

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 731 of 2016**

Dhanurjai Jal S/o Shankari Jal, Aged About 47 Years R/o Subhash Nagar
Mahasamund, Distt. Mahasamund, Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through The General Manager, Southern Central Railway, Bilaspur, Distt. Bilaspur, Chhattisgarh
2. Dy. Mechanical Engineer. Southeast Central Railway, Wagon Repair Shop, S.S.E. Body-1 Distt. Raipur, Chhattisgarh

---- Respondents

For Petitioner	: Shri Praveen Das, Advocate.
For Respondents	: Shri Abhishek Sinha, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**11/12/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. The Central Administrative Tribunal, Jabalpur Bench dismissed the original application of the Petitioner vide its order dated 27.08.2015 refusing to interfere with the order dated 30.11.2009 and order dated 20.07.2007, by virtue of which, the Petitioner was removed from service with full pensionary benefits, if admissible. Even the appeal was subsequently rejected, which was also challenged in the said original application.
3. The Petitioner was working in the South East Central Railway as Technician Grade-III (Welder). It is said that he fell ill and as such, he sent a medical certificate in support thereof and remained absent for significant period of time. It is during

this period that without issuance of any show-cause or notice, *ex parte* enquiry was conducted and order of removal was passed behind his back.

4. The stand of the Respondents however was that the Petitioner remained on unauthorised leave for a long period of time. He absented himself w.e.f. 15.05.2005. When he was not heard of for a long time, despite efforts to locate him at the officially allotted railway quarter, charge-sheet was issued to him through registered post on the address maintained by the Petitioner with the Railways including the officially allotted railway quarter to him. Various efforts in this regard did not beget any response or success. He did not inform about his sickness because there was no record to show that he was on sick leave or authorised leave etc.

5. Left with no option, the enquiry proceeded, no doubt *ex parte*. It culminated into a finding of guilt. The documents in relation to the said enquiry and decision was forwarded to him again when he was not said to be in treatment of a private doctor which was returned with endorsement 'refused to accept'. The disciplinary authority therefore, passed a final order. It is in this background, the original application was filed assailing that decision.

6. The Tribunal taking the factual matrix into consideration alongwith various decisions rendered by various Courts, came to a conclusion that there was a deliberate effort made on the part of the Petitioner to neither participate nor defend himself even at the stage when the enquiry report and other documents were sent to him, before a final order was passed by the disciplinary authority.

7. Even if the assertion with regard to non-service of notice earlier is accepted on the face value, there is no denial with regard to service of enquiry report and other documents to him when he refused to accept the same or refused to take any steps to defend his interest thereafter.

8. From the narration of facts as well as the law, it seems to be a case of voluntarily kind of abandonment of service by the Petitioner and merely because as an afterthought he assailed the decision which was adverse to him, the Court cannot come to his rescue because there has to be some serious breach in the action so taken and the manner, in which, it has been taken by the Respondents to interfere with such decision.

9. If the Petitioner chooses not to work and disappeared without any inputs and information, then the employer cannot be left at the mercy of such employee for after all they were not hired only to pay salary but also to perform important responsibility, at the whatever level they may have been engaged for.

10. We do not find any infirmity with the order of the Tribunal which requires rectification in the present writ application.

11. Writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE