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HIGH COURT OF CHHATTISGARH, BILASPUR

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WP (L) No. 3394 of 2011

- Hanuman Singh, aged 47 years, Son of Shri Bhagwat Yadav, Ex-Operator, (C.H.P.) 5-4 Power Plant, P.N.B.S., Personal no.896077 Token No.11005, Bhilai Steel Plant, Bhilai, District Durg (C.G.)

---- Petitioner

**Versus**

- Mananging Director, Steel Authority of India Ltd., Bhilai Steel Plant, Bhilai, District Durg (C.G.)
- D.G.M. (Prabhari) (Deputy General Manager), P.P.I/P.E.M., Bhilai Steel Plant, Bhilai, District Durg (C.G.)

---- Respondents

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For Petitioner

Mr. Ajay Shrivastava, Advocate

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/7/2015

Heard.

(2) The petitioner has assailed the order dated 11.10.2010 passed by the Industrial Court allowing the appeal preferred by the respondents and setting aside the award passed by the Labour Court on 04.12.2009, by which, the Labour Court had set aside & declared the departmental enquiry against the petitioner as offending the principles of natural justice.

(3) The Labour Court had directed that the petitioner be granted sufficient opportunity of hearing and thus, the order was to re-initiate the departmental enquiry against the petitioner. After the appellate order was passed on 11.10.2010, the Labour Court passed fresh order on 20.01.2011 to hold that the order imposing punishment of removal from service need not be interfered.

(4) Mr. Shrivastava, learned counsel for the petitioner, would submit that the departmental enquiry was conducted against the petitioner on the allegation that he remained unauthorisedly absent from duties for a period of 149 days between January 2005 to December 2005, however, during this period, the petitioner was medically unfit and the Labour Court having found that the Management/Enquiry Officer had extracted his admission of guilt, taking benefit of his illiteracy, the order passed by the Labour Court on 04.12.2009 should not have been interfered by the Industrial Court. He would further submit that in any case, the alleged misconduct was not such serious warranting extreme penalty of termination from service. Thus, his submission is that the penalty imposed on the petitioner is disproportionate to the nature of misconduct.

(5) In its order dated 04.12.2009, the Labour Court concluded that the order of removal from service is based on petitioner's admission of guilt and the enquiry procedure as envisaged under the extant rules have not been followed, because, after his admission, he was not granted any further opportunity to prove his innocence.

(6) The Industrial Court has recorded the finding in para 10 to 17 that in the course of enquiry, the petitioner had recorded his statement admitting that he remained absent for 149 days due to medical reasons.

He admitted his signature in his statement recorded by the Enquiry Officer. The Enquiry Officer recorded his own statement and proved the notice issued to the petitioner under Section 29 (5) of the Standing Orders (Plant) asking the petitioner to show cause for his unauthorised absence. The Industrial Court further recorded the finding that the enquiry officer has granted sufficient opportunity to the petitioner to prove his guilt and in furtherance thereof, has recorded his own statement, however, he admitted the fact of remaining unauthorisedly absent, therefore, there is no illegality in the procedure adopted by the enquiry officer in conducting the enquiry.

(7) A perusal of the order passed by the Labour Court and the Industrial Court hence would make it explicit that the Labour Court has not recorded the finding that the admission of fact of unauthorised absence by the petitioner was extracted by the Management by exerting coercion or undue interference. The finding recorded by the Labour Court regarding violation of principles of natural justice would not hold good in view of the law laid down by the Supreme Court in **Channabasappa Basappa Happali Vs. The State of Mysore, AIR 1972 SC 32**, relying on which, this Court has passed an order on 11.09.2014 in the matter of **Awadh Ram vs. Steel Authority of India Ltd. and another (W.P. No.383/2004 decided on 11.09.2014)**, wherein, the following has been held in para 15 :

“15. In **Channabasappa Basappa Happali Vs. The State of Mysore, AIR 1972 SC 32**, it has been held in para-5 thus: -

5. It was contended on the basis of the ruling reported in *Regina v. Durham Quarter Sessions Ex-parte Virgo, (1952 (2) QBD 1)* that on the facts admitted in the present case, a plea of guilty ought not to be entered upon the record and a plea of not guilty entered instead. Under the English law, a

plea of guilty has to be unequivocal and the Court must ask the person and if the plea of guilty is qualified the Court must not enter a plea of guilty, but one of not guilty. The police constable here was not on his trial for a criminal offence. It was a departmental enquiry, on facts of which due notice was given to him. He admitted the facts. In fact his counsel argued before us that he admitted the facts but not his guilt. We do not see any distinction between admission of facts and admission of guilt. When he admitted the facts, he was guilty. The facts speak for themselves. It was a clear case of indiscipline and nothing less. If a police officer remains absent without leave and also resorts to fast as a demonstration against the action of the superior officer the indiscipline is fully established. The learned Single Judge in the High Court was right when he laid down that the plea amounted to a plea of guilty on the facts on which the petitioner was charged and we are in full agreement with the observations of the learned Single Judge. {Also see Secretary to the Panchayat Raj and others Vs. Mohd. Ikramuddin, 1995 (8) SLR 816, Additional District Magistrate (City) Agra Vs. Prabhakar Chaturvedi and another, (1996) 2 SCC 12}

(Emphasis supplied) “

(8) In so far as the contention regarding punishment being disproportionate to the nature of misconduct, suffice it would be to refer to the judgment of the Supreme Court in the matter of **M.P. Electricity Board v. Jagdish Chandra Sharma, (2005) 3 SCC 401**, wherein, it has been reiterated that the writ Court, in exercise of its powers under Article 226 of the Constitution of India, has no jurisdiction to interfere with the quantum of punishment, unless the same is shockingly disproportionate to the nature of misconduct, however, such is not the case here.

(9) Even otherwise, the Industrial Court has recorded the finding that prior to the present incident, for which, the enquiry was conducted, the petitioner had remained unauthorisedly absent on previous occasions

also. Thus, the petitioner was habituated in remaining unauthorisedly absent from duties.

(10) For the foregoing, this Court does not find any substance in the writ petition. It fails and is hereby dismissed.

Sd/-

Judge

**(Prashant Kumar Mishra)**

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