

CF 1006

(7)

11/11/04

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR
W. P. NO. 4155/2004

PETITIONER

Biseshwar Soni S/o Shri
Nilam Soni R/o Village – P.N.
11905 Rail & Structural Mill
Bhilai Steel Plant, Bhilai Dist.
Durg (C.G.)

P.R. No.

Presented by Shri. Hari Krishan

dated 27/10/04

VERSUS

RESPONDENTS

1. Managing Director Bhilai
Steel Plant Iqbal Bhawan,,
Bhilai Dist. Durg (C.G.)



WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA.

26/12/14

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HIGH COURT OF CHHATTISGARH AT BILASPUR
SINGLE BENCH

HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE

Writ Petition No. 4155 of 2004

PETITIONER : Biseshwar Soni.

RESPONDENT : **VERSUS**
Managing Director, Bhilai Steel Plant.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Appearance: Smt. Renu Kochar, Advocate for the Petitioner.
Shri Sandeep Dubey, Advocate for the Respondent.

ORDER
(24th of December, 2014)

1. The Petitioner assails the order dated 23.06.1998 for reduction of pay to the minimum of lower grade for a period of two years with cumulative effect passed pursuant to a departmental proceeding. The challenge to the same before the Labour Court and the Industrial Court have been unsuccessful. The Petitioner was proceeded with on two charges (a) theft of copper wire from the factory premises (b) unauthorised absence. He was exonerated of the second charge.

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2. Learned counsel for the Petitioner submits that he was falsely implicated by the CISF personnel on duty while going out of the factory gate as he had a scuffle with them. He had not stolen any copper wire from the factory. He does not own a Luna moped but has a TVS moped. The departmental enquiry was not held fairly as he was denied opportunity to cross-examine prosecution witnesses. It was lastly submitted that he was forced to sign blank papers acknowledging his guilt. No police case was lodged with regard to the alleged theft committed by him. There was no independent seizure witness. The charge therefore could not be said to have been proved beyond reasonable doubt.

3. Learned Counsel for the Respondents opposing the application submitted that the two CISF constables who intercepted the Petitioner at the factory gate and recovered the copper wire from the tool box of his moped were examined as PW-1 and PW-2. Enquiry report manifests that the Petitioner cross-examined them also. The findings in the departmental proceedings are to be arrived at on preponderance of probabilities and the charges are not to be proved beyond reasonable doubt. There is no need for institution of a regular criminal case before the punishment was imposed as the purpose of a criminal case and a departmental proceedings are entirely different.

4. Having considered the submissions and the limited scope for judicial review against an order of punishment in a departmental proceeding, the Court does not find that the Petitioner has been able to demonstrate any procedural irregularity in conduct of the departmental proceedings. Fairness in the departmental proceedings is evident from the exoneration granted to him on the second charge. The two CISF constables who intercepted him at the factory gate have been examined as PW-1 and PW-2 in the departmental proceedings. The order of Enquiry Officer manifests that the Petitioner cross-examined them also. Three defence witnesses were also examined on behalf of the Petitioner. In a departmental proceeding, the charges need not be proved beyond all reasonable doubt but only on preponderance of probabilities. In the present case, those who intercepted the Petitioner and recovered copper wire from him have been examined and cross-examined by the Petitioner also. The requirement for fairness in the departmental proceedings thus stood established.

5. The fact that no criminal case may have been instituted with regard to the

theft of copper wire is not relevant as the purpose of holding a departmental proceeding as an aspect of discipline in service and is enforced through appropriate orders of punishment is entirely different from a criminal prosecution where the conviction is ordered for misdemeanor and offence under penal law.

6. The Court finds no reason to interfere with the punishment order passed by the Respondent affirmed by the Courts below.

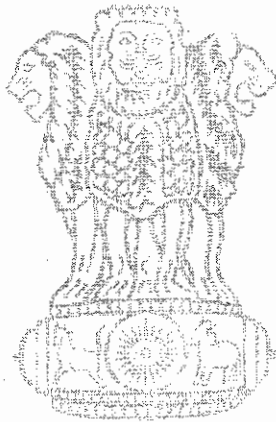
7. The writ application is dismissed.

Sd/-

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Acting Chief Justice

Amit



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