

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.4824/2013**

% **31st July, 2013**

SHRI V.K. SINGH

..... Petitioner

Through: Mr. Ajit Kumar Sinha, Senior
Advocate with Mr. Ashwarya Sinha,
Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Sachin Dutta, CGSC with Ms.
Ritika Jhurani, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

C.M. No.10947/2013 (exemption)

Exemption allowed subject to just exceptions.

C.M. stands disposed of.

+ W.P.(C) No.4824/2013 and C.M. No.10948/2013 (directions)

1. In this writ petition, petitioner claims the only one relief of permitting him to continue as the Chairman-cum-Managing Director of Northern Coalfields Limited till the date of his superannuation in September,

2014 allegedly because of “prevalent practice”.

2. Admittedly, the petitioner was appointed in terms of the appointment letter dated 30.12.2008 as per which the tenure of the appointment of the petitioner was to be for five years or superannuation or till further orders whichever is earlier. This expression ‘till further orders’ and whichever event occurs first is obviously because employer has a right to decide whether or not to continue an employee at a specific post. Therefore, in my opinion, there is no valid basis to contend that petitioner is entitled to continue for a fixed term of five years or till superannuation.

3. In any case, even assuming for the sake of arguments and without in any manner accepting the entitlement to continue for a fixed period of five years, the period of five years admittedly expires today. The relief of continuation of petitioner therefore in this regard is infructuous.

4. So far as the relief of continuation of a person till superannuation is concerned, I have not been shown any legal basis to make such a claim more so in the face of the appointment letter dated 30.12.2008 which categorically states that the appointment is for five years or till superannuation or till further orders which event occurs first i.e even before five years or if appointment is continued after five years but before

superannuation, the petitioner need not be continued as a CMD of Northern Coalfields Limited as per reasons considered by the employer.

5. I may note that possibly the writ petition itself may have a technical defect as only the Union of India is made a party, though the employer-Northern Coalfields Limited has not even been made a respondent in this case. In any case, I am not taking this as a handicap against the petitioner for decision of the present writ petition.

6. That leaves us with the oral prayer which is urged before me at the time of arguments that the petitioner has been forced to go on leave from his appointment as Chairman-cum-Managing Director of Northern Coalfields Limited. It is stated that petitioner has been forced to go on leave on account of certain CBI inquiry, which according to the petitioner has been closed. Though, in my opinion, there is no relief which is claimed and there is nothing on record that the petitioner has been forced to go on leave, counsel appearing for the respondents states that petitioner can join back his duties, however, which will not be as CMD of Northern Coalfields Limited. At this stage, I am informed that actually petitioner is an appointee of Eastern Coalfields Limited and was made as a CMD of Northern Coalfields Limited. Therefore, entitlement of the petitioner will be to join only with

Eastern Coalfield Limited as his appointment as CMD with Northern Coalfield Limited has come to an end. The employer-Eastern Coalfields Limited or the decision making authority is entitled to place the petitioner in whatever post the employer thinks fit in accordance with law. I may note that even as per the writ petition one departmental proceeding is going on against the petitioner. I clarify that I have through this order not stated anything one way or the other on merits of the enquiry against the petitioner, and it will be for the appropriate authorities to decide on the truth or falsity of the facts as stated against the petitioner in the chargesheet, and such enquiry proceedings will be continued in accordance with law. I further make it clear that if the petitioner assumes his duties, and as argued to by the counsel for the respondents, the respondents or the employer will be entitled to take any other action as is permissible in law against the petitioner.

7. Writ petition is accordingly dismissed subject to the aforesaid observations of the petitioner being entitled to join duties with Eastern Coalfield Limited, and not as the Chairman-cum-Managing Director of Northern Coalfield Limited.

VALMIKI J. MEHTA, J

JULY 31, 2013

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