed vide order dated 23.02.2024.

Whether the departmental enquiry conducted against the workman is a just, proper and legal?

Management filed and proved enquiry documents. They filed affidavit of its witness as his examination-in-chief. He has been cross-examined by Workman Side.

The Workman filed his affidavit as his examination-in-chief he has been cross-examined by management.

On the basis of the arguments and record, preliminary issue was decided vide order dated 07.03.2025, holding the departmental enquiry just, legal and proper. This order is part of this Award.

Following additional issues were framed thereafter:-

1. ***Whether the charges have been rightly held proved from evidence in enquiry?***
2. ***Whether the punishment is proportionate to the charges?***
3. ***Whether the workman is entitled to any relief?***

No evidence was filed by any of the parties on additional issues.

I have heard arguments of Learned Counsel Mr. Uttam Maheswari for Workman and Learned Counsel Mr. Neeraj Kewat for Management and have gone through the record. Management side has filed written submissions also which are part of record. I have gone through the written submissions as well.

Additional Issue No.1,

Charges against the workman have been detailed earlier.

Case of management is that the workman first absented himself from 09.12.1999 till 11.07.2005 , he was issued a charge sheet dated 14.09.2005 in this respect and submitted his written explanation in this respect but he did not report on duty even thereafter till 11.12.2012, hence, repeated his misconduct which he had committed earlier. Thus, the fresh charge with respect to unauthorized absence from 2005 to 2012 was added in the charge sheet and enquiry proceeded. This pleading is supported from record. Hence, it cannot be said that the enquiry was initiated with unexplained inordinate

delay. In total, the workman has been alleged to have absented himself from duty unauthorisedly and willfully without intimation or any leave sanctioned.

Perusal of record of enquiry shows that regarding his absence from 1999 to 2005, the workman took a case that he was sick and had informed the management accordingly in his reply to the first charge sheet regarding his absence from 2005 to 2012, the workman took a case that he was ill for the said period also, his this defense taken during enquiry is not supported by medical evidence.

The Enquiry Officer found during his enquiry that the workman was transferred in the year 1999 and since then he absented till 2012 and never reported on duty. It is also found during the enquiry that the establishment has its own medical facilities, having qualified doctors and good hospital. The workman was required to avail this facility which he did not.

The settled proposition of law with respect to proof of charges in a departmental enquiry is that the charges need not be proved beyond reasonable doubt as they are required to be proved in a criminal trial.

Testing the evidence during the enquiry on these parameters, the charges are held to have been rightly proved as recorded by the Enquiry Officer.

Additional issue No. 1 is answered accordingly.

Additional Issue No. 2,

The charges proved are unauthorized and wilful absence from workplace for 13 years. No employer can afford such an employee. Hence, the punishment of dismissal from service is held not disproportionate to the charge proved.

Additional issue No. 2 stands answered accordingly.

Additional Issue No. 3,

On the basis of above discussion and findings, the workman is held entitled to no relief.

Additional issue No. 3 stands answered accordingly.

No other point was pressed.

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

AWARD

"The action of management, M.O.I.L. Limited in terminating the services of workman, Rajesh Bharatlal Nayak on the basis of charge sheet dated 18.06.2013 as mentioned in the reference, is held just, legal and proper and the workman is held entitled to no relief."

No order as to cost.

DATE:- 10-12-2025

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

