

ORDER SHEET

CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR(MP)

CASE NO. CGIT/LC/R-39-2011

(Shri Gopal Dehriya Vs. B.S.N.L.)

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
21-9-22	<p style="text-align: center;"><u>ORDER ON PRELIMINARY ISSUE</u> (Passed today on 21-9-2022)</p> <p>Learned Advocate Shri Arun Patel, learned counsel for the workman.</p> <p>Learned Counsel shri A.K. Shashi for the Management.</p> <p>Heard arguments of both the sides on Preliminary Issue which is as follows:-</p> <p style="text-align: center;">“Whether the Departmental Inquiry conducted is legal and proper or not?:”</p> <p>Perused the record.</p> <p>According to the learned counsel for the workman, the statement of workman himself was not recorded by the Inquiry Officer during the inquiry rather the statement of the Defence Assistant was recorded and he was cross-examined. Secondly the workman filed application during the inquiry on 12-9-2007 seeking documents mentioned in the application regarding his presence for the period 1-4-2000 to 21-4-2000 and 13-3-1998 to 13-5-1998 which were not provided to the workman hence his defence was prejudiced and the departmental inquiry is not just and proper as submitted by learned Counsel for the workman.</p> <p>On the other hand, the learned counsel for the management submitted that the charge against the workman during the inquiry was unauthorized and willful absence since 1994 to 2007, even if he might have worked for the period for which records were sought to prove his presence in this period, only the period of absence in the charge would be lessened. Learned Counsel further submits that on 12-9-2007</p>	



the Defence Assistant of the workman was examined by Inquiry Officer on the request and consent of the workman himself, hence he cannot take this plea. Moreover, as submitted by learned counsel for the management, the workman admitted the charge during the inquiry .

After having perused the record in the light of rival arguments, it comes out that the charge against the workman is of willful and unauthorized absence from 1994 to 2007 i.e. about 13 years even if he was present for two or three months during this period in the year 1998 and 2000 only the period of absence would be lessened, there will be no material alteration in the charge. Hence non-supply of these documents has certainly not prejudiced the defense of the workman with respect to the charge. **Secondly** his defence assistant was cross-examined on his request and consent as it appears from the proceedings of the inquiry. Hence though these two points are irregularity committed by the Inquiry Officer during the proceedings, in my considered view, they have in no way prejudiced the defence of the workman during the inquiry to vitiate the inquiry proceedings. Accordingly, holding the inquiry legal and proper, the Preliminary Issue is answered accordingly.

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?."

List on 8-12-22 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 30 days from today.


PRESIDING OFFICER