

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 171 of 2023

Rajesh Singh, aged about 41 years, son of Shri Bacha Narayan Singh, R/o Harmu Housing Colony, near Shakti Park, Kartik Oraon Chowk, Ranchi, P.O. Argora and P.S. - Argora, District-Ranchi.

... ... **Petitioner**

Versus

1. Hindustan Petroleum Corporation Ltd., through Managing Director having its registered office at HPCL, HQO, Petroleum House, Mumbai, P.O. Churchgate, P.S. Churchgate, District-Mumbai, Maharashtra.
2. Chairman & Managing Director (Additional Charge- Director-Mktg.), Hindustan Petroleum Corporation Ltd. having its registered office at HPCL, HQO, Petroleum House, Mumbai, P.O. Churchgate, P.S. Churchgate, District-Mumbai, Maharashtra.
3. Executive Director Corporate Finance and Disciplinary Authority, Hindustan Petroleum Corporation Ltd. having its registered office at HPCL, HQO, Petroleum House, Mumbai, P.O. Churchgate, P.S. Churchgate, District- Mumbai, Maharashtra.
4. Director Finance, Hindustan Petroleum Corporation Ltd. having its registered office at HPCL, HQO, Petroleum House, Mumbai, P.O. Churchgate, P.S. Churchgate, District-Mumbai, Maharashtra.
5. Deputy General Manager, Hindustan Petroleum Corporation Ltd. having its Retail Regional Office at 5th Floor, Maru Tower, Kanke Road, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi, Jharkhand

... ... **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mrs. Prerna Jhunjhunwala, Advocate

For the Respondents : Mr. Rahul Lamba, Advocate

: Mr. Nilesh Modi, Advocate

06/02.04.2024 The learned counsels for the parties are present.

2. This writ petition has been filed for the following reliefs:

"(i) For issuance of an appropriate writ, order or direction, particularly writ of certiorari for quashing the order dated 23.08.2022 (Annexure-15) as well as order dated 21.09.2022 (Annexure-17) passed by Chairman & the Managing Director (Additional Charge-Director- Mftg.), HPCL (respondent no.2- Appellate authority), whereby and where under the representation dated 06.12.2021 and the Departmental Appeal dated 21.12.2021 preferred by the petitioner under Part II of Conduct, Discipline and Appeal Rules against the order dated 08.11.2021 passed by the Executive Director Corporate Finance and Disciplinary Authority, HPCL has been dismissed.

And

(ii) For issuance of an appropriate writ, order or direction, particularly writ of certiorari for quashing the order dated 08.11.2021

(Annexure-11) passed by the Executive Director Corporate Finance and Disciplinary Authority, HPCL whereby and where under the petitioner has been dismissed from the services of the respondent Corporation.

And

(iii) Upon quashing the aforesaid orders dated 23.08.2022, 21.09.2022 and 08.11.2021, for issuance of an appropriate writ, order or direction, particularly writ of mandamus commanding upon the respondent Corporation to re-instate the petitioner on the post of Assistant Manager Finance (previously known as Senior Accounts Officer), HPCL with all consequential benefits.

And/Or

(iv) For issuance of such other writ, order or direction as Your Lordship may deem fit and proper for doing consonable justice to the petitioner.”

3. The learned counsel for the petitioner has submitted that the writ petition can be disposed of on a short point inasmuch as no opportunity of hearing was given to the petitioner in spite of Order dated 26.07.2022, passed in W.P.(S) No. 2100 of 2022. She submits that W.P.(S) No. 2100 of 2022 was filed by stating that the petitioner had preferred the departmental appeal, but same remained pending, and as such a direction was prayed for to dispose of the appeal expeditiously. She submits that after hearing the counsel for the parties, a direction was issued to respondent No. 2, (Director Finance, Hindustan Petroleum Corporation Limited) to dispose of the appeal preferred by the petitioner after giving him ample opportunity of hearing within a period of 6 weeks from the receipt/production of a copy of the order.

4. The learned counsel submits that in spite of specific direction to give an opportunity of hearing, no opportunity of hearing was given and the appellate order has been passed against the petitioner. She has also submitted that serious prejudice has been caused to the petitioner and many points which the petitioner would have canvassed during hearing, has not been considered.

5. The learned counsel appearing on behalf of the respondents, has submitted that the action of the respondents is bonafide inasmuch as in terms of the rules, the question of personal hearing arises only when the employee demands such hearing, and therefore no opportunity of personal hearing has been granted. He has submitted that materials

have been taken into consideration while deciding the appeal. He has also submitted that the appeal has been decided by the Chairman cum Managing Director of the respondents, in view of the fact that at the relevant point of time, the disciplinary authority was the only available member of the committee of functional director. The learned counsel submits that since the petitioner never sought for personal hearing, therefore no personal hearing was given.

6. Without prejudice to the aforesaid submissions, the learned counsel for the respondents has submitted that in case, this Court is inclined to set aside the appellate order on this short ground, then personal hearing can be granted to the petitioner in the week commencing 15th of April 2024. He has submitted that if the petitioner so requires, virtual hearing can also be granted to him.

7. After hearing the learned counsel for the parties, and considering the facts and circumstances of this case, this Court finds that at the stage when appeal was pending, the petitioner has moved this Court in W.P.(S) No. 2100 of 2022, and the following order was passed:

“At the very outset, it has been submitted by Mr. Vipul Poddar, learned counsel appearing for the petitioner that the petitioner has preferred Departmental Appeal on 21.12.2021 against the order dated 8.11.2021 passed by the Executive Director, Corporate Finance-cum-Disciplinary Authority, HPCL, which is still pending before the respondent No.2 and as such, a direction may be given to respondent No.2 to dispose of the appeal.

Learned counsel appearing for the respondents has no objection for the same.

Having heard the parties and considering the facts and circumstances of the case, I hereby direct the respondent No.2 to dispose of the appeal preferred by the petitioner after giving him ample opportunity of hearing, within a period of six weeks from the date of receipt/production of a copy of this order. This writ petition stands disposed of.”

8. Upon perusal of the said order, it is clear that a direction was issued to dispose of the appeal after giving ample opportunity of hearing to the petitioner. This Court is of the considered view that once a specific direction was issued by this Court to give an opportunity of hearing, there was no further need for the petitioner to again pray for opportunity of hearing and the authority dealing with

the appeal ought to have given an opportunity of hearing to the petitioner. It is an admitted fact that no opportunity of hearing has been given to the petitioner while deciding the appeal by the Respondent No. 2.

9. On the aforesaid short point, this Court is of the considered view that the impugned order passed by the Appellate Authority calls for interference and is required be set aside so that a fresh order be passed by Respondent No. 2 after giving an opportunity of hearing to the petitioner. It is further observed that this Court has not pronounced anything with regard to the merit or otherwise of the plea raised by the petitioner before the Appellate Authority.

10. Accordingly, the impugned order passed by the Appellate Authority, dated 23.08.2022, (Annexure-15), as well as the Clarificatory Order, dated 21.09.2022, (Annexure – 17), both passed by Respondent No. 2, are hereby set aside and the matter is remitted to Respondent No. 2 for passing fresh order after giving an opportunity of hearing to the petitioner.

11. The petitioner be issued notice through email at least four days in advance, fixing date and time of hearing, and in response, the petitioner may choose physical hearing or virtual hearing. The date of hearing be fixed after 15 days of the communication of this order and fresh order be passed by the Respondent no.2 in terms of this order within a period of six weeks thereafter.

12. The learned counsel for the respondents is directed to immediately communicate this order to respondent no.2. The learned counsel for the petitioner has provided the mail ID of the petitioner which is quoted below:

“rajesh_singh632@rediffmail.com

Mob No.9611817196”

13. This writ petition is accordingly disposed of.

(Anubha Rawat Choudhary, J.)

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