

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.8695 of 2016

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ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the charge sheet bearing No.Ref.RG3/OC1 MGR/R-06/947 dated 25.02.2016 issued by the 2nd respondent-Deputy General Manager, Open Cast Mine-1, RG-III Area Singareni Collieries Company Limited, Godavari Khani, Karimnagar.

2. Heard Sri T. Koteswara Rao, learned counsel for the petitioner, and Sri J. Srinivasa Rao, learned Standing Counsel for respondent Nos.1 and 2, apart from perusing the material placed before the Court.

3. The petitioner herein is working as the Head Over Man (HOM) in Relay 'C', Phase-II of Open Cast Mine No.1 (OCM-1), RG-III Area at Godavari Khani with effect from the year 2007. The 2nd respondent, vide proceedings in Ref: RG3/OC1 MGR/R-06/947, dated 25.02.2016, issued a charge sheet. The said charge sheet reads as under:

"You are hereby charged with the following offence(s).

From 16.02.2016 to 20.02.2016 you were deployed as Overman for OB operations at PH-2 section, RG OCM-1.

Overmen depoloyed in Phase-2 section were instructed to supervise the OB operations

at PH-2 section i.e. K-6 Shovel (departmental). You have not distributed man power pertaining to K-6 Shovel and also you are refused to inspect the workings of K-6 Shovel.

The above act of yours amounts to misconduct under CSO : 25 (3) : Wilful insubordination or disobedience, whether alone or in conjunction with another or others of any lawful or reasonable order of a superior.

And Violation of Regulation No.43 of CMR 1950.

The offence committed by you is serious in nature, you are hereby suspended for 10 days with effect from

26-02-2016 and instructed to submit your written explanation within 4 (four) days of receipt of this Charge sheet as to why appropriate disciplinary action should not be taken against you."

4. A counter affidavit is filed on behalf of respondent Nos.1 and 2, denying the allegations and averments made in the affidavit filed in support of the writ petition.

5. According to the learned counsel for the petitioner, the impugned charge sheet is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India and the 2nd respondent herein grossly erred in inflicting the punishment for ten (10) days even before conclusion of the enquiry against the writ petitioner.

6. On the contrary, it is contended by the learned Standing Counsel for respondent Nos.1 and 2 that as per the Standing Order No.26(c) of the respondent-Company, the 2nd respondent is competent to suspend the petitioner without wages for a period not exceeding ten (10) days. It is also submitted by the learned Standing Counsel that in response to the charge sheet, dated 25.02.2016, the petitioner has submitted an explanation also.

7. A perusal of the questioned charge sheet clearly shows that the 2nd respondent came to a pre-determined conclusion with regard to the offence alleged to have been committed and suspended the petitioner for a period of ten (10) days with effect from 26.02.2016. The Standing Order No.26(c) of the respondent-Company stipulates that suspension can be imposed without wages for a period not exceeding ten (10) days. In the instant case, without holding an enquiry, the 2nd respondent herein suspended the petitioner for a period of ten (10) days from 26.02.2016. In the considered opinion of this Court, the said action on the part of the 2nd respondent has no sanctity in the eye of law and the Standing Orders of the respondent-Company also do not permit the 2nd respondent to do so. In view of the same, this Court is of the considered opinion that the impugned charge sheet cannot be sustained in the eye of law.

8. For the aforesaid reasons, this writ petition is allowed, setting aside the impugned charge sheet, vide Ref.RG3/OC1 MGR/R-06/947 dated 25.02.2016, issued by the 2nd respondent. However, it is open for the respondent-Company to proceed in accordance with law. No order as to costs.

9. Miscellaneous petitions pending consideration, if any, in the writ petition, shall stand closed in consequence.

A.V.SESHA SAI, J

19th April, 2016

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