

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4700 of 2016

Raghunath Shaw S/o Shri Shivpujan Shaw Aged About 50 Years Working As Loading Clerk, At- O/o The Sub Area Manager, Bijuri Colliery, Bijuri, District Anuppur (Madhya Pradesh)

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Its Chief Manager Director, H. Q. Seepat Road, Bilaspur District Bilaspur (Chhatisgarh)
2. The General Manager, South Eastern Coalfields Limited, Hasdeo Area, Manendragarh, Disitric Korea (Chhattisgarh)
3. Sub Area Manager, S. E. C. L. Rani Atari, Sub Area (Chirmiri Area) District Korba (Chhattisgarh)
4. Sub Area Manager, S. E. C. L. Sub Area, Bijuri, District Anuppur (Madhya Pradesh)

---- Respondents

For Petitioner	:	Shri R.K. Kesharwani, Advocate
For Respondents	:	Shri K.K. Shrivastava, Advocate.

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

Order On Board

11/07/2017

Heard.

1. Amongst various grounds one of the main ground to attack on the order dated 3.8.2016 passed by the appellate authority is that the appellate authority has not applied its mind to the grounds taken in appeal by the petitioner and perfunctorily, without considering anything, the appeal has been dismissed by a non-speaking order.
2. Having gone through the impugned order passed by the Appellate Authority, this Court has no iota of doubt that the impugned order can only be termed as non-speaking and nothing else. It speaks nothing much less considering any of the grounds raised by the petitioner. The Hon'ble Supreme Court and this Court has been repeatedly reminding the authorities, the duty while exercising quasi-judicial functions like appellate jurisdiction in departmental enquiry. In the case

of one **Soniram Dhruv, Vs. State of Madhya Pradesh & Ors.** (WPS No.1367 of 2005, decided on 5.2.2010), this Court, after relying upon number of decisions and going through the order similar to the order passed in the present case, held as under :-

“17. If the orders, passed by the Appellate Authority and other Authorities are scrutinized by applying aforesaid principle of law laid down keeping in view statutory requirement as to the manner of consideration of an appeal, it leads to inevitable conclusion that the order passed by the Appellate Authority does not contain any reason whatsoever and is mechanical affirmation without considering the appeal according to the statutory service rules muchless application of mind to the specific grounds raised by the petitioner in his appeal. Therefore, the orders passed by the Appellate Authority and other Higher Authorities affirming the order passed in appeal are unsustainable in law and liable to be set aside.”

3. In view of the above, the impugned order passed by the Appellate Authority cannot be sustained it being non-speaking in nature. On this ground alone, the impugned order passed by the Appellate Authority is liable to be set aside and is accordingly set aside.
4. The matter is remanded to the Appellate Authority for due and proper consideration of appeal of the petitioner after affording him opportunity of hearing and decide the same in accordance with the law laid down by this Court in the case of **Soniram Dhruv** (supra).
5. The petition is accordingly allowed to the extent and in the manner indicated above.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge