

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6947 of 2010**

Smt. Mukul Jha, Aged about 49 years, W/o Late R.R. Jha, R/o "Renuka" 38 Chitnavis Layout, Opposite RBI Officers' Quarters, Byramji Town, Nagpur – 440013.

---Petitioner**Versus**

1. Coal India Ltd. Through Its Chairman, 10 Netaji Subhas Road, Kolkata, 700001.
2. South Eastern Coalfields Limited, Through its Chairman-cum-Managing Director, Seepat Road, Bilaspur, Chhattisgarh 495006.
3. Biswanath Sinha, IAS, Director, Ministry of Textile, Udyog Bhawan, New Delhi.

--- Respondents

For Petitioner :- Mr. Gary Mukopadhyay, Advocate
 For Respondents 1 & 2:-Mr. V.R. Tiwari, Senior Advocate
 with Mr. Atul Kesharwani, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board (Through Video Conferencing)

02/08/2021

1. The petitioner herein has called in question the order dated 28/02/2008 (Annexure P/2) by which respondent No. 2 has dismissed the appeal preferred by the present petitioner inflicting

major penalty of reduction of two lower posts and grades for a period of two years with cumulative effect upon the original petitioner (who died on 12/06/2007 i.e. after passing of order by the Disciplinary Authority and before preferring the appeal).

2. Mr. Gary Mukopadhyay, learned counsel appearing for the petitioner, would submit that the appellate authority has failed to consider the appeal preferred by the petitioner in its proper perspective and without considering the appeal on merits, only some modification has been made by the appellate authority in the order dated 20/12/2006, as such, the order impugned passed by the appellate authority deserves to be set aside.

3. Mr. V.R. Tiwari, learned senior counsel appearing for respondents No. 1 & 2, would support the impugned order.

4. I have heard learned counsel for the parties at length and perused the record with utmost circumspection.

5. The original petitioner namely Shri R.R. Jha was inflicted with major penalty of reduction of two lower posts and grades for a period of two years with cumulative effect by order dated 20/12/2006

(Annexure P/1). After the death of the original petitioner on 12/06/2007, with the leave of this Court, the present petitioner preferred an appeal before the appellate authority vide Annexure P/19 for reconsideration of the punishment imposed on the original petitioner, but the appellate authority has only modified the order dated 20/12/2006 giving some relief to the petitioner without considering the appeal on merits. The appellate authority was required to decide petitioner's appeal on merits after considering each and every ground raised by the petitioner and record separate findings in that regard particularly when the original petitioner was inflicted with major penalty.

6. The non-consideration of petitioner's appeal on merits by the appellate authority is totally unacceptable. The appellate authority ought to have properly considered the grounds raised by the petitioner and decide the appeal on merits by passing a reasoned and speaking order. As such, the impugned order (Annexure P/2) passed by the appellate authority is hereby set aside and matter is remitted to the appellate authority to consider petitioner's appeal afresh by passing a reasoned and speaking order after dealing with each and

every ground raised by the petitioner within two months from the date of receipt of a copy of this order. Petitioner is at liberty to make additional submission in support of her appeal.

7. With the aforesaid direction, the writ petition stands disposed of. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet