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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6019 of 2019

Aditya Prakash Sharma S/o Late Shri Inder Chand Sharma Aged About 53 Years R/o Flat No. 516, Block -4, Talpuri International Colony, Phase - A, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner

Versus

1. Ferro Scrap Nigam Limited (A Government Of India Undertaking) Through The Managing Director, F.S.N.L. Bhawan, Equipment Chowk, Central Avenue, Post Box No. 37, Bhilai, District Durg, Chhattisgarh Pin - 490001., District : Durg, Chhattisgarh
2. Mr. Rajib Bhattacharya (Disciplinary Authority), Presently Working As The Managing Director, Ferro Scrap Nigam Limited, Bhilai, F.S.N.L. Bhawan, Equipment Chowk, Central Avenue, Post Box No. 37, Bhilai, District Durg Chhattisgarh Pin 490001., District : Durg, Chhattisgarh
3. Shri B.B. Prasad (Inquiry Officer) In The Present Charge Sheet Presently Working As Executive Director (Project Commercial), Ferro Scrap Nigam Limited, F.S.N.L. Bhawan, Equipment Chowk, Central Avenue, Post Box No. 37, Bhilai, District Durg, Chhattisgarh Pin 490001., District : Durg, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate
For Respondent No.1	:	Mr. P. Chetan Kumar, Advocate on behalf of Mr. B. Gopa Kumar, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13/08/2019

1. The challenge in the present writ petition is to the order Annexure P/1, whereby the representation of the petitioner for a change of Inquiry officer has been rejected.
2. The facts of the case is that the petitioner who is working as a General Manager (Project and Finance) in the Corporate Office of the respondents has been subjected to a disciplinary proceeding. The charge-sheet in this regard was issued on 31.12.2018. The issuance of the charge-sheet was

subjected to challenge in WPS No. 3348/2019 and an interim order has also been granted on 06.05.2019 to the extent that the inquiry may go on and no final order shall be passed without the leave of the Court.

3. Initially the Department had appointed one Shri K. Bhanu Murthy, DGM-I/c (HRD), SAIL-Bhilai Steel Plant as an Inquiry officer and one Shri G.C. Naidu, GM(MM)-FSNL has been appointed as the Presenting Officer. Subsequently, there is a change of Inquiry officer made by the respondent No.2 vide order dated 01.07.2019 (Annexure P/13), whereby the respondent No.3 has now been appointed as the Inquiry officer to conduct the inquiry initiated against the petitioner. It is this order, which the petitioner was aggrieved of.
4. The petitioner immediately preferred a representation before the authority concerned and vide the impugned order it is the representation of the petitioner, which stands rejected and which is under challenge in the present writ petition.
5. The contention of the learned counsel for the petitioner is that the respondent No.3 who has now been appointed as an Inquiry officer was on an earlier occasion also appointed as an Inquiry officer the earlier enquiries conducted and secondly the respondent No.3 is a person who had issued a charge-sheet on an earlier occasion on 31.03.2017 in respect of the same misconduct. The further contention of the petitioner is that the respondent No.3 is also a person who in the past has also issued certain charge-sheets to the petitioner. Thus, there is all likelihood of the respondent No.3 being a biased person in the course of conducting the inquiry proceedings.
6. This Court at this juncture is not inclined to entertain the writ petition for the reason that merely because the respondent No.3 has been appointed as an

- Inquiry officer would not by itself make the disciplinary proceedings vitiated for the reason that there is no malafide leveled against the respondent No.3 by the petitioner except for the fact that he has in the past issued charge-sheet and he has also in the past acted as an Inquiry officer in some inquiry, which were conducted against the petitioner. This is not sufficient to draw an inference that the interest of the petitioner would get prejudiced by appointment of the respondent No.3 as the new Inquiry officer. Moreover, if we see Annexure P/13, it would reveal that the Department on an earlier instance in fact had appointed one Shri K. Bhanu Murthy as the Inquiry officer, however the said official had expressed his reluctance to continue with the inquiry, which forced the Department to change the officer and in the process the respondent No.3 has been appointed as an Inquiry officer. This further shows the bonafide on the part of the respondents in the appointment of the respondent No.3 as the Inquiry officer.
7. As far as the interference of this Court is concerned, until and unless it is projected by the petitioner cogently that there is all likelihood of prejudice being caused to the interest of the petitioner in some manner, interference cannot be made at the stage of appointment of the Inquiry officer. The petitioner in the past has already questioned the issuance of the charge-sheet vide WPS No. 3348/2019, which is already subjudice before this Court. In an establishment, where there are less number of regular employees and officials, there is always a likelihood of the same person being appointed as an Inquiry officer and also the same person to issue charge-sheet in different cases. Merely by appointment of an Inquiry officer or the official having issued a charge-sheet in the past being appointed as Inquiry Officer by itself is not sufficient to draw prejudice against the official acting as an Inquiry officer.

8. So far as the judgment which has been cited by the petitioner i.e. **“State of Uttar Pradesh & Others v. Saroj Kumar Sinha” (2010) 2 SCC 772**, there is no quarrel/dispute so far as the principles of law as has been enunciated by the Hon'ble Supreme Court in the said judgment. There is no doubt so far as the Inquiry officer to be an independent authority. It is expected that the Inquiry officer, who in the instant case is the respondent No.3 to act impartially/ independently and to act in a fair just and reasonable manner and submit his report to the Disciplinary Authority. It is expected of the respondent No.3, that he shall not be acting under the influence of the Disciplinary Authority, the respondent No.3, but would be submitting his report purely based on the evidences, which would be adduced by either party during the course of the evidence.
9. With the aforesaid observations, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved