

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5979 OF 2015

Dilip Rupchand Wankhede

-vs-

Western Coalfields Ltd., thr. Its Head of Security, Nagpur and another

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

Court's or Judge's Orders.

Mr. D.S.Thakur, counsel for the petitioner.
Mr. C.S. Samudra, counsel for the respondents.

CORAM : SMT. VASANTI A NAIK &
KUM. INDIRA JAIN, JJ.

DATE : 24.08.2016.

By this writ petition, the petitioner had initially sought a direction against the respondents to comply the office orders, dated 26.05.2000, 25.11.2014 and the Circular dated 17.03.2015 and protect the pay scale of the petitioner as it existed prior to the conversion of the petitioner's post to the post of Security Guard (Trainee) in Category-I, wages with mid-point fixation.

Though the aforesaid prayer was made in the writ petition, the learned counsel for the petitioner made a statement at the time of hearing of the writ petition on 12.01.2016 that the grievance of the petitioner would stand redressed, if this Court directs the respondents to grant relief to the petitioner in terms of the office order, dated 25.11.2014. Hence, a notice was issued to the respondents only on the aforesaid limited issue.

According to the petitioner, in terms of the office order, dated 25.11.2014, the pay protection of piece rated employees is necessary. It is stated that as per the office order, dated 25.11.2014, the pay protection, in respect of old cases, could also be made.

Shri C. S. Samudra, the learned counsel for the respondents, submitted that the office order, dated 25.11.2014 would not apply to the workers like the petitioner. It is stated by referring to Clause-2 of

the office order, dated 25.11.2014 that only the employees selected in a higher category/grade, Mining Sirdar, Overman and the employees in other technical categories would be entitled to the benefit of pay protection as per the office order, dated 25.11.2014. It is stated that the petitioner does not belong to the higher grade and was selected on the lowest grade i.e. Category-I. It is submitted that since the petitioner was not selected in the higher category and the petitioner is not a Mining Sirdar, Overman and a workman in any technical category, he would not be entitled to the benefit of the office order, dated 25.11.2014.

On hearing the learned counsel for the parties, we find that the relief sought by the petitioner cannot be granted. The office order, dated 25.11.2014 refers to the pay protection of only the employees that are selected in a higher category/grade, Mining Sirdar, Overman or any employees in technical category. The petitioner was not selected in a higher category and does not fall in any other technical category of employees to which the office order, dated 25.11.2014 is applicable. The petitioner had accepted the office order, dated 25.04.2000 without a demur and the said order was passed in terms of the agreement/settlement between the Workers Union and the respondents. We do not accept the submission made on behalf of the petitioner that the petitioner had not given an option for his appointment to the post of Security Guard (Trainee) and, therefore, his pay is liable to be protected as the petitioner had accepted the order dated 25.04.2000 without a demur and the writ petition is filed in the year 2015.

Since the only prayer made by the petitioner was for grant of relief in terms of the office order, dated 25.11.2014 and since the office order cannot be applied to the case of the petitioner, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 26/08/2016