

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

W.P.NO. 256 /2001

PETITIONER

: Bharatlal Agnihotri, S/o Late Shri H.L. Agnihotri, aged about 46 years, presently posted as foreman Incharge, (Electrical), South Eastern Coalfields Limited, Headquarters Bilaspur, Dist - Bilaspur (M.P.)

VERSUS

RESPONDENTS

1. Coal India Limited,
A Govt of India Undertaking.
through its Chairman,
Netaji Subhash Road,
Calcutta (W.B.)
2. South Eastern Coalfields Ltd.,
Through its Chairman-cum-Managing
Director,
Seepart Road, Bilaspur
District - Bilaspur (CG)
3. Chief General Manager,
(Personnel & Administration)
South Eastern Coalfields Limited,
Seepat Road,
Bilaspur (CG)

P. R. No. 286/01
Filed by Shri. A. S. Mishra
22-2-01

PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION
OF INDIA FOR ISSUANCE OF WRIT OR WRITS, ORDER OR
ORDERS, DIRECTION OR DIRECTIONS ETC

(R8)

**HIGH COURT OF CHHATTISGARH AT BILASPUR
SINGLE BENCH**

HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE

Writ Petition No. 256 of 2001

PETITIONERS : Bharatlal Agnihotri (Dead) Through his
LRs Smt. Shubha Agnihotri & Others.

VERSUS

RESPONDENTS : Coal India Limited & Others.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Appearance: Shri Animesh Verma, for the Petitioner.
Shri Vinod Deshmukh, Advocate for the Respondents.

ORDER

(24th of December, 2014)

1. Heard counsel for the Petitioner and the Respondents. IA No. 4 for substitution of the original Petitioner who is stated to have died on 18.04.2012 by his legal heirs, is allowed. IA No. 5, for condonation of delay in bringing legal heirs on record, is also allowed. Let their names be added in the cause title accordingly.
2. Learned counsel for the Petitioner submits that he was appointed as Foreman Grade-B in the Western Coalfields Limited in the year 1974. After completion of training followed by confirmation, he earned his first increment in the year 1976 and became eligible to be considered for the next higher grade of Foreman Grade-A in the year 1979. His juniors were promoted in the year 1980 but the Petitioner was denied consideration on the ground that he did not possess supervisory certificate of competency valid for mines issued by the Madhya Pradesh Licensing Board (Electrical), Bhopal. He represented against the same when ultimately he was promoted on 20.04.1989. In 1993, the Respondents issued a circular inviting representations for any anomalies in the gradation list. Pursuant to the representation filed by the Petitioner and others a formal general order was

issued on 01.04.1996. The Petitioner was granted notional seniority upto T&S Grade-A from the due date with notional fixation but without arrears of monetary benefits. In this writ application, Learned Counsel for the Petitioner submits that he confines the grievance to non-grant of consequential monetary benefits pursuant to fixation of notional seniority from the due date. It is fairly acknowledged that the original Petitioner has expired on 18.04.2012.

3. Learned Counsel for the Respondents has opposed the application submitting inordinate delay.

4. Notional seniority was granted to the deceased Petitioner on 01.04.1996 with a specific condition that no monetary benefits would be given. The denial of retrospective monetary benefits was not a continuous cause of action from month to month like salary. In the latter case, the cause of action would accrue from one month to another every time when salary was denied. The present was a case for payment of arrears in lump sum. In other words, it was a money claim. The limitation for enforcement of the same would be a period of three years from 01.04.1996. Mere filing of representations cannot be ^{सत्यमेव जयते} sufficient explanation for delay unless legal remedy was being pursued. The institution of the writ petition for that relief in the year 2001 was therefore beyond period of three years. The extraordinary jurisdiction could not have been invoked when even a money suit would have been barred for the claim. The Petitioner have themselves to be blame for not having been vigilant in protection and enforcement of rights.

5. In conclusion, the writ application is dismissed.

Sd/-
Acting Chief Justice