

GAHC010106582011



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

Case No. : WP(C)/1678/2011

RUDRA KT. MAHANTA
S/O SRI SIBA KANTA MAHANTA R/O CEMENT CORPORATION OF INDIA
LTD. COLONY, QR. NO. 25 TYPE-2, P.O. BOKAJAN, DIST. KARBI ANGLONG,
ASSAM.

VERSUS

UNION OF INDIA and ORS.
REP. BY THE SECY, TO THE GOVT. OF INDIA, HEAVY INDUSTRIES AND
PUBLIC ENTERPRISES DEPARTMENT, NEW DELHI.

2:THE CEMENT CORPORATION OF INDIA LTD.
CORE- V-SEOP COMPLEX
7-LODHI ROAD NEW DELHI
REP. BY IT'S CHAIRMAN and MANAGING DIRECTOR

3:THE GENERAL MANAGER

CEMENT CORPORATION OF INDIA LTD. BOKAJAN UNIT.

4:DEPUTY GENERAL MANAGER
P and A
CEMENT CORPORATION OF INDIA LTD
TANDUR CEMENT FACTORY-501158
RANGA REDDY
DIST. ANDHRA PRADESH

Advocate for the Petitioner : MR.S BORTHAKUR

Advocate for the Respondent : MR.J ROY

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 19.06.2023

Heard Mr. A. Dasgupta, the learned Senior Counsel assisted by Ms. B. Das, the learned counsel appearing on behalf of the Petitioner and Mr. J. Roy, the learned counsel appearing on behalf of the Respondent Nos. 2, 3 & 4. Mrs. A. Gayan, the learned C.G.C. appears for the Respondent No. 1.

2. The instant writ petition has been filed challenging the order dated 13/12/2010, whereby the Respondent No. 2 had removed the name of the Petitioner from the Rolls of the Respondent No. 2-Corporation with immediate effect, however, by observing that the petitioner could apply for his provident fund and other dues, if any, which will be settled as per the Rules.

3. The brief facts of the instant case is that the Petitioner was transferred from the Bokajan Cement Factory of the Respondent No. 2 –Corporation to its Tandur Unit vide an order dated 28/08/2008. Subsequent thereto the Petitioner was released on 30/08/2008 and was directed to report to the General Manager, Tandur Unit immediately. The Petitioner instead of reporting to the Tandur Unit of the Respondent No. 2 assailed the order of transfer dated 28/8/2008 before this Court unsuccessfully.

4. It further reveals from the record that the Respondent No. 2-Corporation had given the Petitioner enough opportunities as could be seen from the Communications dated 18/10/2010 as well as 20/11/2010 so that the Petitioner joins the Tandur Unit of the Respondent No. 2-Corporation. It was also made clear in the said Communications that if the Petitioner failed to join the Tandur Unit of the Respondent No. 2-Corporation, it would be construed that the Petitioner had abandoned his services on his own. The Petitioner on one hand did not join the Tandur Unit of the Respondent No. 2-Corporation and on the other hand by the reply dated 4/12/2010 expressed that it is not possible for him to join at Tandur Unit. Accordingly, the order dated

13/12/2010 was passed.

5. This Court upon hearing the learned counsels had enquired with the learned counsel appearing on behalf of the Respondent No. 2 as to what benefits the Petitioner would be entitled to. Mr. J. Roy, the learned Senior Counsel appearing on behalf of the Respondent Nos. 2 to 4 submitted that the Respondent 2-Corporation does not have any pension. However, provident fund and other dues the Petitioner would be entitled to as has also been mentioned in the impugned order dated 13/12/2010.

6. This Court after hearing the learned counsels and upon perusal of the materials on record is of the opinion that the Petitioner having abandoned his services by not joining the post at Tandur Unit of the Respondent No.2-Corporation in spite of the challenge to the transfer order being rejected by this Court, this Court is of the opinion that this is not a fit case for exercise of jurisdiction under Article 226 of the Constitution.

7. Before concluding, this Court further finds it relevant to take note of the submission made by Mr. A. Dasgupta, the learned Sr. Counsel representing the Petitioner to the effect that although the impugned order was passed on 13/12/2010, a revised scale of pay was given from the year 2006 and as such, the Petitioner would be entitled to the same. The same being not part of the instant record, this Court would not like to comment on the same. However, the Petitioner would be at liberty to file appropriate application before the Respondent Authorities claiming such benefits to which the Petitioner is advised to be entitled to and the Respondent Nos. 2 to 4 shall deal with such application, if so filed, in accordance with law.

8. The petition accordingly stands dismissed save and except the observation made in paragraph 7 hereinabove.

JUDGE

Comparing Assistant