

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4758 of 2018**

Narayan Pandey S/o Shri Suresh Pandey Aged About 54 Years Senior Clerk, Bhatgaon Colliery, Tahsil Bhaiyathan, District Surajpur, R/o Quarter No. B-25 Bhatgaon Colony, Police Station Bhatgaon, Nagar Panchayat, Bhatgaon, Tahsil Bhaiyathan, District- Surajpur, Chhattisgarh.

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through Chief Managing Director (CMD) Seepat, Road, Bilaspur, Chhattisgarh.
2. Colliery Manager Bagdewa UG Mines, Korba, District- Korba, Chhattisgarh.
3. Sub Area Manager Bhatgaon Sub Area, South Eastern Coalfields Limited, Bhatgaon, District- Surajpur, Chhattisgarh.
4. General Manager South Eastern Coalfields Limited Bhatgaon Area, District- Surajpur, Chhattisgarh.
5. V.C. Shetty Senior Manager (Personnel)/ Inquiry Officer/ Bhatgaon Colliery, Tahsil Bhaiyathan, District- Surajpur, Chhattisgarh.
6. B. Chatterjee Senior Survey Officer/ Management Representative South Eastern Coalfields Limited, Bhatgaon, District- Surajpur, Chhattisgarh.
7. S. K. Singh Safety Officer/ Management Representative, Bhatgaon Colliery, South Eastern Coalfields Limited, Bhatgaon, District- Surajpur, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. B.N. Mishra, Advocate along with Mr. T.K. Jha, Advocate
For Respondents	:	Mr. K.K. Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/07/2018**

1. The challenge in the present writ petition is to the second show cause notice dated 23.06.2018, passed by the respondents.
2. The challenge to the second show cause notice is on the ground that the the petitioner has already challenged the charge sheet vide WPS No. 3985/2018 and in the said writ petition the respondents have till

date not filed their reply and at the same time they have proceeded with the disciplinary action against the petitioner and in all likelihood the final order may be passed in a couple of days. The order which is likely to be passed is dismissal from service.

3. The counsel for the petitioner submits that the charge sheet and the departmental enquiry proceedings are all per se bad in law and illegal to the extent that; firstly the charges have been leveled at a much belated stage, secondly the respondents do not have any substantial material to prosecute the petitioner and thirdly it is not a case of any suppression of facts by the petitioner, but had been disclosed with the employer at the time of the employment itself i.e. 30 years back.
4. Having heard the contents put forth by the counsel for the petitioner the admitted facts as is reflected from the petition so also from the documents enclosed is that initially before issuance of a charge sheet, the petitioner had been issued with a show cause notice in the year 2015. Subsequently, his reply not being satisfactory, a detailed charge sheet was filed again in the year 2015 i.e. 10/12/12/2015.
5. From December, 2015 till 2018 the petitioner had participated in the departmental enquiry and has also adduced all relevant defense that was available in his possession. The inquiry report has also been submitted before the disciplinary authority. It is only thereafter now the second show cause notice has been issued.
6. From the record it does not appear that the petitioner from 2015 to 2018 was ever aggrieved by the initiation of the disciplinary proceedings. The petition, which is being referred to so far as the challenge to the charge sheet is concerned, was also filed in the year 2018. Under the

circumstances, this Court is not inclined to entertain the writ petition at this juncture.

7. This Court in exercise of its power under Article 226 would not substitute itself as a disciplinary authority to verify the contents of the inquiry report or threadbare appreciate the evidences which have been adduced before the inquiry officer in exercise of its power of judicial review at a show cause stage. This power and authority in this regard is exclusively vested with the disciplinary authority and if the inquiry has been concluded and the inquiry report has been submitted by the inquiry officer to the disciplinary authority, it is expected that the disciplinary authority shall consider the materials brought before the inquiry officer by the petitioner in the form of evidence and the disciplinary authority shall also consider the contents of the inquiry report while taking a decision on the second show cause notice.
8. For the aforesaid given facts and circumstances of the case, this Court at this stage is not inclined to entertain the writ petition. Accordingly, the writ petition stands dismissed. However, it is expected that the disciplinary authority shall take into consideration the inquiry report and the evidences which have been brought before the inquiry officer while taking a final decision on the second show cause notice.
9. The writ petition accordingly stands dismissed.
10. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge