

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.2836 of 2005

Udai Kumar, S/o Shri Bharat Thakur, aged about 35 years,
Foreman Grade-B, Regional Workshop Korea, Chirimiri Area,
District Korea (C.G.)

---- Petitioner

Versus

1. S.E.C.L., Bilaspur, Through Chairman-cum-Managing Director,
S.E.C.L., Bilaspur, Distt. Bilaspur (C.G.)
2. The Personal Manager, S.E.C.L., Bilaspur, Distt. Bilaspur
(C.G.)
3. The Dy. Chief Personal Manager, S.E.C.L., Chirimiri Area,
Distt. Korea (C.G.)

---- Respondents

For Petitioner:	Mr. Prafull Bharat, Advocate.
For Respondents:	Mr. R.K. Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

25/10/2016

1. The petitioner is claiming quashment of order Annexure P-6 dated 3/5-8-2000 and order Annexure P-9 dated 6/7-2-2002 by which the South Eastern Coalfields Limited (for short 'the SECL') has denied grant of benefit of three advance increments to the petitioner as per the incentive scheme dated 22-8-1984 applicable in the SECL. The petitioner passed the examination of AMIE (A & B) both parts and claimed three advance increments on the basis of the above stated scheme dated 22-8-1984. The SECL by its impugned order dated 3/5-8-2000, rejected the application on the ground that such scheme is applicable only for executive cadre employees and since the

petitioner belongs to non-executive cadre, it is not applicable to him and advance increments cannot be granted. Thereafter, the petitioner has brought to the notice of the SECL that such a benefit has been given to the member of non-executive cadre employee also on 6/10-4-2000 vide Annexure P-8 and this time, the SECL rejected his application by order Annexure P-9 holding that the petitioner has obtained qualification by distance education, therefore, it cannot be granted to him against which this writ petition has been filed questioning the legality, validity and correctness of the order.

2. Mr. Prafull Bharat, learned counsel for the petitioner, would submit that the order passed by the SECL authorities is clearly contrary to the record, as the petitioner has passed the AMIE Part A & Part- B examinations from the Institution of Engineers (India), Kolkata, it was not obtained by distance education mode and members of non-executive cadre had also been granted the same benefit vide Annexure P-8 and as such, the impugned orders deserve to be quashed.
3. Mr. R.K. Gupta, learned counsel for the respondents, would submit that the petitioner had obtained the said qualification by way of distance education, therefore, as per the circular of the SECL dated 16/20-12-1999, if the qualification has been obtained from Distance Education Programme, no advance increment is payable for acquiring such qualification, as such the writ petition deserves to be dismissed.
4. I have heard learned counsel for the parties, perused the

documents annexed with the file and also considered the rival submissions made on behalf of both the parties.

5. It is apparent that the petitioner had obtained the qualification of AMIE Section A and Section B. The petitioner's first representation was rejected holding that it is not applicable to the members of non-executive cadre. When the petitioner brought it to the notice of the SECL that the said benefit of advance increments is being granted and it has been granted to the members of non-executive cadre, only then it has been rejected on the ground that the petitioner had obtained the said qualification of AMIE from distance education programme. The order Annexure P-9 would show that no specific finding has been recorded that the petitioner's qualification of AMIE has obtained by distance education programme as it is the case of the petitioner that he has not obtained the AMIE qualification from distance education mode. Since no specific order has been passed holding the qualification of the petitioner to be of distance education programme and he had passed the said examination from an institution which has conducted the examination, it cannot be styled as having been passed through distance education programme.
6. Be that as it may, the SECL has not expressly held that the petitioner's qualification of AMIE is obtained by distance education programme, but has simply held that no advance increment is grantable to the qualification obtained through distance education programme. Therefore, the impugned orders Annexure P-6 dated 3/5-8-2000 and Annexure P-9

dated 6/7-2-2002 are hereby quashed and the SECL is directed to pass fresh order considering the entitlement of the petitioner for three advance increments for obtaining AMIE qualification and to consider the plea as to whether the AMIE by way of institutional examination or by distance education and thereafter, take decision within a period of three months from the date of receipt of a copy of this order.

7. The writ petition is allowed to the extent indicated herein-above.

No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge