

GAHC010020292022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/876/2022

SOUVIK SENGUPTA
S/O- LATE MOLOY SENGUPTA, R/O- BIDYA NAGAR, P.O AND P.S-
MARGHERITA, DIST- TINSUKIA, ASSAM, PIN-786181

VERSUS

COAL INDIA LIMITED AND 4 ORS
REP. BY THE CHAIRMAN, COAL INDIA LTD. HEAD OFFICE, COAL
BHAWAN, PREMISE NO-04 MAR, PLOT NO-AF-III, ACTION AREA-1A, NEW
TOWN, RAJARHAT, KOLKATA- 700156

2:NORTH EASTERN COAL FIELDS
(NECF) COAL INDIA LTD.
REP BY ITS GENERAL MANAGER (P/EE)
P.O AND P.S- MARGHERITA
DIST-TINSUKIA
ASSAM
PIN-786181

3:THE GENERAL MANAGER (P)
COAL INDIA LTD.
COAL BHAWAN
PREMISE NO-04 MAR
PLOT NO-AF-III
ACTION AREA-1A
NEW TOWN
RAJARHAT
KOLKATA- 700156

4:THE CHIEF MANAGER(P)
NEC MARGHERITA
P.O AND P.S- MARGHERITA

DIST-TINSUKIA
ASSAM
PIN-786181

5:THE AREA MANAGER (PERS.)
NEC MARGHERITA
P.O AND P.S- MARGHERITA
DIST-TINSUKIA
ASSAM
PIN-78618

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : SC, COAL INDIA

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

08.11.2023

Heard Mr. P.J. Saikia, learned Sr. Counsel for the petitioner. Also heard Mr. M.Z. Ahmed, learned Sr. Counsel and Ms. B. Dutta learned Sr. Counsel assisted by Mr. A.M Dutta, learned Standing Counsel for the Coal India.

2. This writ petition has been filed by the petitioner aggrieved by the fact that the respondent authorities have not recommended or approved the candidature of the petitioner for dependent employment in Coal India Limited pursuant to the demise of his father late Moloi Sengupta who died-in-harness while working under the Coal India Department.

3. The rejection of the candidature of the petitioner was due to the discrepancies found in the date of birth in respect of the petitioner as regards the particulars entered in the service book of his late father where the petitioner and his sister were shown as the son and daughter respectively. The date of birth of the petitioner was recorded as 27.08.1993 and according to the Coal India, the date of entry in the service book on the basis of the application was shown as 08.01.1994 and the

application was filed by the late father of the petitioner on 05.01.1994. Under such circumstances, the subsequent date of birth of the petitioner shown to be 27.08.1995 on the basis of the birth certificate as submitted by the petitioner was not been accepted. The petitioner has also submitted his school certificate reflecting the same date of Birth recorded in his Birth Certificate.

4. Be that as it may, during the pendency of the matter, the Coal India in their counter affidavit filed has made an averment at Paragraph-18 that in the event the petitioner files an affidavit stating that he will be fully responsible for any disputes arising because of any documentary proof submitted by him, the candidature of the petitioner will be considered for recommendation. However, since the petitioner did not file the affidavit as required, his candidature was not accepted. The learned counsel for the petitioner submits that an affidavit was filed as far back as 24.01.2019 along with his representation dated 29.01.2019 and the averment made by the respondents in their affidavit was never communicated to the petitioner earlier. If permitted he will file an affidavit now before the respondent authorities.

5. Perusal of the affidavit reveals that the statement which was required to have been incorporated in the affidavit by the respondent are not found in the said affidavit. The learned counsel for the petitioner submits that this requirement has been brought on record only pursuant to filing of the counter affidavit whereas the affidavit filed by the petitioner was sworn in on 24.01.2019.

6. Having heard the learned counsel for the parties and upon due perusal of the pleadings on record, this Court is of the view that since there is an averment by the Coal India that in an affidavit which is filed by the petitioner accepting full responsibility for any dispute that may arise out of documentary proof submitted by him, his case can be considered for recommendation of dependent employment.

7. Under such circumstances and also on the submission of the learned counsel for the petitioner that affidavit as required accepting full responsibility for any dispute

arising out of documentary proof will be submitted by the petitioner within a period of two weeks from today and thereafter his case should be considered by the respondent authority without any further delay.

8. In that view of the matter, the writ petition stands disposed of. The petitioner will file the necessary affidavit incorporating the statement as required as is revealed in the affidavit in opposition filed by the respondent at Paragraph-18 and thereupon within a further period of two weeks thereafter the respondent authority will pass necessary orders on his application for consideration for being appointed under compassionate appointment.

9. It is made clear that if any further documents are necessary the same may be call for from the petitioner and the relevant documents necessary be made known to the petitioner prior to passing any orders for consideration.

10. Any decision taken by the Department, a copy thereof shall be furnished to the petitioner.

11. The entire exercise will be completed within a period of 60 days on the date of receipt of certified copy of this order.

12. With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant