

ORDER SHEET

CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR(MP)

CASE NO. CGIT/LC/R-37-2007

(Raghunath Napit Vs. SECL Suhagpur Area)

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
10-10-2022	<p style="text-align: center;">ORDER ON PRELIMINARY ISSUE (Passed on this 10th day of October-2022)</p> <p>The preliminary Issue is as follows:-</p> <p>“Whether the departmental inquiry conducted is legal and proper.?”</p> <ol style="list-style-type: none">1. According to the workman, he fell ill in the year 2002. He was under treatment from 4-7-2002 to 14-7-2002. Thereafter he was under treatment in colliery hospital. His condition did not improve. He requested the Management to refer him to the District Hospital. The management did not grant his request, hence he received the treatment of Senior Doctor J.N.Garg in Buddhar in his private hospital and was under his treatment from 20-7-2002 to 28-12-2002. He presented himself for assuming his job on 30-12-2002. He came to know that he was terminated by the management on the ground of unauthorized and willful absence. According to him no inquiry was conducted.2. The case of the management is that the workman has been a habitual absentee. His attendance has been irregular since 1998 till issue of charge sheet on 1-8-	

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2001, details of his presence mentioned in the written statement of claim. He was issued a charge sheet on 1-8-2001. He filed a reply to the charge sheet which was unsatisfactory, hence Management decided to conduct a departmental inquiry. He participated during the inquiry. He cross-examined the witness and produced his evidence. The Inquiry Officer submitted his inquiry report holding him guilty of misconduct. A copy of Inquiry Report was served to him with show cause notice. He did not make any representation and thereafter punishment order dated 16-8-2002 was passed. Thus according to the Management the inquiry was conducted properly and legally. During the proceedings, the workman died, his legal representative were substituted. Three of his legal representative i.e. his widow and two sons filed their affidavit on preliminary issue no.1. All of them appeared for cross-examination by the management. The management has examined its witness and has proved its inquiry papers M1 to M8.

3. I have heard arguments of Shri R.K.soni for workman and Shri A.K.Shashi for Management and have gone through the record.
4. The onus to prove that the inquiry is not legal is on the workman. The legal representative never participated during the inquiry. They have admitted this fact in their cross-examination. On the other hand the management witness has corroborated its case on the preliminary issue and has proved the inquiry papers which goes to show that before the inquiry show cause notice was issued to workman on the charges. He did file his reply. He participated

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during the inquiry. He also examined witnesses and cross-examined himself in his defense. Before punishment also a show cause notice was issued to him, hence there is nothing on record to indicate that the inquiry was not conducted legally and properly. Holding the inquiry legal and proper, **the 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. Parties are directed to file their evidence in the form of affidavits and documents on other issues after exchange of copies till or before the date fixed. **List the case on 9/12/22 for hearing on other issues/final arguments.**



-PRESIDING OFFICER