

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPS No. 324 of 2007

1. R.S. Gupta S/o B.L. Gupta, aged about 43 years, R/o R.C.-01, RRRT Complex, Post Kusmunda Colliery, Korba, District -Korba (CG).

---- Petitioner

Versus

1. Coal India Ltd., through Chairman, 10 N.S. Road, Kolkata (WB).
2. The Director (P&IR) CIL, Kolkata-10, N.S. Road, Kolkata (WB).
3. The Chairman-cum-Managing Director, SECL, Seepat Road, Bilaspur (CG).
4. The Director (Personnel), SECL, Seepat Road, Bilaspur (CG).

---- Respondents

For Petitioner	Shri Animesh Verma, Adv. on behalf of Shri Ashish Shrivastava, Advocate
For Respondents	Shri Abhishek Sinha, Adv. with Shri D.L. Dewangan, Advocate

Order On BoardByPrashant Kumar Mishra, J.12/09/2019

1. Petitioner claims promotion to the E-3 grade and onwards from the date he was regularised or immediately thereafter when other E-2 grade Engineers were allowed to shift horizontally to another cadre.

2. Petitioner was appointed as Junior Executive Trainee (Mining) on 24-6-1985 and he was subsequently regularised on 12-7-1986. Petitioner seems to have applied for return of original certificates which, according to him, were required for appearing in Gas Testing Examination which by itself was a pre condition for appearing in the 2nd Class Mine Manager's Certificate of Competency (for brevity 'MMCC'). The petitioner could acquire the said certificate only on 6-4-1993 and thereafter he was promoted to the E-3 Grade on 31-1-1997.
3. It is the case of the petitioner that had he been returned the certificates for appearing in the Gas Testing Examination he would have acquired the MMCC soon after passing the Gas Testing Examination and thereafter become eligible for promotion in the E-3 grade much sooner than 31-1-1997. He also claims that if he would have been allowed to move horizontally to other discipline as was allowed to other Engineers vide Annexures – P/13 to P/16, he would have been promoted to the E-3 grade and above much prior to his promotion in the E-3 grade.
4. On an earlier occasion petitioner had preferred WP No.3379 of 1994, which came to be disposed of on 13-12-2005 directing SECL to decide petitioner's representation in accordance with law for promotion from E-2 to E-3 grade and onwards.
5. The representation was, in fact, decided on 13-3-2006 (Annexure – P/3), which is under assail in this petition. In this order, the SECL would state that career growth of a Mining

Executive starts only from the date of regularization/redesignation in the post of Under Manager in E-2 grade on passing and submission of 2nd Class MMCC. Thereafter, he had to complete 3 years service as Under Manager for next promotion. Since the petitioner did not fulfill the above eligibility condition he was not entitled to get promotion to E-3 grade at the relevant time. He acquired 2nd Class MMCC on 6-4-1993 and accordingly he was redesignated as Under Manager in E-2 grade vide order dated 21-1-1994 w.e.f. 6-4-1993. He completed 3 years service on 6-4-1996. Since the cut off date for promotion fixed by the CIL is on 31st March and 30th September every year and the petitioner having completed 3 years service on 6-4-1996 he fell under the cut off date as on 30-9-1996, therefore, the meeting of DPC (Departmental Promotion Committee) was convened after the said date allowing him promotion to the E-3 grade on 31-1-1997.

6. Albeit the petitioner contends that acquisition of 2nd Class MMCC is not required for promotion to the E-3 grade on the strength of promotion policy filed as Annexure – P/8, but the said policy does not apply to the Mining discipline. It relates to Material Management discipline. For Mining discipline 2nd class certificate of MMCC is required for Under Manager and thereafter on completion of 3 years service he becomes eligible for promotion to the E-3 grade.
7. Since admittedly MMCC was acquired on 6-4-1993 and the petitioner was promoted in the E-3 grade on 31-1-1997 on the first available DPC after completion of 3 years service as Under Manager, there does not seem to be any illegality or

arbitrariness in considering the petitioner's case for promotion.

8. The ground of arbitrariness on submission that he was not allowed to shift horizontally to other discipline is not available to the petitioner for two reasons. *Firstly*; the same was not agitated in the first writ petition wherein the direction was only to consider his promotion from E-2 to E-3 grade and above; and *secondly*; it is too stale a matter to allow to resurrect again as the same was denied to the petitioner way back in 1989-90. The other document allowing horizontal shifting vide Annexure – P/26 was passed on 6-6-2000 but that happened after the petitioner was already promoted to the E-3 grade on 31-1-1997.
9. For all the above stated reasons, the petitioner has failed to make out any case for promotion to the E-3 grade on any date prior to 31-1-1997, which has already been allowed.
10. As a sequel, the writ petition, *sans substratum*, is liable to be and is hereby dismissed, leaving the parties to bear their own cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri