

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6275 OF 2015

(Mineral Exploration Corporation Ltd. vs. Shri Parasnath Singh s/o late Jamindar Singh and another)

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

Shri M.D. Samel, Advocate for petitioner.
Ms. N. Sorte, Advocate for respondent no.1.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : MARCH 7, 2016

Heard Adv. Samel for petitioner and
Adv. Sorte for respondent no.1.

We find that effort of Adv. Samel is to
point out to this Court that respondent no.1 has
waived benefit of Service Linked Promotion Scheme
because of option exercised by him in response to
cadre scheme circulated vide Circular dated 6/1/1999.

Admittedly, this defence was not raised by
the petitioner in reply before Central Administrative
Tribunal. The respondent no.1 made a grievance
before Central Administrative Tribunal that his junior
Shri Bhaisare has been given benefit of Service
Linked Promotion Scheme and it has been arbitrarily
declined to him.

Substitution of that scheme by a new scheme, option given to employees to seek benefit either under Service Linked Promotion Scheme or cadre scheme and, therefore, respondent no.1 exercised option under cadre scheme are all disputed questions, which are being raised by the petitioner before this Court for the first time.

Had cadre promotion scheme or then option exercised by respondent no.1 thereunder been pointed out to Central Administrative Tribunal, respondent no.1 before this Court would have been in a position to place necessary material on record and Central Administrative Tribunal could have thereafter adjudicated upon the controversy.

In this situation, we are not inclined to consider the challenge based upon new facts & documents for the first time. Hence, with liberty to petitioner to take such other steps as are open in law, we dispose of the petition. No costs.

JUDGE

JUDGE

khj