

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Appeal No.1141 of 2017

DATED:06-09-2017

Between:

Syed Rashid Ahmed ... Petitioner

And

The Singareni Collieries Company Limited
Represented by its Chairman and
Managing Director
Singareni Bhavan, Red Hills, Nampally
Khairatabad, PB No.18,
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. Surendra Desai

COUNSEL FOR THE RESPONDENTS: Mr. J. Sreenivas Rao,
Standing Counsel for Singareni
Collieries Ltd.



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ appeal is filed by the petitioner in W.P. No.19283 of 2015 feeling aggrieved by its dismissal by the learned single Judge by order dt.2.11.2016.

The appellant who was working under Category-C with respondent No.1 company was assessed by the Corporate Medical Board as unfit for further service on 21.06.2006. Based on the said opinion, the services of the appellant were terminated on 31.05.2007. Feeling aggrieved by the report of the Corporate Medical Board, the appellant has filed a appeal before the Appellate Medical Board. Vide its proceedings dt.11.12.2007 the Appellate Medical Board opined that the petitioner is fit for employment on surface. Based on the said opinion, respondent No.2 has issued proceedings on 29.01.2009 reinstating the petitioner into service without any back wages and continuity of service. Feeling aggrieved by denial of continuity of service and back wages, the appellant filed the aforementioned writ petition which was dismissed by the learned single Judge only on the ground of laches.

The case was heard by us on 23.8.2017 and the same was adjourned to enable Mr. J. Sreenivasa Rao, learned counsel for the respondents, to get instructions as to whether his clients are willing to extend the benefit of continuity of service to the appellant. No doubt, the appellant did not question the order denying him back wages and continuity of service for a substantially long time. However, the law is well-settled that a person who is otherwise entitled to the relief on merits shall not be denied the relief merely on the ground of laches, unless third party interests have come in and grant of any relief would be likely to affect such third party. In the instant case, no third party interests have

been intervened due to laches on the part of the appellant. Moreover, due to the incorrect medical opinion, the appellant was removed from employment for no fault on his part. Therefore, when he was taken back into service based on the opinion of the Appellate Medical Board, which has reversed the opinion of the Corporate Medical Board, the least that petitioner would be entitled to is continuity of service. The appellant, however, is not entitled to back wages as he cannot be allowed to take advantage of his own default in approaching this Court at the earliest point of time. Mr. Surendra Desai, learned counsel for the appellant, also fairly conceded that his client would be satisfied if the benefit of continuity of service is extended to him.

In the light of the above, the order of the learned single Judge is set aside. The writ appeal is accordingly allowed directing the respondents to extend the benefit of continuity of service to the appellant for the purpose of fixation of pay as well as pension.

As a sequel to disposal of the writ appeal, W.A.M.P. No.2173 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

06-9-2017

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