

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/RC/05/2016

Arun Kumar Singh Sisodia V/S M/s Ferro Scrap Nigam Limited

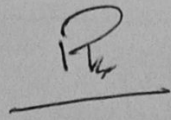
17.01.2024

Order on preliminary issue

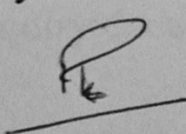
The preliminary issue, framed wide order dated August 10, 2022, is as follows-

Whether the enquiry conducted against the Workman is just proper and legal ?

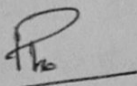
Case of the workman on this issue is mainly that his service conditions are governed by what is standing order duly signed and published in 1979. The Workman is General Secretary of the workers union. To deter him from union activities, the management issued him a charge sheet on January 12, 2015 with the allegation that he had obtained half believe for three days that is from August 12, 2013 to August 13, 2013 for two days and from August 16, 2013 to August 17, 2013 for 1 day as well Festival leave on August 20, 2013, which was against the rules of the company as he was under detention in jail for the period from August 12, 2013 two August 24, 2013 in connection with certain crimes allegedly committed by him. Also, it was the allegation that the workman furnished false information prejudicial to the interests of management and was advised to submit reply within 10 days from the date of receipt of the charge sheet. He did submit his reply on January 12, 2015 and denied the charges. The management instituted a departmental enquiry against him for the charges and Sri R.K.Singhal , General Manager SAP was appointed enquiry officer. Sri A.K.Mahapatra , Assistant General Manager HRD was appointed the presenting officer.



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	<p>According to the workman, first sitting in the departmental enquiry was held on February 7, 2015, charge sheet was served on him and charges were denied by him. After two adjournments, management witness number one R.K.Sharma was examined by management and was cross-examined by the workman. And other management witness number two M.K.Sharma was examined by presenting of service on March 9, 2015 and was cross-examined by the workman. On the request of the workman, management witness number one was further cross-examined by him. It is further, the case of the workman that he examined two persons as defence witnesses who were cross-examined by the presenting officer. Thereafter, as alleged by the workman in his petition, enquiry report dated April 24, 2015 was submitted to the disciplinary authority, holding the charges of misconduct against the Workman proved. A copy of the said enquiry report was also served on the workman. The disciplinary authority sent a copy of the enquiry report wide, later dated April 30,2015 and the workman was required to put his case in form of representation against the enquiry report. After finding the representation against the enquiry report insufficient, the impugned order of dismissal was passed by the disciplinary authority. Also, it has been stated that the workman preferred an appeal to the appellate authority on June 11, 2015, which was also dismissed by the appellate authority.</p> <p style="text-align: center;"></p>	

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	<p>According to the workman, the enquiry was vitiated on following grounds-</p> <ol style="list-style-type: none"> 1-The enquiry officer appointed was a general manager who is below the rank of disciplinary authority. 2-No list of documents and list of witnesses to be produced during the enquiry was supplied to the workman along with the chargesheet. 3-No leave application said to be submitted by the workman for getting his leave sanctioned which is the basis of the charge was ever produced during the enquiry. 4-The workman had requested further cross-examination of management witness number one which was not granted at this stage of evidence, a prosecution and whether it was granted after the closure of defence evidence. <p>The case of management on the preliminary issue that is on the legality of departmental enquiry is mainly that there is no illegality or any material irregularity committed during the enquiry.</p> <p>In evidence, the workman has examined himself as a witness. He has been cross-examined by management side.</p> <p>No witness has been examined by management. Has filed original enquiry documents.</p> <p style="text-align: center;"></p>	

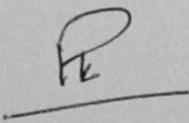
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	<p>The workman has filed documents regarding enquiry which are chargesheet, reply on chargesheet, enquiry proceedings, enquiry report, letter of management, sending copy of enquiry report, reply of the workman on enquiry report, dismissal order, order of appellate authority. All these documents had been admitted by management and marked exhibits.</p> <p>I have heard the argument of learned counsel Sri Aditya Singh for workman and Sri Arun Patel. I have gone through the record as well.</p> <p>As it is clear from the above description of pleadings and evidence in support as mentioned above, there appears no procedural irregularity in the enquiry and it can be safely held that the workman has been allowed sufficient opportunity to defend the charge. There appears no irregularity regarding procedure adopted by the disciplinary authority or appellate authority in passing the punishment orders or in dismissal of the departmental appeal.</p> <p>As regards the first and second ground of challenge taken by the workman in his petition regarding the legality of the enquiry, which is that the enquiry was conducted by General Manager and the punishment order was passed by Assistant General Manager, perusal of record shows that in fact, the order regarding termination has been passed by the Managing Director Sri Rajib Bhattacharya on June 8, 2015, which is issued by the Assistant General Manager (P& A) Sri K.N.Patel, who according to the dismissal order passed by the Managing Director has referred to above, was</p>	

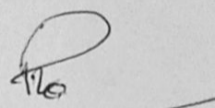
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	<p>directed by him communicate it to the workman. As regards the other ground that the list of the witnesses proposed was not supplied with the chargesheet itself, since it is established from the enquiry papers that the workman was given full opportunity to cross-examine the management witnesses, hence this will be an irregularity at worst which did not prejudice the case of the workman during the enquiry. Regarding the next ground challenging the legality of the departmental enquiry that is the management witness number one was allowed to be further cross-examined after close of defence evidence, since there is nothing on record to indicate that the defence of the workman was prejudiced due to this, it will also be taken as a minor irregularity not hitting at the core of the enquiry proceedings. The another ground that the leave application, which was the basis of the charge, was not produced during the enquiry, is not to be seen at at this stage because it relates to the point whether the charges are proved or not.</p> <p>Hence, on the basis of above discussion, I find no material irregularity or illegality in the departmental enquiry conducted. Consequently, holding the departmental enquiry just, legal and proper, preliminary issue is answered accordingly.</p> <p>Following additional issues are framed-</p> <p>1-Whether the charges are proved from the enquiry ?.</p> <p>2-Whether the punishment awarded is appropriate to the charge ?.</p> <p style="text-align: center;"></p>	

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	<p>List on 08/02/2024 for hearing on additional issues. Parties are at liberty to file affidavits, if any, on additional issues after serving copy to the other side till or before date fixed.</p> <p style="text-align: right;"> Presiding Officer</p>	