

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 479 of 2019

Sharad Kumar Dubey S/o Shri Dayawant Dubey, Aged About 39 Years, R/o Block No. 9/231, New B Type, Kurasiya Colliery, Godripara, Chirmiri, District – Koriya, Chhattisgarh

---- Petitioner

Versus

1. South Eastern Coal Field Limited Through General Manager, Chirmiri Area, District – Koriya, Chhattisgarh
2. Sub Area Manager SECL, Kurasiya West Chirmiri, Chirmiri Area, District – Koriya, Chhattisgarh
3. Area Personal Manager, Chirmiri Area, District – Koriya, Chhattisgarh
4. Enquiry Officer, Chirmiri Area, District – Koriya, Chhattisgarh
5. Medical Superintendent W.C.C. Hospital, Chirmiri Area, District – Koriya, Chhattisgarh
6. Management Representative, Chirmiri Area, District - Koriya Chhattisgarh

---Respondents

For Petitioner	:	Mr. Awadh Tripathi, Advocate
For State	:	Ms. Astha Shukla, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/01/2019

1. The substantial relief sought for in the present writ petition is two folds. Firstly, the petitioner is not being permitted to avail the facility of a co-worker in the departmental enquiry. Secondly, the petitioner has demanded certain documents which he intends to use for his defence but the same has not been provided by the Department.

2. So far as the first relief is concerned, counsel for the respondents on instruction submits that the only order which the respondents have passed is that it shall be the responsibility of the delinquent employee himself for bringing a co-worker for his assistance in the departmental enquiry and further that the co-worker should be of the same unit.
3. So far as the second contention submitted by the respondents is concerned, the same is not sustainable for the reason that once when the standing order permits a delinquent employee to take assistance of a co-worker, the term co-worker means an employee working in the respondent company as a whole. Moreover, in the instant case, the co-worker which the petitioner intends to engage i.e. Shikher Kumar Dubey is in fact working in the same area it could be that he is posted in a different colliery. Since he is a worker of the same area, for all practical purposes, it has to be assumed that he is the employee who could be brought within the ambit of co-worker as per the standing order.
4. As regards the fact that the petitioner has been denied certain documents which he has sought for his defence, this Court is of the opinion that it would not be appropriate for this Court at this juncture to scrutinize the said aspect as the matter is still being processed by the Enquiry Officer. However, as has been held earlier in the case of the petitioner when he had filed the writ petition on an earlier occasion, this Court only reiterates that the petitioner would be entitled for all those documents which the respondents would be relying against the petitioner in the departmental enquiry. It is always expected that the employer and the enquiry officer both

would conduct the departmental proceeding against the delinquent employee in accordance with the rules and regulations governing the field and also after giving fair opportunity of defence to the delinquent employee. Expecting the respondents to act in a fair and reasonable manner, the writ petition stands disposed of.

5. It is made clear that the petitioner would be entitled to avail the services of Shikhar Kumar Dubey as his co-worker.

Sd/-
(P. Sam Koshy)
Judge

Khatai