

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No. 24179 of 2000**

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**ORDER:**

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As there was no representation on behalf of the petitioner, the learned Standing Counsel for Singareni Collieries Company Limited appearing for the respondents was heard and the matter was directed to be posted to today under the caption "part heard". Even today, there is no representation on behalf of the petitioner. Hence, treated as heard and the matter is disposed of.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the 1<sup>st</sup> respondent in imposing punishment against the petitioner vide proceedings Ref.No.W/S/RKP/9/99/32 dated 07.01.1999 which were confirmed by the 2<sup>nd</sup> respondent vide proceedings Ref.No.P/RKP/47/2000/1079 dated 03.05.2000, as illegal and arbitrary.

The facts in issue are as under:

The petitioner was working as Motor Mechanic in Ramakrishnapuram Work Shop at Ramakrishnapuram Division of Bellampalli in the respondent Company. On 26.11.1998, the Audit Officials of the respondent Company conducted a check between 12.30 p.m. and 12.35 p.m. and noticed the absence of the petitioner inside the garage during the inspection. Pursuant to which, the 1<sup>st</sup> respondent issued a show cause notice dated 05.12.1998 to the petitioner asking him to show cause as to his absence in the work shop during working hours as the same amounts to misconduct under the Company's Standing Order No.25(34). On 08.12.1998, the petitioner submitted an explanation to the 1<sup>st</sup> respondent stating that the working time of the workshop was divided into two parts i.e., from 7.00 a.m. to 12.00 noon and again from 12.30 to 3.30 p.m. and the lunch time is between 12.00 noon to 12.30 p.m. It is the case of the petitioner that on the date of inspection, the watchman did not permit him to enter the work shop after finishing his lunch and hence there was delay, which does not amount to leaving the work shop without permission.

By an order dated 07.01.1999, the 1<sup>st</sup> respondent, after conducting enquiry, issued proceedings finding the petitioner guilty under the Company's Standing Order No.25(34) and imposed punishment of suspension for a period of ten days i.e., from 08.01.1999 to 17.01.1999. It is stated that on the date of inspection, though the petitioner attended the duty for the whole day, the salary for the said day was not paid to him and thereby he was subjected to two punishments which amounts to double jeopardy. Challenging the same, the petitioner filed an appeal before the 2<sup>nd</sup> respondent under Rule 30 of the Conduct Discipline and Appeal Rules, 1989. By an order dated 03.05.2000, the 2<sup>nd</sup> respondent, after hearing both the parties, confirmed the order passed by the 1<sup>st</sup> respondent. Hence, the present writ petition.

A counter came to be filed by the respondents denying the averments made in the writ petition. It is stated that the petitioner is a Workman and hence he has an efficacious and effective alternative remedy for redressal of his grievance under the Industrial Disputes Act, 1947. Without availing such an alternative remedy, the petitioner approached this Court, and as such, the writ petition is not maintainable and the same liable to be dismissed. It is also stated that the petitioner is in the habit of extending his lunch period over and above the time allotted by the Management. In order to see that the workers do not extend their lunch time, the Audit Checks are conducted by the Management. In this regard, on 05.06.1997 and 24.11.1997, the petitioner was not found at the work shop and accordingly warning letters were issued stating that he should be present at the work shop immediately after the lunch break. In spite of the same, the petitioner did not improve his conduct. Hence, a charge sheet was given to him and a regular domestic enquiry was conducted giving full and fair opportunity to defend his case. Since the charges are proved, the 1<sup>st</sup> respondent imposed punishment of suspension for a period of ten days, by the impugned order. As the domestic enquiry was conducted following the entire principles of natural justice and fair play, the impugned orders do not suffer from any legal infirmity.

The record discloses that the primary authority, after conducting enquiry, issued proceedings finding the petitioner guilty under the Company's Standing

Order No.25(34) and imposed punishment of suspension for a period of ten days. A reading of the order dated 03.05.2000 passed by the appellate authority would show that the petitioner participated in the domestic enquiry conducted into the charges leveled against him and voluntarily admitted that he was not present inside the garage after 12.30 p.m., when the Audit Party made a surprise check. The past record of the petitioner was also verified and found that he was in the habit of leaving work shop apart from being arrogant in behaviour. From the above, it is clear that the petitioner himself admitted that he was not present in the garage at the time when the check was conducted and that a fair and reasonable opportunity was given to him to defend his case before all the authorities. Further, the warning letters, which were issued to the petitioner, reveal the misconduct of the petitioner under the Company's Standing Order Nos. 25(3) and 25(34). The petitioner came forward with an explanation that he was not allowed to enter into the garage premises after his lunch, but the said explanation was rejected by the authorities. The orders do not anywhere indicate that the petitioner was denied any of the benefits, which he is entitled to otherwise. In view of the above, I see no merit in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed.

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**JUSTICE C. PRAVEEN KUMAR**

10<sup>th</sup> September, 2015

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