

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

**ORIGINAL APPLICATION NO.170/00330/2020
AND
MISCELLANEOUS APPLICATION NO.170/435/2020**

DATED THIS THE 02nd DAY OF FEBRUARY, 2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

Rajesh Gupta
S/o Kul Bhushan Gupta
Aged 51 years
Working as Senior Manager
(Mechanical Maintenance)
Deputed to Blast Furnace Unit
KIOCL Ltd., Mangaluru-575 010 and
Residing at No.D-6, KIOCL Township
Kavoor, Mangaluru-575 015.
Having permanent address
H.No.267-A, Last More
Gandhi Nagar, Jammu
U.T. (Jammu & Kashmir)-180 004.

....Applicant

(By Advocate Shri Vishwanath Bhat (proxy for Shri M.Narayana Bhat))

Vs.

1. Union of India
Rep. by its Secretary
Min. of Steel
Udyog Bhavan
New Delhi – 110011.

2. KIOCL Ltd.
Rep. by its Chairman-cum-Managing
Director, II Block
Koramangala
Bengaluru-560 034.

3. Joint General Manager (HR&A)
KIOCL Ltd., II Block
Koramangala
Bengaluru-560 034.

4. Sh.GajananaPai
Father's name not known to the
Applicant, aged 59 years
Joint General Manager, I/C
Blast Furnace Unit, KIOCL
Panambur, Mangaluru-575 010.

...Respondents

(By Advocate Shri M.V.Rao)

ORDER (ORAL)

PER: SURESH KUMAR MONGA, MEMBER (J)

Shri Vishwanath Bhat, learned counsel for the applicant has submitted that pursuant to memorandum of chargesheet dated 07.01.2020, the applicant had submitted his written statement on 24.02.2020 in terms of Rule 8 (i) of the Discipline and Appeal Rules.

2. The argument of learned counsel is that after receipt of said written statement, the disciplinary authority ought to have formed an opinion that there are grounds for inquiry into the truth of imputations of misconduct or misbehaviour, only after taking into consideration all the grounds enumerated in the said written statement. Since such consideration has not taken place, therefore, all subsequent proceedings cannot be sustained in view of the provisions of Rule 8 (ii) of the Rules.

3. Confronted with the said argument, Shri M.V.Rao, learned counsel for the respondents, on instructions from Shri Shankar Karnam, Joint General Manager, HR&A, has stated that since the requisite opinion formed by the disciplinary authority is not available on the record, therefore, the matter may be remitted back enabling the disciplinary authority to reconsider the applicant's written statement.

4. In view of the above, the Original Application is partly allowed and the order dated 28.05.2020 is hereby quashed and set aside. The matter is remitted back to Chairman-cum-Managing Director, who, according to learned counsels for the parties is the competent authority in this matter, to consider the written statement submitted by the applicant on 24.02.2020 and take a fresh decision strictly in terms of Rule 8(ii) of the Discipline and Appeal Rules.

5. Since the Original Application itself has been disposed of, therefore, nothing survives in the pending Miscellaneous Application 435/2020 and the same is also disposed of having been rendered infructuous.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)