

# ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Judicial Member	Remark
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Case No. CGIT/LC/RC/10/2021

Gajadhar Prasad Rathore V/s. SECL J&K Area

25.11.2025	<p style="text-align: center;"><b><u>Order on Preliminary Issue</u></b></p> <p>The preliminary issue, framed vide order dated 06.09.2024 is as follows:-</p> <p style="text-align: center;"><b><i>Whether the departmental enquiry conducted against the workman is legal and proper?</i></b></p> <p>The Applicant workman has filed petition under Section 2A (2&amp;3) of the Industrial Disputes Act, 1947 as amended by Amendment Act of 2010 (in short the “Act”) against termination of his services by way of punishment order dated 28.03.2020 dismissing the applicant from service with a case that, he was first appointed in September, 1988 and had been working since then to the satisfaction of his superiors. He was issued a charge sheet under the Certified Standing Orders of the company alleging that he had furnished false information regarding his age, fathers name and qualification etc. for getting employment in the company and succeeded in getting the employment. Thus, committed a misconduct under Section 26 of the Certified Standing Orders. He submitted his reply to the charge-sheet wherein he denied the allegations. The Competent Authority order a departmental enquiry in the charges. D.K. Singh was appointed as Enquiry Officer and G.M. Thakur Deputy Manager was appointed as Management Representative. The enquiry was conducted by the Management in a just and improper manner without affording the applicant a reasonable opportunity to defend himself in the enquiry and charges were held proved wrongly by the enquiry officer. The Disciplinary Officer also wrongly committed with the finding of the enquiry</p>	
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	<p>officer and he was issued a show cause notice on the basis of enquiry report on 13/14.03.2020 which was never served upon him. The Management issued a retirement notice dated 01.10.2019 in which it was stated that the applicant was going to be superannuated on 31.03.2010. This notice was issued before the show cause notice as stated above. The show cause notice was never served on applicant. The improper order of dismissal was passed by Management without hearing him on punishment and hence is unjust and arbitrary. It is excessive also as he had otherwise a spotless service career. According to the Applicant, he raised dispute against his dismissal with the concern Labour Commissioner within three years, which could not be conciliated within 45 days hence direction with a certificate to this received. He filed petition directly before this Tribunal against his termination. He has prayed that setting-aside order of his dismissal dated 28.03.2020, he be reinstated and be deemed in continuous service till date of his superannuation. He be further held entitled to a amount of gratuity as well other in service and post retrial benefits relating to punishment and funds etc.</p> <p><b>The Management</b> has taken a case that, the applicant Gajadhar Prasad Rathore son of Semaliya Rathore was appointed as Badli Worker on 03.08.1988 vide appointment letter No. 717 by furnishing his present and permanent address at Village Mahuda, Post Amgawan, P.S. Jaithari, Distt. Shahdol (M.P.). His date of birth as per his service record as 01.04.2006 as submitted in his declaration on 27.08.1988 declaring his dependent family members in which he mention the names of his wife Chanda Bai, Son Chamak Lal, two brothers, one sister and mother. A complaint was received from another Gajadhar Prasad Rathore, son of Semaliya Rathore, R/o Village Senduri who was working as an employee of Meera Colliery alleging that the</p>	

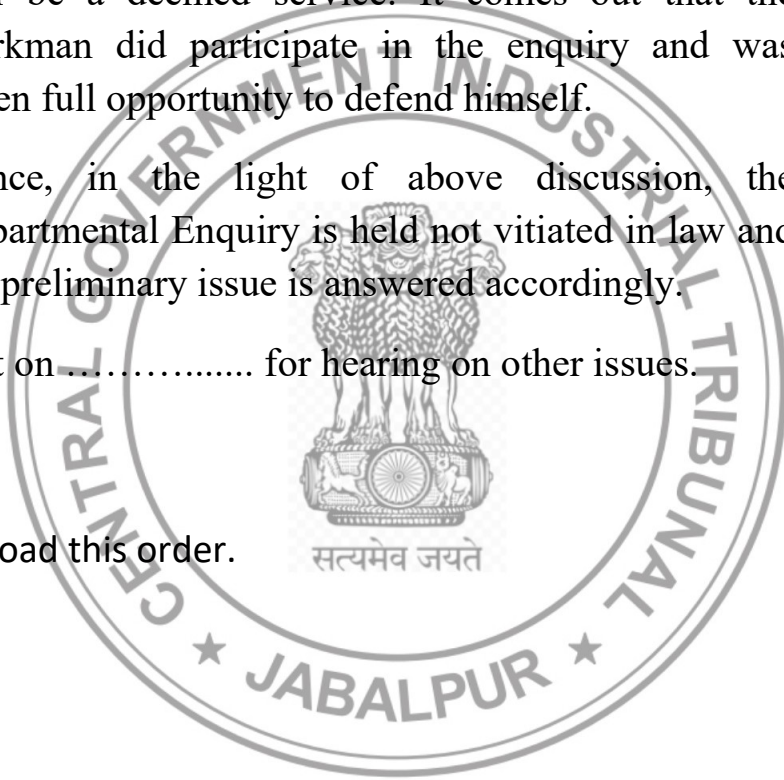
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	<p>workman who was appointed and has working as a badli worker claim himself to be Gajadhar Prasad Rathore son of Semaliya of Village Mahouda was infact imposter. His real name is Koushal Prasad Rathore, son of Shukla Rathore resident of village Senduri, thus he furnished incorrect information with respect to his appearance and name and residence and obtaining employment with the Management. After a prima facie enquiry, finding the applicant having substance a charge sheet dated 25.11.2014 was issued against the applicant in Clause 26.9 alleging misconduct by way of furnishing wrong information in connection to his employment with regard to his name, age, fathers name, qualification etc. The Applicant workman did submit a reply to the charge sheet which was found not sufficient and hence a Departmental enquiry was ordered. The applicant participated in the enquiry, he was granted full opportunity in the enquiry. The enquiry officer submitted his enquiry report. A show cause notice was issued to applicant on 14.03.2020, which was sent through Peon Dak to tell him at his residential address company quarter No. DSA/731 Jamuna Colliery. He was not available at his residence at the time of delivery; hence it was pasted at his house on 16.03.2020. A copy of notice was also sent to his permanent address Adarsh Gram Seoni, Tehsil Thana-Jaithari, Distt. Annupur by speed post. No reply to the show cause was received and punishment order regarding dismissal from service was passed by the Competent Authority. It is further the case of the Management that the Departmental Enquiry and as well findings of the enquiry officer and punishment are just and legal.</p> <p>The Workman has filed his affidavit as his examination in chief, he has been cross-examined by Management. The Management has filed and proved the enquiry proceedings right from Charge-sheet till punishment and has filed affidavit of its witness as</p>	

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	<p>his examination in chief, this witness has been cross-examined by the Workman.</p> <p>The main contention of the Workman is that he was not served the show cause notice with the enquiry report. Case of Management is that it was affixed on his house when he was not found in the company quarter which was allotted to him. It comes out that the workman was granted earned leave and was out of station on leave. Technically, when Management did not have information about the new address of the Workman, affixation of notice on his address will be a deemed service. It comes out that the workman did participate in the enquiry and was given full opportunity to defend himself.</p> <p>Hence, in the light of above discussion, the Departmental Enquiry is held not vitiated in law and the preliminary issue is answered accordingly.</p> <p>List on ..... for hearing on other issues.</p> <p>Upload this order.</p> <p></p> <p><b>JUDICIAL MEMBER</b></p>	