

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3181 of 2016

Rakesh Kumar Tiwari S/o Shri D.R. Tiwari, Aged About 48 Years
Post Clerk Grade II, R/o Banki Sub Area Under Ground Mines,
Post Banki Mongra, District Korba Chhattisgarh

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Chairman Cum
Managing Director, Office At Seepat Road, Post Box No 60, District
Bilaspur Chhattisgarh
2. General Manager M.P. South Eastern Coalfields Limited, Office At
Seepat Road, Post Box No 60, District Bilaspur Chhattisgarh
3. Area General Manager, South Eastern Coalfields Limited, Korba
Area, District Korba Chhattisgarh
4. Area Personal Manager, South Eastern Coalfields Limited, Korba
Area, District Korba Chhattisgarh
5. Sub Area Manager, South Eastern Coalfields Limited, Banki Sub
Area, Post Banki Mongra, District Korba Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Yogesh Kumar Chandra, Advocate
For State	:	Mr. H.B. Agrawal, Senior Advocate with Mr. Pankaj Agrawal, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/09/2016

Heard.

1. The petitioner has challenged order dated 01.02.2016 by which
major penalty of dismissal from service is imposed on the petitioner.
2. Without exhausting the alternative remedy of appeal under the

present service Rules, the petitioner has filed this petition alleging that without affording the second show-cause notice and the enquiry report, the penalty was imposed.

3. In the return filed by the respondents, it has been averred on affidavit and with supported documents that in fact the notices were sought to be served upon the petitioner but the petitioner refused to take notice.

4. The aforesaid averments have been traversed in the rejoinder filed by the petitioner.

5. The issue whether or not the petitioner was served with the notice, itself, is a factual dispute and it cannot be examined by the writ Court. For that reason, it would be appropriate that the petitioner should take up in the matter in appeal where the Appellate Authority can examine the factual details.

6. In view of the above and the peculiar circumstances of this case involving disputed question of facts, I am not inclined to entertain this petition. The petition is therefore dismissed with liberty to file departmental appeal.

Sd/-
(Manindra Mohan Shrivastava)
Judge