


ORDER SHEET

CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)

CASE NO. CGIT/LC/R-150-2017

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
	<p style="text-align: center;"><u>ORDER OF PRELIMINARY ISSUE No.1</u> (Passed on this 5th day of September-2022)</p> <p>The preliminary Issue No.1 is as follows:-</p> <p>“Whether the departmental inquiry conducted is legal and proper in fact and law.?”</p> <p>According to the workman during his posting as Clerk in Jarhi Hospital, he was issued a show cause notice on 30-4-2007 by the Staff Officer (Mining) of General Manager Office, Bhatgaon Area with relation to charge against him that he obtained Rs.1,24,000/- (one lakh twenty four thousand) from one Smt. Bhukli Bai W/o late Shri Rameshwar an Ex-employee of Management for getting her employed with the management on certain post which was misconduct as mentioned in Section 26.2 and 26.22 of Certified Standing Orders. He submitted a reply to the notice denying the charges. The management decided to conduct a departmental inquiry against him. The Inquiry Officer and the Presenting Officer were appointed. The</p>	



inquiry concluded in three sitting . ON the first date, i.e. 21-9-2007, the workman was absent. The Inquiry Officer recorded the statements of management witness in absence of the workman. The inquiry Officer was so biased that he himself asked all the questions from the management witnesses which is in violation of Principles of Natural Justice. ON the next date 6-11-2007, the three Management witness who were earlier examined on the first date of the inquiry in absence of the workman, were examined by the workman. Thus according to the workman, the inquiry was not in accordance with the principles of natural justice and was in violation of settled rules and procedures of Inquiry.

The case of the management on this point is that the charge sheet was served on the workman. He was given written intimation of dates of inquiry details mentioned in para-7 of the written statement of defence. The case of the workman is that in fact the inquiry concluded in six dates. ON the first two dates i.e. 11-7-2007 and 23-7-2007, the workman was not present on the third date i.e. 10-8-2007, the management representative was not present. Then the date 21-9-2007 which the workman claims to be the first date was fixed. The workman was not present. Three witnesses were present with the Management representative, hence the statements of the witnesses were recorded and date 6-11-2007 was fixed for examination of this witness. According to the Management, the workman did cross-examine this witness , hence there was no prejudice caused to the workman during the inquiry. Accordingly the

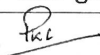
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Management has prayed that the preliminary issue be answered against the workman.

The workman J.N.Singh has examined himself on oath on preliminary Issue , wherein he has stated that he was not given opportunity of cross-examination of Management witness. Thereafter, he stated that he did cross-examine the three witnesses during the inquiry but their complete statement was not recorded. He further stated that he had produced documentary evidence in his defence, during the inquiry. He also examined himself as a witness during the inquiry.

The management has examined Lalit Prakash Tirki, Chief Manager. According to this Management Witness, he was Management representative during the inquiry proceedings. He has proved the inquiry papers .He admits that on the date 21-9-2007, the statements of Management witness were recorded in absencia of the workman. He further states that the workman had full knowledge of the dates of inquiry but he absented himself. These witnesses were cross-examined by the workman on the next date. He pleads ignorance regarding any application filed by the workman to change the Inquiry Officer.

From perusal of the inquiry papers and facts mentioned above, it comes out that the statements of witnesses supporting the charge was recorded in absence of the workman but he was given opportunity of cross-examination on the next date and he also availed this opportunity. Since he was given opportunity of cross-



examination, which was availed by him, it cannot be said that the principles of natural justice were not followed during the Inquiry. The examination of Management witness in absence of the workman might at worst be an irregularity but not a major illegality to vitiate the inquiry itself.

On the basis of the above discussion, holding the inquiry legal and proper, **the Preliminary Issue No.1 is answered against the workman.**

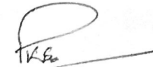
The following additional issues are framed on the basis of pleadings:-

“1.Whether the charges are proved on the basis of inquiry report?.”

“2.Whether the punishment is disproportionate to the charge proved?.”

“3.Relief to which the workman is entitled?.”

List on 17/10/2022 for hearing on additional issues. Parties are at liberty to lead evidence on these issues in the form of affidavit after giving a copy of the same to the opposite counsel within 30 days from today.



PRESIDING OFFICER