

V.N. Singh Vs. the Central Coalfields Ltd. and ors.

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Court : Jharkhand

Decided On : Apr-27-2004

Reported in : [2004(3)JCR306(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : C.W.J.C. No. 1653 of 1997 (R)

Appellant : V.N. Singh

Respondent : The Central Coalfields Ltd. and ors.

Advocate for Def. : Ritu Kumar,; Ravi Kumar Singh and; Nikki Sinha, Advs

Advocate for Pet/Ap. : Anil Kumar Sinha, Sr. Adv. and; Jayanta Mukherjee, Adv.

Disposition : Writ application dismissed

Judgement :

Amareshwar Sahay, J.

1. The petitioner has prayed for quashing the order as contained in Annexure-18 dated 3.10.1996 passed by the Chairman-cum-Managing Director (Actg.), Central Coal Field Ltd. whereby the petitioner was imposed punishment of stoppage of one increment for one year with cumulative effect from 24.8.1995 and also the

order as contained in Annexure-23 dated 3/4.3.1998 passed by the Chairman-cum-Managing Director and Appellate Authority, Coal India Ltd., whereby the Appellate Authority, having found no merit in the appeal filed by the petitioner and thereby affirmed the order passed by the Disciplinary Authority. 2. The petitioner who was posted as Deputy Sales Manager/Areas Sales Officer, Argada Area, during the relevant time was served with a memo dated 21/25.5.1994 under the signature of the Chairman-cum-Managing Director of Central Coalfields Limited whereby he was served with four Articles of Charge containing a statement of imputations of misconduct in support of which enquiry was proposed to be held and the petitioner was asked to submit written statement of his defence.

3. The following charges were levelled against the petitioner :--

(i) While he was posted as Deputy Sales Manager and functioning as Area Sales Officer, Argada Area, he failed to maintain devotion to duty and acted in a manner highly prejudicial in the interest of C.C.L. and knowing fully well about the terms and conditions of offer and acceptance between the management of C.C.L. and M/s. Continental Transport and Construction Corporation, in connivance with Sri. K.M. Singh, Addl. Chief Mining Engineer/ Project Officer, The Acting General Manager Argada Area entertained the receipt of representation of M/s. Continental Transport and Construction Corporation for change of grade and place of coal allotted to him and thereby he violated the Rules 4.1(ii) and (iii) 5.5. of Conduct, Discipline and Appeal Rules, 1978 of Coal India Limited.

(ii) While functioning as Area Sales Officer, Argada Area, he failed to maintain devotion to duty and acted in a manner highly prejudicial in the interest of C.C.L. by receiving of letter No. GM(A)/ASO(A)/LSS-II/94/119 dated 8.4.1994 of General Manager (A), Argada Area addressed to General Manager (S&M;), CCL Ranchi, did not bring the factual position to the knowledge/notice of Higher Authority i.e. General Manager (S&M;) C.C.L. Ranchi who was functional authority of his discipline and he did not seek his advise and order in this matter. Thus he violated Rule 4.1(iii) of Conduct, Discipline and Appeal Rule, 1978 of Coal India Limited.

(iii) While functioning as Area Sales Officer he failed to maintain devotion to duty and acted in a manner highly prejudicial in the interest of C.C.L. in connivance with

M/s, Continental Transport and Construction Corporation managed to delay receipt of Letter No. GM(A)/ASO(A)/LSS-II/94/119 dated 8.4.1994 by General Manager (S&M;), C.C.L. Ranchi which was received in the office of General Manager (S&M;), C.C.L. on 22.4.1994 only and thereby he allowed sufficient time to M/s. Continental Transport and Construction Corporation for managing order from the Coal Controller as well as from the High Court, Calcutta and prevented the CCL Management for taking further timely action in this matter and thus violated the Rules 22 and 23 of Conduct, Discipline and Appeal Rules, 1978 of Coal India Limited.

(iv) While functioning as Area Sales Officer, he failed to maintain devotion to duty and acted in a manner highly prejudicial to the interest of C.C.L., with ulterior motives and vested interest and in connivance with M/s. Continental Transport and Construction Corporation disclosed the official secret with regard to stock position of Argada Area by providing the copy of Letter No. CM(A)/ASO(A)/LSS-II/94/119 dated 8.4.1994 to said M/s. Continental Transport and Construction Corporation who took advantage and compelled the C.C.L. Management through Coal Controller and the Court to agree with their demand which was not in accordance with the LSS-II Scheme. Thus he violated Rules 22 and 23 of Conduct, Discipline and Appeal Rules 1978 of Coal India Limited.

4. The petitioner submitted his written statements of defence denying the charges levelled against him. Thereafter, enquiry was proceeded against the petitioner and the Enquiry Authority submitted his report with the following findings :--

(A) Sri V.N. Singh entertained receipt of the representation from M/s. CTCC and arranged their forwarding by the Acting G.M.(A)-charge party proved.

(B) After receipt of the forwarding letters signed by the Acting G.M.(A), Sri V.N. Singh did not bring the factual position to the knowledge/notice the factual position to the knowledge/notice of the General Manager (Sales & Marketing). Ranchi and the G.M. Argada although he knew the fullest details of the accepted terms and conditions-charged proved.

(C) Sri V.N. Singh connived with the party, M/s. CTCC and he managed to delay the delivery of the forwarding letters to the G.M.(S&M;). Ranchi. The letter of 8.4.1994 was delivered at Ranchi on 22.4.1994-charge proved.

(D) Mr. V.N. Singh gave his own copy of the forwarding letters (P-3 and P-4) to the party, M/s CTCC on the basis of which the party obtained orders from the Coal Controller and the Hon'ble High Court at Calcutta-charged proved.

5. The petitioner was served with a copy of the enquiry report and was asked to show cause to which the petitioner submitted his show cause challenging the enquiry report.

Thereafter the Disciplinary Authority by the impugned order dated 3.10.1996 as contained in Annexure-18, after considering the enquiry report and the representation/show cause of the petitioner, imposed punishment of stoppage of one increment for one year with cumulative effect w.e.f. 24.9.1995. Thereafter, the petitioner preferred an appeal before the Chairman-cum-Managing Director of Coal India Limited, which was rejected by the order dated 3/4.3.1998 as contained in Annexure-23 finding no merit in the appeal. As aforesaid two orders passed by the Discipline Authority as well as the Appellate Authority as contained in Annexures-18 and 23 respectively are under challenge in the present writ application.

6. As it appears, the case of the petitioner is that in the year 1993 M/s. Continental Transport and Construction Corporation, Dhanbad was allocated slurry Grade D to be lifted from Giddi Coal Washery. The said Continental Transport and Construction, Dhanbad made a representation for conversion of the said allocation of Slurry D to Dirty Slurry Grade F of Giddi Washerry. The said representation was addressed to the General Manager (Sales), Central Coalfields Ltd. and also to the Coal Controller, a copy of which was also sent to the General Manager, Argada Area. The General Manager, Argada Area by letter dated 11/12.12.1993 addressed to the Coal Controller gave the status report of the stock position and pending orders to the Coal Controller. On the basis of the said letter of the General Manager Argada Area, the said Transport and Construction Corporation moved before the Calcutta High Court and Calcutta High Court by its order dated

11.2.1994 allowed the prayer of the Transport and Construction Corporation for conversion of Slurry D to Dirty Slurry Grade F and directed the Central Coal Field Limited to allow the Transport and Construction Corporation to lift the said dirty Slurry Grade F from Giddi Washery, The order of the Calcutta High Court was implemented. Against the order of the Calcutta High Court Coal India Limited moved before the Supreme Court but the Supreme Court dismissed the appeal filed by the Coal India Limited. The said case is reported in, 1997 (9) SCC 258.

According to the petitioner, the General Manager (Sales) of Coal India Limited, did not raise any objection nor the management took it to be a misconduct on the part of the General Manager, Argada Area who had informed and/or had given the Status report to the Coal Controller and also a copy of the same to the Transport and Construction Corporation on the basis of which the Transport and Construction Corporation made representation for conversion the slurry D to Dirty Slurry Grade F. During the relevant time the petitioner was posted as Area Sales Officer, Argada and was working under the General Manager, Argada Area. On 8.4.1994 the said Transport and Construction Corporation submitted two applications to the General Manager, Argada Area for transfer of pending orders in respect of coal from Jarangdih and Urimari Colliery to Sirka Colliery which falls under Argada Area and another for transfer of orders from Slurry and dirty Slurry of Giddi Washery to Sirka, Religarha and Giddi-C. It is further stated by the petitioner that after receipt of the two aforesaid applications by the General Manager Argada Area, the General Manager, Argada forwarded the said two applications to the General Manager (Sales) of C.C.L. with copies to the petitioner and the party concerned. According to the petitioner, he was not at Argada on 8th April as he had gone to the Headquarters of C.C.L. at Darbhanga House, Ranchi for official work. The letter which was forwarded to the General Manager (Sales) was received at the Headquarter at Ranchi on 22nd April, 1994 but in the meantime M/s. Continental Transport and Construction Corporation, Dhanbad got a letter issued from the Coal Controller and also by moving the Calcutta High Court got an order for allowing the conversion of Grade and transfer of source and also to lift the materials from the transferred source.

7. Mr. Anil Kumar Sinha learned Senior Counsel for the petitioner submitted that none of the charges levelled against the petitioner constitute any mis-conduct. It was further submitted that in fact the petitioner did nothing rather every thing was done by the General Manager but against whom to action was taken. It was further submitted that it may be that the petitioner disclosed the stock position but that itself was not a crime or mis-conduct, rather the petitioner was duty bound to disclose the stock position.

8. Mr. Sinha by referring the findings arrived at by the Enquiring Authority submitted that the finding (A), even if it is said to have been proved it cannot be said to be a mis-conduct against the petitioner. So far as the finding. (B) is concerned, it was submitted that the same is absolutely vague. Regarding Finding (C), it was submitted that the said finding is contrary to the Supreme Court's decision in the case of Coal India Ltd. and Anr. v. Continental Transport and Construction Corporation and Ors. reported in (1997) 9 SCC 258. Regarding finding (D), the submission is that the said finding is not based on the materials on record rather it can be said that there was no material on record to come such finding.

9. From perusal of the enquiry report it appears that the Enquiring Authority has very elaborately dealt with the evidence and materials on record and thereafter on assessment of evidence held that the petitioner advised the Acting General Manager (A) to forward the representation and later on remained silent on the whole issue. It was further held on the basis of the evidence on record that the petitioner with full knowledge acted in a manner so as to be helpful to the party, M/s. Continental Transport and Construction Corporation at the cost of interest and credibility of the organization. It was found by the Enquiring Authority that the petitioner connived with the party M/s. Continental Transport and Construction Corporation in the matter and delayed dispatched of the representation to the General Manager (S&M;), Ranchi and the petitioner with ulterior motives and vested interest and in connivance with M/s. Continental Transport and Construction Corporation disclosed the official Secret with regard to the stock position of Argada Area by providing the copy of the letter dated 8.4.1994. On the facts the Enquiring Authority further held that M/s. Continental Transport and

Construction Corporation was in constant touch with petitioner on 8.4.1994 and therefore, the contention of the petitioner that he was out of station and he did not know anything about the case was rejected.

10. On close scrutiny of the report of the Enquiring Authority, I find that the findings arrived at by him is wholly based on the evidence and material on record and therefore, it cannot be said that the conclusion of the Enquiring Authority is in any way perverse or that the same is not based on record.

11. In the present case, I find that the Enquiring authority rightly found the charged to be proved against the petitioner on the basis of the materials on record. The evidence clearly indicated the connivance of the petitioner with the party namely M/s. Continental Transport and Construction Corporation and therefore the finding of the misconduct against the petitioner was fully justified.

The findings of the Enquiring authority cannot be said to be in any way against the decision of the Supreme Court in case of Coal India Ltd. and Ors. v. Continental Transport and Construction Corporation, reported in 1997 (9) SCC 258.

12. Under Article 226 of the Constitution the High Court does not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the Enquiry Officer as a matter of course. The High Court cannot sit in appeal over those findings and assume the role of the appellate authority. However, the High Court can interfere with the conclusion reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority. It is a settled law that the High Court should not interfere with the findings of fact recorded at the domestic enquiry but if the finding of guilt is based on no evidence, it would be a perverse finding and then would be amenable to judicial scrutiny.

13. It is a well settled law that the power of judicial review under Article 226 is not an appeal from a decision but a review of the manner in which the decision is made the Court sit in judgment only on the correctness of decision making process and not on the correctness of the decision itself,

14. In view of the my discussions and findings above, the contention advanced on behalf of the petitioner cannot be accepted. Thus, submissions of the learned counsel for the petitioner are rejected.

15. I find that the petitioner is not entitled to relief as prayed for in the writ application. Accordingly, I do not find any merit in this writ application. It is thus dismissed. No costs.

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