

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

**NO. CGIT/LC/ R/63/2024**

**Present: P.K.Srivastava**

**H.J.S..(Retd)**

The Secretary,  
Lal Jhanda Coal Mines Mazdoor Union (CITU),  
R/o CITU Office Pathakhera,  
PO Pathakhera Area,  
Betul, M.P.- 460449

Workman

V/s

The Area Personnel Manager,  
Western Coalfields Ltd. Pathakhera,  
PO Pathakhera Area,  
Betul M.P.

Management

**(JUDGMENT)**

**(Passed on this 27<sup>th</sup> day of February, 2026)**

As per letter dated **18/09/2024** 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. RLC-8(3)2024** dt. **18/09/2024**. The dispute under reference relates to:-

***"Whether the action of the management of Western Coalfields Ltd., Pathakhera Area, Betul (MP) in terminating the services of Shri Anil Ramakant Pandey, Electrical Foreman w.e.f. 19.04.2024 is legal and justified? If not, what relief the workman Shri Anil Ramakant Pandey, is entitled to?"***

**The undisputed facts relevant to this issue** are mainly that a charge sheet issued against the workman by management with allegations of misconduct committed by him under **Clause 26.18, 26.19, 26.22 and 26.39 of Certified Standing Orders** and was served on the workman. According to the workman, he submitted a letter to the management on 09.01.2024 and requested for evidence in support of charges to enable him to reply the allegations which was not granting and departmental inquiry was ordered by management. The inquiry was conducted against the principles of natural justice without according opportunity to the workman to defend himself. It is further the case of workman that he had filed a W.P. No. 1645/2024 before Hon'ble High Court of M.P. at Jabalpur in which the management was directed to supply him the documents sought by him vide his letter, within 30 days from the date of order i.e., 05.02.2024 but this order was never complied with by management. The workman was served a show-cause notice dated 08/09.04.2024 sent to him by the registered post in which he was required show-cause and put his case with respect to the inquiry report within seven days from today. Since, the show-cause was received by the workman on 15.04.2024 he had seven days time ending on 21.04.2024 to reply the show-cause notice dated 08/09.04.2024 but the management passed order of punishment of dismissal from service on 19.04.2024 which is arbitrary and illegal. It is also the case of workman that the charge-sheet was issued by an Officer who was not authorized to issued and punishment order was passed by an Officer unauthorized to pass such order. Hence, the whole proceeding as well the punishment is illegal.

**Management has pleaded** that charge-sheet with suspension order was served on workman on 05.02.2024. He filed his reply of charge-sheet on 09.01.2024. A detailed inquiry was ordered and Inquiry Committee was constituted by management on 23.01.2024. Notice of inquiry was sent to the workman but he never participated in the inquiry, the Inquiry Officer prepared his report and submitted before the management holding the charges proved against the workman. In the meanwhile, the workman approached Hon'ble High Court by way of filing W.P. No. 1645/2024 in which following directions were issued by Hon'ble High Court :-

***"Petitioner requires certain documents for his defense in departmental inquiry. It is submitted that respondent may consider his representation and supply the documents."***

**According to management**, the workman was served a second show-cause notice dated 09.04.2024 on his registered e-mail address and registered post informing him that charges framed against him were found to be true and he could be potentially dismissed from service should he fail to refuse to partake in the departmental inquiry proceedings and submit documents in his defense within a week of service of notice, this notice was served on the workman on his registered email address on 10.04.2024 and by registered post on 12.04.2024. He did sign a written acknowledgement of the receipt of the registered post filed by management. The workman was also served the inquiry report, documents relevant to inquiry proceedings and video clips prayed by him in the aforesaid writ. The workman did not file any reply to the second show-cause notice. Since the conduct of the workman made a strong case for dismissal, he was dismissed by management.

**The management has also pleaded** that in the Certified Standing Orders, in Training Centre situate at HQ at Nagpur, the Competent Authority to recommend dismissal/discharge/removal of the workman is Head of Personnel/Admin Department of the Area and approving authority is the General Manager/Chief General Manager.

The Preliminary Issue was framed by order dated 30.04.2025 is as follows:-

***Whether, the charge sheet and punishment order including the inquiry is bad in law as the charge sheet and punishment have been issued by Officer Incompetent ?***

**After hearing both the sides**, preliminary issue was decided vide order dated 16.06.2025, the departmental enquiry was held vitiated in law. Management was granted opportunity to prove the charges before this Tribunal.

Management has filed affidavit of its witnesses Sarita Chandelkar, Kalim Uddin, Pradeep, Dilip Ahakey, Atik Qureshi and Jeevan Singh Chauhan, as their Examination-in-chief, these witnesses have been cross-examined by the workman, the workman side has filed affidavit his affidavit as his Examination-in-chief and he has been cross-examined by management.

**I have heard argument** of the workman in person and management representative Mr. Yogeshwar Sahu on this Preliminary Issue. Parties have preferred written arguments also, which are part of record. I have gone through the written arguments and the record as well.

Following issues are framed, on the basis of perusal of record, in the light of rival arguments.

***(1) Whether the management has successfully proved the charges?***

***(2) Punishment, if the charges are proved?***

**Issue No. 1**

The case of the management with respect to the charges is that one security guard, Chandan Modi who was deputed on duty in the night on 02.01.2024 at Satpura, died in suspicious circumstances. The applicant Anil Ramakant Pandey who was an employee of the management and representative of Union, collected around 40 security guards on 03.01.2024 at about 13:00 hours at the Regional Office of the Company in Pathakheda. He threatened Jeevan Singh Chauhan, the Regional Security Officer, Pathakheda, misbehaved with him and intimidated him. He further got signed a written agreement by Jeevan Singh Chauhan by way of threatening him and also abetted a mob of security guards to misbehave with Jeevan Singh Chauhan. Thus, committed misconduct under clause 26.18, 26.19, 26.22 and 26.39 of the Certified Standing Orders of the Company which are as follows:-

***“26:18 - Assaulting/attempting to assault or threatening or abusing a superior officer, colleague or subordinate while on duty or in service.***

**26:19 – Using siege, coercion, intimidation, wrongful confinement, or child abuse to force management to accept any demands.**

**26:22 - Any deliberate act that violates discipline or harms the interests of the company.**

**26:39 – Inducing misconduct.”**

The main victim and witness of incident is Security Officer, Jeevan Singh Chauhan, in his affidavit as his Examination-in-chief, this witness has stated that he had the charge of Area Security Officer, Pathakheda from 10.02.2021 to 10.02.2024. On 03.01.2024 at about 7:00 AM, he received telephonic information that Chandan Modi, Security Personnel did not returned home after performing his night duty. This witness further state in his affidavit that he was not well during these days and was on medical leave since 01.01.2024 but considering the seriousness of the matter, he proceeded to the spot. Shortly after his arrival, dead body of the security guard, Chandan Modi was recovered from nearby drain by the Security Personnel alongwith police officers. At about 13:30 hours, the Additional Superintendent of Police, reached at the crime scene and inspected the spot, also expressed desire to see the CCTV footage available in the Control Room, she was taken to the Control Room, this witness accompanied her to the Control Room situated in the E & T Department of Area Office. This witness goes to state that he was informed that Anil Ramakant Pandey, the petitioner workman had arrived alongwith a group of Security Personnel and wanted to meet him. He came out of the Control Room and found Anil Ramakant Pandey standing there alongwith approximately 40 Security Personnel. He told on enquiry that he had come there to talk to the witness and question as to why Chandan Modi was put to duty alone. Thereafter, the petitioner was asked by the witness to come to the Office for discussion but he refused. This witness further states that at that time while he was standing by leaning on the bonnet of Bolero Jeep, parked in front of Information and Communication Department, the petitioner workman came and stood in front of him alongwith group of Security Personnel surrounding the witness and the petitioner. The petitioner threatened him by saying that henceforth no security guard

would be put on duty alone at any post and two security guards must be posted at each duty point. He also insisted that Area Security Officer must go for night patrolling two days a week. As stated by this witness in his affidavit, he tried to convince the petitioner stating that this matter could be discussed officially but the petitioner shouted that only an assurance is not be sufficient and the witness must give it in writing at the very place and time. At his insistence, his colleagues also raised their voices, the petitioner called for a paper and dictated the contents that two Security Personnel shall be posted at each post, and no one shall perform duty alone and that the number of patrolling would be five. Under these situations and apprehensions disturbance of peace, the witness wrote down as dictated by the petitioner workman and on being compelled by the petitioner workman, he signed on that paper just to avoid any untoward incident. This witness states thereafter that he verbally informed his senior officers about this incident and on 05.01.2024 submitted written complaint to the Area General Manager also a complaint to police on 07.01.2024. The petitioner workman was a member of Lal Jhanda Coal Mines Mazdoor Union whereas the deceased Chandan Modi was the member of AITUC.

**The witness Jeevan Singh Chauhan** has been further Examined-in-chief by management. He has proved photographs said to be of the time of alleged occurrence and CCTV footage recorded at the time of alleged occurrence alongwith certificate regarding its genuineness. He has also proved his two written complaints, one to management and other to police as well receipt dated 16.08.2023.

In his cross-examination by petitioner workman, this witness admits that the persons collected were informed, that the petitioner workman stated that if this witness did not sign, the petitioner workman will see to it "देख लेंगे", the petitioner workman also shouted that till the Area Security Officer and General Manager does not come on spot, the dead body will not move. This witness admits in his cross-examination that the petitioner workman was pressurizing him not due to his fault but because of the fact that he was union representative. Also that, the fact that the petitioner workman did not allow the dead body to be moved was informed to him by other persons. He further states that he does not remember what words

were used by the petitioner workman as an abuse to the witness and that the petitioner workman and around 40 workers had surrounded him at that time.

The other workmen, who are said to be eye witnesses of the alleged incident, have broadly corroborated witness Jeevan Singh Chauhan in their affidavits as their Examination-in-chief.

**In his cross-examination by workman, witness Atik Qureshi**, has stated that the police was not called by the Security Officer, Jeevan Singh Chauhan, and the Additional Superintendent of Police, was not present at the time of alleged incident. They came at the place after hearing noise. Also that, before this incident, two Security Personnel was deputed together on night duty. He also admits that at the time of alleged incident, he was in the office.

**Witness Dilip Ahakey**, has stated that Jeevan Singh Chauhan was detained by the petitioner workman with Security Personnel and was released after he signed the agreement. He further states that Jeevan Singh Chauhan was not abused by the petitioner workman. Jeevan Singh Chauhan did not seek police help at that time. He was present just behind Jeevan Singh Chauhan at the time of incident.

**Witness Pradeep**, has stated that his affidavit was in English, he does not know English, he has signed his affidavit as directed by the management. He further states that he and Atik Qureshi, reached at the place of incident. He further stated that the mob had detained Jeevan Singh Chauhan, he also stood there with the mob. He also states that no abuse was heard at Jeevan Singh Chauhan neither was any force was used by anyone including the petitioner workman nor was he intimidated by the mob and it is true that everyone present there was asking Jeevan Singh Chauhan to sign the agreement.

**Witness Kalim Uddin**, has stated that he has been charge sheeted earlier, he was present near to Jeevan Singh Chauhan at the time of incident and nobody attacked him, he was not detained by anybody. The petitioner workman had abused Jeevan Singh Chauhan but he does not recollect the words said in abuse to the witness Jeevan Singh Chauhan.

**Witness Sarita Chandelkar**, has stated that she was also a union representative, a Treasurer of one Union, she has denied that Jeevan Singh Chauhan was attacked, intimidated, threatened, abused or forced to sign any undertaking. She admits that the Security Personnel had surrounded him at the time of incident.

**The photos filed and proved**, only show the presence of the petitioner workman with Jeevan Singh Chauhan, Area Security Officer and also the fact that many other persons had surrounded both of them. Jeevan Singh Chauhan was writing some documents and the petitioner workman was pointing out about the documents.

The Pen-drive has been played. It contains two videos and six photographs. The photographs are the same which have been filed and proved in the case in hand as Ex-M/1. The videos also do not show any threatening, abuse, misbehavior and wrongful confinement of Jeevan Singh Chauhan by the petitioner workman or the persons present there at the time of incident. It shows only that Jeevan Singh Chauhan was reading out what he has written and in the next video the petitioner workman pointing out him at the written paper by way of his fingers.

The settled proposition of law with respect to prove of charges in departmental enquiry is that the standard of proof is not that of beyond reasonable doubt but to the extent of reasonable probability. Following judgments in this respect are reproduced as follows:-

*“Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255*

*Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, **there should be some evidence to prove the charge.** Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the*

*enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) **Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13).** (ii) **M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)***

*In the cases of (i) **NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."***

*In the case of **T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.***

*In the cases of **Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag***

***Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425***, the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "

**Now**, going through the statements of the witnesses as mentioned above in light of photographs and videos recorded, it comes out that what abuses were heard is nowhere in the statements of any of the witnesses, including the alleged victim and the witnesses are not consistent with respect to charge of forceful detention of Jeevan Singh Chauhan or any threatening to Jeevan Singh Chauhan by the petitioner workman or other persons present there or abuses. It has to be kept in mind that the petitioner workman was Union Leader at that time, a co-workman has died in suspicious circumstances, naturally there was anger prevailing at that time in the workers. Being representative of the union, it was not unjustified on his part rather he

was duty bound to go on the spot and talk to the management with respect to the incident as well measures to prevent such incidents.

It is quite natural that when such incident has happened, the atmosphere could not have been normal there when the mob of 40 persons is there, the petitioner could not be in a position to control each and everyone from the mob. In these circumstances, the act of the petitioner workman in going at the spot with co-workers and talk with the Security Officer who was responsible for the security in this respect is not unjustified. **Hence, in these facts and circumstances, the charges of misconduct as alleged are held not proved against the petitioner workman.**

***Issue No. 1 is answered accordingly.***

**Issue No. 2**

**Before proceeding,** Judgment of Hon'ble Supreme Court in the case of ***Deepali Gundu Surwase, (2013)10SCC 324*** requires to be reproduced hereunder:-

***"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."*

**In the case in hand**, the charges against the petitioner workman have been held not proved. Relying on the proposition of law laid down by Hon'ble Supreme Court in the above referred cases, the

petitioner workman is held entitled to be reinstated. The termination of the petitioner workman by the management is liable to be set aside and he is entitled to be reinstated with all back-wages and benefits.

***Issue No. 2 stands answered accordingly.***

*Hence, on the basis of above discussions and findings, the reference deserves to be answered accordingly;*

**AWARD**

***“Holding the action of the management of Western Coalfields Ltd., Pathakhera Area, Betul (MP) in terminating the services of Shri Anil Ramakant Pandey, Electrical Foreman w.e.f. 19.04.2024, illegal and unjustified, he is entitled to be reinstated with all back-wages and benefits, the Reference stands answered accordingly.”***

No order as to cost.

DATE:- 27-02-2026



(P.K.SRIVASTAVA)  
PRESIDING OFFICER