

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 390 of 2019**

*{Arising out of order dated 15.02.2019 passed by learned Single Judge in Writ Petition
(S) No. 1678 of 2010}*

- Praveer Sarthi, aged about 44 years, S/o Roopchandra Sarathi, Nagarnar, P.O. Nagaranar, District Bastar (C.G.)

---- Appellant**Versus**

1. National Mineral Development Corporation Ltd., through General Manager, Bailadila Iron Ore Project, Deposit No. 5, 10 and 11 A Bacheli, District Dantewada (C.G.)
2. The Deputy General Manager (Mechanical) Services, Bailadila Iron Ore Project, Deposit No. 5, 10 and 11-A, Bacheli, District Dantewada (C.G.)
3. The Deputy General Manager (Personal) Services, Bailadila Iron Ore Project, Deposit No. 5, 10 and 11-A, Bacheli, District Dantewada (C.G.)
4. The Chief Executive, NMDC Iron and Steel Plant, Bailadila Bhavan, Geedam Road, P.O. Jagdalpur, District Bastar (C.G.)
5. The State of Chhattisgarh through Collector, Bastar, Jagdalpur (C.G.)

---- Respondents

For Appellant	:	Shri Pallav Mishra, Advocate.
For Respondents No. 1 to 4	:	Shri Vaibhav Shukla, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

30.08.2019

1. I.A. No. 1 of 2019 has been filed to condone delay of 93 days in filing this appeal. Considering the explanation offered, the delay in filing the appeal stands condoned.
2. Correctness and sustainability of the verdict passed by the learned Single Judge declining the relief sought for by the Appellant / writ Petitioner with regard to the challenge raised against the termination of service is put to scrutiny in this appeal.
3. Heard Shri Pallav Mishra, the learned counsel appearing for the Appellant as well as Shri Vaibhav Shukla, the learned standing counsel representing the Respondent-National Mineral Development Corporation (for short 'the Corporation').
4. The sum and substance of the grievance projected herein is that the land belonging to the Petitioner was acquired by the Respondent-Corporation. Even though compensation was paid, there was a scheme for providing employment to persons who were displaced from their land and it was accordingly that, the Appellant was offered employment as per Annexure P/2 order issued on 19.01.2002, appointing him as a 'Khalasi (Trainee)' subject to the specific terms and conditions as mentioned therein.
5. It is stated that the Appellant had completed his training, but later his service was unceremoniously put an end to, as per the order dated 01.11.2004 without completing any procedural formalities and this made the Appellant to have it challenged by filing the writ petition.

6. The Respondent-Corporation sought to explain the position that there was absolutely nothing wrong on the part of the Respondents in pursuing the course of action, by virtue of specific terms of appointment and the continued absence of the Appellant, coupled with the poor performance in discharging the duty as a Trainee. The appointment order was very specific in this regard and only on finding that the Appellant/writ Petitioner was a misfit and was not taking any earnest effort to improve his service, that the Respondent was constrained to pass an order putting an end to his service, more so, when it was only a contractual appointment, initially for a period of 18 months.
7. In the course of the proceedings, the learned Single Judge wanted to verify the bonafides in the statement made from the part of the Corporation, particularly as to whether there was any malafide exercise in offering appointment under the scheme and thereafter sending out the persons concerned as a matter of course, due to some or other reason, virtually weeding them out from the field.
8. Pursuant to the order passed in this regard, an affidavit was filed on the part of the Corporation, as to the details of the persons given employment under the Scheme and the particulars of the persons who were sent out for unsatisfactory performance. The relevant aspects have been extracted by the learned Single Judge in paragraphs 5 and 6 of the judgment, which are to the following effect:

“5. In terms of the compliance of the direction of the Court, an affidavit dated 05.02.2019 has been filed. The details of the hiring and disengagement has been crystallized in paragraph 8 and this has been supported by corresponding Annexure R/7. Paragraph 8 of the said affidavit is reproduced herein below:

The following chart is for the kind perusal of this Hon'ble Court which gives details of number of employment given along with details of persons retained or removed from the employment:

S. No.	Year	Number of Employment given	No. of employees Retained after training	No. of persons removed from employment during training	Reasons for removal
1.	2001	295	294	1 (Praveer Sarthi Petitioner)	Unauthorized Absence during training period
2.	2007	4	4	NIL	NA
3.	2010	473	473	NIL	NA
	Total	772	771	1	

Certified and authenticated copy of the details of 772 numbers of employments granted by NMDC Limited to the land oustees in the year 2001, 2007 and 2010 with their present status of employment is annexed herewith as Annexure R/7.”

6. From the data available between the period from 2001 to 2010, of the total number of 772 people given employment as land oustee, Petitioner is the only person who seems to have been removed during the period of training. Therefore, it cannot even be a case where the Company can be accused of providing employment as a formality or finding pretext for removal of such hired land oustees.”
9. From the factual particulars brought on record, it is revealed that, in the year 2001, 295 employments were given employment under the scheme; out of which only 1 person was sent out because of poor performance; who was none other than the writ Petitioner / Appellant herein. In the exercise pursued in the year 2007, 4 persons were given employment and all the four persons were retained. Similar was the position in connection with the exercise of the year 2010, when 473 persons were offered employment and after successful

completion of the training, all the 473 persons were regularized in service. Out of total of 772 employment offered during the period from 2001 to 2010, the Corporation had put an end to the service of only 1 person i.e. the Appellant. With reference to the above factual data, a specific finding was rendered by the learned Single Judge to the effect that the Corporation was pursuing steps in a proper manner and the same was not vitiated by any malafides.

10. The learned counsel for the Appellant submits that, having given appointment to the Appellant, it was quite necessary for the Respondent-Corporation to have pursued necessary steps for conducting a domestic enquiry, more so when a charge-sheet was already issued to the Appellant. The learned counsel representing the Respondent-Corporation submits that the charge-sheet was issued because of the continued unauthorized absence, but on realising the specific nature of the engagement and conditions incorporated in Annexure P/3 appointment order dated 26.01.2002, when the Appellant had not successfully completed the training, it was quite open for the Respondent-Corporation to have terminated the service, which amounted only to a 'termination simplicitor'. The appointment order specifically mentioned in Clause No. 1 that the engagement as 'Khalasi' (Trainee) would be for a period of 1½ years (18 months) providing only a stipend of Rs. 2500/- in the initial 12 months and enhance rate of Rs. 3500/- in the remaining 6 months. It was also mentioned that the payment will be subject to attendance on all the working days in a month and subject to successful completion of initial training of 12 months as mentioned therein. Among the various other conditions, the right of the Corporation was also reserved to put an end to the engagement during the period of training, which, obviously is with reference to the performance to be effected by the trainee. That apart, Clause 7 of Annexure P/1 is specific, that only on successful completion of the training period and subject to availability of

vacancy, would the trainee be considered for appointment as 'Khalasi' in the regular pay-scale of Rs. 4200/- stipend Rs. 6450/- (RS1) with the initial basic pay of Rs. 4200/- with such other allowances / benefit which are available in course.

11. This clearly shows that the Appellant was never appointed on a regular basis and was only a trainee. There is no case for the Appellant that he was present on all the working days, nor is there any specific assertion or denial with regard to the unauthorized absence. That apart, the Corporation has substantiated the facts and figures before the writ Court, to the effect that it was only in the case of the writ Petitioner, that the Corporation was constrained to put an end to the service of the trainee. As such, there is no instance of any malafides or irregular exercise of power, much less anything illegal.
12. In the above circumstances, we are of the view that the verdict passed by the learned Single Judge is within the four wall of law and is not liable to be assailed on any ground.
13. Interference is declined. Writ appeal is dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge