

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

W.P. No. 20456 of 2005

DATE: 13.10.2016

Between:

M. Rayanarsu

.. Petitioner

And

The Government of India
and two others

.. Respondents



ORDER:-

This writ petition is filed for the following substantive relief:

“...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings No.Exam/ Exempt/ Survey/ 5290, dated 25.11.2004, as illegal and discriminatory;

(ii) To declare that the petitioner's qualification of B.Tech. (Civil) with at least 6 months' experience in surveying is requisite qualification for obtaining Surveyor's Exemption Certificate; and

(iii) Consequently set aside the proceedings No.Exam/ Exempt/ Survey/ 5290, dated 25.11.2004; with a further direction to respondent Nos.1 and 2 to consider and issue Surveyor's Exemption Certificate to the petitioner.”

The brief facts of the case are that the petitioner, who acquired qualification of degree in Civil Engineering from Kakatiya University, made an application dated 20.05.2004 requesting the Board of Mining Examination to grant him Surveyor's Exemption Certificate under Coal Mines Regulations, 1957 (for brevity “the Regulations”), however, respondent Nos.1 and 2 erroneously rejected his request on the premise that he did not possess Degree in Mining. A Degree in Mining as well as Degree in Civil Engineering is a specified qualification as approved by the Central Government in terms of proviso to Regulation 17 of the Regulations. Therefore, Degree in Civil Engineering, the qualification possessed by the petitioner, has to be treated as requisite

qualification for granting Surveyor's Exemption Certificate by respondent Nos.1 and 2 on the basis of which Singareni Collieries Company recruits such personnel as Surveyors.

It is pertinent to mention here that this Court, by order dated 16.09.2005, though admitted the writ petition, however on 09.11.2006, dismissed the application of the petitioner in W.P.M.P. No. 26068 of 2005 by not granting any interim direction.

It is averred in the counter affidavit that a person possessing Degree in Civil Engineering cannot be granted Surveyor's Exemption Certificate as per the Notification dated 13.12.1974 since Degree in Civil Engineering cannot be considered as equivalent to Degree in Mining Engineering whereas A.M.I.E. Degree in Mining Engineering is considered as Degree equivalent to Degree in Mining Engineering. As the petitioner has no equivalence of Degree in Mining Engineering, he is not eligible under the Rules. It is further stated that the Surveyor's Exemption Certificate cannot be granted on the basis of degree in Civil Engineering. If only the petitioner had got a Degree in Mining Engineering, he would have been granted the Surveyor's Exemption Certificate after six months' belowground mines experience of Mine Surveying. A candidate may be eligible to appear and pass Surveyor's

Certificate Examination on the basis of six months' experience of belowground mines and a Degree in Civil Engineering.

The present writ petition has been filed in the year 2005. The learned counsel for the petitioner has relied upon S.O. 3906, dated 23.10.1971 wherein list of institutions and authorities awarding Degree/ Diploma in Civil Engineering, after full-time course of study is mentioned. In that list, the names of institutions and branches of degree issued from those institutions are mentioned. So far as the case of the petitioner is concerned, it has nothing to do with S.O. 3906, dated 23.10.1971. The petitioner is a graduate in B.Tech. (Civil). He joined Singareni Collieries Company Limited as Maistry Assistant Trainee on compassionate grounds in the year 1990. On completion of one year training, he was confirmed as Maistry Assistant. The Government of India has framed regulations known as Coal Mines Regulations, 1957 to regulate excavation of coal mines. As per the Regulations, one should obtain certification from the competent authority to work in specified post of Coal Mines. Rule 11 of the Regulations prescribes the Board of Mining Examinations which is the competent authority to issue certificate to work in the specified jobs. Regulation 12 deals with certificates granted by the Board. The Surveyor's Certificate of competency to survey the workings of a mine is one such certificate which

can be granted by the Board of Mining Examinations. As per Regulation 13, certificate would be granted to the candidates after such examination and in such form as the Board of Mines specifies. The Board is also empowered to grant exemption to a person from appearing at the examination for the purpose of issuance of certificate. As per Column No.2 of Notification dated 13.12.1974, a Degree in Mining or an equivalent qualification from an educational institution approved under proviso to Regulation 17 of the Regulations and an at least six months' experience in surveying the workings belowground in mining are required after obtaining a degree. Such candidates, who possess the above qualification and experience, only have to obtain an exemption certificate from the Board of Mining Examination.

The fact remains that D.G.M.S. Circulars were published in the Gazette of India Extra Ordinary Part II Section 3(ii) by the Government of India, vide Notification dated 13.12.1974 whereby it is made clear that Surveyor's Certificate can be issued if any person has obtained Degree in Mining or an equivalent qualification from an educational institution approved under proviso to Regulation 17 of the Regulations or the qualifications approved under the proviso to Regulation 17 of the Metalliferous Mines Regulations, 1961 and has at

least six months' experience in surveying the workings belowground of a mine after obtaining a Degree.

In the instant case, the petitioner does not have six months' experience in surveying the workings belowground of a mine after obtaining Diploma.

Keeping in view the D.G.M.S. Circulars vide Notification dated 30.12.1974 and the facts recorded above, the petitioner is not eligible for Surveyor's Exemption Certificate to be issued in his favour.

Hence, I find no merit in this writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.



SURESH KUMAR KAIT, J

13.10.2016

bcj