

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Through Video Conference)

WPA 448 of 2020

Dr. Shikha Singh
Vs.
The Coal India Ltd. & Ors.

Mr. Soumya Majumder
Mr. Krishnendu Paul Chowdhury
... For the petitioner

Mr. Utkarsh Kaushik
... For the respondents no.1 to 4

The petitioner was imposed penalty of “removal from service” by an order dated 18th May, 2015 passed by the Disciplinary Authority. The petitioner challenged this order by filing a statutory appeal. In the appeal preferred, the petitioner has clearly stated her address to be “Flat No.204, Vinayaka Residency, Mandir Marg, Jaiprakash Nagar, Bariatu Road, Ranchi – 834009”. It is an admitted position that the appellate order dated 18th June, 2019 was not sent to this address but was sent to the petitioner’s address at Deo Bhawan, Sarvodaya Nagar, PO – Mirzapur Bandvar, District – Begusarai, Bihar. It is also an admitted position that the appellate order was returned back unserved. The final order has not been sent at the Ranchi address provided by the petitioner in her appeal. All previous communications, including the date of hearing and appearance before the Appellate Authority, should be presumed to have been sent at the Begusarai address as

Coal India Limited (in short “CIL”) has not shown anything contrary thereto. It is, therefore, apparent that the petitioner was not afforded reasonable opportunity to represent her case before the Appellate Authority.

On behalf of CIL, it is submitted that the appeal was filed before the Chairman-cum-Managing Director, NCL, Singrauli. This authority, according to CIL, is not the Appellate Authority. The correct Appellate Authority is the Board of Directors of CIL. Although CIL tries to impress upon this Court that the petitioner never applied for changing her Begusarai address to the Ranchi address in her service records and, as such, CIL going by such record had sent the order and other intimations to the petitioner at her Begusarai address but the fact remains that the appeal addressed to the Chairman-cum-Managing Director, NCL, Singrauli was ultimately heard by the Board of Directors of CIL as the same was transmitted by the office of the Chairman-cum-Managing Director to the Board of Directors of CIL. If the appeal paper containing the Ranchi address had been sent to the Board of Directors of CIL, it was the obligation of the said Board of Directors of CIL to serve all intimations to the petitioner at her Ranchi address. Having not done so, there is apparent violation of principles of natural justice. The violation of principles of natural justice is further explicit when the appellate order is sent to the Begusarai address and not at the Ranchi address.

In the aforesaid circumstances, by an order dated 6th December, 2021, this Court directed CIL to inform whether the appeal can be heard *de novo* by setting aside the order dated 18th June, 2019 after affording the petitioner a reasonable opportunity to represent herself. CIL, through its advocate, has informed the Court that the appeal cannot be heard *de novo*.

Considering the gross violation of principles of natural justice as discussed hereinabove, I am of the view that the appellate order dated 18th June, 2019 is unsustainable on such ground alone.

Without going into the merits of the order, only on the ground of violation of principles of natural justice, I set aside the appellate order dated 18th June, 2019 and direct the Board of Directors of Coal India Limited, being the Appellate Authority, according to CIL, to hear out the petitioner's appeal filed on 25th August, 2015 afresh after giving the petitioner a reasonable opportunity to represent her case observing the Covid-19 prevailing protocol. All communications, regarding intimation of date and serving orders of the Appellate Authority, shall be the petitioner's address at Ranchi provided in the foot of the appeal preferred on 25th August, 2015.

So far as the issue of reinstatement is concerned, this issue is not addressed in this writ petition and the petitioner will be at liberty to pray for the same at an appropriate stage.

The Appellate Authority shall decide the appeal within a period of four months from date by a reasoned order and shall further communicate the reasoned order so passed within a period of a fortnight from the date of passing of the same.

The petitioner and CIL shall render all cooperation and assistance to the Appellate Authority for effective adjudication and proper disposal of the appeal.

The Appellate Authority shall be free to decide the case afresh on merit without being any way influenced by any observation made in the instant order.

The petitioner shall communicate a server copy of this order to the Board of Directors of Coal India Limited along with a copy of the writ petition within a period of 10 days from date.

The Board of Directors of Coal India Limited/Appellate Authority shall act on the basis of a server copy of this order without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)