

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 3430 of 2011**

Arun Kumar Sharma S/o Late Shri Ram Khelawan, aged about 50 years, Clerk Grade III, MTK Incline, 6-7, Rajgamar Colliery, Korba, District Korba, Chhattisgarh.

---- **Petitioner****Versus**

1. South Eastern Coalfields Ltd. Through the Chairman cum Managing Director, Seepat Road, Bilaspur, Chhattisgarh.
2. Chief General Manager, South Eastern Coalfields Limited, Korba, District Korba, Chhattisgarh.
3. Sub Area Manager, South Eastern Coalfields Limited, Rajgamar Colliery, District Korba, Chhattisgarh.
4. Assistant Labour, Commissioner Torwa Naka, Bilaspur, Chhattisgarh.
5. Central Government Industrial Tribunal, Nagpur, Maharashtra.
6. The Area General Secretary, Madhya Pradesh Koyla Mazdoor Sabha (HMS) Qr. No. B/4, Ompur, PO Rajgamar Colliery, District Korba, Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Ashok Kumar Shukla, Advocate.
For Respondents/SECL	: Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****08/03/2019**

1. Heard learned counsel for the Petitioner and the Respondents.
2. Writ application came to be filed by the Petitioner when the Central Industrial Tribunal-cum-Labour Court, Nagpur (for short 'the Tribunal') passed an award dated 28.09.2010 on a reference made to it by the Central Government. Since the award was answered in negative, the Petitioner chose not only to assail the award of the Tribunal but also the decision of the Respondent-SECL reverting him from the post of Clerk Grade I to Clerk Grade III.

3. The reference made to the Labour Court by the Central Government in exercise of power under Section 10 of the Industrial Disputes Act, 1947 reads as under:

"Whether the action of the management of SECL Rajgamar Colliery, District Korba (MP) in demoting the workman Sh. Arun Kumar Sharma for his alleged lapses of suppressing correct information regarding educational qualification, date of birth etc. is justified? If not, to what relief the workman is entitled?"

4. The learned Tribunal heard the parties, examined the witnesses and evidence brought before it whether there were reasons for the Management to take a drastic decision of reverting the Petitioner from the post of Clerk Grade I to Clerk Grade III.
5. On the basis of the Petitioner availing facility of LTC in the prescribed form and suddenly disclosing his native place at Shahpur, PO Phag via Goh District Aurangabad and his name as "Arun Kumar Sharma", the authorities started examining the matter because all along, the Petitioner had registered his name in the Employment Exchange at Korba in 1983 as merely "Arun Kumar" with his place of residence at Rajgamar, District Bilaspur. He had shown himself to be an illiterate and had put his left thumb impression (for short 'the LTI') on the documents. At the time of entry into service, his date of birth was recorded as 13.01.1961 on the basis of medical examination. He also submitted Form A of Coal Mines Provident Fund at the time of his appointment and the date of birth indicated therein was 06.05.1961 with his LTI, however, in the LTC form, all these suddenly changed and his permanent address also reflected to be that of District Aurangabad, Bihar. He also subsequently produced a High School pass certificate dated 16.08.1983 of Bihar School Examination Board where his date of birth suddenly got altered to 26.03.1969 on the basis of which he had earned promotion to the post of Clerk Grade III with effect from 30.06.1987.

6. All these factual aspects caused serious doubt on various issues like authenticity of the name of the Petitioner, his date of birth as well as the permanent address etc. which were not matching with the original records. These circumstances led to issuance of a charge-sheet, holding of a departmental enquiry and thereafter on the finding of guilt emerging therefrom, the Management somehow took a lenient view of the matter by not dismissing him from service but demoted him to the post of Clerk Grade III from the post of Clerk Grade I. It is this order of demotion which formed the basis for reference under the Industrial Disputes Act which has been answered by the Tribunal against him by recording the details of evidence which had emerged during adjudication of the dispute.
7. Learned counsel for the Petitioner argued before this Court that the Tribunal's decision is erroneous. No proper opportunity was given to the Petitioner before the Enquiry Officer and serious prejudice was caused to him which led to the order of punishment.
8. So far as that aspect of the matter is concerned, this Court is not required to go back into the enquiry or the enquiry report since reference made to the Labour Court was in relation to the said issue and that formed the basis for the award being answered in negative. This Court will therefore confine itself to the question whether the Tribunal committed any serious omission or lapses in coming to the conclusion in respect to the reference made to it.
9. This Court has gone through the details of the order/award dated 28.09.2010 which is the subject matter of challenge in this writ application.
10. From reading of the said award, the entire history of the Petitioner from the time he entered into service, the background and the manner in which he entered into service and the entries which were made in his service book in which he had put his LTI in proof of those entries and the efforts subsequently made by him to improve upon those records by introducing

things on the basis of a certificate obtained subsequently within a couple of years of his appointment from Bihar School Education Board showing a different name, a different date of birth as well as the so-called permanent place of residence. Evidence has emerged predominantly against the Petitioner and the finding of guilt stood squarely established. No infirmity as to the domestic enquiry has emerged or could be established before the Tribunal.

11. There do not seem to be any satisfactory answer given nor could he prove by way of evidence before the Industrial Tribunal that the charges brought against him on the basis of the enquiry report was any way erroneous or were not based on material evidence, both documentary as well as oral.
12. The Tribunal, therefore, keeping in mind the substantive evidence which has emerged and which has been dealt with sequentially came to the right decision that there was no error in the Management demoting the Petitioner from the post of Clerk Grade I to Clerk Grade III. Petitioner should consider himself lucky to have saved his employment.
13. The writ application is dismissed being devoid of merit as I do not find any infirmity in the award.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE