

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on: 28th March, 2017

+ W.P.(C) 10660/2015

RAMENDRA KISHORE PRASAD Petitioner
Through: Mr.C.N.Sreekumar, Adv. with
Mr.Amit Sharma, Mr.K.G.Kochar, Advs.

Versus

S. BHATTACHARYA, CHAIRMAN OF
COAL INDIA LIMITED & ORS Respondents
Through: Mr.Manik Dogra, Sr.Govt. Counsel
with Mr.Nitya Sharma, Adv. for UOI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

: **MS. G. ROHINI, CHIEF JUSTICE**

1. This petition by way of Public Interest Litigation has been filed challenging the appointment of the respondent No.1 herein to the post of Chairman and Managing Director of Coal India Ltd. and seeking a writ of *quo warranto* to remove the respondent No.1 from the said post.

2. The petitioner claims to be a member of the Federation of Coal Industry Retired Employees Association, having its registered office at Jaripatka, Nagpur, Maharashtra State. It is alleged in the writ petition that the appointment of the respondent No.1 to the post of Chairman and Managing Director of Coal India Ltd. vide proceedings of the Ministry of

of application will be eligible for consideration on immediate absorption basis."

6. It is also not in dispute that the respondent No.1 is an IAS Officer and on the date of advertisement he was holding the post of Chairman and Managing Director in Singareni Collieries Company Ltd. on deputation from State Government.

7. It is alleged in the writ petition that the respondent No.1 was not holding the post of level of Additional Secretary in Government of India as on the date of the application or as on the date of the interview which was held on 18.11.2014 or on the date he joined the post of CMD on 05.01.2015, but as per the information furnished by Rashtrapati Bhawan on 06.08.2015 under the Right to Information Act the respondent No.1 was empanelled for Additional Secretary equivalent post on 23.06.2015. Thus, it is contended that the respondent No.1 failed to satisfy Clause III(d) of the eligibility criteria i.e. that the candidate should be a Government Officer at the level of Additional Secretary in Government of India as on the date of application.

8. It is vehemently contended by the learned counsel for the petitioner that as on the date of his application the respondent No.1 was not qualified for the post of CMD and therefore the appointment is illegal and void. It is further contended that since the respondent No.1 is holding the public office of CMD of Coal India Ltd. without being duly qualified, it is a fit case for issuing a writ of *quo warranto* and to remove him from the public office.

9. In the short affidavit filed on behalf of the Union of India, it is explained that while holding the post of Chairman and Managing Director in

Singareni Collieries Company Ltd., the respondent No.1 was drawing the HAG Pay Scale of Rs.67000-79000 with effect from 02.01.2010 which is the pay scale of Additional Secretary to Government of India. Therefore, he has satisfied the eligibility criteria and he was rightly appointed to the post of CMD, Coal India Ltd.

10. A perusal of the eligibility clause extracted in Para 5 (supra) shows that the requirement is "Government Officers of level of Additional Secretary in Government of India OR on equivalent scale of pay".

11. The specific case of the respondent No.2 that the respondent No.1 was holding the post of CMD Singareni Collieries Company Ltd. and was on the Pay Scale of Rs.69000-79000 as on the date of his application has not been disputed by the petitioner. It is also not in dispute that the said Pay Scale of 69000-79000 is the equivalent scale of pay of the Government Officers of the level of Additional Secretary in Government of India. That being the case, we are of the view that Clause III(d) of the Eligibility Criteria has been satisfied. The fact that the respondent No.1 was empanelled for post equivalent to the post of Additional Secretary in Government of India only on 23.06.2015 is not relevant in view of the expression "OR" employed in Clause III(d).

12. However, certain new issues sought to be raised in the rejoinder filed by the petitioner alleging that the respondent No.1 though was appointed vide proceedings dated 18.12.2014 and took the charge as CMD of Coal India Ltd. on 05.01.2015, till date he is not absorbed in the services of Coal India Ltd. and therefore his continuance in office and claiming salary and

allowances is contrary to the rules applicable to the services of Coal India Ltd.

13. Even assuming that the said plea is correct, it appears to us that the respondent No.1 may not be entitled to draw salary and allowances. However, the same cannot be a valid ground for issuing a writ of *quo warranto* as prayed by the petitioner.

14. The law is well settled that a writ of *quo warranto* will lie against an usurper of a public office. We have already held that the allegation of the petitioner that the respondent No.1 failed to satisfy the eligibility criteria and therefore his appointment was illegal is factually incorrect and the contention that he should be declared as an usurper of public office is untenable.

15. It is not open to the petitioner to raise any other disputes relating to the service of the respondent No.1 in this petition filed as Public Interest Litigation.

Accordingly, the writ petition is dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

MARCH 28, 2017

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