

**Suresh Pathak Vs. the Chief General Manager, C.C.L. and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/520896](http://sooperkanoon.com/520896)

**Court :** Jharkhand

**Decided On :** Sep-06-2007

**Reported in :** [2008(1)JCR356(Jhr)]

**Judge :** M. Karpaga Vinayagam, C.J. and; Amareshwar Sahay, J.

**Appellant :** Suresh Pathak

**Respondent :** The Chief General Manager, C.C.L. and anr.

**Disposition :** Appeal dismissed

**Judgement :**

M. Karpaga Vinayagam, C.J. and Amareshwar Sahay, J.

1. We have heard learned Counsel for the appellant as well as the respondents.
2. The appellant herein had preferred the writ petition being WP (S) No. 1345 of 2004 for a direction to the respondents to stop issuing oral orders of transfer, whereby, he has been transferred from Crusher Section (Electricity and Mechanical) to the Pump Section of the Open cast Mines, K.D.H. Project, Khelari.
3. According to the appellant, without passing a written order he has been asked to go to work in the underground mines, which is not legal.
4. On the other hand, the counsel for respondents, would submit that there was no transfer and the appellant, who was deployed to different section of the same

office, unauthorizedly remained absent from duties and with reference to the said charge, departmental enquiry is pending. In the light of the said submission, the learned single Judge by the impugned order dated 2nd May, 2006 declined to decide the issue, inasmuch as the same required determination by the Enquiry Officer. Aggrieved by this order, this LPA has been filed.

5. Mr. A.K. Sinha, learned senior counsel appearing for the appellant strenuously contended that Section 48(6) of the Mines Act, 1952 has not been followed, which specifically mentions about permission/authorization for entering in any open cast working or below ground working and, as such, oral transfer is not valid.

6. This is a case where there is a dispute with reference to the transfer of the appellant to underground mines. According to the counsel for the appellant, there is an oral transfer, directing the appellant to go from surface to underground mines. According to the learned Counsel for the respondents, there is no transfer order and it is only deployment of the appellant to a different job in the same section. So, now the Enquiry Officer has been asked to enquire into the question as to whether the appellant was orally transferred to underground mines and whether he was unauthorizedly absent from duties, These are all the questions to be decided by the Enquiry Officer in the enquiry, pending before him.

7. We do not want to enter into these disputed facts, as correctly decided by the learned single Judge. We, therefore, do not find any merit in this appeal, which is hereby dismissed, but without any order as to costs. However, the enquiry may be proceeded expeditiously and disposed of at an early date.