

26.08.2022
DL - 13
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18779 of 2022

Dhaneshar Mondal
Vs.
The Chairman, Coal India & Ors.

Mr. Guddu Singh
....for the petitioner.

Ms. Tanushree Das Gupta
....for ECL.

Affidavit of service filed in Court today is taken on record.

The petitioner, an employee of Eastern Coalfields Limited (in short ECL), was served with a charge-sheet dated 4th/6th June, 2022 which appears at page 22 of the writ petition. The petitioner has challenged the said charge-sheet and initiation of proceedings in terms thereof. One of the grounds of challenge is non-furnishing of the documents mentioned in the charge-sheet. The petitioner had made a representation for furnishing the documents on 10th June, 2022, which has been rejected by a memo dated 28th/29th July, 2022. The petitioner says that unless the copies of the documents referred to in the charge-sheet and the annexures thereto are given, the petitioner is not in a position to prepare and file his written statement. The petitioner,

therefor, says that the charge-sheet should be set aside.

On behalf of ECL, it is submitted that in response to the petitioner's letter, ECL has categorically said that the petitioner will be given reasonable opportunity to go through the relevant documents as mentioned in Annexure – III to the charge-sheet during the course of enquiry. ECL also challenges the maintainability of the writ petition on the ground that the allegations in the writ petition and the reliefs sought for are different and there is no link in between them.

After hearing the parties and considering the materials on record, I find that four annexures are referred to in the charge-sheet which are said to be enclosed therewith. Annexure – III at page 24 of the writ petition starts from serial no.9. So far as documents in serial nos.1-8 are concerned, there is no reference. Although, the Evidence Act, 1872 is not strictly applicable to a departmental proceeding but the principles analogous thereto are required to be adhered to. Moreover, the basic principle to be observed in a departmental proceeding is adherence to the principles of natural justice. It is true that all the documents referred to by ECL may not ultimately be relied upon before the enquiry officer but that does

not permit ECL to say that the documents will be allowed inspection in the course of enquiry. The reply to the charge-sheet is a very vital document and is the main averment from the side of the petitioner, a charged employee. The petitioner may be placed inconvenience to deal with the documents, if inspection is given and copies thereof are not served on the petitioner prior to submitting the written statement. At the same time, there may be documents, which cannot be removed or photocopied for the purpose of serving the petitioner. The charge-sheet, however, cannot be set aside on such ground at this stage when the Enquiry has not commenced.

It is settled principle of law that a charge-sheet can be interfered with only on a limited ground. In the instant case, the matter has not proceeded further beyond the issuance of the charge-sheet. The case made out by the petitioner also does not call for interference with the charge-sheet or issuance thereof at this stage.

However, without going into the controversy as to who is at fault, I think justice will be sub-served, if I direct ECL to give inspection of the documents intended to be relied upon by ECL before the Enquiry Officer and supply copies of those documents which can be photocopied and served on the petitioner.

In the aforesaid facts and circumstances, ECL is directed to give inspection of all the documents they intend to rely upon on a date and time mutually decided by the parties. ECL shall also supply photocopies of such relevant documents if the said documents are in a condition to be photocopied otherwise inspection will only suffice.

The petitioner shall file his written statement within 15 days from the date on which the inspection is given to the petitioner and documents as indicated above are supplied.

It is made clear that till the time granted to the petitioner to file his written statement after the discovery of the documents, the enquiry proceedings and the disciplinary proceedings arising out of the charge-sheet dated 4th/6th June, 2022 shall not be proceeded with.

However, if the petitioner fails to file his written statement within the time provided after inspection and discovery of documents, the Enquiry Officer and the Disciplinary Authority are free to proceed.

The parties 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.)