

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9453 of 2022**

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Dhananjay Kumar Singh S/o- Sri Ram Chandra Singh, R/o- Vill- At and P.O.-  
Balbadda, P.S.- Balbadda, District- Godda, (Jharkhand).

... .. Petitioner/s

Versus

1. National Thermal Power Corporation, Kahalgaon through it is Chief General Manager, Kahalgaon, District- Bhagalpur.
2. The Chief General Manager, National Thermal Power Corporation, Kahalgaon, District- Bhagalpur.
3. The General Manager(O and M-FM), National Thermal Power Corporation, Kahalgaon, District - Bhagalpur.
4. The Regional Executive Director (East-1), National Thermal Power Corporation, Eastern Region-1, Headquarter at Lok Nayak Jai Prakash Bhawan, Dak Bunglow Road, Patna.
5. The Director, Human Resource-cum-Appellate Authority, Scope Complare, Lodi Road, National Thermal Power Corporation, New Delhi.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate  
For the Respondent/s : Mr. Amaresh Kumar Sinha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 31-01-2026**

Heard learned counsel for the petitioner and  
learned counsel for the Respondent-National Thermal Power  
Corporation.

2. The present writ petition has been filed for  
issuance of an appropriate writ/s, direction/s, order/s to the



respondents for the following relief/s:-

*“I. To quash the order dated 07.02.2022 issued by the Regional Executive Director (East-1), Patna (Disciplinary Authority) (Annexure-1) whereby and whereunder the petitioner has been removed from the post of Junior Operator (W-3) Fuel Management, National Thermal Power Corporation, Kahalgoan, Bhagalpur.*

*II. To quash the order dated 17.05.2022 issued by the Director (HR), NTPC, New Delhi (Appellate Authority) (Annexure-2) whereby and whereunder the appeal preferred by the petitioner against order dated 07.02.2022 (Annexure-1) has been rejected.*

*III. To reinstate the petitioner on the post of Junior Operator (W-3) Fuel Management, National Thermal Power Corporation Kahalgoan, Bhagalpur with all consequential and monetary benefits. And for any other relief(s) for which the petitioner may be found entitled in the facts and circumstances of the case.”*



3. Learned counsel for the petitioner submits that the petitioner was working in the N.T.P.C., Kahalgaon as Junior Operator. His appointment has been made by virtue of Advertisement No. 1 of 2015. Counsel submits that after following the due process of law, he was appointed initially on the probation period of one year i.e. on 30.04.2016 which ended on 30.04.2017. The petitioner was working to the full satisfaction of the authorities. Counsel further submits that a memorandum of article of charge dated 22.03.2021 has been served upon the petitioner in which three charges have been alleged. He submits that the petitioner submitted his reply in response of the said charges on 03.04.2021 and denied all the charges alleged. But, the Disciplinary Authority did not satisfied from the same and *vide* order dated 20.04.2021, appointed the DGM (Vigilance) NTPC, Kahalgaon as Presenting Officer and AGM (HR) NTPC, Kahalgaon as Enquiry Officer. Counsel submits that on various dates, the proceeding was conducted, particularly on 06.04.2021, 14.07.2021, 23.08.2021 and 30.08.2021. He submits that on all the dates, hearing took place through virtual mode. Counsel further submits that the opportunity of cross examination was requested by the petitioner, but not been provided by the Enquiry Officer. He



submits that only one witness has been examined and on 30.08.2021, the petitioner has requested the Enquiry Authority to provide the Defence Assistant in order to defend his case. And on the request of the petitioner, the Defence Assistant was provided to him on 24.09.2021. Counsel submits that the petitioner specifically requested the Enquiry Authority to add two witnesses in support of his case, but his request was turned down.

4. Learned counsel for the petitioner further submits that the date of the hearing was fixed and only one witness appeared as witness and opportunity of cross examination even after specific request by the petitioner, has not been granted to him. He submits that in the memorandum, list of four witnesses were provided to the petitioner, but only one witness was examined by the Enquiry Officer. He further submits that *vide* order dated 17.11.2021, the Presenting Officer submitted the brief to the Enquiry Officer in which all the charges found proved against the petitioner. Counsel submits that as per the direction of Enquiry Officer on 03.12.2021, the petitioner submitted his written submissions against the brief of Presenting Officer dated 17.11.2021. Thereafter, *vide* order dated 17.12.2021, the Regional E.D.(Estt.) NTPC issued second



show cause along with enquiry report and directed the petitioner to submit his response to the same. The petitioner submitted his reply to the enquiry report before the Disciplinary Authority on 30.12.2021 and requested for exoneration from all the charges alleged. Counsel further submits that the final order has been passed on 07.02.2022, which was subsequently, challenged in the appeal and the appellate order has been passed on 17.05.2022 by which the appeal of the petitioner was rejected. Counsel submits that it is true that opportunity has been provided to the petitioner according to rule, but, in-spice of four witnesses, only one witness was examined and opportunity of cross examination has not been granted to him. He submits that it is due to this reason, the proceeding is bad in law.

5. Learned counsel for the petitioner further submits that the appointment has taken place by virtue of Advertisement no. 1 of 2015 (Annexure-3) and in the said advertisement in Application cum Bio Data Form, its Clause 8 is a column which indicates about the experience if any, and this Clause 8 contains six columns i.e. name & address of the employer, designation, employment period, scale of pay and drawn salary, reason of leaving and nature of work. Counsel submits that the petitioner was basically a Cluster Teacher and



there was no pay scale or salary fixed for him and he was also not getting monetary salary. Whenever the money comes, he used to receive the salary. Therefore, his contention is that since, the petitioner was a cluster teacher, hence, Clause 8 of the said advertisement's column shall not for him and it is due to this reason, the petitioner has made the said column blank. Counsel further submits that in the charge memo, there were four witnesses, but the Enquiry Officer reached on the finding only by virtue of examination of one witness and rest witnesses were not even examined. Moreover, opportunity of cross examination has not been provided to the petitioner, in-spite of the specific request. It is due to this reason, he submits that the allegation of imputations of misconduct mentioned in the charge memo are not sustainable in the eye of law. Counsel, therefore, concludes that when the allegation in charge memo are not sustainable in eye of law, then automatically any finding on a non-sustainable charge memo either in the form of enquiry report or in the form of disciplinary order or in the form of appellate order, shall also not sustainable in the eye of law and hence, he submits that the writ petition be allowed in favour of the petitioner and the impugned orders be set aside.

6. Learned counsel appearing for Respondent-



National Thermal Power Corporation, on the other hand, submits that in this case, neither there is violation of principles of natural justice nor there is any violation of any rule of the departmental proceeding or allegation of exorbitant punishment. Counsel submits that the basic eligibility of the petitioner for the appointment on the basis of the advertisement which has been made as a special recruitment drive was degree of ITI. He submits that the period during which the petitioner has obtained the degree, he was admittedly in service and moreover, the place of his posting in the service and the school/institution from where he has obtained the degree which was the basic eligibility of the appointment was 300 kms away. Counsel further submits that in the charge memo, it has been specifically alleged that the petitioner has concealed his employment with Jharkhand State Education Department at the time of sending application for job in NTPC and subsequently at the time of joining. Thus, he deliberately suppressed the information regarding his previous employment while securing job in NTPC. The further allegation in the charge memo against the petitioner is that the petitioner pursued ITI regular course during Year 2008-2010 from Asha-ITI, Godda while in employment with Jharkhand State Education Department, Bokaro from year 2006 to 2016, which



is not tenable, as Godda is approximately 300 kms. away from Bokaro. Therefore, the charge memo contend that the ITI certificate to secure employment in NTPC, be treated as fake.

7. Learned counsel for the NTPC further submits that the service of the petitioner during his employment in the NTPC has been guided by the rule framed which deals with service conditions relating to NTPC employees. He submits that after issuance of charge memo, reply was demanded and upon receiving the reply, the matter was recommended before the Enquiry Officer. The Presenting Officer was appointed and the enquiry was conducted in presence of the petitioner granting opportunity to file documents, examination and cross examination. Counsel submits that the contention of the petitioner is wrong to say that opportunity of cross examination has not been provided to him. He submits that in the second show cause, it has been categorically taken the plea in Clause (C) of Annexure-11, where it has been admitted by the petitioner that *“I am Junior employee whereas he (management witness) is much more senior employee of NTPC and did not dare to cross examine the said influential designated official who was earlier in Vigilance Cell of NTPC.”* Counsel submits that in the light of the acceptance made by the petitioner and his argument



before this Court that opportunity for cross examination has not been provided, is not correct. He further submits that the argument of the petitioner is also wrong that the petitioner was working as Cluster Teacher. It is a specific case of the respondent that the petitioner was in full time employment. It may be *ad hoc*, but he was receiving the monthly salary and according to his own pleadings as well as the documents and correspondence made by the State of Jharkhand, it becomes crystal clear that he continued in the Jharkhand State Education Department as a Teacher since 2006 to 2016. Therefore, he submits that the Clause 8 column of the advertisement which according to the petitioner is optional or not to be filled, is also not correct and this pleading may not be accepted. He further submits that after submission of the enquiry report, second show cause has been demanded by the Disciplinary Authority, the reply has come and the Disciplinary Authority in his decision has duly considered the reply as well as the report and then passed the final order. The Appellate Authority has also considered every aspect of the matter and then passed the appellate order. Therefore, he submits that there is no need of any interference in the same.

8. After completion of the argument, this Court



specifically put question to the counsel for the petitioner again that, is there any violation of principles of natural justice, or violation of any disciplinary rule in the present departmental proceeding? The answer has come that it is not so. Only appreciation has been made wrongly and therefore, he required interference, particularly in the light of the submissions made by him an opportunity was not granted for cross examination.

9. Upon hearing the parties and upon going through the documents, particularly when no violation of principles of natural justice has been raised and no violation of any disciplinary rule, this Court is of the firm view that being the High Court, the Court ought not to interfere in the finding of the facts. But, since, counsel has specifically pleaded that Clause 8 of the advertisement's column is not necessary for him to fill and it is due to this reason, he has not filled up and on the question of not granting opportunity of cross examination, it is necessary for this Court to answer.

9.1. The basic eligibility for the appointment in the NTPC was degree of ITI. Admittedly, the period during which the degree has been obtained, the petitioner was in service from 2006 to 2016, which is a full time course and he was also in full time employment as well as drawn the salary during the said



period. This Court is of the firm view that this degree has been obtained during the period of his employment without seeking any sanction from his employer. In that case, the said degree cannot be utilized for any purpose.

10. So far as the description about his employment under Clause 8 of the advertisement was optional is concerned, this Court is of the view that it is not optional, rather, it is mandatory. Because, it is nowhere mentioned in Clause 8 about permanent, temporary or optional. It is only the experience, if any which includes name & address of the employer, designation, employment period, scale of pay and drawn salary, reason of leaving and nature of work. Therefore, this Court cannot accept the argument made by the counsel for the petitioner that Clause 8 was not mandatory for him.

11. So far as granting opportunity of cross examination is concerned, Clause (C) of the second show cause filed by the petitioner before the Disciplinary Authority is itself very much clear that opportunity was granted to him to cross examine, but he could not dare to cross examine, only due to the reason that the witness appeared before the Enquiry Officer is a high official. In the eye of law, this point is also not sustainable in favour of the petitioner.



12. For the reasons mentioned above, this Court finds that there is no need for any interference in this matter, as the orders passed by the Disciplinary Authority and the Appellate Authority have been made in accordance with law. Hence, this writ petition stands dismissed.

**(Dr. Anshuman, J)**

Divyansh/-

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| AFR/NAFR          |            |
| CAV DATE          | NA         |
| Uploading Date    | 03/02/2026 |
| Transmission Date | NA         |

