


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

CASE NO. CGIT/LC/R-2-2016

RC-02-2016

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
1-9-2022	<p>Shri Arun Patel, learned counsel for the workman. Shri Ashish Shrotri, learned counsel for the Management. Heard arguments on preliminary Issue No.1 which is as follows:-</p> <p style="text-align: center;">“Whether the departmental inquiry conducted is legal and proper.?”</p> <p>1. Learned counsel for workman has attacked the legality of the preliminary inquiry on the ground that according to the Inquiry Proceedings filed and proved by the management as Exhibit M-8 there is mention in the inquiry proceedings dated 16-4-2014 that the workman filed his written statement admitting the charges . This written statement/confession is not on the Inquiry file, as it has never been filed by the Management. Learned counsel submits that this fact vitiates the inquiry.</p> <p>2. The Management side has opposed this argument of workman side on the ground that from the very beginning up to appeal the workman has been confessing the charges. Hence there is nothing in the inquiry to show that non-production of this paper resulted into prejudice of the workman. Decision of</p>	



Hon. The Apex Court in the case of Manoj H.Mishra Vs. Union of India (2013) 6 SC 313 has been referred wherein it has been laid down that when the delinquent employee admits the charges, there was no necessity of recording the evidence.

3. Para 35 of the Judgement is being reproduced as follows:-

In our opinion, the learned Single Judge and the Division Bench have not committed any error in rejecting the submissions made by the learned counsel for the appellant. We are not inclined to examine the issue that the actions of the appellant would not constitute a misconduct under the Rules. In view of the admissions made by the appellant, no evidence was adduced before the Enquiry Officer by either of the parties. Once the Enquiry Officer had declined to accept the conditional admissions made by the appellant, it was open to him to deny the charges. But he chose to make an unequivocal admission, instead of reiterating his earlier denial as recorded in preliminary hearing held on 26th December, 1994. The appellant cannot now be permitted to resile from the admission made before the Enquiry Officer. The plea to re-open the enquiry has been rejected by the Appellate as well as the Revisional Authority. Thereafter, it was not even argued before the learned Single Judge. Learned counsel had confined the submission to the quantum of punishment. In LPA, the Division Bench declined to reopen the issue. In such circumstances, we are not inclined to exercise our extraordinary jurisdiction under Article 136 for reopening the entire issue at this stage. Such power is reserved to enable this Court to prevent grave miscarriage of justice. It is normally not exercised when the High Court has taken a view that is reasonably possible. The appellant has failed to demonstrate any perversity in the decisions rendered by the Single Judge or the Division Bench of the High Court.

4. Learned counsel for workman has submitted that during the inquiry proceedings the workman admitted the charges as he was mis-guided. Perusal of Inquiry papers show that the workman has been consistently admitting the charges. Firstly he admitted the charges

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unconditionally when the show cause notice with charge sheet was served on him. Secondly during inquiry, thirdly in his representation to Disciplinary Authority on the finding of the Inquiry Report and proposed sentence and fourthly before Appellate Authority in his appeal. Hence non-availability of this paper cannot be held to have prejudiced the workman during the inquiry. Accordingly holding the inquiry just and proper, **Preliminary Issue is answered against the workman.**

5. 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?”

6. List on 13-10-22 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 four weeks from today.



PRESIDING OFFICER