

ORDER SHEET

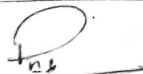
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR(MP)

CASE NO. CGIT/LC/R-1/2014

(Shri Sawantram Vs. W.C.L.)

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
10-8-2022	<p style="text-align: center;"><b><u>ORDER ON PRELIMINARY ISSUE No.1</u></b> (Passed on this 10<sup>th</sup> August-2022)</p> <p>The preliminary Issue No.1 is as follows:-</p> <p><b>“Whether the departmental inquiry conducted against workman is just proper and legal.?”</b></p> <p>1. The case of the workman is that the inquiry was conducted ex-parte against the workman. The principles of natural justice was not followed. According to the management, the workman was working as a Tub-Loader. He absented himself unauthorisedly from duty without any justified reason and any intimation or permission. The details of his attendance in the year January-1997 to March-1998 and April-1998 to 22-7-1998 has been mentioned in Para-4 of the written statement of defense. The workman was issued a charge sheet dated 21-7-1998. He submitted his reply. The Management allowed him to resume duty w.e.f. 26-7-1998. The management decided to conduct a departmental inquiry. The Inquiry Officer and Presenting Officer were appointed by Management vide letter dated 27-7-1998. The Inquiry was conducted as per rules on two dates . The workman was not present. Notice was served on the workman during the inquiry for two times. The workman absented himself in the inquiry on other dates also, hence the inquiry was conducted in absentia. The Inquiry Officer submitted his report holding the charges proved. The Management had himself admitted the charges in his reply to the charge sheet. He submitted that he was absent because he had injured his leg. The Memo of inquiry was served to the workman at his residence</p>	




and was received by him. He did not avail the opportunity to represent against the inquiry report before the Disciplinary Authority, hence according to the Management, the Inquiry was conducted as per Rules.

2. During the proceedings, the workman died. His legal representatives, his Widow examined himself as a witness on preliminary issue. She was examined by Management. The management has examined its witness Shri Y. Shashidar, Manager Personnel. He has proved the inquiry papers. He has been cross-examined from the workman side. I have heard arguments of learned counsel for Workman Union on preliminary issue and have gone through the record as well.
3. The initial burden to prove the charge is on the workman side. The widow of the workman appearing as witness has corroborated the pleadings of the Workman Union on preliminary issue but she does not have personal knowledge of all the facts because she has never been a party in the inquiry proceedings. On the other hand, the inquiry papers proved by the management witness coupled with the on oath statement of Management witness establish that the Management was served the notice of departmental inquiry but he did not appear during the inquiry.
4. The learned counsel has relied on decision of Hon'ble the Apex Court in Pepsu Road Transport Corporation Vs. Rawel Singh (2008) 4 SCC 42 wherein it has been laid down "*that when it was found that the workman did not appear in the inquiry inspite of notice, hence conducting of ex-parte inquiry is justified in law.*" This view has been affirmed by Hon'ble the Apex Court in its judgment in the case of Biecco Lawrie Ltd. & Anr. Vs. State of West Bengal and Anr. AIR(2010) SCC 142.
5. In the case in hand, there is evidence on record that the workman was served a notice of inquiry. He was having the knowledge of the dates of the inquiry but he opted not to participate in the inquiry, hence the inquiry proceeded ex-parte against the workman and

it cannot be held against law and procedure. Accordingly, holding the inquiry conducted against the workman just, legal and proper, Issue No.1 is decided against the workman.

6. Parties are directed to lead their oral/documentary evidence on remaining issues within two weeks from today after exchanging the copies. The affidavit of witnesses may be filed after giving copy to the opposite side.
7. List on 3<sup>rd</sup> 11-2022 for hearing on remaining issues/final arguments.

  
PRESIDING OFFICER