

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

NO. CGIT/LC/RC/07/2021

Present: P.K.Srivastava

H.J.S..(Retd)

**Manohar Das,
S/o Samaru,
R/o Budhanpur, P.O. Kotma, P.S. Kotma,
District Anuppur, M.P.
Employee of S.E.C.L., Hasdeo Area,
Baherabandh Colliery,
District Anuppur, (MP)**

Petitioner/Workman

Versus

**Senior Manager-Mines/ Manager,
S.E.C.L., Baherabandh Colliery.
P.O. Baherabandh,
District Anuppur, M.P.**



Respondents/Management

AWARD

(Passed on this 06th day of February, 2026)

The petitioner/workman has filed this petition ***u/s 2-A (2&3)*** of the ***Industrial Disputes Act, 1947*** as amended by ***Amendment Act of 2010*** (in short '***The Act***') with a case that he was working with the management, his job was in the Mines area, he became unconscious while going back home after his shift in the Mines on 08.07.2019, he find himself admitted in Government Hospital on 19.07.2019 when he gained consciousness. He was under treatment and when he recovered fully from his illness he presented himself for work before the management with his medical certificate on 01.10.2010. He was issued a charge sheet with an allegation of misconduct by way of absenting himself willfully and unauthorizedly without any intimation to management and without getting any leave sanctioned. An enquiry was proceeded against him which was conducted against all the rules of natural justice and procedure, he was wrongly

terminated by management vide its order dated 11-13.04.2020. He raised a dispute in this respect before the concerned Assistant Labour Commissioner (Central Government), which could not be conciliated within 14 days. Hence, he filed this petition seeking his reinstatement with back wages and benefits, setting aside his termination.

Management has taken a case that the petitioner/workman is a habitual absentee from the very beginning, he is in the habit of absenting himself without information to management and without getting any leave sanctioned for which he has been issued as many as 14 warnings within a period from October, 2002 to May, 2019. He was issued punishment withholding of two increments in 2018 for the same misconduct, the details are mentioned in para 2 of the written statements/reply. It is further the case of management that his attendance for the last four years was 73 days in 2016, 72 days in 2017, 71 days in 2018 and 35 days in 2019. He was issued a charge sheet alleging misconduct by way of absenting himself till 09.11.2019 from 09.07.2019. His reply was found unsatisfactory hence, management decided to conduct a departmental enquiry. He appeared and filed his medical certificate during the enquiry, the Enquiry Officer submitted his enquiry report holding the charges proved after his reply on the enquiry report was found unsatisfactory. The punishment of termination of his service was passed which is not disproportionate in the light of his service history as mentioned above.

Following preliminary issue was framed on the basis of pleadings vide order dated 22.07.2022.

Whether the enquiry conducted against the workman is just, legal and proper?

The petitioner/workman filed affidavit, he was cross-examined, management has also filed affidavit of its witness who was cross-examined. Management filed and proved enquiry documents which are Ex-M/1 to Ex-M/8. After hearing both the sides on preliminary issue, this issue was decided by order dated 18.06.2025 holding the departmental enquiry just, legal and proper. This order is part of this judgment.

Following **Additional issues** were framed thereafter:-

- 1. Whether the finding of Enquiry Officer with respect to prove of misconduct has been recorded perversely?**
- 2. Whether the punishment is proportionate to the misconduct proved?**

Parties were given opportunities to file their evidence on these additional issues, no evidence was filed.

I have heard argument of Learned Counsel Mr. O.P. Tiwari for petitioner/workman, and Mr. Neeraj Kewat for Management. I have gone through the records as well.

Additional Issue No. 1;

Charges against the workman have been detailed earlier.

The settled proposition of law with respect to proof of charges in departmental proceedings is that the charges need not be proved beyond reasonable doubt as it is required in criminal trials.

Perusal of enquiry papers reveals that in the first sitting, the Workman Defense Assistant stated that the workman was ill and he could not report at workplace, he has produced his medical certificate in this respect. In second sitting, he was asked to produce medical bills which he could not produce. He admitted that he could not inform the management about his illness, medical certificate attached with the enquiry papers is issued by the Medical Officer which shows that the workman was diagnosed Viral Hepatitis and was advised rest from 19.07.2019 to 30.09.2019.

The Enquiry Officer has held that the charge in clause 26.30 of Certified Standing Orders, which is regarding absence from workplace without getting any leave sanctioned or without any sufficient reason, is proved. The Enquiry Officer further held the charge in clause 26.20 of the Certified Standing Orders also proved i.e., habitual absence from duty without any justifiable cause.

For his previous absence on various occasions, the workman has been awarded punishment in form of warning and reduction of increment hence, he cannot be punished for the same charges. Though, no doubt his

previous punishment and conduct will be relevant for awarding punishment, if the present charge is found rightly proved.

As stated above, with respect to his present absence, the workman took a plea that he was under medical treatment and was advised rest. He filed a medical certificate before the Enquiry Officer which corroborates his case. The Enquiry Officer nowhere states in his enquiry report that these medical certificate is not genuine, in such a situation, when the workman provides a medical certificate issued by the qualified Government Doctor who advised him rest for the period of absence is not found unreliable, the absence of workman from workplace is well explained at least for the charge he has been punished, his absence is unauthorized but not willful.

In light of above discussion, finding of the Enquiry Officer with respect to proof of the present charge, is held perverse even if there is no leave due in his leave account, the petitioner can be sanctioned leave without pay when it is not disputed that he was under treatment and was advised rest by the doctor.

Additional issue No. 1 is answered accordingly.

Additional Issue No. 2;

As it has been submitted by management, the workman is a repeated offender with respect to unauthorized and un-intimidated absence for which he has been punished atleast 14 times, details mentioned above, when the charges in the present charge sheet have been held not proved of his previous punishment will lose their significance in such circumstances. Thus, in light of above discussion, the punishment awarded by management is held vitiated in law, it is liable to be set aside and is set aside.

Consequently, the workman is held entitled to be reinstated keeping in view his previous record, he is held entitled to only 10% of his back wages, but entitled to all other consequential benefits pre and post retirement.

Additional issue No. 2 is answered accordingly.

ORDER

The petition is partly allowed, the termination order of management dated 11-13.04.2020 is set aside. The petitioner is reinstated from the date of his termination with 10% of his back wages but will be entitled to all other consequential pre and post retiral benefits, deeming himself to be in continuous service of management.

DATE: 06-02-2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER

