

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/68/2019

Arun Pratap Singh V/S United Commercial Bank

04.10.2024	<p><u>ORDER ON PRELIMINARY ISSUE</u></p> <p>The Preliminary Issue is as follows :-</p> <p><i>Whether, the departmental inquiry conducted against the workman is legal and proper ?</i></p> <p>In his statement of claim, the workman has alleged that the management issued charge-sheet against the workman on 18.04.2018 with respect to charges of alleged misconduct against him namely disobedient of order and mismanagement of cash/shortage of cash, as well misbehaviour with customer. The management conducted a departmental inquiry, which was a mere formality. The inquiry was conducted illegally without following principles of natural justice and without giving the workman opportunity to cross examined management witnesses, examined during the inquiry, in the light of documents filed by the management. It is also alleged that the Inquiry Officer acted partially while conducting inquiry and acted like a prosecutor, he himself examined the witnesses, the statements of witnesses were recorded in absence of workman and he was asked to cross examine such witnesses on their pre-recorded statement. The Inquiry Officer permitted leading questions by the Presenting Officer, while examine the management witnesses, documents and materials used against the workman in evidence were not supplied to him. Inquiry Officer relied on CCTV footage, which was not provided to the workman inspite of his demand. It is has been further alleged that on 10.07.2018, after management had examined its witnesses, the Inquiry Officer permitted the management to produced documents, which were admitted on record by the Inquiry Officer inspite of objection. The workman was not given opportunity to further cross examine the management witnesses in the light of documents filed later and also the workman was not given sufficient time to produce evidence in rebuttal.</p> <p>The case of management on this issue is that, there is no</p>	
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	<p>procedural illegality in conducting the inquiry, the workman was issued a charge-sheet of misconduct on 18.04.2018, before that a show cause notice was issued against the workman with respect to the allegations and the workman had submitted his reply dated 18.03.2017 suppressing the material facts. It was after that the charge-sheet levelling charges of misconduct was issued against the workman on 18.04.2018. The workman was given full opportunity to defend himself during the inquiry. The workman pleaded not guilty.</p> <p>Both the sides have filed affidavits as examination in chief. They have been cross examined by their adversary. Management has filed the original inquiry papers also.</p> <p>I have heard argument of Shri Neeraj Kewat learned Counsel for workman and learned Counsel Shri Susheel Dubey. I have gone through the record as well.</p> <p>Learned Counsel for workman has committed that the inquiry proceedings show that the questions were asked by the Inquiry Officer to the witnesses, thus he acted as prosecutor. The workman was not given an opportunity to defend himself before instituting formal departmental inquiry, which resulted into prejudice to him. Also, it is submitted that the copy of inquiry report was not supplied to him.</p> <p>On the other hand, learned Counsel for management submits that, records will show that the inquiry was conducted according to the rules and procedure. There is no such material irregularity or illegality in the departmental inquiry, resulting into prejudice to the workman.</p> <p>On perusal of inquiry proceedings/inquiry papers, it comes out a show cause notice was issued to the workman and he did submit reply to the notice on 18.03.2017 and this fact is admitted by the workman himself. Hence, the argument of learned Counsel for workman on this point fails.</p> <p>It also comes out that, during the inquiry, the Inquiry Officer has asked some routine/general questions to the</p>	

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	<p>witnesses or management representative. They are like ‘now you (management representative) start producing evidence or like saying to management witness no.-2 to introduce himself or asking him to produce his identity document’. Only this type of questions have been put by the Inquiry Officer, hence it cannot be said that the Inquiry Officer himself examined the witnesses. After all an Inquiry Officer cannot be expected to remain a mute spectator of the proceedings. Hence, argument of learned Counsel for workman on this point also fails and it is held that no prejudice was caused to the workman by this act of Inquiry Officer.</p> <p>As regards, the argument of learned Counsel for workman that copy of inquiry report was not supplied to the workman, this argument is not substantiated from record. Records show that the workman did submit his representation on inquiry report and was also granted personal hearing.</p> <p>Another allegation with respect to departmental inquiry that, the workman was forced to cross examine witnesses on their pre-recorded statements is not substantiated from record.</p> <p>On the basis of above discussion, the inquiry against the workman is held legal and proper and preliminary issue is answered accordingly.</p> <p>Following additional issues are framed :-</p> <ol style="list-style-type: none"><i>1. Whether, the finding of Inquiry Officer that, the charges are proved can be held perverse ?</i><i>2. Whether, the punishment awarded is disproportionate to the charges proved ?</i> <p>List on _____ for hearing on additional issues/ final arguments. Parties may file their evidences, if any, in form of affidavits/documents on additional issues till date.</p> <p>Upload this order.</p> <p style="text-align: right;">Presiding Officer</p>	