

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (SERVICE) NO. 4161 OF 2020**

- Ravindra Kumar Singh, S/o Shri Mahendra Singh, aged about 48 years, R/o Village Datima, Tehsil Surajpur, District Surajpur, presently residing at Village Bhatgaon, Tehsil Bhaiyathan, Police Station Bhatgaon, District Surajpur (CG)

... Petitioner**versus**

1. S.E.C.L., through C.M.D., Seepat Road Bilaspur (CG)
2. General Manager, South Eastern Coal Fields Limited, Bhatgaon Area, Post Bhatgaon, District Surajpur (CG)
3. Regional Personal Manager, South Eastern Coal Fields Limited, Bhatgaon Area, Post Bhatgaon, District Surajpur (CG)
4. Office of the Mining Manager, South Eastern Coal Fields Limited, Navapara Underground Project, Bhatgaon Area, Post Bhatgaon, District Surajpur (CG)

... Respondents

For Petitioner	:	Mr. G.V.K. Rao, Advocate.
For Respondents	:	Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****31/03/2021**

1. The present Writ Petition seems to be challenging the Notice issued on 6/7-2-2018 directing the Petitioner to appear before the Inquiry Officer in the Department Enquiry initiated against Petitioner.
2. Facts of the case in brief are that the Petitioner got employment under the Respondents on the post of General Mazdoor, Category-I. On an allegation of Petitioner having obtained the employment by way of impersonation, the Authorities had initiated disciplinary proceeding against Petitioner. After conducting the enquiry, the Inquiry Officer submitted the Enquiry Report stating that the allegation does not seem to have been proved. Thereafter, after a period of about three years, a fresh notice for appearing before the Inquiry Officer has been issued to Petitioner vide Notice dated 6/7-2-2018 which is under challenge in the present Writ Petition.
3. Learned Counsel for Petitioner submits that the Petitioner having already been exonerated by the Inquiry Officer cannot be subjected to Departmental Enquiry twice as it would amount to double jeopardy. He further submits that once when the Inquiry Officer has found the charge not proved, he could not have

directed further for a fresh enquiry, and therefore, the impugned Notice issued by the Inquiry Officer needs to be set aside/quashed.

4. Per contra, learned Counsel for Respondents submits that it is a case where the allegation against the Petitioner is very serious. The charge against him is that of obtaining employment by fraud inasmuch as he has impersonated himself for the purpose of obtaining employment under the Respondents. However, the Inquiry Officer, without properly conducting the enquiry, only on the basis of a compromise decree passed by the Civil Court, gave the Enquiry Report holding that the charge is not proved against Petitioner.

5. Learned Counsel for Respondents further submits that the Enquiry Report submitted by the Inquiry Officer was scrutinized by the Disciplinary Authority and the Disciplinary Authority did not accept the finding of the Inquiry Officer, and therefore, vide Order dated 10.8.2017 for specific reasons given for not accepting the finding of the Inquiry Officer, the Disciplinary Authority directed the Inquiry Officer to conduct a fresh enquiry in accordance with the procedures after recording proper evidence and then submit the report. It is this action which is under challenge in the present Writ Petition.

6. Learned Counsel for Respondents also submits that there is hardly any scope of interference by this Court in exercising of its Writ jurisdiction, for the reason that the Disciplinary Authority has all the powers to differ with the finding given by the Inquiry Officer and also to order for a fresh *de novo* enquiry, which has been exercised in the instant case, and thus the present Writ Petition should be dismissed on this ground.

7. Further, learned Counsel for Respondents submits that the present Writ Petition is one which has been filed in the year 2020 whereas the impugned Notice is one which has been issued as early as on February, 2018 and for the intervening period the Petitioner has voluntarily appeared before the Inquiry Officer and participated in the Departmental Enquiry and for this reason also the Writ Petition deserves to be dismissed.

8. Having heard the contentions put forth on either side and on perusal of the pleadings that have come on record, what is apparently clear is that the earlier enquiry which was conducted against Petitioner did not get concluded inasmuch as it was only the Enquiry Report which was submitted by the Inquiry Officer which by itself does not mean that there is clear exoneration of Petitioner at that stage. Unless the Enquiry Report is accepted by the Disciplinary Authority and a formal order is passed, the enquiry cannot be presumed to have been concluded. In the instant case, though the Inquiry Officer at the first instance submitted his Enquiry Report holding that the charge does not seem to have been proved against Petitioner, however, the Disciplinary Authority exercising the powers conferred upon him has differed with the finding of the Inquiry Officer for specific reasons as would be reflected in Annexure R-7, dated 10.8.2017 and has ordered for a fresh *de novo* enquiry after granting full and fair opportunity of hearing to Petitioner. Inquiry Officer thereafter issued a notice to Petitioner for his appearance before the Inquiry Officer which was accepted by Petitioner and he participated in the Departmental Enquiry. The submission of learned Counsel for Respondents is that the enquiry has also reached at the fag-end where the Inquiry Officer has submitted his fresh Enquiry Report.

9. Considering all these facts, this Court does not find any strong case made out by Petitioner calling for an interference with the impugned Notice of enquiry issued to Petitioner vide Annexure P-1 and the Writ Petition thus deserves to be and is hereby dismissed.

10. However, the right of Petitioner would stand reserved to assail any order by the Disciplinary Authority on the basis of subsequent enquiry and Enquiry Report, detrimental to the interest of Petitioner, at a later stage.

11. Writ Petition accordingly stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE