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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 360 of 2019**

{Arising out of Order dated 08.01.2019 passed in Writ Petition (S) No. 39 of 2019 by the learned Single Judge}

1. South Eastern Coalfields Limited Through The Director Personnel Department, Head Quarter, Seepat Road, Bilaspur, Chhattisgarh, District: Bilaspur Chhattisgarh.
2. The General Manager (Personnel /NEE) South Eastern Coalfield Limited, Head Quarter. Seepat Road, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.
3. The General (Mines)/ Sub Area Manager South Eastern Coalfield Limited Charcha Mine (RO), Baikunthpur District Koriya Chhattisgarh, District: Koriya (Baikunthpur), Chhattisgarh.
4. The Area Personal Manager South Eastern Coalfield Limited Area Baikunthpur District Koriya Chhattisgarh, District: Koriya (Baikunthpur), Chhattisgarh.
5. The Senior Manager (Personnel / NEE) South Eastern Coalfield Limited, Head Quarter, Seepat Road, Bilaspur Chhattisgarh, District: Bilaspur, Chhattisgarh.

---- Appellants**Versus**

Ravi Prakash Patel S/o Late Shri Bholanath Patel Aged About 40 Years R/o C/o M.L. Sharma, Bhattipara, Margdarshan Road, Ward 5, Biakuthpur, District Koriya Chhattisgarh District Koriya (Baikunthpur), Chhattisgarh, District: Koriya (Baikunthpur), Chhattisgarh.

---- Respondents

For Appellants	: Shri H.B.Agrawal, Shri V.V.S.Murthy, Senior Advocates and Shri V.R.Tiwari and Shri Vinod Deshmukh, Advocates.
For Respondent	: Shri Vipin Tiwari, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****08/08/2019**

1. Correctness and sustainability of the verdict dated 08.01.2019 passed by the learned Single Judge in Writ Petition (S) No. 39 of 2019 preferred by the Writ Petitioner-Respondent virtually directing the Appellant herein to resolve the dispute in between and to pass a fresh order so as to permit him to join duty at Kusmunda, District Korba, is put to challenge in this appeal.

2. Heard Shri Agrawal, learned Senior Counsel appearing for the Appellants-Company as well as Shri Tiwari, who entered appearance on behalf of the Respondent-Writ Petitioner.
3. The sequence of events is as follows: The Respondent-Writ Petitioner was working as General Mazdoor, Category-1 in the Establishment of the Appellant-Company at Dhehvadih-Singhali-Bagdeva Sub Area in Korba District. While so, he participated in the process of selection and was successful, by virtue of which he was promoted to the post of Grade III Clerk. As per Annexure A/2 dated 02.06.2018, which is the select list, the writ petitioner was shown at serial No. 485 and was required to join duty at Kusmunda in Korba District. There was a condition, particularly as Condition No. 2, stipulating that he had to join within 10 days from the date of the order; failing which the selection would stand cancelled. It is also an indisputable fact that a subsequent corrigendum notification was issued as per Annexure A/3 dated 06.06.2018 with regard to the correction as to the scale of pay and later, the date for joining was also extended till 02.07.2018.
4. The case of the writ petitioner was that he was not permitted to join at the place of transfer and on the other hand, Annexure A/4 order was issued by Area Personnel Manager, Baikunthpur Area of the Respondent-Company on 18/19.06.2018, whereby the Writ Petitioner was required to join at Charcha Mines in District Koriya, instead of Kusmunda. This was followed by Annexure A/5 issued on 25.06.2018, wherein the name of the writ petitioner was shown at serial No. 7, which also virtually was to the same effect. Pursuant to the above orders, the Writ Petitioner, as a dutiful servant, joined duty at the place where he was required to join as ordered by the Area Personnel Manager and the other authorities concerned on 25.06.2018, itself i.e. within the stipulated time. Now comes Annexure A/6

order, which was issued on 29/30.06.2018, whereby the status of the Petitioner was shown as a General Mazdoor and he was required to join at the place shown therein i.e. Kusmunda, which was the place where he was supposed to join pursuant to the selection as per Annexure A/2. It is not discernible from Annexure A/6 as to the last date within which he was supposed to join duty, nor is there any material forming part of the record, as to when was it served to the petitioner, and if so, how.

5. It is true that the Writ Petitioner had filed Annexure A/7 representation on 02.07.2018 seeking to have a posting at Baikunthpur Area, instead of Kusmunda, which was never acted upon. At the same time, the Petitioner was never let known that he was to join Kusmunda on or before any particular date; failing which coercive steps should be taken against him including by way of cancellation of the selection. It was without any such notice or compliance with the principles of natural justice, that Annexure A/8 order came to be issued on 03.10.2018 whereby the selection and appointment as Clerk was cancelled, which made the Petitioner to approach this Court by filing Writ Petition (S) No.39 of 2019, with the following prayers.

"10.1 That, the Hon'ble Court may kindly be pleased to quash the order dated 03.10.2018 (Annexure P/1) passed by the Respondent No. 2 and letter dated 12.10.2018 (Annexure P/2) issued by the Respondent No. 4 and this Hon'ble Court may kindly be pleased to direct to the respondents to release the salary/dues of the petitioner in the interest of justice.

10.2 That, the Hon'ble Court may kindly be pleased to call for the entire relevant records from the respondents.

10.3 That, any other order or direction or relief though just and fit in the circumstances of the case may also kindly be granted."

6. The reliefs sought for were sought to be resisted by the Appellants. The matter was considered elaborately by the learned Single Judge, who

observed that, by virtue of the course and events, particularly the mistake committed by the officers of the Company, it was a matter which could be resolved by passing a fresh order by the Management. The relevant portion as given in paragraph 5 and 6 of the verdict are sufficient to reveal the course of action intended and directed to be pursued; which are extracted below:

"5. Be that as it may, given the said facts and also taking note of the fact that the whole dispute revolves around the place of posting which has led to the issuance of the impugned order, this Court is of the opinion that the issue can be resolved by the respondent No. 1 by passing an appropriate fresh suitable order and directing the petitioner to report to Kusmunda within a stipulated period on the post of Clerk Grade – III.

6. Let respondent No. 1 take a decision in this regard within a period of 60 days from the date of receipt of copy of this order. It shall be left to the respondent No. 1 to decide so far as the emoluments that the petitioner is entitled for, taking into consideration the nature and duty he has discharged during the intervening period."

7. Pursuant to the verdict passed by the learned Single Judge, Annexure A/9 order dated 01.07.2019 was passed by the Appellants-Company, whereby the Respondent-Writ Petitioner was held as entitled to get some amounts in connection with the services rendered; but the cancellation of the appointment was upheld. A mere perusal of the said order is more than sufficient to hold that, it is not in conformity with the direction given by the learned Single Judge.
8. It is brought to the notice of this Court by the learned counsel appearing for the parties on both the sides that the on account of the alleged contemptuous action on the part of the Appellant-Company, a Contempt of Court case has already been preferred and the same is pending. However, the learned Senior Counsel for the Appellants submits that the order passed as per Annexure A/9 was on the basis of a misconception as to the scope of the order and an opportunity might be given to correct themselves, stating

that they are ready to recall the said order and to pass a proper order, whereby the Respondent-Writ Petitioner would be given a chance to join the promoted post, at the place of posting shown in the select list at Kusmunda, within a specified time.

9. The learned Senior Counsel for the Appellants-Company assures and undertakes that revised order will be served to the Respondent within a period of 15 days and he will be given another 10 days' time to join duty. All the observations with regard to the service conditions and such other things will stand intact, as already observed and ordered by the learned Single Judge.
10. The appeal stands disposed off accordingly, declining interference with the merit portion and affirming the judgment passed by the learned Single Judge; with limited modification as above.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE