IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 28677 of 2025

Eastern Coalfield Limited

Vs

Union of India & Ors.

For the Petitioner	**:**	**Mr. Anup Kanti Poddar,**
		Ms. Anjali Shaw.
For the U.O.I.	**:**	**Mr. Pinaki Bhattacharyya,**
		Ms. Shaista Afreen.
Judgment reserved on	**:**	**31.03.2026**
Judgment delivered on	**:**	**05.05.2026**

SHAMPA DUTT (PAUL), J. :

1. The writ application has been preferred challenging an award dated 20.05.2024, passed by the Learned Central Government Industrial Tribunal, Asansol, in reference Case No.18 of 2019.

2. Vide the impugned order the Learned Tribunal directed as follows:-

> "*that the Industrial Dispute is allowed on contest against management of ECL. The order of dismissal dated 13.03.2015 issued by the Assistant Personnel Manager (IC) of Kajora Area, ECL on approval of the General Manager of Kajora Area is hereby set aside. The management of ECL is directed to reinstate Sunil Majhi in the service of the company within one*

(1) month from the date of communication of the Award. Let an award be drawn up in the light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification."

3. Being aggrieved the writ application has been preferred challenging the said award.

4. **The petitioner's case in short is that** the Petitioner Eastern Coalfields Limited (ECL) employed Respondent No. 4, Shri Sunil Majhi, as a General Mazdoor under Kajora Area. On 22.11.2014. While on duty at Madhabpur Colliery during the night shift, Respondent No. 4 committed serious misconduct by jumping into Pit Shaft No. 2 after crossing the pit fencing, resulting in disruption of mine operations and posing serious safety risks in an active mine area. He thereby violated Regulation 38(1)(a), 38(1)(b) and 38(3)(a) of the Coal Mines Regulations, 1957 read with Clause 26.3, 26.15, 26.22 and 26.26 of the Certified Standing Orders of ECL.

5. A domestic enquiry was conducted in compliance with the principles of natural justice, where Respondent No. 4 admitted his misconduct. The charges were duly proved. Considering the gravity of the misconduct and his past disciplinary record, the competent authority dismissed him from service by order dated 13.03.2015. Respondent No. 4 did not file any departmental appeal within the stipulated period.

6. More than one year later, Respondent No. 4 submitted a mercy petition merely seeking sympathetic relief without raising any grievance

regarding the enquiry. Subsequently, a union espoused the dispute and the matter was referred to the Central Government Industrial Tribunal-cum-Labour Court, Asansol (CGIT) as Ref. Case No. 18 of 2019.

7. By the impugned Award dated 20.05.2024 (notified on 24.06.2024), the CGIT illegally set aside the dismissal and directed reinstatement without back wages.

8. It is stated that the Tribunal completely ignored the proved misconduct, statutory safety violations, the admission made during enquiry, and his past record, and interfered with the penalty, solely based on misplaced sympathy. Such interference exceeds the jurisdiction vested in an Industrial Adjudicator and is contrary to settled principles regarding judicial review over disciplinary action.

9. The petitioner by way of filing written notes has argued that by an order dated 25.11.2014, the Petitioner issued chargesheet to the Respondent No. 4 charging him for attempt to commit suicide by jumping into the 2nd no. Pit Shaft of Madhabpur Colliery by crossing the pit fencing by which he endangered himself and other persons and for other misconduct as mentioned in the said chargesheet.

10. He has also been charged for violation of Coal Mines Regulation, 1957 under clause 38 (i) (a), neglect and refuse to obey the order and direction issued under the Act and regulation;

> 38 (i) (a), neglect and refuse to obey the order and direction issued under Act and regulation;

38 (i) (b), interfere with, impact or obstruct any person on the discharge of his duty.

38 (iii) (a), remove or pass through any fence barrier or gate.

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26.3 Wilful insubordination or disobedience, whether alone or in conjunction with another or others of any lawful or reasonable order of a superior.

26.15 Any breach of the Mines Act, 1952 of any other act or any Rules, Regulation or bye laws there under.

26.22 Sabotage or causing willful damage to work in progress or to property of the Company.

26.26 Conduct within the mine's premises of its precincts which endangers life of safety of any person.

11. Ultimately, charges against the employee have been proved before the disciplinary proceedings followed by domestic enquiry against the Respondent No. 4. Finally by an order dated 13.03.2015, Respondent No. 4 has been removed from service with effect from 13.03.2015.

12. It is the petitioner's argument that the impugned award passed by the learned tribunal setting aside the order of dismissal and directing reinstatement of the workman, is perverse and bad in law as the Learned Tribunal has failed to consider that in a domestic enquiry for proving charge against the delinquent employee objective satisfaction

for proving charge is not necessary but subjective satisfaction is sufficient.

13. The petitioner has relied upon the judgment reported in ***(2014 SCC online SC 397)*** order dated: 25th April, 2014, ***Bhuvnesh Kumar Dwivedi Vs. Hindalco Industries Limited*** (Para 21 and 22).

14. It is further stated that the Learned Tribunal has ignored the point, that during enquiry proceedings, the employee concerned admitted the Charges in the presence of defense assistance Mr. D.B.Chakraborty and the same has been recorded in the Enquiry report.

15. It is further stated that Respondent No.4 admitted his misconduct before the Enquiry Officer and expressed remorse, and therefore, the Tribunal could not have discarded the findings of the enquiry without any material basis and the Tribunal ignored the past service record of Respondent No.4 involving repeated unauthorized absence and prior punishments, which was rightly considered by the disciplinary authority while determining the penalty.

16. On hearing the Learned Counsels for the parties, on perusal of the materials on record and the findings of the Learned Presiding Officer of the Central Government Industrial Tribunal in the impugned award, it appears that the Learned Tribunal passed the impugned award on the following findings:-

> "*The dismissed workman urged that the punishment awarded against him is disproportionate to the nature of alleged misconduct and that the management instead of*

issuing any 2nd Show Cause Notice, dismissed him from the service without complying with the mandate of the Hon'ble Supreme Court of India as well as the Circular issued by the Director (P & IR), Coal India Limited, regarding issuance of 2nd Show Cause Notice to the charged employee, seeking his representation on the findings of the Enquiry Officer.

The aggrieved workman contended that on the instruction of the local management he was compelled to admit the charge and undertook that in future he shall not commit any mistake or repeat such misconduct. It is contended that the management could not prove the charge on the basis of any independent evidence. According to the workman the occurrence was an accident. The workman has not been paid the sustenance allowance during the period of his suspension until his dismissal."

17. The management case before the Tribunal was that the respondent had attempted to commit suicide by jumping into pit shaft No. 2 of Madhabpur Colliery by crossing the pit fence from the southern side. Such act of the workman is a misconduct under Clause 26.3, 26.15, 26.22, and 26.26 of the Certified Standing Order of the company. In course of enquiry the charges were established against the workman. The findings of the Enquiry Officer was communicated to the General Manager, Kajora Area. Ample opportunity was given to the workman to defend himself.

18. The Tribunal considering the said facts and circumstances including the evidence before it held:-

> "*From the four corners of the Enquiry Proceeding, I am unable to find any material statement of any person that the concerned workman had crossed the fence to jump into the pit or that there was any occasion to disobey any statement of any superior officer, or any senior officer was present at the place of occurrence.* ***No management representative was examined by the Enquiry Officer in support of the charge that the workman acted in insubordinate manner.*** *From the facts and circumstances of the case it is crystal clear that Sunil Majhi fell into the mining pit and* ***he tried to save himself by holding the winding rope fifteen feet below the surface, in the pit.*** *Later on, he managed to reach the bottom of the pit without sustaining any injury or causing injury to other co-workers.* ***No management evidence has been adduced to establish that adequate care and protection had been taken by the management to encircle the pit either with fence or by wall. Therefore, it cannot be assumed that the pit of the colliery is safeguarded with any fence.*** *The question of violating the Regulation 38 of Coal Mines Regulations, 1957 therefore does not arise. I also find that* ***there is dearth of evidence*** *to establish the charges under Clause*

26.3, 26.15, and 26.22 of Certified Standing Order applicable to the employer and employee of the coal mines. ***Admittedly, workman had fallen into the shaft but no injury of the workman or his co-employees was reported that night"***

Having considered the facts and materials in the Enquiry Proceeding, except an admission on the part of the charged employee ***there is no material to establish that there had been any violation of safety rules under the Coal Mines Regulations, 1957 or insubordination on the part of the concerned workman. No independent evidence nor any material has transpired in the Enquiry Proceeding*** *to establish any loss of life or property of co-workers or management. On a holistic consideration of the Enquiry Proceeding, I do not find it sustainable under the law."*

19. Finally the tribunal held that as follows:-

"In view of my aforesaid discussion, I hold that order of dismissal dated 13.03.2015 issued against Sunil Majhi for his removal from service from 13.03.2015 is unreasonable, improper, arbitrary, passed in violation of natural justice and is not tenable under the facts and circumstances. The order of dismissal dated 13.03.2015 passed by the Assistant Personnel Manager (IC) of Kajora Area is set aside. Management is directed to reinstate the workman

within one (1) month from the date of communication of the Award. ***Since the workman has not adduced any evidence that he did not work for gain after his dismissal and that he did not render service for the company since March, 2015 he shall not be entitled to any back wages.*** *His only relief in this case is his reinstatement in service within one month from communication of the Award. He shall also be entitled to all consequential benefits, treating the period of his absence as dies non."*

CONCLUSION:-

20. In ***The State of Rajasthan & Ors. vs Heem Singh, in Civil Appeal No. 3340 of 2020 (arising out of SLP (C) No. 30763 of 2019), decided on October 29, 2020,*** wherein the Supreme Court in Para 13, 33 held:-

> ***"13.*** *The standard of standard of proof in disciplinary proceedings is different from that in a criminal trial. In* ***Suresh Pathrella v. Oriental Bank of Commerce4,*** *a two judge Bench of this Court differentiated between the standard of proof in disciplinary proceedings and criminal trials in the following terms:*
> *" …the yardstick and standard of proof in a criminal case is different from the disciplinary proceeding. While the standard of proof in a criminal case is a proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities."*
> *This standard is reiterated by another two-Judge Bench of this Court in* ***Samar Bahadur Singh v. State of U.P.*** *:*
> *"Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as*

the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities."

33. *In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest*

> *with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."*

21. In the present case, the other end of the spectrum is applicable, as the total enquiry was based on no evidence and thus clearly suffers from perversity.

22. The penalty of dismissal in this case is disproportionate to the weight of the evidence, a case of no evidence herein and when no misconduct could be proved.

23. The tribunal in its award which is impugned herein, has clearly noted that there is no evidence on record to support the charge of misconduct.

24. The question of re-appreciating evidentiary findings in the disciplinary enquiry conducted in this case thus does not arise as there was no evidence adduced.

25. The learned tribunal has also not tried to substitute a view but has clearly pointed out the laches in the enquiry proceedings in the present case.

26. On considering the said materials on record and the impugned award, this Court is of the view that first and foremost, the punishment of

dismissal from service of the respondent/workman is clearly disproportionate to any Act as alleged to have been committed by him.

27. Secondly, the observation of the learned Tribunal that on the basis of the evidence, it was clear from the conduct of the workman that:-

(i) He had accidently has fallen into the pit,

(ii) There were no safety measures taken by the management around the pit and the findings,

(iii) The enquiry proceedings also did not have any person from the management adducing the evidence, is in accordance with law and there is thus clear perversity in the enquiry/disciplinary proceedings conducted against the workman, which is based on 'no evidence' as rightly held by the tribunal and is thus against the principles of natural justice and also an abuse of the process of law.

28. Thus the impugned order dated 20.05.2024 passed by Learned Central Government Industrial Tribunal, Asansol, in reference Case No. 18 of 2019 calls for no interference, the same being in accordance with law.

29. **WPA 28677 of 2025 is dismissed.**

30. Connected application, if any, stands disposed of.

31. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

[Shampa Dutt (Paul). J]