

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT APPEAL Nos.1426, 1432, 1433, 1545, 1546 and 1547 of 2018

Date: 18.09.2019

Between:

W.A.No.1426 of 2018

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And two others

..Appellants

And

G.Surya Kumar and others

.. Respondents

W.A.No.1432 of 2018

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And two others

..Appellants

And

Kavuri Srinivas Rao and others

.. Respondents

W.A.No.1433 of 2018

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And two others

..Appellants

And

H.Veeraswa and others

.. Respondents

W.A.No.1545 of 2018

G.Surya Kumar and others

.. Appellants

and

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And others

..Respondents.

W.A.No.1546 of 2018

H.Veeraswa and others

.. Appellants

and

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And others

..Respondents.

W.A.No.1547 of 2018

Kavuri Srinivas Rao and others

.. Appellants

and

The Singareni Collieries Company Limited
Rep.by its Chairman & Managing Director
And others

..Respondents.

W.A.Nos.1426, 1432 and 1433 of 2018**Counsel for the appellants** : Mr.Andapalli Sanjeev Kumar, Spl.GP
Mr.J.Sreenivasa Rao,
Standing Counsel for Singareni
Collieries**Counsel for the respondents** : Mr.C.V.Mohan Reddy
for Mr.S.SRi Ram Reddy
Mr.G.Vidyasagar for Ms.K.Udayasri**W.A.Nos.1545, 1546 and 1547 of 2018****Counsel for the appellants** : Mr.C.V.Mohan Reddy
for Mr.S.SRi Ram Reddy**Counsel for the respondents** : Mr.G.Vidyasagar for Ms.K.Udayasri
Mr.Andapalli Sanjeev Kumar, Spl.GP.
Mr.J.Sreenivasa Rao,
Standing Counsel for Singareni
Collieries**The Court made the following:**

COMMON JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

All these appeals are disposed of by this common Judgment as they have assailed the common Order, dated 29.11.2017, passed by a learned Single Judge of this Court, in W.P.Nos.45732 of 2016, 1128 of 2017 and 1593 of 2017.

2) The Writ Appeals No.1426, 1432 and 1433 of 2018 are filed by the Singareni Collieries Company Limited and two others, assailing the common order passed in W.P.Nos.45732 of 2016, 1128 of 2017 and 1593 of 2017. The Writ Appeals No.1545, 1546 and 1547 of 2018 are filed against the very same common Order passed in W.P.Nos.45732 of 2016, 1593 of 2017 and 1128 of 2017 respectively by the petitioners in the above writ petitions. Even though, the learned Single Judge has passed the above common Order by including W.P.No.39203 of 2017, no appeal has been preferred against the said writ petition by either party.

3) For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the learned Single Judge in the writ petitions.

4) The brief facts of the case are that all these writ petitions were filed by various employees of Singareni Collieries Company Limited challenging the inaction of the official respondents in not implementing the *Catch-up* Rule and restoring the petitioners' seniority over the unofficial respondents in the promotional category of Deputy General Manager (E&M) E-7 Grade and General Manager (E&M) E-8 Grade. The case of the petitioners was that the petitioners as well as the unofficial respondents were given promotions through Regular Service Rules up to the level of Superintending Engineers and

subsequently, for the post of Deputy General Manager (E&M) E-7 Grade. Even though they were promoted, the seniority which was maintained up to the Grade of Superintending Engineer was not maintained in the said cadre due to the non-implementation of the *Catch-up Rule*. As a result of which, the unofficial respondents, who were juniors to the petitioners, at the Superintending Engineer level were placed above the petitioners. Due to the non-implementation of the *Catch-up Rules*, the unofficial respondents who belonged to the Scheduled Castes/Scheduled Tribes were placed above the petitioners, who belonged to the General Category.

5) It is the case of the respondent-Singareni Collieries Company Limited that the *Catch-up Rule* was not implemented as the Government had issued G.O.Ms.No.5, Social Welfare (SW.ROR.1) Department, dated 14.02.2003, and the same was adopted by the Corporation on 11.07.2003. Moreover, subsequently the said G.O.Ms.No.5 was amended by the Government by issuing G.O.Ms.No.26, Social Welfare (SW.ROR.1) Department, dated 20.02.2009, providing Rule of Reservation in promotions in favour of Scheduled Castes and Scheduled Tribes under Article 16 (4)(A) of the Constitution of India and also consequential seniority in all the promotions, in all categories of posts, in all the State Government Departments.

6) The learned Single Judge, after going through the Judgments of the Hon'ble Apex Court in **B.K.Pavitra v. Union of India**¹, **M.Nagaraju v. Union of India**² and **S.Panneer Selvam v. State of**

¹ 2017 SCC Online SC 109

² AIR 2007 SC 71

Tamil Nadu³, has held that the Corporation without undertaking the exercise for determining 'inadequacy of representation', 'backwardness' and 'overall efficiency', and also quantifiable data on backwardness (as laid down in **M.Nagaraj's case**), cannot implement the *Catch-up Rule*, and has directed the Corporation that till such exercise is completed, no promotion shall be made from out of the eligible candidates. Further, the learned Single Judge has held that insofar as W.P.Nos.1593 and 39034 of 2017 concerned, they relate to maintenance of seniority by implementing the *Catch-up Rule* and the same ratio as stated above in respect of E7 Grade is applicable to E8 Grade petitioners also. However, the same will not prevent the Corporation from effecting promotions based on the seniority in E8 Grade, if there is no dispute with regard to the *Catch-up Rule*.

7) Aggrieved by the above said order, both the Singareni Collieries Company Limited and the petitioners in W.P.Nos.45732 of 2016, 1128 of 2017 and 1593 of 2017 have filed the present appeals on various grounds viz., that the law laid down in **M.Nagaraj's case** was referred to another Constitutional Bench for re-consideration, that the Corporation cannot assess the backwardness as enunciated in **M.Nagaraj's case**, thereby it cannot proceed further for the implementation of the order of the learned Single Judge. Further, the requirement of collecting the quantifiable data on backwardness insofar as Scheduled Castes and Scheduled Tribes are concerned, was declared to be bad and contrary to the decision in **Indra Sawhney**⁴, **Jurnail Singh and others V. Laxmi Gupta and others**⁵, and as such, the order of the learned Single Judge has to be modified.

³ (2015) 10 SCC 292

⁴ 1992 Supp.(3) SCC 217

⁵ 2018 (10) SCC 396

8) On the other hand, the writ petitioners have filed Writ Appeals No.1545, 1547 and 1546 of 2017 mainly on the ground that the seniority list in E-7 Grade is liable to be set aside as the exercise spelt out by the Supreme Court in various Judgments referred in the impugned Judgment i.e. asserting the criteria of backwardness, adequacy in service and efficiency in service was not done and the direction of the learned Single Judge to necessarily conduct the exercise spelt out by the Supreme Court and revise the seniority list and then effect promotion, would be contrary to the judgment of the Supreme Court.

9) Heard Mr.Andapalli Sanjeev Kumar, learned Special Government Pleader, Mr.J.Sreenivasa Rao, learned Standing Counsel for Singareni Collieries Company Limited, Mr.C.V.Mohan Reddy, learned Senior Counsel for Mr.S.Sri Ram Reddy, and Mr.G.Vidyasagar, learned Senior Counsel for Ms.K.Udayasri, appearing for the parties, at length.

10) Learned Counsel appearing on behalf of the appellants as well as the respondents are *ad idem* that the writ petitioners as well as the unofficial respondents in the writ petitions have already reached E-8 Grade. Thus, the direction given by the learned Single Judge to undertake the above exercise spelt out by the Supreme Court in various levels and finalize the seniority in E-7 Grade be limited to review of promotions to the said E-8 Grade only.

11) In view of the above submission made by the learned Counsel appearing on behalf of both the appellants and respondents, it is hereby clarified that the order of the learned Single Judge is modified to the extent that the necessary exercise as prescribed by the

Judgments of the Apex Court in **M.Nagaraj's case** and as clarified by **Jarnail Sing's case** be limited to the promotion in the category of General Manager (E&M) E-8 Grade only, and the Corporation will undertake the exercise of 'Inadequacy of Representation', 'Overall Efficiency' and give the benefit of *Catch-up Rule* by implementing the benefit of G.O.Ms.No.5, Social Welfare (SW.ROR.1) Department, dated 14.02.2003, and G.O.Ms.No.26, Social Welfare (SW.ROR.1) Department, dated 20.02.2009, category of General Manager (E&M) E-8 Grade only. It is needless to observe that the Corporation will follow the law laid down by the Supreme Court in **Jarnail Singh's case** and **M.Nagaraj's case** scrupulously before implementing the *Catch-up Rule*, and in granting the consequential seniority in respect of the Scheduled Caste and Scheduled Tribes promotees for all the future promotions.

12) In view of the above, all the Writ Appeals are disposed of to the extent indicated and the Order of the learned Single Judge is accordingly modified.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

18th September, 2019
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