

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - Cum - LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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Case No. CGIT/LC/R/101/2017
Sobhalal Prajapati V/S SECL

02.02.2024

Order on preliminary issue

The preliminary issue, is as follows-

Whether the departmental enquiry conducted by management is just legal and proper?

Case of the workman on this preliminary issue is that a criminal case against him was registered and was pending trial on the basis of same facts and allegations which were the subject matter of the charge in the preliminary issue. The management could not proceed with the departmental enquiry simultaneously when the criminal case against the Workman based on same allegations and facts was pending before competent court for trial. Furthermore, as alleged by the Workman in his statement of claim, the departmental enquiry was conducted against statutory provisions of law and justice in which he was not afforded proper opportunity to defend his case and two produces defence, nor was he afforded an opportunity to cross-examine the prosecution witnesses during the enquiry. He was wrongly held guilty for misconduct by the enquiry officer who submitted his enquiry report on November 5 1999, holding him guilty for misconduct.

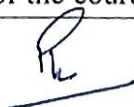
Denying the allegations put by the Workman with respect to the departmental enquiry, the management has come up with the case that the Workman was initiated appointed in the year 1989 on the post of general mazdoor. One Sobha Lal filed a complaint with the management, wherein he alleged that one Loknath got employment with the management impersonating himself as SobhaLal on the basis of Mark sheet of the complainant and the employment card of the complainant which the impersonator had stolen from the house of the complainant. A chargesheet alleging misconduct under clause 29.6 of the standing orders was issued against the applicant Workman on may 14, 1999 with the allegation that the applicant Workman impersonated himself to be Sobhalal by producing



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	<p>documents relating to Sobhalal and thus got employment with the management by giving false information regarding name, age, father's name and qualification in connection with the employment. The applicant submitted his written reply on May 18 1999 and finding, the written reply to the chargesheet not sufficient, management decided to conduct a departmental enquiry. Enquiry officer and presenting officer. Where appointed by management. The enquiry concluded in as many as 26 dates. The applicant was given full opportunity to cross-examine the management witnesses, which he did avail. He was also given opportunity to produce his witnesses and documents which he availed. The management examined as many as six witnesses during the enquiry which were cross-examined by the applicant. The enquiry officer submitted his report on November 6 1999, holding the applicant guilty of misconduct for charge as mentioned in clause 26.9 of standing orders. The applicant was issued a show cause notice on November 11, 1999 with the copy of enquiry report by the disciplinary authority. He submitted his representation against the show cause notice. The disciplinary authority, after taking into account the representation of the applicant against show cause notice, and on the basis of enquiry report as well the evidence collected during the enquiry, concluded with the finding of the enquiry officer with respect to the proof of charges levelled against the applicant and passed the punishment of dismissal from service with effect from November 22, 1999 wide order dated November 27, 1999. Management admit that a first information report was also registered with the local police which was under investigation in which the applicant was acquitted on May 16, 2014, that is long after conclusion of departmental enquiry and passing the punishment order.</p> <p>In evidence, the workmen filed his affidavit as witness in which he correlated his allegations with regards to the departmental enquiry as elaborated earlier. He was cross-examined by management. He filed the certified copy of judgement of the court of judicial magistrate. In</p>	



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	<p>the criminal case as well certified copy of order of the Additional Sessions Judge in the Criminal Revision filed against order of acquittal.</p> <p>Management examined its witness who was the enquiry officer during the enquiry. He deposed about the enquiry and proved the enquiry papers, including the complaint of the complainant, charge sheet issued to the applicant, his reply, order of management, instituting enquiry and appointment of enquiry officer as well presenting officer, enquiry papers and proceedings, enquiry report, show cause notice issued by the disciplinary authority on enquiry report, representation of the applicant on enquiry report and punishment order passed by the disciplinary authority.</p> <p>I have heard argument of learned counsel for Workman and Sri SK.Gupta and learned counsel for management. Sri Neeraj Kewat on preliminary issue. I have also gone through the record.</p> <p>The first submission regarding the legality of the enquiry, raised from the side of the applicant is that since criminal proceedings were pending before competent court regarding the same charges and same facts, the Department could not have proceeded simultaneously with the departmental enquiry and should have waited the final result of the criminal case. Management side has rebutted this argument with the submission that only on the ground that criminal proceeding is pending, there is no bar in holding departmental enquiry and both the proceedings can go on simultaneously because they are independent officer.</p> <p>In the case of Depot Manager, A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699 Hon'ble Supreme Court made following observations-</p> <p>"Hence, in the light of above discussion and the settled principles of law as referred to above, the argument from the side of applicant that departmental enquiry could not have been proceeded with simultaneously has no ground. Accordingly, holding that there was no bar in proceeding with the</p>	



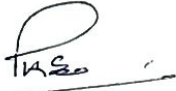
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	<p>departmental enquiry in the case in hand, the argument from the side of applicant is not an accepted.”</p> <p>The enquiry proceedings, coupled with the statement of management witness go to show that the workmen was issued notice on the chargesheet before initiation of enquiry. His reply to the chargesheet was considered by the appropriate authority before taking decision to institute an enquiry. It is also established that full opportunity of cross-examination of management witnesses was given to the applicant which he did avail. Also, it is established that the applicant was given full opportunity to lead his defence. He did avail this opportunity also and examined defence witnesses. There is nothing in the statement of the applicant witness nor in enquiry papers to indicate that the rules of natural Justice or any statutory provision with respect to departmental enquiry was violated, resulting into prejudice to the defence of the applicant. Hence, on this ground also, the departmental enquiry cannot be held to be vitiated.</p> <p>On the basis of above findings, it is held that the departmental enquiry conducted is just legal and proper and preliminary issue is answered accordingly.</p> <p>Following additional issues are framed on the basis of pleadings-</p> <p>1-whether the charges are proved from the enquiry ?</p> <p>2-whether the punishment awarded is disproportionate to the charge?.</p> <p style="text-align: center;"></p>	

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	<p>3-whether the applicant is entitled to any relief ?.</p> <p>Parties may file evidence, affidavit documents. After exchanging till or before date fixed.</p> <p>List on 04/04/2024 for hearing on other issues.</p> <p style="text-align: center;"> Presiding Officer</p>	