

(2013) 09 MP CK 0073
Madhya Pradesh High Court
Case No: R.P. No. 617 of 2013

Om Prakash Kori

APPELLANT

Vs

S.E.C.L. and Others

RESPONDENT

Date of Decision: Sept. 27, 2013

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Hon'ble Judges: R.S. Jha, J

Bench: Single Bench

Advocate: U. K. Sharma and Mr. R.K. Patel, for the Appellant; Rajas Pohankar, Learned Counsel, for the Respondent

Final Decision: Dismissed

Judgement

R.S. Jha, J.

Heard on the question of admission. The applicant has filed this application seeking review of the order passed by this Court in W.P. No. 11111/2013 dated 12.7.2013.

2. It is submitted by the learned Senior Counsel for the applicant that the petitioner had appeared before this Court in person when the aforesaid petition was heard but could not place all the facts before this Court which resulted in dismissal of the petition with a direction to the petitioner to avail of the alternative statutory remedy available to him. It is submitted that in fact the present case is one where the applicant has been served with a charge sheet and has been suspended by order dated 8/9.6.2013 and an enquiry against him has also been directed to be conducted by order dated 16/17.6.2013 on the alleged ground of committing fraud by changing his date of birth in the record.

3. The learned counsel for the applicant submits that the alleged charge against the petitioner is totally misconceived and incorrect inasmuch as the date of birth of the applicant mentioned in the records is correct and the authorities have issued a charge sheet without looking into the amendments made in the Mines Act. It is

further submitted that in case the impugned order is not reviewed/recalled, the applicant would be required to take up protracted proceedings before the departmental authorities or the Labour Court and in such circumstances the order passed by this Court be recalled and reviewed.

4. Having heard the learned Senior Counsel for the applicant, it is observed that when the matter was taken up on 12.7.2013 the applicant had appeared before this Court and had made all the aforesaid submissions before this Court. It is also observed that this Court, after hearing the applicant, had passed the following orders:-

It is stated by the petitioner that he has wrongly been suspended by the order dated 8/9.06.2013 and has also been served with a charge sheet alleging wrong mention of date of birth.

It is stated that the petitioner has correctly stated his date of birth and has rightly got it corrected through the competent authority inspite of which he has been charge sheeted and the authority concerned proposes to dismiss him from service.

From a perusal of the record, it is clear that the petitioner can approach the appellate authority against the order of his suspension. It is also settled law that the veracity and correctness of the charges cannot be gone into by this Court under Articles 226/227 of the Constitution of India, therefore, the petitioner is required to submit a reply to the same. I am also of the considered opinion that the apprehension expressed by the petitioner is misplaced as any action against the petitioner would be taken only after due enquiry and opportunity to the petitioner in the departmental enquiry.

In view of the aforesaid, without entering into the merits of the case, the petition filed by the petitioner is disposed of with a liberty to the petitioner to approach the appellate authority against his suspension as well as raise all objections regarding continuance of departmental enquiry before the authority concerned.

It goes without saying that in case the petitioner furnishes a copy of the order passed today along with a copy of the petition before the appellate authority within 15 days from today, the appellate authority shall look into the matter and decide the same expeditiously, in accordance with law, preferably within a period of 45 days, as provided in the rules and that the concerned authority shall also consider the objections of the petitioner in the departmental enquiry.

With the aforesaid liberty/observations, the petition filed by the petitioner stands disposed of.

5. It is settled law that rehearing in cases is not permissible in review proceedings, moreso as this Court has not recorded any adverse orders against the applicant which would not in any way effect the proceedings that would be taken up by the authorities. This Court has simply disposed of the petition with liberty to the

applicant to take up the proceedings before the authorities keeping in mind the fact that the issues raised by the applicant involves disputed questions of facts which cannot be considered and decided by this Court in proceedings under Articles 226 and 227 of the Constitution of India. That apart, as has been held by the Supreme Court in the case of [Union of India \(UOI\) and Another Vs. Kunisetty Satyanarayana,](#) and [Dy. Inspector General of Police Vs. K.S. Swaminathan,](#) the issuance of a charge sheet and the veracity of charges cannot be examined or gone into by this Court at this stage and as the issuance of a charge sheet does not give rise to any cause of action to the petitioner. In view of the aforesaid, I find no reason to review and recall the order passed by this Court in the writ petition. The application for review, filed by the applicant is, accordingly, dismissed.