

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

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

M.A.T.583 of 2024

***Shyam Kumar Chaurasia
Versus
Coal India Limited and another***

For the appellant : Mr. Ajay Debnath

For the respondent/
Coal India Ltd. : Mr. Pranit Bag,
Mr. Debabrata Das,
Mr. Saptarshi Mukherjee,
Mr. Tirthankar Das,
Mr. A. Das

Judgment on : 13.05.2026

Madhuresh Prasad, J.:

1. Heard the learned advocate for the appellant and the learned advocate representing the respondents.
2. A short issue which arose for consideration before the learned Single Judge was whether the order dated 18.08.2020 passed by the Chairman-cum-Managing Director, Disciplinary Authority dismissing the petitioner/appellant from service is sustainable or not.
3. It was the case of the writ petitioner/appellant that he was visited with a charge memo dated 26.07.2012, which led to issuance of an

order of punishment. The charge memo alleged that as a Mine Manager of the Coalfield, he was responsible for some abnormal shortage of coal stock, which put the organization into a financial loss of Rs.44,12,606/-. The disciplinary proceeding commenced based on the charge memo and resulted in an order of punishment dated 10.09.2015. The punishment awarded to the writ petitioner/appellant was as follows:

“Reduction to one stage lower in time scale for one year on expiry of which it will not operate to postpone his future increment and he be allowed pay which they would have drawn in the normal course to meet end of justice.”

4. The petitioner preferred an appeal against the order which, according to the writ petitioner/appellant was also rejected thereby conforming the punishment.
5. It is submitted by the learned advocate for the writ petitioner/appellant that the issue arising out of the charge memo dated 26.07.2012 attained finality between the parties by the order of punishment dated 10.09.2015. Therefore, there was no scope whatsoever for the authorities to serve a show-cause notice dated 16.03.2020, which resulted in passing of the order of dismissal dated 18.08.2020. According to the learned advocate for the writ petitioner/appellant, the second show cause was barred on the principle of promissory and equitable estoppel.
6. The learned advocate for the respondents, on the other hand, submits that this show cause notice dated 16.03.2020 was issued by

a competent authority under Rule 34.1 of the Coal India Executives Conduct, Discipline and Appeal Rules, 1978 (hereinafter referred to as the “1978 Rules”) applicable to the writ petitioner/applicant. He relies upon the provision to sustain the issuance of the second show cause in view of petitioner’s conviction, based on a judgment of conviction dated 15.10.2018 passed in the criminal case lodged by the CBI in respect of the allegations for which the petitioner/appellant was earlier awarded the major punishment in the departmental proceeding, extracted above.

7. He submits that the Rule 34.1 provides the scope for passing such an order and, therefore, there is no infirmity in the order passed by the learned Single Judge. He refers to a decision of the Hon’ble Supreme Court of India in the case of ***Life Insurance Corporation of India Vs. Mukesh Poonachand Shah*** reported in ***(2020)12 SCC 144***.
8. We have considered the rival submissions. The respondents have relied on Rule 34.1 of the 1978 Rules. Therefore, we consider it apposite to reproduce the same as under:

“34.1. Notwithstanding anything contained in rule 29 or 30 or 31 the Disciplinary Authority may impose any of the penalties specified in rule 27 in any of the following circumstances—

- i) Where the employee has been convicted on a criminal charge, or on the strength of facts or conclusions arrived at by a judicial trial; or*
- ii) Where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or*

- iii) *Where the Disciplinary Authority is satisfied that in the interest of the security of the Company, it is not expedient to hold any inquiry in the manner provided in these rules.*
- iv) *Provided that the employee may be given an opportunity of making a representation to the penalty proposed to be imposed before any order is made under clause (i) above."*

9. The 1978 Rules clearly specifies the power for passing an order of punishment based on conviction in a criminal charge notwithstanding anything contained in Rules 29, 30 and 31 of the 1978 Rules dealing with the imposition of penalties in a departmental proceeding.

10. We, therefore, find that the power and jurisdiction of the authority was not in any way fettered by the fact that earlier a proceeding was conducted in respect of the allegations, and punishment awarded in the departmental proceeding.

11. Under such circumstance, the Rule specifically provides for passing of an order after giving the employee an opportunity of making a representation, which has been complied with by issuance of a show cause dated 16.03.2020.

12. In this connection, we find force in submissions of the learned advocate for the respondents relying upon the decision of the Apex Court in the case of ***Life Insurance Corporation of India*** (*supra*). The Apex Court in the said decision was dealing with identical submissions. The provision falling for consideration therein were also akin/similar to the provisions arising for consideration in the present case. It is in this context that the Apex Court held:

“14. Regulation 39(1) of the 1960 Regulations deals with the penalties which can be imposed upon an employee who is found guilty of misconduct. Regulation 39(2) mandates compliance with the principles of natural justice in terms of providing a reasonable opportunity to the employee to defend the charges. Regulation 39(4) operates with a non obstante clause. In terms of Regulations 39(4)(i), “where a penalty is imposed on an employee on the grounds of conduct which had led to a conviction on a criminal charge”, the appellant is independently entitled to take steps against the employee. It is in pursuance of the above provision that a notice to show cause was issued to the respondent. The penalty which was imposed on the disciplinary enquiry was for an act of misconduct. The notice which has been issued under Regulation 39(4) is for the conviction on a criminal charge. The former does not foreclose the latter.”

13. The actions of the respondent authorities, submissions advanced on behalf of the respondents, therefore, are fortified by the law as stated by the Apex Court in the decision in the case of ***Life Insurance Corporation of India*** (*supra*).

14. The learned Advocate for the appellant also submitted that the appellant had preferred an appeal against the judgment of conviction passed by the CBI Court. In view of pendency of appeal, the conviction had not attained finality. Under the circumstances, the petitioner could not be proceeded against under Rule 43.1 of the 1978 Rules. Such submission is noted only to be rejected, in view of the law in this regard, laid down in the decision of ***Life Insurance Corporation of India*** (*supra*) wherein similar issue was considered by the Apex Court. In the said case the Division Bench restrained the employer from passing final order on the notice to show cause the pending disposal of the criminal appeal. The Apex Court held that such judgment of the Division Bench restrained the appellant from

taking a final decision, pending disposal of the criminal appeal had no valid basis in law. The learned Advocate for the writ petitioner raised another issue regarding lack of competence of the authority who issued the show-cause and passed the order of dismissal. Such submission also is not founded on any pleading in this regard in the writ petition. No specific case is made out by the writ petitioner that the punishment of dismissal awarded by the Chairman-cum-Managing Director of the respondent organization to the petitioner, a senior Manager (Mining) was unsustainable as being issued by an incompetent authority.

15. We, therefore, find no reason to interfere with the judgment passed by the learned Single Judge.

16. The appeal is, accordingly, dismissed.

17. Urgent certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)