

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
ON'BLE SHRI JUSTICE DEEPAK KHOT**

ON THE 15th OF DECEMBER, 2025

WRIT PETITION No. 9019 of 2021

RAVINDRA DUBEY

Versus

SOUTH EASTERN COAL FIELD LTD. AND OTHERS

Appearance:

Shri Kailash Chandra Ghildiyal – Senior Advocate with Shri Karnik Singh appeared for petitioner.

Shri Anoop Nair Senior Advocate with Ms.Akasmi Trivedi appeared for the respondents.

ORDER

The petitioner has filed this petition under Article 226 of the Constitution of India seeking following reliefs:-

“(i) A writ order or direction in the nature of certiorari thereby quashing the impugned notice dated 16/03/2021 (Annexure-P/13) issued by respondent No.4 and the enquiry report submitted by the enquiry officer (Annexure P/7).

(ii) The Hon’ble Court may be pleased to direct the respondents to reinstate the petitioner in service with effect from 16/-3/2021 with all consequential benefits.

(iii) Any other appropriate writ, order or direction which the Hon’ble Court may deem just and proper in the nature and circumstances of the case.”

2. In short, the facts of the case are that the petitioner was appointed as a General Mazdoor on 22.03.1984 and is presently working as a Mechanical Fitter at Kurja Mines under respondent No.1-Company. His younger brother, Mandeep Dubey, is employed as an Explosive Carrier and is posted at Kapildhara Underground Mine.

Another brother, Virendra Dubey, was unemployed for a long period and used to demand money from the petitioner and Mandeep Dubey. From 1997–98 till 2018, both brothers regularly extended financial assistance to Virendra Dubey and also helped him secure contract work with Respondent No.1 company. Due to increased family responsibilities, the petitioner and his brother found it difficult to continue providing financial help and arranging work for Virendra Dubey. Aggrieved by the stoppage of financial support, Virendra Dubey lodged a false complaint before respondent No.3 alleging impersonation and identity fraud by the petitioner and his brother. He further lodged an FIR at Police Station Ram Nagar, District Anuppur. The matter was referred to the Superintendent of Police, Palamu (Jharkhand), where the allegations were reported to be correct. As a result, the petitioner and his brother were arrested on 14.03.2020 and were subsequently released on bail on 15.05.2020. Meanwhile, departmental proceedings were initiated against the petitioner. A charge-sheet was issued in July 2019, later cancelled, and a fresh charge-sheet was served. The petitioner submitted a detailed reply on 27.09.2019, denying all allegations and enclosing documentary evidence such as Aadhaar Card, Voter ID, PAN Card, Ration Card, residence certificate, Gram Panchayat certificate, and affidavits of family members. Despite the reply and documents, a departmental enquiry was conducted primarily on the basis of police reports. The enquiry officer held the charges proved and found the petitioner guilty. A show cause notice was issued by respondent No.5, and thereafter Respondent No.4 passed an order of dismissal dated 16.03.2021. The petitioner challenged the proceedings by filing W.P. No.2587/2021 before this Court and later W.A. No.385/2021 was filed, the writ appeal was resulted in quashing of an earlier order and liberty was granted to the petitioner to challenge the dismissal order afresh. It is submitted that the dismissal order is illegal, arbitrary, malafide, without authority and in violation of principles of natural justice, as respondent no.4 was not competent to impose the penalty and the enquiry was conducted in a predetermined and cryptic manner.

3. The respondents have filed the return and contended that the petitioner has impersonated as Ravindra Dubey for getting service in respondent - Company. The petitioner's real name is Mandeep Dubey and not Ravindra Dubey and his younger brother's name is Sanjay Dubey and not Mandeep Dubey, as claimed by the petitioner. On receiving complaint against the petitioner, report was lodged against him and on the basis of above report, a charge-sheet dated 23.09.2019 was filed. As the reply of the charge-sheet filed by the petitioner was not found satisfactory, hence enquiry was conducted following all the norms of natural justice and the enquiry Officer based on the evidence that has come on record gave his findings. Petitioner was also given ample opportunity by the enquiry officer, but inspite of that petitioner was not able to defend his case and charges were leveled against the petitioner. A second show-cause notice dated 27-28/01/2021 was also issued to petitioner, reply to which was also not found satisfactory, hence punishment order was issued. It is further submitted that in view of above circumstances, petitioner is not entitled for grant of any relief, hence prayed for dismissal of writ petition.

4. It has been contended by the learned Senior counsel for the petitioner that the ground to challenge the impugned order dated 16.03.2021 (Annexure P/13) is that it has been issued/passed by the incompetent authority as per the Standing Orders, which are applicable for the purpose of enquiry and disciplinary action on the employees of the respondents-establishment. Secondly, that due to non-following of procedure during conduction of enquiry, the enquiry is vitiated coupled with the fact that the enquiry Officer while forming his opinion on the charges has not considered the evidence as well as the statement of the witnesses. It is further submitted that the documents, on which the finding is recorded, has not been exhibited by any witness of the respondents-establishment. The evidence has been led by the complainant against whom the offence has been registered by the petitioner. It is further submitted that although the offence for impersonation against the petitioner has been registered on which the finding has been recorded,

but the trial has not yet been concluded in conviction or acquittal, thus giving finding on the basis of FIR is also not justified. The learned Senior counsel for the petitioner has submitted that from the entire proceedings of the enquiry Officer, which is reproduced in the enquiry report dated 19.01.2021 (Annexure P/7), it is not revealed that any of the documents has been exhibited. The representative of the Company has submitted the document on which certain numbers have been endorsed, but the same cannot be treated to be evidence as the said concerned employee has never tendered any oral evidence in support of such documents. It is further submitted that the Hon'ble Apex Court in the case of **Roop Singh Negi vs. Punjab National Bank and others, (2009) 2 SCC 570**, has observed that unless such documents are tendered in evidence during departmental enquiry, the same cannot be read for recording the punishment.

5. It is further submitted that in similar circumstances this Court in the case of **Tapeshwar Mandal vs. South Eastern Coalfields Ltd., and others, Writ Petition no.9056/2023** has given categorical finding that from the perusal of the impugned order, it is seen that it has been passed by an authority who was not competent as per the Standing Orders. It is also found by the co-ordinate Bench that the inference, which has been drawn on the basis of the CBI investigation and reports, no adverse order could have been passed without giving opportunity to the delinquent employee to cross-examine those documents. Accordingly, punishment order passed in that case has been quashed and matter has been remanded back for fresh enquiry from the stage of the evidence. It is further submitted that the Hon'ble Apex Court in the case of **Sher Bahadur vs. Union of India and others, (2002) 7 SCC 142** has held that sufficiency of evidence postulates existence of some evidence which links the charged officer with the misconduct alleged against him. It is submitted that as the documents on the basis of which the findings have been recorded were never been tendered in evidence in accordance with law as well as the opportunity was not given to the petitioner to cross-examine on those documents, enquiry is vitiated.

6. To further bolster his submissions, learned Senior counsel for the petitioner has relied on the judgment of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and others vs. Saroj Kumar Sinha, (2010) 2 SCC 772** to state that an enquiry Officer acting as quasi judicial authority is in the position of an independent adjudicator and finding that no oral as well as documentary evidence in that matter has been submitted by the employer, the Hon'ble Apex Court has held that since no oral evidence has been examined, the documents have not been proved and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

7. *Per contra*, learned counsel for the respondents has submitted that the impugned order has been communicated by Sub Area Manager, however, the order of punishment has been passed with due approval of the competent authority as per the Standing Order i.e. by the Chief General Manager. In support of his contentions, learned counsel for the respondents has invited attention of this Court towards the Annexure R/2, note sheet, which shows that prior to issuance of order of punishment, approval has been taken from the competent authority. It is further submitted that in the enquiry report itself there is a mention that the evidence has been led in meeting no.14. The petitioner was given due opportunity to cross-examine the witness. The complainant, who has made complaint in respect of impersonation against the petitioner, has been examined. The petitioner has cross-examined the said witness thoroughly and thus, it cannot be said that the oral evidence has not been tendered to form any basis in the enquiry report. It is further submitted that the documents, which have been submitted by the representatives of the respondents-establishment, were in public domain and, therefore, being the documents of the police, no further oral evidence is required in the matter. It is submitted that the findings have been recorded on the basis of the police documents, which suggest that offence of impersonation against the petitioner has been registered on the complaint of the complainant. Therefore, the enquiry officer

has rightly found that the petitioner has been working by impersonating Ravindra Dubey.

8. The counsel for the respondents to bolster his submission has relied on the case of **State of Uttar Pradesh and Ors. Vs. Rajit Singh (2022) 15 SCC 254**, to submit that even if the Court comes to conclusion that the enquiry Officer has faulted in following the procedure of enquiry by giving opportunity to the other side to tender the evidence then without reinstating the delinquent employee the matter be remanded back to the enquiry officer to conduct enquiry from the stage it has been left. On the basis prayed for dismissal of petition.

9. Heard learned counsel for the parties and perused the record.

10. It is evident from the impugned order that the order has been shown to be passed by the Sub Area Manager. However, in the order there is no mention that the matter was placed before the competent authority i.e. the Chief General Manager and after according approval by the Chief General Manager the order dated 16.03.2021 has been passed. As per the Standing Orders, Sub Area Manager is competent to initiate the departmental proceeding. However, from the note sheet (Annexure R/2), it is apparent that after enquiry the matter was placed before the Chief Area Manager/Chief General Manager for according sanction/approval of the punishment, which has been accorded by the said officer. Thus, the ground in respect of incompetency in the present matter in hand is not applicable because before communicating the order of punishment, the sanction has been accorded by the competent authority. However when the second ground raised by the learned senior counsel for the petitioner has been analyzed, it is found that the finding has been recorded by the enquiry officer only on the basis of certain documents of FIR, which has been registered against the delinquent employee. It is revealed from the finding recorded by the enquiry officer that the enquiry Officer solely on the basis of documents, which were not exhibited by the witness of the establishment, recorded the finding that the petitioner had impersonated himself as

Ravindra Dubey. It is further submitted by both the parties that the trial in regard to FIR lodged against the petitioner is pending, however, in absence of the document of the trial, no finding can be given by this Court, but it appears from the finding recorded by the enquiry Officer that the enquiry Officer has formed opinion only on the basis of FIR.

11. The Hon'ble Apex Court in the case of **Roop Singh Negi vs. Punjab National Bank and Ors. (2009) 2 SCC 570**, has held as under:

“**14.** Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence.”

12. Similarly, the Hon'ble Apex Court in the case of **Sher Bahadur vs. Union of India and Ors. (2002) 7 SCC 142**, has held as under :-

“**5.** Mr V.C. Mahajan, learned Senior Counsel appearing for the respondents argued that after conducting enquiry and after complying with all the formalities, the appellant was dismissed from service. Both the Central Administrative Tribunal as well as the High Court found that the dismissal was proper.

6. A perusal of the judgment and order under challenge shows that the High Court having referred to the enquiry report found that there was oral and documentary evidence (Ext. P-1) to hold him guilty and

that sufficiency of the evidence would not be a ground to challenge the order of the disciplinary authority by invoking the writ jurisdiction.

7. It may be observed that the expression “sufficiency of evidence” postulates existence of some evidence which links the charged officer with the misconduct alleged against him. Evidence, however voluminous it may be, which is neither relevant in a broad sense nor establishes any nexus between the alleged misconduct and the charged officer, is no evidence in law. The mere fact that the enquiry officer has noted in his report, “in view of oral, documentary and circumstantial evidence as adduced in the enquiry”, would not in principle satisfy the rule of sufficiency of evidence. Though, the disciplinary authority cited one witness Shri R.A. Vashist, Ex. CVI/Northern Railway, New Delhi, in support of the charges, he was not examined. Regarding documentary evidence, Ext. P-1, referred to in the enquiry report and adverted to by the High Court, is the order of appointment of the appellant which is a neutral fact. The enquiry officer examined the charged officer but nothing is elicited to connect him with the charge. The statement of the appellant recorded by the enquiry officer shows no more than his working earlier to his re-engagement during the period between May 1978 and November 1979 in different phases. Indeed, his statement was not relied upon by the enquiry officer. The finding of the enquiry officer that in view of the oral, documentary and circumstantial evidence, the charge against the appellant for securing the fraudulent appointment letter duly signed by the said APO (Const.) was proved, is, in the light of the above discussion, erroneous. In our view, this is clearly a case of finding the appellant guilty of charge without having any evidence to link the appellant with the alleged misconduct. The High Court did not consider this aspect in its proper perspective as such the judgment and order of the High Court and the order of the disciplinary authority, under challenge, cannot be sustained, they are accordingly set aside.”

13. The Hon’ble Apex Court in the case of State of Uttar Pradesh and others vs. Saroj Kumar Sinha, (2010) 2 SCC 772 in para 28 has held as under :

“28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in

the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.”

14. From the above enunciation of law, it is crystal clear that while conducting the enquiry, the delinquent employee is required to give a due opportunity to cross examine the witness and the documents submitted or exhibited. As the enquiry officer conducted the enquiry as a quasi judicial function, which may not require strict adherence of the principle of law of evidence, but, as a matter of fact, the person should be given due opportunity of cross examine the documents. From the perusal of the findings recorded by the enquiry officer, it does not reveal that the opportunity to the petitioner was granted to rebut and cross-examine those documents. Thus, as the documents remained un-criticized by the delinquent, same cannot be read in the light of the judgment rendered by the Hon’ble Apex Court. Thus, as the co-ordinate Bench in the similar circumstances has remanded back the matter to the enquiry Officer to proceed from the stage of enquiry by giving opportunity to the delinquent from the stage after issuance of charge sheet so that the petitioner can get fair opportunity to cross-examine the witness and the documents, if exhibited by the witnesses of the respondents establishment. It is submitted by both the counsel for the parties that it has been informed that during the pendency of the disciplinary proceeding and petition, the petitioner has already reached the age of superannuation in March, 2023, thus even if the matter is remanded back for enquiry then no fruitful purpose would be served, however, this Court maintaining the judicial discipline and following the principle which has been laid down by the Coordinate Bench holds that the respondents establishment, if so desire, may proceed with the enquiry from the stage mentioned herein above, but for that petitioner is held to be entitled for subsistence allowance till the age of retirement, as the punishment order has not been stayed by this Court. In the light

of aforesaid, punishment order dated 16.03.2021 (Annexure P/13) is hereby quashed and matter is remanded back to the authorities to proceed in the matter as directed hereinabove.

15. It is further observed that as the fate of the criminal case is also not known, the respondents are directed to consider both aspect of the departmental enquiry as well as criminal case to grant the petitioner all the consequential benefit of service till his retirement and post retirement, if he is found entitled.

16. With the aforesaid, the petition is disposed of.

(DEEPAK KHOT)
JUDGE

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