
(2002) 12 CAL CK 0004

Calcutta High Court

Case No: Civil Order No. 9935 (W) of 1992

Laldeo Singh

APPELLANT

Vs

Coal India Ltd.

RESPONDENT

Date of Decision: Dec. 23, 2002

Acts Referred:

- Specific Relief Act, 1963 - Section 34

Citation: (2003) 1 ILR (Cal) 529

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Ashok De and Amaresh Bag, for the Appellant; R.N. Majumdar, Sushanta Pal, P. Basu and Nikhil Ray, for the Respondent

Final Decision: Dismissed

Judgement

Jayanta Kumar Biswas, J.

In this writ petition dated July 23, 1992, a charge-sheet dated January 29, 1992 is under challenge. By an order dated July 24, 1992 it was admitted, and the departmental proceeding was stayed by way of interim relief. The contents of the said charge-sheet, are as follows:

Charge-Sheet.

You have been employed as Clerk, Grade-I, in Ban-kola Area since 1987 and you were working at the Bankola Area Office in the Personnel Department. During 1987 one Shri Bara Lakhman Das, Underground Loader of Tilaboni Colliery was declared medically unfit under NCWA IV, which entitled his ward to be taken into employment, as per norms of the Company. Instead of processing the case of employment of dependent of Shri Bara Lakhman Das, you processed the employment of your son namely Shri Jai Prakash Singh, instead, in the name of Shri Jai Prakash Das, showing him to be the son of Shri Bara Lakhman Das.

It was also been ascertained that Shri Bara Lakhman Das had no major son available for employment at that point of time in as much as his son named Nemai Das who was aged 9 or 10 years at the time of retirement of Shri Bara Lakhman Das, and, possibly, Shri Bara Lakhman Das had requested you to accommodate his son-in-law namely Shri Krishna Das in his place after his retirement/being declared unfit by Medical Board. Shri Bara Lakhman Das was assured after filing a petition by you in your handwriting, that Shri Bara Lakhman Das would be informed about his son-in-law's employment letter. In the meantime, you processed the paper of employment of your son namely Shri Jai Prakash Singh, showing him as Jain Prakash Das as son of Shri Bara Lakhman Das and he accordingly was taken into employment as a Piece Rated Trimmer and subsequently, as Fitter Helper in Category-II.

Apparently Shri Jai Prakash Singh has been allowed to enter into employment in the name of Shri Jai Prakash Das, allegedly son of Shri Bara Lakhman Das, with your active connivance and thereby you have played a fraud/dishonesty in connection with Company's property or business, which is a misconduct under standing orders applicable to you as stated herein below:

17.(1) a) Theft, fraud or dishonesty in connection with the employer's business or property.

b) Any breach of mines Act, 1952 or any other Act or any rules regulations or byelaws there under, or of any standing orders.

a) Abetment of or attempt at abetment of any of the above acts of misconduct.

You are hereby required to show cause within 72 hours of receipt of this charge sheet as to. why disciplinary action is not taken against you for the misconducts mentioned herein above. In case your explanation does not reach the undersigned within the stipulated period, it shall be presumed that you have no explanation to offer and that Management shall be free to take any action that it may deem fit.

2. This case and another writ petition, registered as Civil Order No. 1438 (W) of 1992 (Sri Jay Prakash Das v. Coal India Ltd. and Ors.) have been heard together. The two matters have been heard together in view of the order dated September 10, 2002 passed in said Civil Order No. 1438 (W) of 1992.

3. The Petitioner is a grade-I clerk posted at Shyam-sundarpur colliery at Bankola area of the Eastern Coal Fields Limited, a subsidiary of the Coal India Limited. In the year 1987, one Bara Lakhman Das, an underground loader of Tilaboni colliery of the Eastern Coal Fields Limited, took voluntary premature retirement on medical ground. On compassionate ground, a person, named: Jay Prakash Das, was given employment, as dependant, i.e., son, of said Bara Lakhman Das, It may be mentioned here that the other writ petition (Civil Order no 1438 (W) of 1992) was filed by said Jay Prakash Das. A complaint was lodged with the Eastern Coal Fields Limited that said Jay Prakash Das

was not the son of said Bara Lakhman Das, but was, actually, the son of the Petitioner. Consequently, a charge-sheet dated December 1, 1987 was issued against said Jay Prakash Das. An enquiry was held, and in that, the Petitioner also deposed as a witness. The enquiry officer submitted a report with the findings that the charge levelled against said Jay Prakash Das had not been proved. Before the final decision was taken by the disciplinary authority, in the said disciplinary proceeding initiated against said Jay Prakash Das, in the year 1988 the Central Bureau of Investigation (in short "C.B.I.") had registered a first information report and started a regular case: that case had been started against the Petitioner, said Jay Prakash Das and others. In the year 1991, the C.B.I., submitted the report that on investigation it had been ascertained that said Jay Prakash Das was really not the son of said Bara Lakh-man Das, but was the son of the Petitioner. The C.B.I., recommended departmental proceedings against the Petitioner and said Jay Prakash Das. In the circumstances, the disciplinary authority dropped the previous proceeding initiated against said Jay Prakash Das; and by issuing two separate charge-sheets, both dated January 29, 1992, commenced new disciplinary proceedings, simultaneously, against said Jay Prakash Das and the Petitioner. Challenging such charge-sheets the present petition was filed by the Petitioner, and the other writ petition had been filed by said Jay Prakash Das.

4. The Petitioner challenges the validity of the impugned charge-sheet on the ground that in view of the previous proceeding initiated against said Jay Prakash Das, and which ended in an enquiry report with the findings that the charge had not been proved; the initiation of the proceeding against the Petitioner is arbitrary, mala fide, unfair, and baseless. His further contention is that the C.B.I., has no authority to recommend initiation of a departmental proceeding against him. It is also his contention that the C.B.I., submitted final report in the criminal case registered against him; and consequently, competent criminal court having discharged him, the continuation of the disciplinary proceeding is unjustified. By filing an affidavit-in-opposition, dated September 4, 1992, the Respondents denied and disputed the allegations made by the Petitioner, and they justified their actions. The Petitioner by filing an affidavit-in-reply, dated June 23, 1998, reiterated his case pleaded in the writ petition.

5. Since the matter has been heard with the said Civil Order No. 1438 (W) of 1992, the Learned Counsel for both the parties have submitted that their submissions made in the other case may be taken into consideration for the purpose of deciding this case also. The submission made in the other case by the learned advocate for the Petitioner is that the question whether said Jay Prakash Das is son of said Bara Lakhman Das or of the Petitioner, cannot be decided in a departmental proceeding. His further submission is that in view of the previous proceeding, initiated against said Jay Prakash Das, the proceeding, now initiated against the Petitioner, is not permissible in law. He has lastly submitted that the disciplinary proceeding cannot be allowed to continue, because, in the mean time, said Jay Prakash Das has filed a suit seeking a declaration in terms of Section 34 of the Specific Relief Act, 1963 that said Bara Lakhman Das is his father. The

Learned Counsel for the Respondents has submitted that the contentions raised on behalf of the Petitioner are without any merit.

6. After hearing the parties, and in view of my judgment delivered in the other case [Civil Order No. 1438 (W) of 1992], I am of the view that this writ petition has no merit. The Petitioner has failed to show any illegality in the initiation of the disciplinary proceeding against him. For the purpose of initiation of a disciplinary proceeding against the Petitioner, the proceeding which had been initiated against said Jay Prakash Das in the year 1987, is absolutely irrelevant; and this is so, particularly because the said proceeding against said Jay Prakash Das had been dropped by the Respondents in view of the change in the circumstances caused by submission of the investigation report by the C.B.I. The Petitioner has failed to show as to why the C.B.I, has no authority to recommend a departmental proceeding against him. In my opinion, as competent investigating agency, the C.B.I, was fully empowered to carry on the investigation and make the recommendation. The submission of final report in the criminal case does not bar the continuance of the departmental proceeding. Purpose of initiation, scope of trial/examination, and standard of proof being totally different in the two categories of proceedings-a decision not to proceed with one, does not prohibit the concerned authority from proceeding with the other. The contention that because of the suit filed by said Jay Prakash Das, seeking a declaration that said Bara Lakhman Das is his father, the disciplinary proceeding cannot be allowed to continue, is absolutely without any merit. The disciplinary proceeding has no connection with the suit, which said Jay Prakash Das has recently filed.

7. In view of the foregoing reasons, and also for the detail reasons given by me in the judgment delivered in the other case [Company No. 1438 (W) of 1992], I find no merit in the present writ petition; and accordingly, the same is hereby dismissed. In the facts and circumstances of the case, there will be no order as to costs.