

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL No.904 of 2015

JUDGMENT: *(Per Hon'ble Sri Justice R.Subhash Reddy)*

This writ appeal is filed aggrieved by the order, dated 28.04.2015, in W.P.No.10164 of 2015 passed by the learned Single Judge of this Court.

The appellant/petitioner is working as Overman in Singareni Collieries Company Limited. He was selected for the promotion post of Under Manager. The Provisional Offer of Appointment as Under Manager was given subject to medical fitness by the Company's Medical Officer/Board. The Medical Board has declared the appellant as unfit to work as Under Manager. By proceedings in Ref.No.CRP/PER/C/011/926, dated 20.03.2015, the Provisional Offer of Appointment as Under Manager issued vide letter, dated 21/22.08.2014, was cancelled. Questioning the same, the appellant has filed W.P.No.10164 of 2015. In the said writ petition, while issuing notice before admission on 28.04.2015, the learned Single Judge has ordered for appropriate assessment of medical fitness of the petitioner by the Company's Doctors and based thereon, appropriate follow-up action was directed to be taken.

In this writ appeal, it is contended by learned counsel for the appellant that the appellant was already subjected to medical test and, only after he was found medically fit, he was allowed to appear

for the Second Class Manager Examination, and as such, canceling the Provisional Offer of Appointment as Under Manager on the ground that the appellant was found medically unfit, is arbitrary.

Learned counsel appearing for the respondents-Singareni Collieries Company Limited submitted that pursuant to the observations made by the learned Single Judge, further assessment of medical fitness of the appellant was made and the Medical Board has certified that the appellant is unfit for the post of 'Under Manager' as per Mines Act/Rules.

During the course of hearing, it is brought to our notice that no counter affidavit is filed in the writ petition by the Singareni Collieries Company Limited. When the appellant was found medically unfit for underground duties, he was given the job of Overman on surface. If any similarly placed persons are given equivalent post of Under Manager on surface, it is for the appellant to place such material before the learned Single Judge when the matter is taken up for final disposal. But, having regard to the fact that the appellant was found medically unfit for underground duties, we do not find any merit in this writ appeal to interfere with the order passed by the learned Single Judge at this stage.

Learned counsel appearing for the respondents seeks time to file counter affidavit in the writ petition.

The respondents shall file counter affidavit in the writ petition within a period of three weeks from today. Upon filing such counter, the appellant shall pursue the writ petition before the learned Single Judge for further orders.

Subject to the above, the Writ Appeal is disposed of. No order

as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

30.11.2015

v v