

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL CUM LABOUR COURT, JABALPUR**

**NO. CGIT/LC/RC/1/2016**

**Present: P.K.Srivastava**  
**H.J.S..( Retd)**

**Chamru Patel**  
**S/o Mithu Patel**  
**Village Piparia, District Anoopur (M.P.)**

**Workman**

**Versus**

**The**

**The Chief General Manager**  
**SECL, Johila Region Nowrozabad, District Umari**  
**Office at seepsath road, Bilaspur.**

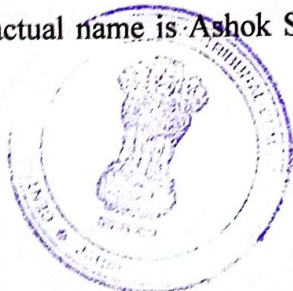
**The Sub Area manager,**  
**Pali Birsinghpur Group of Mines**  
**Post Office Birsinghpur Pali,**  
**District Umari**


**Management**

**ORDER**

**(Passed on this 13-10-2022)**

1. This case has proceeded on the basis of a petition under Section 10(2-A(1)& (2) of the Industrial Disputes Act, 1947 hereinafter referred to by the word Act wherein it has been stated that the applicant workman Chamru Patel entered into service of the Management of SECL 22 years before. He was issued a show cause notice by the Collector of the District on 1-4-2008 through the Management wherein it was alleged that his actual name is Ashok S/o Sundarlal @ Madru but he was doing the



  
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job in SECL as SDL Operator in the fake name of Chamru S/o Mithu Patel who is said to be working in MPEB. He was asked to show cause why a criminal proceeding 420/467/468/471 of Indian Penal Code be not initiated against him. He submitted his reply that his name is in fact Chamru S/o Mithu Patel also that he had submitted all his documents at the time of his first appointment and it was only after verification he was given appointment. Thereafter he was regularised. His name appeared in the voters list of Manpur State Legislative Assembly No.90 prepared for 2008 Elections his name finds mention at serial No.1149 and his wife's name is at serial No.1150 of the voters list. The voter Id has also been issued to him by Election Commission bearing his name as Chamshu Prasad which is a typographical error but the other particulars regarding his address and parentage is correctly described in it. He was put under suspension and similarly a charge sheet was issued to him by the management on 10-5-2008 which is against rules because suspension and charge sheet could not be done simultaneously according to rules. He submitted his reply on 13-5-2008 denying the allegations. The Management decided to conduct a departmental inquiry which was conducted without following proper procedure. The Inquiry Officer submitted his Inquiry Report on 2-7-2008 holding him guilty of the charges which was against the evidence on record and after considering the evidence produced by him. After serving a show cause notice on Inquiry Report on 5-9-2008 and finding his reply on show cause insufficient, the management passed the order of punishment on 3-12-2008 and removed him from service. He filed a writ petition before Hon'ble High Court of M.P. at Jabalpur Writ Petition No.15458/2008 which was dismissed as withdrawn with an observance to seek remedy before appropriate forum. Thereafter he raised a dispute before Assistant Labour Commissioner which could not be resolved within 45 days ,



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hence filed this petition and has prayed that setting aside his termination, holding it bad in law, he be reinstated with back wages and benefits.

2.. The case of the Management in its written statement of defence is mainly that after receiving a complaint from the Collector of the District, the Management initiated a departmental inquiry. The workman participated in the inquiry. The charges were found proved during the inquiry, hence after issuing a show cause notice to him on inquiry report and finding his representation on show cause insufficient, the impugned order of punishment was passed. Accordingly, the Management has requested that the petition be dismissed.

2. The applicant workman never appeared thereafter and he did not file any evidence. The management filed affidavit of its witness as his examination in chief. The workman did not avail the opportunity of cross-examination of management witness. The Management has proved the inquiry documents.

3. Vide order dated 25-11-2021, the preliminary issue whether the domestic inquiry conducted against the workman is legal and proper was decided, holding the inquiry legal and proper. This order is part of the award.

4. Following additional issues were framed on 25-11-2021:-

**1)Whether the charges against the workman is proved on the basis of inquiry?**

**2)Whether the payment is proportionate to the charge?**

**3)Whether the workman is entitled to any relief?**



5. The parties were given opportunity to lead evidence on these additional issues. None of the parties filed any evidence, affidavit or documents.

5. At the state of arguments also, the workman did not appear, hence arguments of Shri A.K.Shashi, learned counsel for the Management were heard. The workman did not file any written arguments also. I have gone through the records in the light of the arguments:-

**7.ADDITIONAL ISSUE NO.1:-**

The settled law is that the standard of proof required to prove charge during the departmental inquiry is not beyond reasonable doubt, rather, it is to the extent of reasonable probability which is to be seen, whether a charge is proved in the departmental inquiry or not. The learned counsel for the Management has referred to following case laws in this respect:-

A. **State of A.P. Vs. Sree Rama Rao** (1963) SC 1723 wherein it has been held that :-

**“...a disciplinary proceeding is not a criminal trial and that the standard of proof required in a disciplinary inquiry is that of preponderance of probability and not proof beyond reasonable doubt, which is the proof required in a criminal trial.”**

B. In another case **B.C.Chaturvedi Vs. Union of India**(1995) 6 SCC 749, it has been held that :-

**“the power of judicial review is meant to ensure that the individual receives fair treatment and not ensure that the conclusion which the authority reaches is necessarily**



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correct in the eye of the Court. The disciplinary authority is the sole Judge of facts. The Court/Tribunal in its power of review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence.”

8. Now on perusal of the inquiry papers and the evidence during the inquiry, there is sufficient evidence, temporary and oral in support of the charge, hence, there is no occasion to disagree with the finding of the inquiry officer that the charges are proved, hence holding that the charges is proved against the applicant workman by the Inquiry, **this issue No.1 is answered accordingly.**

**9. ADDITIONAL ISSUE NO.2:-**

Learned Counsel has referred to following case laws in support of his argument:-

**A.Administrator, Union Territory of Dadra and NagarHaveli Vs. GulabhiaM.Lad (2010) 5 SCC 775:-**

“In a matter of imposition of punishment where joint disciplinary enquiry is held against more than one delinquent, the same or similarity of charges is not decisive but many factors as noticed above may be vital in decision-making. A single distinguishing feature in the nature of duties or degree of responsibility may make a difference in so far as award of punishment is concerned. To avoid multiplicity of proceedings and over lapping adducing of evidence a join inquiry may be conducted against all the delinquent officers but imposition different punishment on proved charges may not be impermissible if the responsibility and duties of the co-delinquent differ or where distinguishing features exist. In such a case, there would not be any question of selective or invidious discrimination.



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In State of Tamil Nadu and another Vs. M.Mangayarkarasi and Another Civil Appeal No.11345-11346 of 2018 decided on 26-11-2018 it has been held that :-

**“The principle of parity as a yard stick cannot be applied mechanically. The disciplinary authority while applying the principle of parity must assess the gravity of misconduct of the delinquent employees. The quantum of punishment is dependent on the degree of seriousness of the nature of the misconduct and its consequences and not on the similar language of the charge.”**

He further submits that until and unless the punishment is shockingly disproportionate to the charge, this Tribunal should not interfere. He has referred to the following cases in this respect:-

.In UP State Road Transport Corporation Vs. Gopal Shukla and Others,(2015) 4 LLJ 1, it is held that :-

**“Causing loss to Corporation also committing misconduct-such conduct resulting in loss of faith-calls for adequate punishment-There is no scope for mercy. Court below awarding substituting punishment of dismissal with lesser punishment-Not permissible.**

In State Bank of India and others Vs. S.N.Goyal(2008) 3 LLJ,567, the Apex Court held that:-

**“Temporary misappropriation of customer’s money by Bank employee is a serious misconduct warranting removal from service and tantamount to breach of trust.**

10. Charges against the workman are -

para 26.1:- “which is regarding commission of theft or fraud or dishonesty by workman with an intention to damage the business or property Of the Management.”



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26.9:- which is regarding furnishing of false information with respect to name, age, parentage and class by a workman which provides sentence of dismissal also.”

The charges are grave in nature, no employer can afford an employee who is working under a false name and parentage, hence the punishment of removal awarded in the case in hand can in no way said to be disproportionate to the charges. Hence, holding the punishment proportionate to the charges, **this Issue No.2 is answered against the workman.**

11. **ADDAITIONAL ISSUE NO.3:-**


In the light of the finding recorded in Issue No.1 & Issue No.2, the workman is held entitled to no relief. **Additional Issue No.3 is answered accordingly.**

12. Hence holding the claim of the applicant workman not proved, the petition is liable to be dismissed and is dismissed accordingly.

**O R D E R**

**The Petition stands dismissed accordingly.**

**No order as to cost.**

  
(P.K.SRIVASTAVA)  
PRESIDING OFFICER

DATE 13-10-2022

