

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3036 /2016

(Ramji s/o Dhondba Bawne vs. Western Coalfields Ltd.)

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Ms.Aarti Singh, Adv.h/for Mr.D.S.Thakur, Advocate for the petitioner
Ms.Pushpalata Ranjan, Advocate for Respondent

CORAM : **SMT. VASANTI A.NAIK &**
MRS.SWAPNA JOSHI, JJ.

DATED : **21st June, 2016**

Heard.

By this Writ Petition, the petitioner challenges the order of the respondent-Western Coalfields Limited, dated 1.6.2003, permitting the petitioner to work on surface duty.

The petitioner joined the services of the respondent-WCL on 1.4.1978 as a Casual Labourer. The petitioner was promoted from time to time and was placed in Category V in January 1996. The petitioner suffered a fracture injury to the femur and ulna and was required to take medical treatment. It appears that on the request of the petitioner to provide surface duty, the petitioner was provided surface duty by the impugned order dated 1.6.2003. When the petitioner is on the verge of retirement and is to retire on attaining the age of superannuation on 30.6.2016, the petitioner has challenged the impugned order that was

passed thirteen years earlier. According to the petitioner as the petitioner suffered locomotor disability, his services ought to have been protected, in view of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The petitioner has claimed the protection of his services by challenging the impugned order dated. 1.6.2003.

We are afraid that the relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction. Firstly, the impugned order was passed on 1.6.2003. By the said order, the petitioner was asked to perform surface duty. The said order appears to have been passed on the request made on behalf of the petitioner. The petitioner has not tendered any relevant certificate on record to show that the petitioner suffered locomotor disability, as defined under the provisions of the Act. For proving such a disability, it was necessary for the petitioner to produce the Disability Certificate, as per Rule 4 of the Persons with Disabilities (Equal Opportunities, protection of Rights and full Participation) Rules, 1996. The said certificate could be issued in Form III appended to the Rules. Such a certificate is not annexed to the Writ Petition. The medical authority consists of a Board of three members. In the instant case, the petitioner has relied only on the certificates issued

by the Medical Consultant, Suretech Apollo Medial Centre. These certificates show that the petitioner was temporarily disabled till 1998, in view of the accident that had occurred some time in Septemeber, 1997. There is no material whatsoever to show that the petitioner suffered locomotor disability as per the Act, in the year 2003, when he was asked to perform the surface duty. The benefit of the provisions of the Act could be granted only to the person who suffers from a disability, provided under the Act. There is no material whatsoever to show that the petitioner suffered from locomotor disability as defined under the Act. Also, there is no explanation for the inordinate delay of more than 13 years in challenging the order directing the petitioner to work on surface duty. In the circumstances of the case, the relief sought by the petitioner cannot be granted.

For the reasons aforesaid, we dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

sahare