

Central Coal Fields Ltd. and ors. Vs. Suresh Kumar Singh and ors.

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Court : Jharkhand

Decided On : Jul-14-2005

Reported in : 2005(3)BLJR1843; [2005(4)JCR157(Jhr)]

Judge : Altamas Kabir, C.J. and; R.K. Merathia, J.

Appeal No. : Letter Patent Appeal No. 694 of 2003

Appellant : Central Coal Fields Ltd. and ors.

Respondent : Suresh Kumar Singh and ors.

Advocate for Def. : Mahesh Tiwari, Adv.

Advocate for Pet/Ap. : Ritu Kumar, Adv.

Judgement :

ORDER

1. Having heard learned counsels for the respective parties on the question of limitation, we are satisfied that sufficient grounds have been made out for condoning the delay of 16 days in filing the appeal.

2. The application for condonation of delay is, accordingly, allowed and the delay in filing the appeal is condoned and the appeal is taken up for consideration immediately.

3. This appeal has been preferred by the Central Coalfields Limited and its authorities against the judgment and order dated 25th August, 2003 passed by the learned single Judge in CWJC No. 3577 of 2000 holding that the punishment imposed upon the writ petitioners was excessive and disproportionate to the unproved charges levelled against them and quashing the same and remitting the matter to the Disciplinary Authority for passing a fresh order on the quantum of punishment in accordance with law.

4. The writ petitioners-respondents herein were working as Pay Clerks in Amlo Project of the Central Coalfields Limited. On 4th July, 1994, they were entrusted with the work of disbursement of salary to the employees and at the end of the day, certain unpaid amounts were kept in the respective Cash Boxes in the Cash room. According to the writ petitioners, they had duly informed the Cashier of such fact. On the same day at night, the cash boxes were broken open and the amounts kept therein the case room were stolen.

5. Disciplinary proceedings were initiated not only against the Cashier but also against the writ petitioners and ultimately in the enquiry, the writ petitioner were exonerated of the charges levelled against them on the finding by the Enquiry Officer that they had discharged their duties and the steps they were required to take under the Finance Manual had not been taken by them since they had not knowledge of the instructions contained therein. It is also a definite finding of the Enquiry Officer that the relevant provisions of the Finance Manual were circulated after the incident of theft and that the writ petitioners could not be held responsible for non-implementation thereof.

6. The Disciplinary Authority, however, disagreed with the finding of the Enquiry Officer and after considering the procedure as indicated in the Finance Manual held that the writ petitioners had also failed to abide by the conditions thereof and, accordingly, found them guilty of the charges levelled against them and not only imposed the punishment of demoting them to the next lower post and the pay scale but also directed that the amount which was stolen was to be recovered from each of them at the rate of Rs. 2,000/- per month in keeping with the amounts which had remained undisbursed with each of the petitioners.

7. As indicated hereinbefore, the learned single Judge was of the opinion that the punishment awarded to the writ petitioners amounts to double jeopardy since not only have they been demoted to the next lower post and pay scale, but a direction has also been given to recover the stolen amount from their salaries on the basis of unproved charges.

8. Mrs. Ritu Kumar, who appeared in support of the appeal, urged that this was not a case of double jeopardy, since the money, which had been stolen, had to be recovered, as the money had been entrusted with the writ petitioners. The Disciplinary Authority had rightly directed that the amount be recovered from their salary. It was also urged by Mrs. Kumar that the writ petitioners had also retained the keys of the cash boxes which were ultimately broken open and the contents thereof were stolen.

9. Appearing for the writ petitioners-respondents, Mr. Mahesh Tiwari, however, pointed out that the Enquiry Officer had found that the petitioners could not be held responsible for non-implementation of the Finance Manual, on the basis of which, the Disciplinary Authority had found the writ petitioners guilty of the charges levelled against them.

10. Mr. Tiwari urged that in keeping with the practice which was corroborated by all the witnesses during the course of enquiry, the writ petitioners had informed the Cashier of the fact that certain undisbursed amounts had been kept in the respective cash boxes in the cash room. The Enquiry Officer had come to a definite finding that it was the sole responsibility of the Cashier to take charge of the cash boxes to remove them to a safer place for custody.

11. In the fact situation, we are inclined to agree with the finding of the learned single Judge that as far as the writ petitioners are concerned, the direction to recover the stolen amount from their salary along with demotion in the next lower post and pay scale amounts to double punishment. We are, therefore, not inclined to interfere with the said direction, but we agree with Mrs. Kumar's submission that the amount stolen has to be recovered and, for the said purpose, the appellants will be at liberty to take such steps, as may be advised, in accordance with law. Amounts already recovered from the salaries of the writ petitioners, in terms of the

order of the Disciplinary Authority are to be reimbursed to them.

12. With the aforesaid observations and direction, this Letters Patent Appeal is disposed of, but there will be no order as to costs. LPA disposed of.

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