

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.718 of 2023

In

Civil Writ Jurisdiction Case No.8235 of 2013

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1. Bharat Heavy Electricals Ltd. through its Chairman-cum-Managing Director, BHEL Bhawan, Siri Forst, New Delhi-110049.
 2. Executive Director, BHEL-PSER, Plot No. DJ-9/1, Sector II, Karunamoyee, Salt Lake City, Kolkata-700091.
 3. Executive Director and Reviewing Authority BHEL, Bhopal-462022.
 4. General Manager Finance and Appellate Authority, BHEL, Bhopal-462022.
 5. AGM Finance and Disciplinary Authority, BHEL, Bhopal-462022.
 6. Sr. DGM (HRM) and Enquiry Officer, BHEL, Bhopal-462022.
 7. Manager Finance and Presenting Officer, BHEL, Bhopal-462022.
 8. Chief Vigilance Officer, BHEL, Delhi.
 9. Additional General Manager-cum-Controlling Officer SAS-Patna, BHEL.
- Appellant/s

Versus

Amit Kumar Agrawal S/o Sri Arun Kumar Maitin, R/o 69, Gandhi Chowk,
K.P. Road, Gaya-823001, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. Sushant Praveer, Advocate
For the Respondent/s	:	Mr.Amit Kumar Agrawal (In Person)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-07-2024

The appeal is against the judgment of the learned



Single Judge setting aside the inquiry and directing its resumption from the defective stage. The grounds on which the inquiry was set aside was non-examination of a witness and the non-communication of a letter which is the foundation for initiation of disciplinary inquiry.

2. We have heard both parties.

3. The articles of charges as seen from Annexure-I contained four allegations. The first allegation was with respect to false medical bills having been submitted for dental treatment which had been passed for payment. It was the allegation that the specific medical procedure was not admissible as a medical reimbursement. The second allegation was that the delinquent employee had raised fake hotel bills for the tour between 24.03.2008 to 01.04.2008. The third allegation, which was not proved, was with respect to showing medical expenses as T.A. expenses to avoid Income Tax. The fourth allegation was with respect to the taxi charges claimed between Patna and Gaya while traveling to Kolkata; which was not permissible since for official tours the taxi fare had to be limited to AC-II Class fare.



4. The learned Single Judge had found that the entire proceedings were initiated on a complaint received from the office of the Central Vigilance Commission. It is submitted by the appellants that the Central Vigilance Commission being not part of the organization, the person who authored such communication could not have been examined.

5. The learned Single Judge had specifically noticed that the domestic inquiry itself was initiated on the communication dated 10.11.2009 which was not cited nor supplied to the delinquent employee. The respondent submits that despite proceedings taken under the Right to Information Act, the statutory authorities under the said enactment found the delinquent employee to be not entitled to such a communication.

6. We are of the opinion that though his request under the Right to Information was declined, it was incumbent upon the Disciplinary Authority to have supplied the order which was the foundation of the initiation of the inquiry against the delinquent.

7. The next ground on which the learned Single



Judge interfered with the inquiry was non-examination of one Dr. Geeta Bhatla, Consultant BHEL, Siri Fort, New Delhi. The communication issued by the said Consultant was produced as Document No. 2 and supplied to the writ-petitioner, but she was not cited as a witness. From the Inquiry Report, we see that one another doctor was examined as a witness who had subjected the delinquent employee to medical examination. We have to notice that the communication marked as Document No. 2 of Dr. Geeta Bhatla also referred to the specific allegation of the dental treatment and in such circumstance it was only proper that she was examined in the inquiry proceedings.

8. We find absolutely no reason to interfere with the judgment of the learned Single Judge. Considering the delay that has been occasioned, we direct that the inquiry would be re-commenced, if it is so decided, within a period of two months from the date of uploading of this order. If the inquiry is re-commenced, the Disciplinary Authority shall also take a decision on whether the writ-petitioner has to be reinstated or not. If no such decision is taken within a period of two months, the writ-petitioner shall be reinstated



in service with all attendant benefits. However, if an inquiry is proceeded with, then the writ-petitioner shall abide by the decision arrived at and at the close of inquiry the Disciplinary Authority, as directed by the learned Single, shall also decide on the back wages payable.

9. The Letters Patent Appeal stands dismissed.

10. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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CAV DATE	
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