

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No.4391 of 2011**

D Mahadevan aged about 58 years, S/o Late D Veeranna R/o Qtr. No.C/115, Subhash Block SECL Korba, District Korba, Chhatisgarh

----- **Petitioner**

**Versus**

1. Coal India Limited – Through-The Chairman Coal India Limited, Netaji Subhash Road, Kolkata, West Bengal
2. South Eastern Coal Field Limited – Through – The Chairman cum Managing Director, South Eastern Coal Field Limited, Seepat Road, Bilaspur, Chhattisgarh
3. General Manager (Personnel & Administration) SECL Bilaspur Chhattisgarh

----- **Respondents**

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| For Petitioner  | : | Mr.A.V.Shridhar, Advocate      |
| For Respondents | : | Mr.Shailendra Shukla, Advocate |

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**Hon'ble Shri Justice Sanjay K. Agrawal**  
**Order on Board**

**6/9/2021**

1. The petitioner herein calls in question legality, validity and correctness of the order passed by the Director (Personnel), SECL / Appellate Authority communicated vide order dated 9.5.2011 (Annexure P-1) to the petitioner affirming the order dated 01.11.2010 passed by the disciplinary authority demoting the petitioner from the post of Wireless Operator in T&S Grade "C" to Wireless Operator in T&S Grade-"0".
2. Mr.A.V.Shridhar, learned counsel for the petitioner, would submit that by non-speaking and unreasoned order, the order of the disciplinary order has been confirmed

and even it has been duly communicated in the signature of General Manager (Personnel/Administration), SECL, Bilaspur, but no order duly signed and dated by the Director (Personnel), SECL has been served to the petitioner and it is mere empty formality, which has been complied with. Even today, note-sheet of the appellate authority has been submitted in which certain note has been made by the appellate authority on notesheet produced by the Senior Manager (Personnel/Industrial/Administration) and as such, appeal has been dismissed by the appellate authority in very cryptic and casual manner, which is not at all consideration of appeal in accordance with law, therefore, it is liable to be set-aside.

3. On the other hand, Mr. Shailendra Shukla, learned counsel for the respondents, would submit that the appellate authority has considered the appeal and thereafter result of the appeal has been communicated to the petitioner vide order dated 9.5.2011 by signature of respondent No.3, which is strictly in accordance with law, as such, the writ petition deserves to be dismissed.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. True it is that the petitioner was inflicted with

penalty of reduction from the post of Wireless Operator in T&S Grade "C" to Wireless Operator in T&S Grade-"0" and this Court in first round of litigation directed the petitioner to file appeal in accordance with Regulation 30 of the Standing Orders applicable in respondent-SECL and substance of appellate order has been communicated to the petitioner on 9.5.2011 vide Annexure P-1, which has been sought to be challenged by the petitioner in this writ petition.

6. It appears that after submission of appeal, it was forwarded by the Senior Manager (Administration/Industrial/Personnel) to the General Manager (Industrial Relation and Personnel), which has been considered by the Director (Personnel) and some note has been made and thereafter the order dated 9.5.2011 has been communicated by the General Manager (Personnel/Administration), SECL, Bilaspur to the petitioner.

7. It is well settled position of law that the appellate authority in disciplinary proceeding acts in quasi-judicial capacity and order passed has to be reasoned one and showing application of mind to the question raised by the appellant and if it is not done, the appellate order is vitiated. (See Divisional Forest Officer, Kothagudem and others v. Madhusudhan Rao<sup>1</sup>).

8. The Supreme Court reiterated this principle of law by

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<sup>1</sup> (2008) 3 SCC 469

observing that an appellate authority by deciding statutory appeal is not only required to give hearing to the Government servant, but pass a reasoned order dealing with the contention raised in the appeal. (See **Deokinandan Sharma v. Union of India and others**<sup>2</sup>).

9. Even if the appellate order is in agreement with that of the disciplinary authority it may not be speaking order, but the authority passing the same must show that there had been proper application of mind in compliance with the requirement of law while exercising his jurisdiction particularly when the rules required application of mind on several factors and several contentions had been raised and he was bound to assign reasons so as to enable the Court reviewing its decision to ascertain as to whether he had applied his mind to the relevant factors which the rule required to do. (See **Narinder Mohan Arya v. United India Insurance Co. Ltd. and others**<sup>3</sup>).

10. Since the Director (Personnel), SECL was a quasi-judicial, while hearing the appeal he ought to have passed a reasoned and speaking order and could have communicated to the petitioner. It appears that the appeal was not considered in accordance with law and only some note-sheet has been prepared and placed by the Senior Manager (Administration/Industrial/Personnel) to

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2 (2001) 5 SCC 340

3 (2006) 4 SCC 713

the General Manager (Industrial Relation and Personnel) and thereafter some note has been added by the Director (Personnel) and thereafter appeal has been dismissed and it has been communicated to the petitioner on 9.5.2011 by respondent No.3, which is not at all way of consideration of appeal. The appellate authority could have issued notices of hearing to both the parties and could have passed a reasoned and speaking order by mentioning the facts of the case, submission of the petitioner, submission of the departmental officer and thereafter could have recorded a specific finding that whether the procedure has been followed in awarding punishment, whether findings are warranted on the basis of material available on record and punishment is in accordance with law, but it appears that nothing has been considered and some note has been added in the note-sheet produced by the officers. While hearing the appeal, the appellate authority being quasi-judicial authority is expected to consider the appeal in accordance with law, which has not been considered and decided.

- 11.** Accordingly, the appellate order is hereby set-aside. The matter is remitted to the appellate authority/Director (Personnel), SECL, who will consider the appeal of the petitioner in accordance with law and pass a reasoned and speaking order within a period of 6

weeks from the date of receipt of a copy of this order and provide a copy to the petitioner on payment of usual charges.

12. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)  
Judge

B/-