
(2025) 10 JH CK 0062

Jharkhand HC

Case No: Writ Petition (S) No. 592 Of 2018

Ishwari Singh

APPELLANT

Vs

M/s. Central Coalfields
Limited through its
Chairman cum
Managing Director

RESPONDENT

Date of Decision: Oct. 16, 2025

Acts Referred:

- Constitution of India, 1950 — Article 226

Hon'ble Judges: Deepak Roshan, J

Bench: Single Bench

Advocate: A.K. Sahani, A.K. Das

Final Decision: Dismissed

Judgement

Deepak Roshan, J

1. Heard learned counsel for the parties and perused the averments made in the respective affidavits and the documents annexed therein.

2. The instant writ application has been preferred by the petitioner praying therein for the following reliefs:

(a) For issuance of an appropriate writ(s)/order(s)/ direction(s) particularly in the nature of certiorari for quashing the dismissal order contained in Ref. No. SDOCM / PO / Dismissal / 2017 / 1658 dated 03 / 04.10.2017, whereby and where under, the petitioner has been dismissed from his service w.e.f. 03/04.10.2017;

(b) For issuance of an appropriate writ(s)/order(s)/ direction(s) particularly in the nature of certiorari for quashing of the order of the appellate authority contained in Ref. No. PD/Appeal/17/18/102 dated 09.01.2018, whereby the departmental appeal preferred by petitioner had been dismissed. the

(c) Upon quashing the aforesaid order of dismissal as well as the order of the appellate authority be further pleased to direct the concerned Respondent authorities to immediately and forthwith reinstate the Petitioner with all consequential benefits including all the benefits admissible to the Petitioner consequent upon his superannuation date 30.11.2017;

3. Briefly stated, the elder brother of the petitioner namely, Sri Bhagwan Singh was killed on 13.02.1982 while working on the post of clerk in CCL. The sister-in-law (Bhabhi) of the petitioner proposed the name of the petitioner for getting employment as dependent of deceased and for this purpose, she also had sworn an affidavit. Pursuant thereto, petitioner was granted employment under Clause 10.4.2 of NCWA-II.

4. From record it appears that a counter affidavit has been filed by the respondents on 04.06.2019 wherein it is stated that the petitioner, designated as Sr. Store Keeper, was an employee of the respondents-Company at SDQ-1 Kalyani Project, under Dhori Area. He was issued a charge-sheet dated 13/17.07.2015 alleging the commission of misconducts by him, inter alia, as follows: -

“You have obtained employment in place of late Bhawan Singh as an indirect dependant, though Smt. Nirmala Devi, widow of ex-employee was available, which is against the provision contained in Para-10.4.2 of N.C.W.A.-II. You have given false information to the Company regarding your employment. This misconduct as per Certified Standing Order Clause No.26.9 and 26.41 of the Company.”

5. The petitioner submitted reply on 21.07.2015 to the charge-sheet which upon consideration and having not found satisfactory, the departmental enquiry proceeded by appointing the Inquiry Officer and the Management Representative by a Memo dated 01/04.11.2016. The Inquiry Officer held enquiry in which the charged employee/petitioner along with his co-worker appeared and defended his case. The Inquiry Officer after holding departmental enquiry, submitted its report dated 14.03.2017 giving his findings that the charges levelled against the petitioner is proved.

The Disciplinary Authority having been fully satisfied that the requirements of principles and provisions laid down for quasi-judicial proceedings have been meticulously observed and followed and the Disciplinary Authority having concurred with the findings of Inquiry Officer by way of 2nd show cause notice dated 26.07.2017 served a copy of the enquiry report to the petitioner. In pursuant thereof, the petitioner submitted his reply on 06.08.2017.

6. Further, the Disciplinary Authority on examination of the findings of the Inquiry Officer, all connected documents, and day-to-day proceedings, came to a finding that a fair and impartial enquiry has been held and also on examination of the petitioner's reply to the 2nd show cause notice, agreeing to the findings of the Inquiry Officer, inflicted the punishment of *“Dismissal from the Services of the Company”* with immediate effect by the impugned dismissal order dated 03/04.10.2017.

The Petitioner preferred a departmental appeal dated 23.10.2017 against the impugned dismissal order dated 03/04.10.2017. However, the Appropriate Authority upon careful consideration of the

enquiry proceeding, evidences led in course of enquiry proceedings, enquiry report vis-à-vis the pleadings made by the petitioner in his departmental appeal, comes to a conclusion that there is no infirmity in the order of dismissal, imposed upon the petitioner and the said penalty does not warrant any interference at the Appellate stage and affirmed the punishment of dismissal and thereby disposed of the petitioner's departmental appeal by the impugned letter dated 09.01.2018.

7. The petitioner's contention at paragraphs 4, 5 and 6 to the writ petition that Bhabhi of the petitioner being brother of the deceased-employee proposed his name for employment on account of death of the deceased-employee late Bhagwan Singh, it appears that Para 10.4.2 of the National Coal Wage Agreement-II, the dependant means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, younger brother/widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased, may be considered to be the dependant of the deceased.

Since, in the instant case, the petitioner, being the brother of the deceased, which he accepted during departmental enquiry, has got the employment in spite of the fact that the widow of the deceased i.e. Nirmala Devi being the wife of deceased-employee late Bhagwan Singh, was alive, which is totally in contravention to the provisions as down under Para 10.4.2 of the National Coal Wage Agreement-II.

Hence, the employment obtained by the petitioner was illegal which has rightly been brought by the Inquiry Officer in his enquiry report dated 14.03.2017.

8. So far as the petitioner's reliance over the order dated 27.07.2016 of this Court passed in W.P. (S) No. 6015 of 2015 is concerned, it is stated that the law is well settled that departmental enquiry and criminal proceedings against a person can run simultaneously. There is no hard and fast rule to stay departmental proceeding during pendency of the criminal proceedings/not found any one guilty in criminal proceedings. The standard of proof in criminal trial is a proof beyond all reasonable doubts, but so far as in the departmental proceeding, on the basis of preponderance of probability and on finding of guilt, delinquent employee can be punished.

9. The law is now well settled that this Court will not sit in appeal to re-appraise the evidences led in the course of departmental enquiry and shall record a finding, over and above the finding recorded by the Inquiry Officer and the Appellate Authority. The findings recorded by the Inquiry Officer and the Appellate Authority are the findings of facts and hence cannot be interfered with by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

10. The petitioner has not been able to show and substantiate that the finding recorded by the Inquiry Officer in departmental appeal are perverse and/or the departmental action suffers from any infirmity, save and except, making a vague allegation that the enquiry report is perverse.

There are enough and sufficient evidences brought in the course of departmental proceedings to hold the Petitioner guilty and even otherwise, the degree of proof in the departmental action is *“Preponderance of Probabilities”* and not the *“Proof beyond reasonable doubt”*.

At the cost of repetition, it has been conclusively proved that the Petitioner had obtained employment in place of late Bhagwan Singh as an indirect dependant, though Smt. Nirmala Devi, widow of ex-employee was alive; which is certainly against the provision contained in Para-10.4.2 of N.C.W.A.-II. It has further been proved that the Petitioner in order to grab appointment had given false information to the Company.

11. Having regard to the aforesaid discussions, no relief can be granted to this Petitioner.

12. Accordingly, the instant writ application stands dismissed. Pending I.A., if any, also stands closed.