

ORDER SHEET

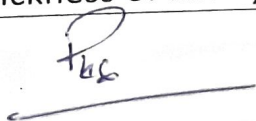
CENTRAL GOVT.INDUSTRIAL TRIBUNAL CUM

LABOUR COURT,JABALPUR(MP)

CASE NO. CGIT/LC/R-41-2014

(Shri Rajesh K.Arya Vs. H.P.C.L )

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
29-7-22	<p style="text-align: center;"><b><u>ORDER ON PRELIMINARY ISSUE</u></b> (Passed on 29-7-22)</p> <p>The preliminary Issue No.1 framed is as follows:-</p> <p style="text-align: center;"><b>“Whether the departmental inquiry conducted is legal and proper.?”</b></p> <p>1. The case of the applicant workman is that he was first appointed on 15-2-1984 as Class-IV Employee in the office of the Management. He was promoted as LPG Operator in the year 1992 and Sr.LPG Operator in the year 1999. At relevant time he was working at Mongalia LPG Bottling Plant in Indore (M.P.). He had an unblemished service career. He always worked diligently to the satisfaction of his superiors. He met with an accident on 13-11-2011 in which he received serious head injuries. He was forced to take leave under intimation of Plant Manager. His Sister in Law also died in between and his mother got severe heart attacks two times, in such circumstances due to his own sickness and sickness of family members he had</p>	



to take leave and even leave without wages. He was issued a charge sheet on 24-2-2004 with allegations of unauthorized absence. A Departmental inquiry was proceeded against him. The workman submitted an application for seeking voluntary retirement which was pending consideration during inquiry. The inquiry was not conducted as per rules and procedure. He was not supplied with a copy of report of Inquiry Officer which held him guilty of charge before the order of punishment. According to him, he was not given an opportunity to explain himself in the light of Inquiry Report and finding of Inquiry Officer which is in violation of Principles of Natural Justice.

2. The Management has denied the allegations on this point and has submitted that the workman was a habitual absentee. He unauthorisedly absented himself for 50 days in the year 2001, 83 days in the year 2002 and 131 days in the year 2003, total absence 264 days. He was issued a charge sheet for these absence with the following charges of misconduct:-

**Rule 31 Clause 7:-**

Habitual absence with leave or habitual absence without leave for more than 21 consecutive days or overstaying the sanctioned leave without sufficient grounds or proper and satisfactory explanation.

**Rule 31 Clause-38**

Breach of standing order applicable to the establishment or any rule may there under.

3. According, to the management, the workman submitted his explanation dated 6-3-2004 which was

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found unsatisfactory. A Departmental inquiry was issued against him. The Inquiry Office conducted the inquiry proceedings on 15-9-2004, 20-9-2004 and 29-9-2004 as per procedure and in line with the principles of natural justice. The workman took a defence that his absence was due to some unavoidable circumstances, mainly on the ground of his own sickness but he could not produce any document in support. He could not produce any documents in obtaining approval for the period of his absence. He pleaded guilty and accepted the charges. The Inquiry Officer submitted his inquiry report dated 4-2-2005, copy was forwarded to the workman for his comments and was duly acknowledged by him. He did not submit any comment on the report. The Disciplinary Authority accepted the findings in the inquiry report and awarded punishment.

4. The workman has examined himself on oath as witness and has been cross-examined by Management. The management has examined Rajiv Singhai, Senior Manger as a witness. He has been cross-examined . He was the Presenting Officer during the inquiry. The Management has proved the inquiry papers which are exhibits M1 to M5.
5. I have heard arguments of Shri R.K.Soni, learned counsel appearing for workman and Shri A.K.Shashi, learned counsel for the management on preliminary issue and have gone through the record.
6. In his Examination-in-chief in the form of his affidavit, the workman has corroborated his case on the point of preliminary issue. He first admits Exhibit M-1 which is reply on the charge sheet and later denies it in his cross-examination. He admits that he

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participated during the inquiry. He admits documents Exhibit M-2 which are inquiry proceedings dated 24-2-2004 and Exhibit M-3, inquiry proceedings dated 22-9-2004. It appears from perusal of these proceedings that he admits that he had committed the mistake by not informing the management of his absence. Exhibit M-4 is the inquiry proceedings dated 29-9-2004 which shows that the workman was present on that date also and he sought forgiveness also. He has pressed his application for voluntary retirement. These facts establish that the workman was present during the inquiry and participated in the inquiry. Learned Counsel for the management has referred to Judgement of Hon. The Apex Court in the case of Chairman-cum-Managing Director, Coal India Ltd. & another Vs. Mukul Kumar Choudhuri & Others, AIR(2010) SCC 75 and Vivekanand Sethi Vs. Chairman, J & K Bank Ltd. & Others(2005) 5 SCC 337 wherein it has been held by Hon'ble the Apex Court that when the charged employee admits the charges, the inquiry was a mere formality. ON the other hand, the Management witness has categorically stated in his statement on oath that Rules and procedures of natural justice was affected in the inquiry which is further corroborated by the inquiry proceedings referred to above, filed and proved by the management.

7. In the light of these facts proved, there is nothing on record to show that the departmental inquiry was vitiated under law, hence holding the departmental inquiry legal and proper, the preliminary issue is answered against the workman.
8. The following additional issues are framed on the basis of pleadings:-

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(5)

"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?"

9. Parties are directed to lead their oral or documentary evidence on these issues in the form of affidavit after giving a copy of the same to the opposite counsel within two weeks from today.

List on 30/9/22 for final arguments/hearing.

  
PRESIDING OFFICER