IN THE HIGH COURT AT CALCUTTA

(CONSTITUTIONAL WRIT JURISDICTION)

APPELLATE SIDE

Present:

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 18053 of 2023

Subodh Kumar
-Vs.-
Coal India Limited & Ors.

For the Petitioner : Mr. Swapan Kumar Dutta, Sr. Adv.,
Mr. Sambuddha Dutta,
Mr. Kazi Ashique Azfar.

Heard on : 22.04.2025

Judgment on :02.05.2025

ParthaSarathiChatterjee, J.:-

1. In questing the legality and justifiability of the Memorandum of Charge dated 21st May, 2021, the inquiry report issued under the memo dated 5th February, 2022, the final order of punishment passed by the Disciplinary Authority on 10th May, 2022, and the order of the Appellate Authority dated 30th August, 2022, the present writ petition has been preferred. In addition, the petitioner prays for an order restraining the respondents from implementing the

memorandum of charge, the final order of punishment, and the order of the Appellate Authority (in short, AA).

2. Prior to venturing to delve into the contentious issue raised in the writ petition, it would be prudent to outline the key facts that laid to filing of the present writ petition which are as follows:

a) The petitioner, a Mining Engineer, joined Coal India Limited (in short, COL), a Government of India enterprise, as a Management Trainee in 1997. Subsequently, through the hierarchy of posts to the positions, he was promoted to Assistant Engineer in 1999, Under Manager (Mining) in 2002, Senior Under Manager in 2006, Manager in 2009, Senior Manager in 2018, and finally Chief Manager in 2023. He is presently posted at the Barka Sayal Area of Central Coalfields Limited (CCL).

b) While serving as Senior Manager (Mining) at the Rajarappa Area, the petitioner was served with a charge-sheet issued under a memorandum dated 21st May, 2021, in terms of Rule 30.0 of the Coal India Executives' Conduct, Discipline and Appeal Rules, as amended up to 18th January, 2021 (hereinafter referred to as the "CDA Rules"). The charge-sheet contained two articles of charge, which are reproduced below:

> " *I. Shri Subodh Kumar, while posted and functioning as Senior Manager (Mining), Rajarappa Area during the year 2012 to 2016 committed gross irregularities in matter of submitting property return and intimating the Competent*

Authority about acquisition of immovable property inasmuch as even though he was penalized for non-submission of property return in the past, he advertently suppressed the fact of acquisition and possession of Shops No. 201, 242 & 243 at Bokaro Mall, Bokaro, Jharkhand in the name of his wife Smt. Monika Singh from the Competent Authority and did not intimate about the same.

Thus, Shri Subodh Kumar violated of Rule 19.2 of the Coal India Executives' Conduct Discipline and Appeal Rules applicable to him and acted in a manner unbecoming of as a Public Servant.

Hence the charge.

II. That during the aforesaid period and while posted in aforesaid office Shri Subodh Kumar committed further gross irregularity in the matters of reporting to the Competent Authority about his engagement in a private business/trade inasmuch as he advertently failed to inform the Competent Authority about the business dealings done by him with different business agencies and thus grossly violated Rule 16.1 & Rule 16.2 of the CIL Executives Conduct, Discipline and Appeal Rules.

Thus, Shri Subodh Kumar violated Rule 16.1 & Rule 16.2 of the Coal India Executives' Conduct Discipline and Appeal

Rules applicable to him and acted in a manner unbecoming of as a Public Servant.

Hence the Charge.

The above acts of omission and commission on the part Shri Subodh Kumar besides amounting to non-fulfilment of duties and responsibilities under Rules 4.1(i), 4.1(iii), 4.1 (xviii) of the Coal India Executives' Conduct, Discipline and Appeal Rules, also tantamount to misconduct in terms of Rule 5.0 (27) of the said Rules."

c) The petitioner submitted his reply to the charge-sheet on 21st June, 2021, categorically denying the charges. However, the Disciplinary Authority (in short, DA) found the reply unsatisfactory and accordingly decided to proceed with the departmental enquiry.

d) Upon conclusion of the enquiry, the Enquiry Officer submitted his findings, holding that Article I of the charge was established, whereas Article II was not proved. However, the Disciplinary Authority (in short, DA) disagreed with the findings and concluded that both charges were proven. Consequently, the DA imposed a major penalty, namely: *"Reduction by two stages in the time scale of pay for a period of six months from the date of issuance of this order, during which the petitioner will earn increments in pay if due; and upon expiry of the penalty period, the reduction shall not have the effect of postponing his future advancement in pay".*

e) The petitioner preferred a statutory appeal against the order of punishment. Although the AA found merit in the petitioner's contentions, it modified the penalty by reducing the punishment of reduction in pay to that of a censure. Aggrieved thereby, the petitioner has filed the present writ petition.

3. Upon forming the opinion that the writ petition should be decided after the exchange of affidavits, a co-ordinate Bench of this Hon'ble Court, by order dated 13th September, 2023, directed the respondent to file an affidavit-in-opposition. However, the respondent failed to file the affidavit-in-opposition within the time stipulated in the said order.

4. By an order dated 22nd November, 2023, the time for filing the affidavit-in-opposition was extended upon a prayer made on behalf of Coal India Limited, subject to payment of costs amounting to Rs. 8,500/-. However, neither was the cost paid nor was the affidavit-in-opposition filed. Subsequently, by an order dated 24th March, 2025, this Bench scheduled the hearing of the writ petition for 2nd April, 2025, and directed the petitioner to communicate the said order to the learned Advocates who had entered appearance on behalf of the respondents. The order also made it clear that the matter might be taken up for hearing even in the absence of the respondents. The petitioner submitted documents showing communication of the said order. However, despite receipt of such communication, the respondents remained unrepresented when the matter was taken up for hearing on 22nd April, 2025. Taking note of the respondents' continued non-appearance, the hearing was concluded on that date, and judgment was reserved.

5. While arguing the merits of the case, Mr. Swapan Kr. Dutta, learned Senior Advocate representing the petitioner, contended that the Enquiry Officer (hereinafter referred to as "EO") had found that Charge No. 2 was not established, but concluded that Charge No. 1 was proven. Mr. Dutta further argued that, in accordance with the applicable rules for employees of Coal India Limited (COL), an employee is not required to provide any intimation if his wife acquires property from her known source of income.

6. He argued that, in the present case, the cart had been placed before the horse. He elaborated on the issue, pointing out that the Appellate Authority (in short, AA) had categorically observed that the petitioner's wife entered into an agreement for the purchase of the shop rooms from the erstwhile owner in October 2010 and December 2014, respectively. However, the title was transferred only on 3rd June 2021, while the charge-sheet was issued on 21st May 2021 for failing to furnish intimation regarding acquisition of property.

7. He argued that the AA had noted that the petitioner submitted Form IVA, thereby furnishing intimation of the said transaction on 8th June, 2021. Drawing my attention to the observations made by the AA in its order dated 30th August, 2022, he submitted that the AA had found that, instead of establishing the charge through proper evidence, the disciplinary authority had improperly shifted the burden upon the petitioner to disprove the allegation, which, according to him, was an approach that is unfair, illegal, and contrary to settled principles of law and ethics.

8. He contended that the Appellate Authority (AA) had observed that the mere reference to the petitioner's name and mobile number in an email from a

company was not sufficient to establish his involvement in the business. Nevertheless, the AA imposed the punishment of 'Censure' on the ground that the petitioner ought to have been more careful.

9. He argued that the petitioner had filed a revision petition, which was, however, disposed of by a non-speaking order, merely affirming the decision of the Appellate Authority (AA). He submitted that although detailed reasoning may not be mandatory, the authority was at least required to provide brief reasons for its decision. He further alleged bias on the part of the respondents, contending that the same authority had acted both as the DA and the revisional authority, thereby compromising the fairness of the proceedings.

10. In his argument, he cited certain decisions reported at *(2002) 7 SCC 142 (Sher Bahadur Vs. Union Of India and Ors.), (1987) 2 SCC 188 (Brij Mohan Singh Chopra Vs. State of Punjab), (2023) 3 SCC 622 (Union of India and Ors. Vs. Constable Sunil Kumar), (1970) 3 SCC 602 (State of Punjab Vs. Ramjilal and Ors.), (2008) 3 SCC 469 (Divisional Forest Officer, Kothagudem Vs. Madhusudhan Rao), AIR 1963 SC 1914 (Sur Enamel And Stamping Works Ltd. Vs. Workmen), (1973) 4 SCC 94 (The Collector and Controller of Court of Ward, Kolhapur and Anr. Vs. G. N. Ghorpade and Ors.), (1987) 4 SCC 611 (Ranjit Thakur Vs. Union of India and Ors.)*.

11. The scope of judicial review is primarily confined to established grounds such as illegality, irrationality (including *Wednesbury* unreasonableness), and procedural impropriety. The principle of reasonableness has evolved to include the doctrine of proportionality. The fundamental objective of judicial review of administrative actions is to guard against arbitrariness, irrationality,

unreasonableness, bias, and mala fides. Although scope of judicial review generally does not extend to re-evaluating the merits of the decision, where a decision is found to be perverse, irrational, or grossly disproportionate, it becomes amenable to judicial intervention.

12. In disciplinary proceedings also, the scope of judicial review is generally limited to examining the decision-making process. The authority to punish an employee lies within the employer's domain, and courts typically refrain from intervening unless it is established that the enquiry proceedings have been tainted due to the failure to adhere to established rules or principles of natural justice. This includes the denial of a reasonable opportunity for the employee to defend themselves, or where the punishment is found to be disproportionate to the proven misconduct.

13. In the present case, two charges were levelled against the petitioner: (i) commission of gross irregularities in submitting the property return and in failing to intimate the competent authority regarding the acquisition of immovable property (three shop rooms in Bokaro Mall) in the name of his wife; and (ii) his failure to report his alleged engagement in a private business or trade.

14. Although disciplinary proceedings are not bound by the strict rules of evidence as prescribed under the Evidence Act, the fundamental principles underlying those rules, particularly those rooted in natural justice, must still be respected. Any charge brought against a delinquent employee must be clearly established before any punitive action is taken. It is important to emphasize that mere suspicion cannot substitute for actual proof.

15. As noted earlier, in the present case, the AA upon assessment of evidence brought on record by the management acknowledged that although the petitioner's wife had entered into agreements with the erstwhile owner of the shop rooms in 2010 and 2014, the actual transfer of ownership took place only on 3rd June, 2021. It is well settled that the '*acquisition of property*' is deemed complete only upon the transfer of title. The petitioner submitted the prescribed Form IVA on 8th June, 2021, thereby furnishing the required intimation regarding the acquisition of the said property. The AA further observed that his wife purchased those three shop rooms from her known source of income.

16. As mentioned previously, the AA itself observed that the management imposed reverse burden upon the petitioner to disprove the allegation. It is challenging to prove a negative fact rather than a position assertion.

17. With regard to the second charge alleging that the petitioner was involved in a private business, the AA, after evaluating the evidence, concluded that the management had failed to substantiate the allegation.

18. Therefore, the order of the Appellate Authority itself indicates that the management failed to produce credible and convincing evidence to establish the charges and, instead, improperly shifted the burden of proof onto the delinquent employee. It is a settled principle that inferences drawn from evidence and surrounding circumstances must be clearly distinguished from mere conjecture or speculation. There must be either direct or circumstantial evidence from which a necessary and reasonable inference can be drawn to prove the facts in issue. In the absence of clearly established facts, whether oral, documentary, or

circumstantial, any inference becomes baseless, and the reasoning process collapses into mere speculation.

19. Thus, the Appellate Authority concluded that the management had failed to substantiate the charges. However, despite this finding, it proceeded to impose the punishment of 'censure' on the ground that the petitioner ought to have been more careful. Such punishment, which is based on mere moral conviction rather than proven misconduct, is unsustainable in law. It is pertinent to note that if the finding of guilt cannot be upheld, then any punishment imposed as a consequence must also fail. The imposition of any disciplinary penalty, regardless of its severity, must be founded on a legally sustainable finding of guilt. If the foundation-that is, the finding of guilt, does not stand, the entire structure of the punishment necessarily collapses.

20. Therefore, based on the foregoing discussion, the only conclusion that can be drawn is that the punishment of 'Censure' is unsustainable and cannot be allowed to stand. Accordingly, the portion of the order passed by the Appellate Authority imposing the punishment of 'Censure' upon the petitioner is hereby set aside. Consequently, the order passed on the revision petition, if any, insofar as it affirms the said punishment, is also liable to be set aside and cannot be sustained.

21. As previously noted, the petitioner seeks a direction restraining the respondents from giving effect to the charge-sheet, the enquiry report, the final order of punishment, and the order of the AA. However, in view of the doctrine of merger, it must be held that the final order of punishment has merged with the order of the AA, and no longer stands independently. Furthermore, the charge-sheet and the enquiry report merely represent preliminary findings or allegations that

indicate a prima facie case, the validity of which is contingent upon acceptance by the DA. Therefore, in the present context, passing any order concerning the charge-sheet or the enquiry report would serve no practical purpose and would, therefore, be otiose.

22. With these observations and order, this writ petition is, thus, disposed of. However, there shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.)