

Ram Singh @ Sonu Vs. Wcfl and ors.

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Court : Madhya Pradesh

Decided On : Jun-27-2012

Appellant : Ram Singh @ Sonu

Respondent : Wcfl and ors.

Advocate for Def. : Shri. Anoop Nair

Advocate for Pet/Ap. : Shri. S.P. Tripathi

Judgement :

1 HIGH COURT OF MADHYA PRADESH : JABALPUR WRIT PETITION
No.4833/2001 Ram Singh alias Sonu Vs. Western Coal Fields Ltd. & another

Shri
S.P. Tripathi, learned Counsel for the petitioner. Shri Anoop Nair, learned Counsel
for the respondents.

Present : Honble Shri Justice K.K. Trivedi

ORDER

(27/06/2012) Being aggrieved by the order dated 02.04.2001 by which the petitioner was dismissed from service, the petitioner has approached this Court by way of filing this writ petition under Article 226 of the Constitution of India.

2. It is contended that the petitioner was employed in the Western Coal Fields Ltd. (herein after referred to as W.C.L. for short) under the control of respondent No.2. A charge- sheet was issued to him on 2/3.11.2000 making allegations that the petitioner got himself employed by impersonating as if he was Ram Singh, son of Sukkal, whereas the real name of the petitioner is Sonu, son of Hannu. It is contended that the petitioner made an application in response to the said charge-sheet stating that he is illiterate tribal person and knows only to discharge his duties. He has not committed any fraud. The petitioner made an application for grant of defence assistance and for the said purpose one of the employees of the W.C.L. was appointed but the said person was not relieved, therefore, the petitioner was not granted full opportunity of defence. In 2 the statement recorded, effective cross-examination could not be done and thereafter some sort of enquiry report was submitted. Opposing the enquiry report, submissions were made by the petitioner but he was not granted an opportunity of hearing in appropriate manner and ultimately the order was issued dismissing the petitioner from service, therefore, he is required to file this writ petition. It is contended that since the order impugned is per se illegal, the same is liable to be quashed. The petitioner is entitled to be reinstated in service.

3. In response to the notice of this writ petition, return has been filed by the respondents and it is categorically contended that the complaint was made by one Shankar, son of Ram Singh, that the petitioner, by impersonating himself as Ram Singh, has obtained the employment with the respondents whereas the real name of the petitioner was Sonu, son of Hannu, and he was residing at Salidhana, Panchayat Ratamati, District Betul. The statements of the petitioner were recorded in which he has categorically admitted that his real name was Sonu, son of Hannu. He was resident of Desawadi. He got the employment in the year 1975. His brother-in-law is Ram Singh, son of Sukkal, who is resident of Salidhana. His brother-in-law gave him his card of interview for getting the employment in the establishment of the respondents. In this manner, the petitioner has obtained the employment. He admitted that Ram Singh, son of Sukkal, was residing at Salidhana. After recording this statement and completing the formalities of holding the enquiry, a report was given that the petitioner by impersonation has obtained the employment with the respondents and, therefore, he was liable to be

dismissed from service. After receipt of the enquiry report, the petitioner was granted full opportunity of defence by giving him a copy of the enquiry report. Though a reply was submitted by the petitioner to the second show cause 3 notice but nothing was placed on record to show that such a statement recorded by the Enquiry Officer was incorrect. After completing the proceedings of enquiry, the petitioner was dismissed from service with effect from 02.04.2001 by the impugned order. Thus, it is contended that nothing wrong is committed by the respondents and as such the petition is liable to be dismissed. No rejoinder whatsoever has been filed by the petitioner to meet out these allegations.

4. The only submission made by the learned Counsel appearing for the petitioner is that the petitioner was not afforded full opportunity of defence inasmuch as the defence assistant provided to the petitioner was not relieved to assist the petitioner in the departmental enquiry. The most important aspect is that the statement of the petitioner vide Annexure R-2 filed along with the return, was recorded on 23.08.2000 in presence of two witnesses. In this statement the petitioner has categorically admitted that his name was Sonu, son of Hannu. He has admitted that Ram Singh, son of Sukkal, is the elder brother of his wife Kaliya. Ram Singh, son of Sukkal, was the person who was issued the interview card by the respondents and said card was given to the petitioner by the said person for getting the employment. In this statement, he has categorically said that the statement is made without any pressure or influence. He categorically admitted his guilt that he has obtained the employment by impersonating himself as Ram Singh, son of Sukkal. The proceedings produced along with the writ petition are also examined. Nothing has been said in the statement recorded that the facts as have been mentioned by the petitioner in his statement were incorrect. On the other hand, Ram Singh, son of Sukkal, himself was examined as a witness. Sarpanch of the village was also examined as a witness in presence of the petitioner. Person before whom the statement in writing was made by the 4 petitioner, was also examined in presence of the petitioner. Documentary evidence in this respect was produced. From the voter list also the fact was found proved and these documents were taken into consideration. The report was submitted categorically holding that the petitioner has obtained employment by impersonation. With this evidence, how could it be said that the action of dismissal

of service of the petitioner was not justified.

5. Learned Counsel for the petitioner has again reiterated that the defence assistant was not relieved to assist the petitioner, who was an illiterate person. The Apex Court in case of D.G. Railway Protection Force & others vs. K. Raghuram Babu, (2008) 4 SCC 406, has categorically held that in case the representation of employee through an assistant is not permitted or allowed, it cannot be said that the right of defence of the delinquent is violated. It is categorically held by the Apex Court in Paragraph 11 of the report thus :

11. Following the above decision it has to be held that there is no vested or absolute right in any charge-sheeted employee to representation either through a counsel or through any other person unless the statute or rules/standing orders provide for such a right. Moreover, the right to representation through someone, even if granted by the rules, can be granted as a restricted or controlled right. Refusal to grant representation through an agent does not violate the principles of natural justice.

. Even otherwise even if such defence assistance would have been made available to the petitioner, the quantum of evidence available against the petitioner would not have been materially affected. In view of this, it cannot be said that the order impugned is bad in law. No interference in such an order of dismissal from service is called for in exercise of powers conferred on this Court under Article 226 of the Constitution of India

6. For the reasons stated herein above, there is no substance in the writ petition. The same is dismissed. There shall be no order as to cost. (K.K. Trivedi) Judge Skc

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