

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 2244 of 2019

1. (i) Ghuthni Devi, age-69 years W/o Late Ram Nirekhan Ram
- (ii) Sharmila Kumari, age 45 years D/o Late Ram Nirekhan Ram, R/o Vill-Kero Basti, P.O. +P.S.-Bermo, Distt.-Bokaro
- (iii) Bindu Kumari, age- 43 years, D/o Late Ram Nirekhan Ram
- (iv) Santosh Kumar, age-42 years S/o Late Ram Nirekhan Ram
- (v) Binod Kumar, age-35 yrs, S/o Late Ram Nirekhan Ram
- (vi) Sudhir Kumar, age-30 years, S/o Late Ram Nirekhan Ram
- (vii) Manju Kumari, age-28 years, D/o Late Ram Nirekhan Ram

Petitioner no. 1(i) and 1(iii) to 1(vii) are R/o- Jawahar Nagar, Q. No. 13/14, P.O. +P.S.-Bermo, Dist.-Bokaro (Jharkhand)

..... **Petitioners**

Versus

1. Central Coalfields Ltd. through its Chairman-cum-Managing Director, having its office at Darbhanga House, Ranchi, P.O.- G.P.O.. P.S.- Kotwali, District Ranchi.
2. The Director (Personnel), Central Coalfields Ltd, having its office at Darbhanga House, Ranchi, P.O.- G.P.O., P.S.- Kotwali, District – Ranchi
3. The General Manager (P & IR), Central Coalfields Ltd. having its office at Darbhanga House, Ranchi, P.O-G.P.O., P.S.- Kotwali, District - Ranchi.
4. The General Manager, B & K Area, Central Coalfields Ltd., P.O. & P.S.- Bermo, District – Bokaro
5. The Project Officer, Karo-1 Project, B & K Area, Central Coalfields Ltd., P.O. & P.S.- Bermo, District – Bokaro

.....**Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the petitioners : Mr. Uday Prakash, Advocate
 For the Respondents : Mr. Chandrajit Mukherjee, Advocate

C.A.V ON 16.06.2025

PRONOUNCED ON 30 /06/2025

The instant writ application was initially preferred by one Ram Nirekhan Ram (original petitioner) praying therein for quashing and setting aside the findings of 5th Respondent as contained in impugned show-cause dated 03.03.2016 (Annexure-7 Series) and also for quashing and setting aside the impugned order dated 15.03.2019 (Annexure-9), whereby the 5th Respondent has held that the petitioner was rightly terminated from his service of the Company by order dated 06.11.2003 (Annexure-3) i.e., the

same order which was quashed by learned Single Judge vide its order dated 27.11.2008 (Annexure-4).

2. The original Petitioner had also prayed for a direction upon the Respondent-Authorities to pay full back wages to him as awarded by learned Single Judge vide its judgment dated 27.11.2008 from the date of termination till the normal date of superannuation.

During pendency of the writ application, the original Petitioner, namely Ram Nirekhan Ram, died and pursuant to the order of this Court the legal heirs of the original Petitioner have been substituted in his place.

From the record, it appears that the original petitioner had earlier moved before this court in *W.P (S) No. 6867 of 2004*, which was allowed by this Court vide order dated 27.11.2008.

For brevity paragraph nos. 6, 7 and 8 of the order passed in the aforesaid case are quoted hereunder:

“6. *Apparently, the evidence as recorded in course of inquiry, does not confirm that the place from where the vehicle was allegedly stolen, was within the place of the petitioner's duty. The charge therefore, does not accuse the petitioner that theft of the vehicle had occurred on account of negligence of duty on the part of the petitioner. It is under such circumstances, that the Inquiry Officer had found that charge against the petitioner was partly proved and not fully proved. In fact, from the details of the inquiry report, it is apparent that neither has the petitioner been accused of negligence in performance of his duty, nor has any charge been framed against him for negligence. Yet, the Disciplinary Authority has construed the findings in the inquiry report, that charge against the petitioner was "fully proved". By holding such view that charge against the petitioner has been fully proved in the inquiry, the Disciplinary Authority has apparently differed from the findings of the Inquiry Officer. It is by now well settled that if the Disciplinary Authority disagrees with the findings of the Inquiry Officer, the Disciplinary Authority is duty bound to assign and inform the proceeding the reasons on which it disagrees with the findings of the Inquiry Officer. On a bare perusal of the impugned order, as passed by the Disciplinary Authority, it is apparent that the impugned order of termination of the petitioner's services, is a non-speaking order, without assigning any reason as to why the punishment of termination of services was proposed against the petitioner, even though, the Departmental Inquiry did not confirm that the*

petitioner was found guilty of any act of negligence or dereliction of duty in respect of the work assigned to him. It is thus apparent that the Disciplinary Authority has not applied its mind to the findings of the Inquiry Officer, as recorded in the Inquiry Report.

7. *Even though, this court in exercise of its powers under Article 226 and 227 of the Constitution of India, would not act as a court of appeal, to make a reappraisal of the evidences recorded in the Disciplinary Proceedings, but this court would not hesitate to interfere where it finds that the orders passed by the Disciplinary Authority awarding severe punishment of termination of services, is basically perverse and is against the principles of natural justice. On considering the facts and circumstances of the case, this court does find that the impugned orders of the Disciplinary Authority and that of the Appellate Authority, are perverse and against the principles of natural justice and punishment of termination of service, as imposed against the petitioner, is highly disproportionate considering the findings of the Inquiry Officer that charge against the petitioner is partly proved.*

8. *In the light of the above discussions, I find merit in this application. Accordingly, the same is allowed. Both the impugned orders, as contained in Annexures-6 and 7, are hereby quashed. Respondents are directed to reinstate the petitioner in services with full back wages.”*

3. The Respondents being aggrieved by the order passed by learned Single Judge, whereby the order of termination was quashed on the ground of perversity and also on the ground of principles of natural justice, challenged the said order passed by the Writ Court in *L.P.A. No. 81 of 2009*. The Division Bench of this Court after going into the merits of the case set aside part of the order, whereby the learned Single Judge had directed reinstatement; remitted the case to the Disciplinary Authority for passing fresh order.

For brevity, paragraph nos. 6, 7, 8 and 9 of the order passed in *L.P.A. no. 81 of 2009* are quoted hereinbelow:

“6. *The only question that falls for consideration is as to whether the learned Single Judge is correct in law in allowing the writ petition and quashing the order of termination of services of the petitioner-respondent and directing reinstatement on the basis of finding that the disciplinary authority was duty bound to assign reasons on which it disagreed with the findings of the*

Inquiry Officer and also on the finding that the order of termination of services of respondent was passed by a non-speaking order without assigning any reason. The law in this regard is no longer res integra. In the Constitution Bench judgment of the Supreme Court in the case of State of Assam & Anr Vs. Bimal Kumar Pandit [AIR 1963 S.C. 1612], Their Lordships held that if the dismissing authority differs with the findings recorded by the Inquiry Officer in the inquiry report, it is necessary that its provisional conclusion in that behalf should be specified in the second notice. The disciplinary authority should specifically state that it differs from the findings of the inquiry officer and then intimate the nature of action proposed to be taken against him.

7. *In the case of State of Rajasthan Vs. M.C Saxena [(1998) 3 SCC 385], the Supreme Court reiterated the law and held that when the disciplinary authority disagreed with the findings recorded by the inquiry officer, it must record reasons of his disagreement. If the disciplinary authority gives reasons for disagreeing with the findings of inquiry officer, the Court cannot interfere with those findings unless it comes to the conclusion that no reasonable man can come to the said conclusion.*

8. *In the instant case, as noticed above, the learned Single Judge came to the conclusion that no reasons were assigned by the disciplinary authority while disagreeing with the findings recorded by the Inquiry officer. In such circumstances, the learned Single Judge rightly quashed the order of termination. But in our considered opinion, the learned Single Judge ought to have remitted back the matter to the disciplinary authority for passing fresh order of his disagreement with the finding of the inquiry officer by giving conclusive reasons and to communicate the same to the respondent-delinquent and after receiving the show-cause, if any, a final order of punishment if any ought to have been passed.*

9. *We, therefore, without interfering with the findings recorded by the learned Single Judge, set aside only that part of the order whereby the learned Single Judge after quashing the order of termination, directed reinstatement. Consequently, the matter is remitted back to the Disciplinary Authority for passing a fresh order after complying the requirement of law, as indicated hereinabove.*

4. Pursuant to the aforesaid order passed by the Division Bench, a fresh show cause was issued by the Disciplinary Authority to the Petitioner disagreeing with the findings of enquiry officer. Thereafter the original Petitioner filed a detailed reply to the said show-cause.

For brevity, the detailed reply to the show-cause filed by the original Petitioner is quoted hereunder:

"Before,
 The Project Officer,
 Central Coalfields Limited
 Karo-I Project, Bermo
 District Bokaro

Sub: Representation for passing fresh order after complying with the requirement of law in pursuance of Order dated 10.12.2014 read with Order dated 15.01.2010 passed in L.P.A. No. 81 of 2009.

Ref: 1. Show Cause being Ref. No. B&K/Karo-1/Dis.Action/R.N. Ram/9147 dated 03.03.2016 issued by Project Officer, Karo-I.

Letter being Ref. No. PO/Karo-I/PD/18-19/3543 dated 01.08.2018 issued by Project Officer/D.A., Karo-I Project

Dear Sir,

Please be informed I had been illegally terminated from the service of the Company on the basis of Order dated 06.11.2003 passed by your goodself. The said order was challenged by me before the Hon'ble Jharkhand High Court in W.P(S) No. 6867 of 2004. The Hon'ble Single Judge of High Court vide Judgment and Order dated 18.11.2008 [Enclosure-1] had been pleased to allow the said writ petition by quashing the aforesaid Order dated 06.11.2003, by which my service was terminated and my service was directed to be reinstated with full back wages.

After passing of the aforesaid Order, the Management of CCL had challenged the said Order dated 18.11.2008 by way of filing a LPA being LPA No. 81 of 2009 before the Hon'ble Division Bench of the said Hon'ble Court, who after hearing the counsel of the parties, vide Judgment and Order dated 15.01.2010 (Enclosure-2) set aside only that part of the order whereby the Hon'ble Single Judge after quashing the order of termination, directed for reinstatement. However, the Hon'ble Court had remitted back the matter to the Disciplinary Authority for passing a fresh order, after complying with the requirement of law.

Moreover, after passing of the aforesaid Judgment and Order dated 15.01.2010, the Management of CCL filed a review application being Civil No. 21 of 2010 before the Hon'ble Division Bench of Jharkhand High Court at Ranchi on the ground that the Appellate Court on the one hand has passed order for remitting back the matter to the Disciplinary Authority to proceed in accordance with law but on the other hand, direction was there of the Hon'ble Single Judge for making payment of the back wages.

The Hon'ble Court after hearing the Counsel of the Parties vide Order dated 10.12.2014 (Enclosure-3) has reviewed the order to the extent that unless and until the disciplinary authority takes a decision, the order passed by the learned Single Judge for making payment of the back wages shall be kept in abeyance and further directed the Disciplinary Authority to conclude the departmental proceedings with a period of two months from the date of receipt of the copy of the order.

After passing of the aforesaid Order dated 10.12.2014 read with Order dated 15.01.2010 passed in L.P.A. No. 81 of 2009, after lapse of almost more than 1 and half years, I have been served with a Show Cause dated 03.03.2016, whereby your goodself, disagreeing with the findings of the Enquiry Officer being 'partly proved', held that the element of charges made out against me and brought on record during the course of departmental proceeding are fully proved. However, from a

perusal of the aforesaid Show Cause under reply, it is apparently clear, inter alia, as under;

(a) The Show Cause has been issued and the charges are made just on the basis of the presumption, surmises and conjectures.

(b) No concrete, reasonable grounds and adverse materials have been brought on record for denying/dismissing the enquiry report of the Enquiry Officer.

(c) Further, no fresh statements and or weighing of evidence have been made by your goodself, while issuing the show cause notice in question, that too after lapse of more than 20 years.

(d) Show Cause under reply has been issued in a mechanical and stereo type manner.

(e) It further appears that concocted and baseless story has been made just in order to prove the alleged charges against me (Ram Nirekhan Ram).

While issuing of the aforesaid Show Cause and making allegation against me, Your Goodself has completely failed to take into account the following admitted facts concerning the case, which are as under;

(i) Ram Nirekhan Ram was deployed as a Security Guard of the Residence of the Project Officer, Karo-I, OCP and not for the security of the other properties lying outside the residence of the Project Officer or its adjoining places.

(ii) It is also an admitted fact that the Security Guards are being deployed on the instruction of the Security Officer of the Management and not on the basis of any employee of the Company.

(iii) Admittedly, the alleged stolen Jeep No. BRY-2985 was parked on the road, outside the Residence of the Project Officer, Karo-I, OCP.

(iv) On the said date, two Security Guards were on the duty, one Ram Nirekhan Ram and other was Shri Ram Nath, but no statement whatsoever of said Shri Ram Nath was taken by the Management.

(v) Deposition of MW-I, clearly admitted that handing over the key of the Jeep to the Security Guards by the Drivers working in shift and by MW-II was not a regular/routine affair.

(vi) It was also deposed by MW-I that on the night of incident i.e on 11.12.1995, the Jeep No. BRY-2985 was parked on the road side and was heading towards the slop side of the road.

(vii) MW-II had specifically deposed that the Jeep No. BRY-2985 was utilized for the purpose of his official work in three shifts and three drivers of the Project were engaged in this Jeep for doing the shift duty and the key of the jeep was kept under the possession of the Drivers and at the end of the duty, Drivers were interchanging the key for doing the shift duty.

(viii) MW-II also admitted that fact that there was no system of Register for handing/taking over of key by Security Guards to the Drivers reporting for shift duty in Jeep No. BRY-2985.

(ix) The statements made by Ram Nirekhan Ram was never been refuted by the Management.

(x) Further, there is no documents or exhibits to show that Ram Nirekhan Ram was also assigned additional responsibility for guarding the Company's properties lying beyond the place/official residence of Project Officer, Karo-1.

(xi) Ram Nirekhan Ram in his statements has categorically stated that he has never been handed over with the key of the Jeep No. BRY-2985 either by the MW-II or by the Driver of the Vehicle.

(xii) During the course of enquiry, the present position of Key and also the key alleged to be kept with Ram Nirekhan Ram could not be substantiated by MW-II by documents/evidences.

Therefore, the finding recorded in the Show Cause for dismissing the enquiry report of the Enquiry Officer that too after lapse of almost 20 years seems to be unreasonable, doubtful and unsuccessful efforts on the part of the Management just to debar/refute the claim of Ram Nirekhan Ram, the Security Guard.

I, Ram Nirekhan Ram, is filing the instant show cause reply before your goodself, with a humble request to consider my case sympathetically on the basis of aforesaid facts. I may be allowed personal opportunity of hearing in the matter any may also be allowed to adduce/produce further evidences/documents, in this regard.

Your goodself must appreciate the fact that I have been illegally terminated from the service, with no fault on my part and never been reinstated in the service. Even the back wages and other benefits were not extended to me, for which I including all my family members suffered and are still suffering. Therefore, I hope and trust that aforesaid alleged proceeding initiated against me shall be dropped and all the benefits such as back wages and other facilities shall be extended to me.

Thanking you,

Yours faithfully,

(Sd/- Ram Nirekhan Ram)

Ex-Security Guard,

Kari-I OCP

Encl: As above”

5. However, the Disciplinary Authority without advertizing to the reply given by the erstwhile employee has only stated that the Disciplinary Authority disagreed with the findings with the Enquiry Officer due to reason that it is well established fact that Jeep no. BRY 2985 belonged to the Project Officer, Karo-I Project and the same was parked near the residence. Being security guard position at the Project Officer's Bungalow, it was presumed that the delinquent should take extra care and be vigilant of all the activities. However, he has not advertized the specific grounds taken by the Petitioner in his reply that the stolen jeep was parked on the road outside the Bungalow of Project Officer, Karo. Further, on the date two security guards were on duty, one being the Petitioner and other was Sri Ram Nath, but no statement, whatsoever, of that other employee was taken by

the management. In other words, several grounds were taken by the erstwhile petitioner indicating therein that neither it was negligent act nor it was intentional; however, in a cursory manner, without giving any reason, the impugned order of termination has been passed.

For brevity, the relevant part of the impugned order is extracted hereinbelow:

"The undersigned was disagreed the finding with the Enquiry Officer submitted due to reason that it is a well established fact that the Jeep No. BRY-2985 belonged to the Project Officer, Karo I Project and the same was parked near the residence. Being Security Guard positioned at Project Officer's Bungalow, it is presumed that you are to take extra care & be vigilant of all the activities being carried in Bungalow and its periphery. The theft of Jeep is a grievous action & its shows grave negligence and casual approach on your part toward your assignment, which is not befitting a Security personnel.

The undersigned being the Disciplinary Authority considered your reply and after consideration of the said reply, Show Cause Notice, Enquiry Report and other connected documents thereof. I reached on the conclusion that there is no merit in your case, hence you were rightly been terminated from the services of the Company by the Termination Order vide No. CGM(B&K)/2680/89 Dated 06.11.2003."

6. The law is well settled that any quasi-judicial authority has to pass a reasoned and speaking order on each and every grounds raised by the delinquent. In the case of Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others reported in (2010)9 SCC 496, wherein the Hon'ble Apex Court has held at Para-47, which is quoted hereinbelow:

“47. Summarising the above discussion, this Court holds:

- (a) *In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- (b) *A quasi-judicial authority must record reasons in support of its conclusions.*
- (c) *Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- (d) *Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain EHRR*, at 562 para 29 and *Anya v. University of Oxford*, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

"adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

7. Having regard to the aforesaid discussions and the judicial pronouncement, the impugned order deserves to be, and, is hereby, quashed and set aside and it is held that the original petitioner would have been entitled for reinstatement and all consequential benefits; except the back wages, from the date of termination till the age of his superannuation.

Since the original Petitioner- Ram Nirekhan Ram had died, the legal heirs would be entitled for all the consequential benefits treating the service of the original petitioner in continuity from the date of termination till the age of his superannuation.

Accordingly, the concerned Respondent is directed to verify the records of the case and calculate the monetary benefits in the light of aforesaid direction, for which the legal heirs would be entitled and pay the same to the present Petitioners.

The entire exercise shall be completed within a period of 12 weeks from the date of receipt/production of copy of this order; failing which the present petitioners shall also be entitled for interest which shall be paid by the Respondents @ 6.5% per annum from the original date of superannuation of the deceased employee till the date of payment to the present Petitioners.

8. As a result, the instant writ application stands allowed in the manner indicated hereinabove.

(Deepak Roshan, J.)

Jk
NAFR/AFR