

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2378 of 2019

1. Dipak Kumar S/o Late Amrendra Nath Singh, Aged About 58 Years Presently Posted As General Manager (Personnel/EE) South Eastern Coalfields Limited, Head Quarter, Seepat Road, District - Bilaspur Chhattisgarh.
2. Sakti Prasanna Das, S/o Shri S.S. Das Aged About 57 Years Presently Posted As General Manager (Personnel/MP) South Eastern Coalfields Limited, Head Quarter, Seepat Road, District - Bilaspur Chhattisgarh.
3. Asit Kumar Padhy, S/o Late Dr Ramesh Chandra Padhy, Aged About 57 Years Presently Posted As General Manager (Personnel/ Welfare /TS To DP), South Eastern Coalfields Limited, Head Quarter, Seepat Road, District Bilaspur Chhattisgarh.

---- Petitioners

Versus

1. Union of India Through Secretary, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi.
2. Secretary, Public Enterprises, Selection Board Department Of Personnel And Training, Public Enterprises Bhawan, Block No. 14, CGO Complex, Lodhi Road, New Delhi - 110003
3. Chairman Cum Managing Director, Coal India Limited, 10, Netaji Subhas Road, Kolkata West Bengal 700001, India.
4. Director (P/IR) Coal India Limited, 10, Netaji Subhas Road, Kolkata West Bengal 700001, India
5. Chairman -Cum- Managing Director, South Eastern Coalfields Limited, HQ, Seepat Road, Sarkanda, Bilaspur Chhattisgarh.

---Respondents

For Petitioners	:	Mr. Chandresh Shrivastava, Advocate
For Respondents No.1 & 2	:	Mr. R.K. Kesharwani, Advocate
For Respondents No.3 to 5	:	Mr. Sudhir Kumar Bajpai, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/04/2019

1. The challenge in the present writ petition is to the impugned order Annexure P/1 dated 20.03.2019, whereby the respondent No.2 has called upon 7 candidates for the purpose of interview for selection to the

post of Director (Personnel) for the Mahanadi Coalfields Limited, which is a subsidiary company of the Coal India Limited.

2. The grievance of the petitioners is that the selection for the said post is conducted by the respondent No.2 based upon the Compendium of Guidelines framed by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training. The said guidelines lay down certain parameters for shortlisting the list of candidates. One such condition is that from the same Public Sector Enterprise or its subsidiary, the maximum number of candidates, who could be shortlisted is six. Based on the guidelines, the company i.e. the Coal India Limited had forwarded the names of all the eligible candidates to the respondent No.2, who in turn is said to have intimated the Coal India Limited shortlisting six candidates, whose names are reflected in Annexure P/5 dated 17.01.2019 to appear for interview for the post of Director (Personnel) for the Mahanadi Coalfields Limited.
3. Meanwhile, another candidate who had also applied, but whose application was rejected on the ground of the application being incomplete, filed a writ petition before the High Court of Bombay, Nagpur Bench vide WP No. 661/2019. The writ petition finally got disposed of vide order dated 28.02.2019, whereby the writ petition was allowed with the following observations:

“8. We allow the petition in terms of prayer clause 2 and 3 which read thus:

“2. hold and declare that action of the respondents of not inviting/calling the petitioner for interview for the post of Director Personnel Mahanadi Coalfields Ltd. A subsidiary of Coal India Ltd scheduled on 30.1.2019 at PESB Bhavan, New Delhi is illegal, consequently;

3. direct the Public Enterprise Selection Board, respondent No.2 hereinabove to consider the candidature of the petitioner as per his application dated 14/15.3.2018 for the post of Direct-Personnel in Mahanadi Coalfields Ltd., a subsidiary of Coal India Ltd., in the same order of inter-se seniority as is forwarded by CIL HQ, in the interest of justice.”

4. Subsequently, the respondent No.1 is said to have ordered including the name of Mr. Iqbal Singh also as a prospective candidate to be interviewed vide their letter dated 20.03.2019 for the post of Director (Personnel) making the total number of candidates to be interviewed from among the officers of the Central Public Sector Enterprises or its subsidiary (i.e. the internal mode) to be seven instead of six, as provided in the guidelines. It is this action, which is challenged by the petitioners in the present writ petition.
5. On a query being put to the counsel for the petitioners, he fairly admits that all the petitioners before this Court are juniors to the seven persons, who have been called for interview. The only grievance that the petitioners is that since the guidelines envisaged calling for only six candidates from within the company, the respondent No.2 could not have called seven candidates. According to the petitioners, even if they intended to call Mr. Iqbal Singh for the said interview, they should have restricted the list to seek by deleting one name of the candidates from the previous list of six candidates.
6. The counsel for the respondents No.3 to 5 however submits that it is the list, which has been forwarded by the respondent No.2, which has been acted upon as such the contesting party would be the respondents No.1 & 2.
7. The counsel for the respondents No.1 & 2 on the contrary submits that the action has been taken in the light of the subsequent developments

that occurred on account of the order passed by the Nagpur Bench of the Bombay High Court vide its judgment dated 28.02.2019. The counsel for the Union of India further submits that since all the petitioners are juniors to the seven persons, who have been called upon for interview, no substantial prejudice has been caused to the claim of the petitioners as in any case, they are juniors and all the candidates called for interview are senior to petitioners in all respect, as such no substantial prejudice has been caused to the rights of the petitioners.

8. This Court having heard the contentions put forth on either side and on perusal of record, taking note of the guidelines, which have been framed by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, taking into considerations the fact that the interviews are to be held tomorrow i.e. on 4th of April, 2019, this Court would only like to dispose of the writ petition directing the counsel for the respondents No.1 & 2 too instruct the respondent No.2 to keep the guidelines into consideration while making the selection process for the post of Director (Personnel), which includes the candidates, who are being subjected to interview from within the company.
9. The counsel for the respondents No.1 & 2 would communicate the order passed by this Court promptly to the respondent No.1.
10. With the aforesaid observations, the writ petition stands disposed off.
11. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge