

ORDER SHEET

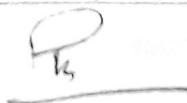
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR(MP)

CASE NO. CGIT/LC/R-121-2012

(Shri Sachin Tiwari Vs. W.C.L.)

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
7-4-2022	<p style="text-align: center;"><u>ORDER ON PRELIMINARY ISSUE</u> (Passed on this 7-4-2022)</p> <p>Preliminary Issue No.1 is as follows:-</p> <p style="text-align: center;">“ Whether the Departmental inquiry conducted against the workman is legal and proper?”</p> <p>Parties were given opportunity to lead their respective evidence on this issue. The workman examined himself as witness and has been cross-examined. The Management also has examined its witness and produced documents Exhibit M1 to M12 which are inquiry papers to be referred to as and when required.</p> <p>I have heard learned counsel for the workman Shri A. Shrivastav and Shri A.K. Shashi, learned Counsel for the Management on preliminary issue No.1 and have gone through the record.</p> <p>According to the workman the departmental inquiry proceeded ex-parte against him. He was living at his permanent address at that time because he was under treatment. Hence as he was living with his family members at his permanent address, no notice was sent to him on his permanent address, hence he was deprived of opportunity to defend himself during the inquiry.</p> <p>The case of the management on this issue is that the workman was absenting himself from May-1993 without any information or permission and application for leave and sanctioned leave. His whereabouts were not known to the Management, hence he was issued a chargesheet on 20-1-2004 for habitual and unauthorized willful absenteeism as mentioned in the charge sheet. No reply was received by the Management, hence a departmental</p>	



inquiry was conducted. Notices were sent to his address mentioned in the service register which were returned unserved. Thereafter the notice was published in Nav Bharat Newspaper widely circulated within the area, even then the workman did not appear, hence the inquiry was finalized ex-parte and punishment of dismissal was awarded to him.

Witnesses from both the sides have corroborated their aforesaid case as mentioned above.

The Main argument of learned counsel for the workman is that his permanent address as mentioned in Form-B maintained by Management was Sachin Tiwari, S/o Shri Mohan Prasad Tiwari, Resident of post Damua, Police Station Damua, Tehsil Junnardev, Chhindwarha ; notices were never sent to him on this address. In publication notice also, his this address was not mentioned, hence he has no occasion to appear during the Inquiry Proceedings and defend himself.

On the other hand, the learned counsel for the Management has submitted that what is required is, that opportunity as required, to defend himself was given to the workman or not? It is on the workman to avail opportunity. In this case, the workman did not avail this opportunity. Evidence under record will show that this opportunity was given to him by sending registered notice on his address mentioned in his service register which was Sachin Tiwari, village Damua, Post Damua, District Chhindwarha. Management has filed and proved envelopes of registered mails said to have been sent by Management to the workman on this address as mentioned and has also filed copy of news paper cutting showing that notice of the inquiry was published in the newspaper Nav Bharat. The copy of service Form-B shows the home address of the workman as Village and Post Damua , Police Station Parasia , district Chhindhawara is mentioned. It is common practice that judicial notice of it can be taken that registered mails are normally sent mentioning the address of location, village or mohalla and House No., post office under which this location falls and the District. Simple non-mentioning of Tehsil on the address sent by registered mail or otherwise and by way of publication, does not make any difference because mentioning of Tehsil on registered post is no where required.

Hence only due to a technical point that name of tehsil was not mentioned in the registered post and publication in newspaper , it cannot be said that the notice was not sent to the permanent address of the workman , when other



particulars regarding address are one and the same. Hence, it is held that notices with respect to inquiry were properly sent to the workman which were published in the news paper. Hence there was sufficient service of notice of inquiry and it is the workman who did not avail the opportunity to defend himself during the inquiry. Relying on case of :-

1. R.K.Geete Vs. Deputy Managing Director and Corporate Development Office and Others (2009) 2 MPHT 409 DB,
2. Pepsu road Transport Corporation Vs. Rawel Singh(2008) 4 SCC 42,
3. State Bank of India & Others Vs. Narendra Kumar Pandey(2013) 2 SCC 740
4. State of Tamilnadu and Others Vs. M.Natrajan & Another(1997) 4 LL.N SCC 50,

It is held that the opportunity was sufficiently given to the workman to defend himself during the inquiry but it was the workman who did not avail the opportunity. Hence the departmental inquiry is held legal and proper.

Following Additional Issues are framed on the basis of pleadings.

2. Whether the charges are proved from the inquiry.?
3. Whether the punishment is disproportionate to the charge.?
4. Relief to which the workman is entitled.?

Parties are directed to file their evidence in the form of documents/affidavit on additional issues within on or before the next date fixed, after giving copy to the opposite side .

List the case on 5/5/22 for hearing on additional issues.


PRESIDING OFFICER