

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 111 of 2018**

Pradip Kumar Poddar S/o S/o Shri Shyam Poddar, Aged About 56 Years Posted As General Manager (Operation), South Eastern Coalfields Limited, Gm Office Johilla, P. S. Johilla, District- Umariya, (Madhya- Pradesh).

---- Appellant**Versus**

1. South Eastern Coalfields Limited, Through Chairman- Cum- Managing Director, South Eastern Coalfields Limited, Seepat, Road, P. S. Sarkanda, District- Bilaspur, Chhattisgarh. 495006.
2. Chairman- Cum- Managing Director (Disciplinary Authority), South Eastern Coalfields Limited, Through Chairman- Cum- Managing Director, South Eastern Coalfields Limited, Seepat- Road, P. S. Sarkanda, District- Bilaspur, Chhattisgarh. 495006.

---- Respondents**WA No. 122 of 2018**

S.B.P. Thakur S/o S/o Late R.B. Thakur Aged About 58 Years Posted As Senior Manager (Mining) South Eastern Coalfields Limited, Baikunthpur Area, Gm Office Baikunthpur Area, P.S. Baikunthpur, Civil, Revenue District Koriya, Chhattisgarh Presently Posted As Senior Manager (Mining) Safety And Rescue Department South Eastern Coalfields Limited, Head Quarter Seepat Road District Bilaspur, Chhattisgarh

---- Appellant**Versus**

1. South Eastern Coalfields Limited Through Chairman Cum Managing Director, South Eastern Coalfields Limited Seepat Road P.S. Sarkanda District Bilaspur, Chhattisgarh
2. Chairman Cum Managing Director (Disciplinary Authority) South Eastern Coalfields Limited, Through Chairman Cum Managing Director, South Eastern Coalfields Limited, Seepath Road P.S. Sarkanda, District Bilaspur, Chhattisgarh,

---- Respondents

For Appellant	: Shri Chandresh Shrivastava, Advocate.
For Respondent/SECL	: Shri H.B. Agrawal, Senior Advocate with Smt. Prabha Sharma, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Pritinker Diwaker, Judge

Order on Board

17/07/2018

Per Ajay Kumar Tripathi, Chief Justice

1. This batch of appeals have been taken up together and heard together for the reason that they have been preferred against a common order dated 22.01.2018 passed by the learned Single Judge in the batch of writ applications which were heard together.
2. The Appellants who were Petitioners before the writ Court are said to be senior officers working in the South Eastern Coalfields Limited (hereinafter referred to as 'SECL') against whom a regular departmental proceeding was initiated after service of copy of charge-sheet on 07.06.2013. The origin of the initiation of the departmental proceeding lies in the investigation done by the Central Bureau of Investigation (hereinafter referred to as 'CBI') which also registered a criminal case and filed charge-sheet under Prevention of Corruption Act, 1988 and for offences under Sections 120B and 409 of the Indian Penal Code.
3. Even a disciplinary proceeding was recommended by the CBI against the officers for their omission and commission and based on the inputs and materials, the Respondent authorities decided to hold a departmental proceeding and charge-sheets came to be issued setting in motion the disciplinary proceeding.
4. The Appellant rushed before the writ Court and took a plea that since the charges were similar if not identical, both before the disciplinary authority as well

as the CBI Court and even the evidence and witnesses are common, serious prejudice will be caused in the criminal trial if the departmental proceedings are allowed to continue and therefore stay must be granted against the departmental proceeding till the criminal trial reaches its finality.

5. The learned Single Judge taking the factual aspect of the matter and keeping in mind in some decisions rendered by the Hon'ble Apex Court in the case of *M/s. Stanzen Toyotetsu India P. Ltd. v. Girish V and Others* reported in **AIR 2014 SC 989** and the decision of *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.* reported in **1999 (3) SCC 679**, culled out the essence of the ratio of the two decisions and arrived at a conclusion that it will be in the interest of the employees that the disciplinary proceeding be concluded at the earliest and there is no conflict between the criminal trial which is being held separately and the departmental proceeding since the object and purpose of the two are totally different. The learned Single Judge keeping in mind the principles enunciated in the decisions so mentioned in the earlier part of the order came to the following conclusion:-

“12. Following the principle of law laid-down by the Supreme Court in the aforesaid judgments (supra), if the facts of the present case are examined, it is quite vivid that there is no express legal bar to conduct disciplinary proceedings and criminal trial simultaneously and both can go on together.

13. There is an additional reason for not granting the relief as prayed for by the petitioners in these writ petitions as these writ petitions were entertained by this Court way back and interim order is operating in favour of petitioners since 23.1.2014, 2.8.2013 and 8.5.2014 respectively. In the charge-sheet served for disciplinary proceedings, five witnesses namely Mr. Deepak Khare, Mr. Sudhir Agarwal, Mr. Sandeep, Mr. L.N. Mishra and

Mr. Manoj Sharma have been cited as witnesses on behalf of the Management. It appears from the record and written statement filed by the parties that Mr. Deepak Khare has been examined on 3.1.2013, Mr. Sudhir Agrawal was given up by the prosecution on 3.1.2013 and Mr. Sandeep, Senior Manager has already been examined on 4.1.2013 and thereafter, the petitioners have cross-examined these witnesses at length. Thus, the petitioners have already disclosed their defence in criminal trial. Even otherwise, departmental proceedings remain stayed for four years by interim order of this Court and as such, no prejudice would be caused to the petitioners in further proceedings with the departmental enquiry.”

6. During the course of argument, counsel for the Appellant submits that four witnesses had already been examined. No harm will be done awaiting the examination of the fifth witness and the departmental proceeding should remain in abeyance till his examination before the trial Court.

7. We do not get impressed by such a submission for the reason that the whole effort on the part of the Appellant is only to delay, if not ensure that the departmental proceeding is not taken to its logical end. The longer the delay greater the chances that evidence will either vanish or the witnesses go missing or not cooperating. As it is one of the charged officer has superannuated in the meantime and that itself will have some reflection on the ongoing inquiry. We therefore come to a conclusion that the learned Single Judge is correct in taking a view that no interference is warranted in the departmental proceeding any further since it has remained in abeyance for almost 4-5 years due to interim order operating in the meantime.

8. Both the appeals therefore stand dismissed being devoid of merit.

9. The Respondent authorities are directed to expedite the departmental

proceeding in view of the fact that enough delay has already been caused and it will be the interest of delinquent as well as the employer to expedite the matter and take to its logical end within a reasonable time frame.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Pritinker Diwaker)
JUDGE

Anu