

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.1164, 2275 & 35334 OF 2014

COMMON ORDER:

All these writ petitions are being disposed of by way of this common order, as the issue raised in these writ petitions is one and the same.

2. Heard learned counsel for the parties.

3. W.P.No.1164 of 2014 is filed seeking the following relief :-

“.....writ of mandamus declaring the proceedings No.N-13023/29/2013-OH (HQ(/336, Dhanbad Mines Rules, 1955 Rules and issue a consequential order setting aside the same and pass such further or other”.

4. W.P.No.2275 of 2014 is filed seeking the following relief :-

“.....writ of Certiorari by calling for all the connected records including the impugned proceedings Ref.No.SRP/PER/1-007/283 dated 16-01-2014 of the 3rd respondent herein and quash the same, as illegal, arbitrary and contrary to Mines Act, 1955, Rule 29 M(2) of the Mines Rules, 1955 and consequently declare that the petitioner is entitled to be discharged from service on medical grounds and to receive all the terminal and other benefits that accrue by virtue of Mines Act, 1955 read with Mines Rules, 1955 and circulars of respondent company issued from time to time; in the interest of justice.....”

5. W.P.No.35334 of 2014 is filed seeking the following relief:-

“.....Writ Of Mandamus declaring the action of the respondents in not considering the application dated 20.01.2014 of the writ petitioner made for compassionate appointment on medical grounds, as illegal, arbitrary and contrary to law and consequently direct the respondents to consider the application of the writ petition dated 20.01.2014 made for compassionate appointment on medical grounds; in the interest of justice and pass such other order.....”

6. For the sake of convenience, the facts in W.P.No.2275 of 2014 are discussed hereunder:

The petitioner is an employee working with the respondent Company and he had applied for medical checkup and sought to be discharged from service on medical grounds. After medical examination, he was declared as fit for duty. Against the said decision, petitioner made a representation to the Superintendent of Mines requesting him to refer his case to the Appellate Medical Board, Dhanbad for medical re-examination. The Appellate Medical Board, after medical re-examination, declared the petitioner as unfit for duty vide proceedings dated 21.11.2013. Thereafter, petitioner has been requesting the respondents to discharge him from service on medical grounds. But, the respondents vide proceedings dated 16.01.2014 directed the petitioner to report to duty. Challenging the same, the petitioner filed W.P.No.2275 of 2014.

However, challenging the proceedings dated 21.11.2013 of the Appellate Medical Board, the respondent Company filed W.P.No.1164 of 2014, whereas the son of the petitioner in W.P.No.2275 of 2017 filed W.P.No.35334 of 2014 seeking a direction to the respondents to consider his case for appointment on compassionate grounds.

7. Learned counsel for the petitioner in W.P.No.2275 of 2014 submitted that within 14 days from the date of issuance of proceedings dated 16.01.2014, petitioner has retired from service on attaining the age of superannuation and he was not in a position to report to duty. Therefore, he contended that W.P.No.2275 of 2014 be allowed directing the respondents to treat the petitioner to have retired on medical grounds by duly taking into account the proceedings dated 21.11.2013 and discharge him from service on medical grounds.

8. Learned counsel appearing for the respondents in W.P.No.2275 of 2014 contended that the Appellate Medical Board has not properly considered the Rules and mechanically declared the petitioner as medically unfit.

9. This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that the Appellate Medical Board vide proceedings dated 21.11.2013 declared the petitioner in W.P.No.2275 of 2014 as medically unfit. In spite of the same,

the respondents in W.P.No.2275 of 2014 have issued proceedings dated 16.01.2014 directing the petitioner to report to duty. But, within 14 days of issuance of proceedings dated 16.01.2014, the petitioner in W.P.No.2275 of 2014 retired from service on attaining the age of superannuation. Therefore, no useful purpose would be served if these writ petitions are adjudicated on merits. However, ends of justice would be met if the respondents in W.P.No.2275 of 2014 are directed to treat the petitioner therein to have retired from service on medical invalidation grounds and discharged accordingly, as he was not in a position to report to duty.

10. So far as W.P.No.1164 of 2014 is concerned, as no interim orders are granted as on today, the Appellate Medical Board's report is holding the field, and at this point of time, adjudicating the issue whether the Appellate Medical Board has rightly issued the proceedings dated 21.11.2013 or not, is too academic, since the petitioner in W.P.No.2275 of 2014 has already retired from service. Therefore, no further orders are required to be passed in this writ petition.

11. Insofar as W.P.No.35334 of 2014, since the petitioner in this writ petition, who is the son of the petitioner in W.P.No.2275 of 2014, submitted an application on 20.01.2014 requesting the respondents to consider his case for appointment on compassionate grounds, ends of justice

would be met if appropriate direction be issued to the respondents to consider the application of the petitioner dated 20.01.2014 and pass appropriate orders in accordance with law.

12. Accordingly, W.P.No.2275 of 2014 is disposed of directing the respondents to treat the petitioner to have retired from service on medical grounds and discharged accordingly; W.P.No.35334 of 2014 is disposed of directing the respondents to consider the case of the petitioner for appointment on compassionate grounds by duly taking into account his application dated 20.01.2014 and pass appropriate orders in accordance with law within a period of three (03) months from the date of receipt of a copy of this order; and in view of the orders passed in W.P.No.2275 of 2014, W.P.No.1164 of 2014 is closed. In order to give quietus to these long pending writ petitions, this order is passed. It is made clear that this order shall not be a precedent to any other case. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 01-11-2019
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