

**THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL, JABALPUR**

**CGIT/LC/R/89/2011**

**Present: P.K.Srivastava**

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

**Mohammad Kareem,**

**S/o Md. Ismail, Ex-Mechanic Helper, Cat-III,**

**R/o Vill-Kuchaina, Tah-Katghora, Distt-Korba,**

**CHATTISGARH -**

**Workman**

**Versues**

1. **The Chief General Manager,  
SECL, Kusmunda Area, PO.-Kusmunda,  
Distt-Korba,  
CHATTISGARH –**
2. **The General Manager,  
SECL, Kusmunda Project,  
PO.-Kusmunda, Distt-Korba,  
CHATTISGARH -**

**Management**

**AWARD**

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

As per letter dated 19.09.2011 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22012/127/2011 (IR(CM-II)) dt 19.09.2011. The dispute under reference relates to:

*“Whether the action of the management of the Chief General Manager, SECL, kumunda Area. Distt-Korba (CG) in dismissal the services of Mohd. Kareem, S/o Mohd. Ismail, Ex-Mechanical Helper w.e.f. 05-07-2008 is legal, proper and justified? To what relief the concerned workman is entitled and from which date?”*

**Case of the workman** is mainly that, his father Mohd. Ismail had his holdings i.e. Plot No. 809/1A 187 total area 7.18 hectares and others in village Durpa which were acquired by the SECL. As per rules, there was a provision of employment of one dependant of the land oustee whose land was acquired by the Management. His father sponsored his name as his dependant son and member of family for his appointment as a dependant family member of land oustee his father. After necessary enquires and formalities, he was offered appointment on the post of General Mazdoor, Category-I and had been working since 13.04.1990. Management received a letter No. 9353/Shikayat/01-02 dated 06.07.2020 sent to the General Manager, Kusmunda area by the Collector Korba, by which he informed that the workman Mohd. Kareem, resident of Village Balauda, P.S. Akaltara has got employment on the basis of forged documents posing himself to be dependant son of the land oustee Modh. Ismail, and an action in this respect was required. The Management issued a charge-sheet of misconduct against the workman in this respect, he denied the charges. The Departmental Enquiry was conducted by the Management against the principles of natural justice and unjustly, the workman was not given proper opportunity to defend himself. The Enquiry Officer wrongly held charges proved and the enquiry report. The Disciplinary Authority, wrongly relied on the enquiry report and passed the punishment of dismissal of the

workman Kareem from its services, which is illegal, unjust and arbitrary as well disproportionate to the charges. The Workman raised dispute in this respect, which could not be conciliated, hence reference has been sent by the Central Government to this Tribunal. The Workman has prayed that holding the action of Management in dismissing his services unjust and illegal, he be held entitled to be reinstated with all back wages and benefits.

**Case of Management** is mainly that, the Workman was appointed as General Mazdoor, Category I on 13.04.1990 as a dependant son and family member of land oustee Mohd. Ismail, whose land situated in village Durpa, area of 7.18 acre was acquired by the Management. The land oustee had sponsored the name of the workman as his dependant son and family member. He signed the sponsorship application and also filed affidavit in support. Thereafter, two members of the village including the village Sarpanch and Patel verified and supported the contents of the application. Further, verifications were made by the Patwari and Tehsildar of the area and thereafter, appointment was offered thereafter to the workman Mohd. Kareem, as the dependant son and family member of land oustee of his father Mohd. Ismail. Thereafter, a letter dated 06.07.2002 (referred to above) was received by Management, which was sent by the Collector Korba to the General Manager Kusmunda Area, wherein it was stated that the said workman had obtained employment by falsely declaring himself to be dependant son and family member of land oustee Mohd. Ismail, whereas he was infact son of Bhura Mohd. and not of Mohd. Ismail. A charge sheet was issued by the Management in this respect on 24.03.2003 which was denied by the workman. Thereafter, the Departmental Enquiry was conducted by Management in which the workman participated and after giving full opportunity to the workman, the Enquiry Officer files his

enquiry report holding the charge of **misconduct under Clause 29.9 of the Certified Standing Orders**, a show cause notice was sent to the Workman by Management, with the copy of enquiry report, he did file receipt dated 19.04.2008, after holding the report and his reply not sufficient, the Disciplinary Authority passed an order of punishment of dismissal from his services. According to Management, the enquiry was conducted in just and proper manner following the principles of natural justice, charges were rightly held proved by the Enquiry Officer and punishment is not disproportionate to the charges.

*On the basis of pleadings, following preliminary issue was framed vide order dated 23.04.2024.*

*Whether the Departmental Enquiry conducted against the workman is legal and proper?*

**Both** the sides have filed their affidavits on this preliminary issue. Management filed and proved documents with respect to enquiry which are marked as Exhibit M-1 to M-57.

After hearing both the sides and on the basis of evidence recorded, preliminary issue was decided vide order dated 21.07.2025, the Departmental Enquiry was held legal and proper. This order is part of this Judgment and Award.

*Following additional issue were framed thereafter -*

*1. Whether, finding of the Enquiry Officer that charges are proved as perverse?*

*2. Whether the punishment order is proportionate to the charges proved?*

**Parties** were given an opportunity to lead evidence if any on this issue. The workman filed his affidavit as his examination in

chief and he was cross examined by the Management. Management did not filed any document.

I have **heard argument** of Learned Counsel for Workman Mr. Vivek Prakash and Learned Senior Counsel Mr. Anoop Nair for the Management assisted by Mr. Neeraj Kewat Learned Counsel. Workman has proved written submissions also. I have gone through the written submissions and the record as well.

**Additional Issue No. 1 –**

**Learned Counsel for the Workman** has submitted that the Departmental Enquiry against the workman was proceeded with respect to charge on the same facts and on the basis of a charge sheet filed by Police with respect to a First Information Report (F.I.R.) registered with in this respect. This case was registered as Criminal Case No. 293/2017 C-23 No. 1068/2015 and was decided by the Court of Judicial Magistrate, First Class. The Workman who was charged under Section 420, 467, 471 IPC was acquitted after trail.

A Criminal Appeal against this acquittal was filed by the State which the Criminal Appeal No. 88/2018, was heard and dismissed by the Court of Learned Additional Sessions Judge.

Learned Counsel has further submitted that, since the facts and principles of the charges in the Criminal Trial and in the present Departmental Enquiry are one and same and the Workman has been acquitted in the Criminal Case based on same facts, the Departmental proceedings shall not proceed and are vitiated under law. Consequently, the punishment order also stands vitiated. Learned Counsel has referred to a ***Judgment of Hon'ble Supreme Court in the case of G.M. Tank V.s. State of Gujarat and another (2006) 5 SCC 446*** and ***another Judgment in the case of Capt. M.***

*Paul Anthony V.s. Bharat Gold Mines Ltd. (1999) 3 SCC 679*, were this principles has been laid down.

**On the other hand**, Learned Senior Counsel Mr. Nair has stated that standard of prove with respect to charges in the Criminal Trial and Departmental Enquiry are different, hence the workman cannot get benefit from the decisions referred to by him because they cannot be distinguished on facts.

**The settled preposition of law** is that, the charges be proved beyond reasonable doubt in Departmental Enquiry, which is required to be proved in a Criminal Trial.

*“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 looking into the facts of the case in hand, it comes out from the perusal of Enquiry Documents and Enquiry Report that the Enquiry Officer has held the workman Kareem of misconduct under Clause 21.19 of Certified Standing Orders. Basis of the findings are mainly that sponsorship letter (Management Document Ex. No.1), Affidavit (Management Record Ex. No. 2) and land record register (Management Record Ex. No. 21) and he stated that mark of thumb impressions available on these documents are in fact affixed by the persons shown. He further refers to the Management document No. 1 and 2 in which it has been stated that the Workman is son of Mohd. Ismail and resident of Village Durpa. The workman himself had signed the Management documents No. 8, 9 and 10 and have confirmed and had admitted these documents. Hence on the basis of these documents, the information furnished by the workman in the Management Document No.1 and 2 is incorrect. Further, the Collector Korba has enquired the matter and has found that, Mohd. Kareem was not in fact the son of Mohd. Ismail and he made employment as dependant son and family member of Mohd. Ismail, the land oustee by way of putting incorrect facts and false documents. In fact, he is the son of Mohd. Bhura and is resident of Village Balauda. Furthermore, the Enquiry Officer observed that, the Nikahnama of the Mohd. Ismail, the land oustee and mother of the Workman Chand Biwi is also suspicious.



It comes out from the perusal of enquiry documents that the Management witness, who were cross-examined during the enquiry proceeding stated before the Enquiry Officer that they know the land oustee Mohd. Ismail, his land was acquired by the Management, the land oustee used to visit them with the workman Kareem and used to tell them that the workman Kareem was his son. The Management document No.1 is the sponsorship letter signed by the land oustee and the workman Mohd. Kareem (land oustee has put his thumb impression). Management document No.2 is the affidavit of the land oustee and the Management document No. 3 is the land record document. They have not been found suspicious by the Enquiry Officer. Management document No.8 is the statement of workman Mohd. Kareem, said to be recorded before the Tehsildar. Though the workman has not admitted this document before this Tribunal. Management Document No.9 is the extract of service record of workman Mohd. Kareem in which he has been mentioned as son of land oustee Ismail and his address is village Durpa. Management document No. 10 is the Vakaltnama said to be executed by the workman in the proceeding before Tehsildar, wherein he has been shown as son of Bhura Mohd., R/o village Kuchaina. In Management document No.1, not proved, the workman has stated that Ismail is his father, originally is resident of village Durpa, his father told him that Mohd. Israel was also his brother, he further stated that father was married his mother Chand Biwi. In Management document No. 9 which is Exhibit M-12 extract of service record, the land oustee Mohd. Ismail has been mentioned as his father, his address is mentioned as village Bhaluda, his mother name Chand Biwi is also mentioned. As regards to mentioning of Mohd. Kareem, son of Bhura Mohd. in the Vakaltnama signed by him, which was said to be filed before Tehsildar, the case of the Workman was that a complaint was made

by Israel who happened to be his step-brother from the same father, Mohd. Ismail land oustee wherein it was alleged that in fact, workman is son of Bhura Mohd., notice was sent by the Court of Tehsildar in this respect, in the name of Bhura Mohd., that is why he had to mention party name Mohd. Kareem son of Bhura Mohd.. This information finds support from the statement on oath of the workman before the Tehsildar in the enquiry proceedings, wherein he specifically states that he is son of Mohd. Ismail and not son of Bhura Mohd. Thus, none all these documents can be a basis of findings against the workman in this respect. As regards to the enquiry proceedings conducted on behalf of Collector and enquiry report, nobody appeared on behalf of Collector nor did the Enquiry Officer by whom the report was sent on behalf of Collector for appearing before the Enquiry Officer in spite of his direction, hence a report which is not proved for any person, cannot be a basis of finding against the workman in respect of charge.

The Enquiry Officer has mentioned one more document which is School Leaving Certificate, in which Kareem Mohd. Son of Bhura has been mentioned. This is also cannot be relied upon and cannot be the basis of findings because till it is proved by other evidence that Mohd. Kareem and Kareem Mohd. are one and same person which is not there.

During the Departmental Enquiry, the workman had taken a case that his father Mohd. Ismail was married with his mother Chand Biwi, he had filed and proved his Nikahnama. It is to be kept in mind that, he is from Muslim community, in which more than one marriages are permitted. So it may be that the initial Complainant Mohd. Israel is the son of Mohd. Ismail from his one wife and the present workman Mohd. Kareem is son of Mohd. Ismail from his second wife Chand Biwi. Enquiry Officer has

recorded a finding that, this Nikahnama cannot be relied as it is not genuine. The basis of this finding is not recorded.

It has been submitted on behalf of Management that, there is age difference with respect to age of Mohd. Ismail recorded in the Nikahnama and his affidavit Management document No.2 (M-8).

According to the Nikahnama, the marriage between Mohd. Ismail and Chand Biwi was solemnized on 25.06.1960, age of Ismail is mentioned 22 years at that time in the Nikahnama, wherein in his affidavit i.e. Management Document No. 2 (Ex. M-8), age of Mohd. Ismail is mentioned as 60 years. This affidavit has been prepared on 04.11.1987, if his age was 22 years in 1960, he would have been 49 years in 1987 on the date of affidavit wherein his age has been written 60 years. Keeping in view the affidavit as well sponsorship application of the land oustee Mohd Ismail, it is established that he is illiterate and rustic villager, it is quite possible that he might not be knowing his correct date of birth and age, only on this basis the Nikahnama cannot be held to be a suspicious document.

This is also established that, on the same set of facts, criminal trial was proceeded against the workman in which he was acquitted after trial, a Criminal Appeal against acquittal has also been dismissed.

***In the light of above discussion, the finding of the Enquiry Officer with respect to prove of charges against the Workman in the enquiry report submitted by him are held perverse and to have been wrongly recorded. The charge of misconduct is held not proved against the workman.***

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

**Additional Issue No. 2 –**

In the light of findings recorded on issue No. 1, Reference of the *Judgment of Hon'ble Supreme Court in the case, Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & others (2013) 10 SCC 324* is required, the relevant portion of the Judgment is being reproduced 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.”*

*Hence, in the light of principle of law laid down as above, the Workman is held entitled to be reinstated with all backwages and benefits, deeming him to be in continuous service of Management.*

*Additional Issue No. 2 stands answered accordingly.*

**No other point was pressed.**

**On the basis of above discussion and findings, the reference is answered as follows.**

### **AWARD**

*Holding the action of the management of the Chief General Manager, SECL, kusmunda Area. Distt-Korba (CG) in dismissal*

*of the services of Mohd. Kareem, S/o Mohd. Ismail, Ex-Mechanical Helper w.e.f. 05-07-2008, unjust, illegal and arbitrary, he is held entitled to be reinstated with all back wages and benefits, deeming him to be in continuous service of Management, payable to him within 90 days from the date of Award, failing which interests @6% from the date of Award till payment.*

**DATE:-23/04/2026**



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