

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,**

**CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV**

**ON THE 7<sup>th</sup> OF APRIL, 2022**

**WRIT APPEAL No. 324 OF 2022**

**Between:-**

**BINOD KUMAR MANDAL, S/O SHRI  
RAMESHWAR MANDAL, AGED ABOUT 41  
YEARS, MINING SIRDAR, BARTARI MINES,  
JAMUNA KOTMA AREA, SOUTH EASTERN  
COALFIELDS LIMITED, POST OFFICE  
CHUKAN COLONY, DISTRICT ANUPPUR  
(M.P.)**

**.....APPELLANT**

***(BY SHRI K.C. GHILDAYAL – SENIOR ADVOCATE ASSISTED BY  
SHRI HARISH CHANDRA SINGH - ADVOCATE)***

**AND**

- 1. SOUTH EASTERN COALFIELDS LIMITED,  
THROUGH ITS CHAIRMAN-CUM-  
MANAGING DIRECTOR, SEEPAT ROAD,  
BILASPUR (C.G.)**
- 2. THE DIRECTOR, (PERSONNEL), SOUTH  
EASTERN COALFIELDS LIMITED, SEEPAT  
ROAD, BILASPUR (C.G.)**
- 3. THE GENERAL MANAGER, JAMUNA  
KOTMA AREA, SOUTH EASTERN**

COALFIELDS LIMITED, POST OFFICE  
JAMUNA COLLIERY DISTRICT ANUPPUR  
(M.P.)

4. THE SUB AREA MANAGER, AMADAND  
UNDER GROUND SUB AREA, SOUTH  
EASTERN COALFIELDS LIMITED, POST  
OFFICE AMADAND DISTRICT ANUPPUR  
(M.P.)
5. THE COLLIERY MANAGER, BARTARAI  
COLLIERY, AMADAND UNDER GROUND  
SUB AREA, SOUTH EASTERN COALFIELDS  
LIMITED, POST OFFICE AMADAND  
DISTRICT ANUPPUR (M.P.)

....RESPONDENTS

*(SHRI ANOOP NAIR – ADVOCATE)*

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*This appeal coming on for admission this day, Hon'ble Shri Justice  
Purushaindra Kumar Kaurav, passed the following:*

**ORDER**

This *intra* Court appeal takes exception to order dated 07.03.2022 (Annexure-A-1) passed by the learned Single Judge in Writ Petition No.5022 of 2022 whereby, the writ petition filed by the appellant/writ petitioner has been dismissed.

2. The case of the appellant is that he was appointed as Mining Sirdar, T&S Grade-C vide order dated 23.02.2011 with the respondents-SECL. An FIR No.RC.6(A)/2017-D dated 29.06.2017 was registered by CBI-ACB, Dhanbad for the offence punishable under Sections 120-B, 420, 468 and 471 of the IPC and under Sections 13(2) read with Section 13(1) (d) of Prevention of Corruption Act, 1988 against the appellant and other accused persons for entering into a criminal conspiracy during 2003-2004 while

issuing Sirdar's certificate from DGMS to the appellant and other accused persons by violating the norms/guidelines as prescribed by the Coal Mines Regulations, 1957 Chapter-III, 15(2) (amendment of 2001 as per Gazette of India notification dated 05.11.2001). It is alleged that on the basis of said Sirdar certificate the appellant and other persons secured appointment in different subsidiaries of Coal India Limited and thereby, they gained pecuniary benefits. After investigation, charge sheet was filed by the CBI before the competent Court at Dhanbad. A charge-sheet was issued to the appellant on 11.12.2021 by the employer on the ground that forged matriculation as well as experience certificate were submitted by him applying for the examination of Sirdar's certificate and by submitting forged matriculation and mining Sirdar's certificate, the employment was obtained. The act of the appellant was *prima facie* found to be misconduct under the relevant certified Standing Orders of SECL and, therefore, along with the charge-sheet, imputation of charges, list of documents and list of witnesses were furnished to the appellant calling his explanation to the charges. On 05.02.2022, an intimation has been issued to the appellant to appear before the inquiry Officer for departmental inquiry. The appellant, therefore, challenged the communication dated 05.02.2022 before this Court initiating the departmental inquiry against him with the further prayer to postpone the proceedings of departmental inquiry till finalization of the criminal case pending against him.

3. The learned Single Judge did not find any substance in the writ petition and accordingly the same has been dismissed. The appellant is, therefore, in the instant appeal.

4. Learned Senior counsel appearing for the appellant submits that if the departmental inquiry continues against the appellant, he would suffer irreparably as his defence is bound to be disclosed and, therefore, taking into consideration the fact that the nature of charges, the proceedings of departmental inquiry should be stayed till the criminal case comes to an end.

5. We have considered the aforesaid submissions made by the learned Senior counsel appearing for the appellant. We find that the scope of trial before the criminal Court is to examine the criminal conspiracy, cheating, forgery for the purpose of cheating, using as genuine a forged document and criminal misconduct by a public servant. The scope of inquiry in a criminal trial and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings, the primary question is whether an employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offence registered against him are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rule governing the enquiry and trial are conceptually different. **(See: *Lalit Popli vs. Canara Bank and others*)<sup>1</sup>**

6. The imputation of charges against the appellant shows that the appellant claimed experience of 3 years, 2 months and 16 days and passing of matriculation etc. The certificates were *prima facie* found to be forged and not issued by the person concerned. The signature of the issuing authority were found to be forged. The concerned role number against

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<sup>1</sup> (2003) 2 SCC 583.

which the appellant claims to have passed the examination was found to be belonging to another student. The number of accused in the criminal trial are different. List of witnesses in criminal case shows that they are as many as 64. The list of documents of the criminal case and the charge-sheet are not same.

7. The Hon'ble Supreme Court in the case of *M. Paul Anthony*<sup>2</sup> was of the opinion that the departmental proceedings and the proceedings in a criminal case can proceed simultaneously as there is no bar. However, it is desirable to stay departmental inquiry till conclusion of the criminal case if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in a criminal case against the delinquent employee is of a grave nature which involves complicated question of fact and law. On the facts of the said case, it was found that the criminal case and departmental proceedings were based on identical set of facts and the evidence before the criminal court and the departmental inquiry was the same. Further, in the said case the departmental inquiry was conducted *ex parte*. In such circumstances, the Hon'ble Supreme Court held that the *ex parte* departmental proceedings cannot be permitted to stand in view of the acquittal of the delinquent by the criminal court on the same set of facts and evidence. The said judgment is not applicable to the facts of this case.

8. Subsequently in *Stanzen Toyotetsu India (P) Ltd. v. Girish V.*<sup>3</sup> the Hon'ble Supreme Court held that disciplinary proceedings and proceedings in a criminal case can proceed simultaneously in the absence of any legal bar to such simultaneity. It is also evident that while seriousness of the

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<sup>2</sup> (1993) 3 SCC 679.

<sup>3</sup> (2014) 3 SCC 636

charge levelled against the employees is a consideration, the same is not by itself sufficient unless the case also involves complicated questions of law and fact. Even when the charge is found to be serious and complicated questions of fact and law that arise for consideration, the court will have to keep in mind the fact that departmental proceedings cannot be suspended indefinitely or delayed unduly.

9. Having considered the overall facts and circumstances of the case and the scope of inquiry and the nature of allegations against the appellant, we do not find that the criminal trial is of a grave nature involving complicated questions of fact and law. The offence if proved beyond reasonable doubt, then the appellant would be convicted under the relevant provisions. However, the departmental inquiry relates to his misconduct and breach of duty where strict standard of proof, are not required. Hence, for all these reasons, the writ appeal is dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(PURUSHAINDR KUMAR KAURAV)**  
**JUDGE**

pb.