

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 3272 of 1999**

1. Managing Director, M/s Indian Farmers Fertiliser Cooperative Limited, IFFCO Sadan, C-1, District Centre, Saket Place, New Delhi 110017
2. Chief Marketing Manager, M/s Indian Farmers Fertiliser Cooperative Limited, IFFCO Sadan, C-1, District Centre, Saket Place, New Delhi, 110017

---- Petitioner**Versus**

1. The Presiding Officer, Labour Court, Durg, Madhya Pradesh (Now Chhattisgarh)
2. Shri Deep Bandhu Gond, C/o Hari Bandhu Nayak, New Shanti Nagar, Near Rameshwar Mandir, Raipur, Madhya Pradesh (Now Chhattisgarh)

---- Respondents

For Petitioners

Shri Animesh Verma, Advocate

For Respondent No.2

Shri Dharendra Mishra, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra**Order On Board****11/09/2018**

1. Assail in this petition is to the order passed by the Labour Court, Durg directing the petitioners to provide opportunity to the respondent No.2 to lead evidence and record a finding on misconduct and pass fresh orders.
2. After hearing learned counsel for the parties and on perusal of the papers, it appears that the respondent No.2 was in the services of the petitioners as Field Representative. On some charges, a departmental

enquiry was constituted against him vide order dated 28.01.1999. In a duly constituted and conducted enquiry, the Enquiry Officer submitted his report vide Annexure-P-4 and thereafter a show cause notice was issued along with the copy of the enquiry report on 12.09.1990 (Annexure-P-6). The respondent No.2 initiated reference, which was referred for adjudication to the Labour Court and was eventually dismissed for want of prosecution on 29.01.1993. Instead of reviving the reference proceedings, the respondent No.2 raised another dispute on the same cause of action, which was again referred to the Labour Court for adjudication, wherein the present impugned order has been passed.

3. Learned counsel for the petitioner would refer to the finding recorded in para 7 of the impugned order together with the show cause notice dated 12.09.1990 along with which copy of the enquiry report was served upon the respondent No.2 to argue that the finding recorded by the Labour Court is perverse.
4. Learned counsel for the respondent No.2 would submit that the Labour Court has referred to the admission made by the Enquiry Officer, who has stated that copy of the enquiry report was not supplied to the respondent No.2, therefore, the finding does not call for any interference.
5. On perusal of the enquiry report and the notice dated 12.09.1990 in contrast with reference to para 22 of the deposition of the Enquiry Officer, it would appear that the Labour Court has wrongly used the admission of the Enquiry Officer to conclude that copy of the enquiry report was not supplied to the respondent No.2. The Enquiry Officer is

never obliged or supposed to hand over copy of the enquiry report to the delinquent. The Enquiry Officer submits report to the Disciplinary Authority and thereafter copy of the report is supplied to the delinquent by the Disciplinary Authority. Thus, the admission made by the Enquiry Officer that he has not supplied copy of the enquiry report to the delinquent may be true but that would not apply to the Disciplinary Authority. It appears, the Labour Court has used that admission of the enquiry officer to declare that the entire enquiry proceeding is vitiated despite holding in the earlier part of para 7 of the impugned order that the enquiry does not suffer from any procedural infirmity. Having said so, the Labour Court has wrongly directed for a *denovo* enquiry allowing opportunity to both the parties to lead evidence.

6. Once the Labour Court records a finding that the enquiry does not suffer from any legal or procedural infirmity, the Labour Court could not direct opportunity of hearing to the parties to prove the misconduct.
7. The above is apart from the fact that the Labour Court entertained the second reference on the same cause of action. This issue is presently not addressed by this Court because on merits, the order is found to be unsustainable.
8. Accordingly, the writ petition is allowed. The impugned order is set aside.

Sd/-
Prashant Kumar Mishra
Judge