

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

FMA 272 of 2024

RAHMAN MIA

VS

M/S EASTERN COAL FIELDS LIMITED AND ORS.

For the Appellant : Mr. Partha Ghosh,
Mr. Amal Kumar Datta,
Ms. Simran Sureka,
Mr. Debashis Das, Advocates

For the Respondents: Mr. Manik Das, Advocate

Heard on & Judgement on: September 19, 2024

DEBANGSU BASAK, J.

- 1.** Appeal is directed against the order dated December 4, 2023 passed in WPA 9759 of 2023.
- 2.** By the impugned order, learned Single Judge dismissed the writ petition of the appellant.
- 3.** Appellant raised two-fold contentions before the learned Single Judge. Appellant assailed the charge sheet dated February 24, 2023 issued as against him. Appellant contended before the learned Single Judge that the charges are stale and 33 years old and that the charge sheet is vague.

4. Learned advocate appearing for the appellant submits that, learned Single Judge failed to appreciate that, the charges as against the appellant are vague. Appellant received employment on compassionate ground as the son of such employee. He refers to the charge sheet. He submits that, apparently, the employer was activated by a person claiming himself to be the son of the deceased employee. He submits that it is for the other person to establish that the appellant is not the son of the deceased employee since several other persons are claiming to be so. Moreover, a period of 33 years elapsed from the date of death of the employee. As on date none of the parents of the appellant is available in order to establish the claim that the appellant is the son of the deceased employee.

5. Referring to the service records of the deceased employee, he submits that, appellant is named as the son of such deceased employee. He submits that, such document conclusively proves that the appellant is the son of the deceased employee.

6. Learned advocate appearing for the appellant relies upon **(2005) 6 SCC 636 [P.V. Mahadevan vs. Md. T.N. Housing Board]**, **[(2022(1) CLJ(Cal) [Dibyendu Chakraborty vs. Union of India & Ors.], (2015) SCC OnLine Del 13395 [Union of India vs. Yuvraj Gupta & Ors.], (2009) 12 SCC 78 [Union of India vs. Gyan Chand Chattar], (1998) 6 SCC 651 [State of UP vs. Shatrughan Lal & Anr.] and (2007) 2 CLJ (Cal) 209 [Steel Authority of India Ltd. vs. Debasish Biswas]** in support of the contention that where the charge sheet is vague, disciplinary proceedings need not be continued with.

7. Learned advocate appearing for the appellant draws the attention of the Court to the authority issuing the charge sheet. He submits that, such authority does not possess the requisite power to do so.

8. Respondent employer is represented.

9. A disciplinary proceeding was initiated as against the appellant by a charge sheet dated February 24, 2023. Such charge sheet was assailed in the writ petition.

10. Charge sheet is not a finding of guilt of a delinquent. It is merely a show cause issued to the delinquent to answer the charges.

11. Courts are slow to interfere at the charge sheet stage unless it is established that the authorities issuing the charge sheet acted illegally or without jurisdiction or that the charges levelled are *ex facie mala fide*.

12. In the facts of the present case, charge sheet was issued by the agent of the concerned mines. It cannot be said conclusively that the agent is not entitled to issue the charge sheet as against the appellant. Lack of jurisdiction is not conclusively established.

13. Charge as against the appellant is that he is not the son of the deceased employee and that the appellant received compassionate appointment by practicing dishonesty and fraud claiming himself to be son of such deceased employee.

14. Article of Charge, is certain and clear. There is no dearth of understanding that, the appellant is charged with dishonesty and fraud in obtaining the employment after claiming himself to be the son of the deceased employee when he was not so.

15. Appellant relies upon certain documents to claim that he is, in fact, the son of the deceased employee. Such documents are required to be evaluated in the disciplinary proceeding. We need not enter into such arena at this stage. Appellant may submit his reply to the charge sheet, if so advised and contest the disciplinary proceeding again, if so advised. Respondent/employer is yet to arrive at the final decision on the charge levelled as against the appellant.

16. Authorities cited at the Bar namely, **P.V. Mahadevan (supra)**, **Dibyendu Chakraborty (supra)**, **Yuvraj Gupta (supra)**, **Gyan Chand Chattar(supra)**, **Shatrughan Lal (supra)** and **Debasish Biswas (Supra)** are of the view that where the charges are vague, then, the disciplinary proceedings need not proceed any further. In the facts of the present case, we are unable to arrive at a finding that, the charge as against the appellant is vague.

17. The other ground of the appellant that, the charge is stale, is, according to us, without any basis. Factum of falsehood, dishonesty and fraud was discovered in 2022 and immediately thereon, the disciplinary proceedings initiated after holding a preliminary inquiry.

18. In such circumstances, it cannot be said that, the employer/respondent acted belatedly or that charge as against the appellant became stale.

19. In such circumstances, we find no merit in the present appeal.

20. FMA 272 of 2024 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

21. I agree.

(Md. Shabbar Rashidi, J.)

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