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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 296 of 2019**

(Arising out of order dated 20.02.2019 passed in WPS No.119 of 2019 by the learned Single Judge)

1. South Eastern Coal Fields Ltd. Chairman Cum Managing Director, Seepat Road P.O. SECL, Seepat Road, Bilaspur Chhattisgarh. Pin 495006
2. General Manager Sohagpur Area SECL Post Office Dhanpuri, District Shahdol Madhya Pradesh
3. Area Personnel Manager Sohagpur Area SECL Post Office, Dhanpuri, District Shahdol Madhya Pradesh.

---- Petitioner**Versus**

1. Sudhir Kumar Pandey S/o Late Ram Dulare Pandey Aged About 40 Years Block Colony, Behind Block Office Burhar, District Shahdol (Madhya Pradesh) Presently Working As Temporary Security Guard Gm Office Sohagpur Area.
2. Santosh Kumar S/o Late Dadan Ram Shukla Aged About 31 Years (Neis No. 24905918), Q.No. M/92, Arjhula Colony, P.O. Kudri, District Shahdol (Madhya Pradesh) Presently Working As Temporary Security Guard Gm Office Sohagapur Area.
3. Nagesh Rai S/o Dumari Rai Aged About 29 Years R/o Q.No. M/213, Rajendra Colony, P.O. Khairaha, District Shahdol (Madhya Pradesh) Presently Working As Temporary Security Guard Dhanpuri, Open Cast Mines.
4. Pappu Rai S/o Dumari Rai Aged About 33 Years R/o Q.No. M/103, Rajendra Colony, P.O. Khairaha, District Shahdol (Madhya Pradesh) Presently Working As Temporary Security Guard Dhanpuri, Open Cast Mines.
5. Santosh Kumar Mishra S/o Janki Prasad Mishra Aged About 47 Years (Neis 22745251), R/o Village - Medhiya Ras, P.O. Medhiya Ras, District Annupur, (Madhya Pradesh), Presently Working As Temporary Security Guard Damini Underground Mines.

---- Respondents

For Appellants	: Shri H.B. Agrawal, Senior Advocate with Shri V.R. Tiwari, Advocate.
For Respondents	: None

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

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P.R. Ramachandra Menon, Chief Justice

06.01.2020

1. This appeal arises from the order dated 20.02.2019 passed by the learned Single Judge in Writ Petition (S) No.119 of 2019.
2. Heard Shri H.B. Agrawal, learned senior counsel appearing for the Appellants.
3. The writ petition was filed with the following prayers :

“10.1 This Hon'ble Court be kindly pleased to call for entire records pertaining to the recruitment process as initiated by the Respondents for the post of Security Guards.

10.2 This Hon'ble Court may kindly be pleased to quash the entire recruitment process.

10.3 In the alternative this Hon'ble Court may kindly be pleased to direct the respondents to conduct the recruitment process afresh for the petitioners and permits the petitioners to participate in the recruitment process.

10.4 Cost of this petition be awarded to the petitioners.

10.5 Any other relief/ reliefs, order/orders, direction/

directions and writ/ writs as may be deemed fit by the Hon'ble Court in the facts and circumstances of the case.”

4. The sum and substance of the case projected before the learned Single Judge was that the Writ Petitioners were in the services of the Appellants herein in different capacities and they were eligible to participate in the departmental test for selection of Security Guards. Despite submitting necessary applications in this regard, the Writ Petitioners were denied entry by the Appellants herein. Aggrieved with the same, the Writ Petitioners approached this Court by filing a writ petition. When the matter was taken up for consideration, the prayer was opposed stating that the applications preferred by the Writ Petitioners were belated and hence, it was not liable to be considered. It was also submitted that, by granting permission to such belated Applicants, there could be shortage of manpower in the category, in which, the Writ Petitioners were working and hence, the relief was not liable to be granted.
5. The above contention was repelled by the learned Single Judge and a direction was given to permit the Writ Petitioners to participate in the recruitment process, however, without entering into the merits of the case. The operative portion of order as contained in paragraph-3, reads as follows :

“3. Without entering into the further merits of the case this Court is inclined to allow the petition at this juncture by quashing (Annexure P-1) to the extent pertaining to the petitioners and (Annexure P-1) to the extent declaring the petitioners as not eligible stands set

aside/quashed. The respondents are directed forth with to call upon the petitioners also to participate in the further selection process in accordance with the rules and procedure.”

6. This made the Respondent-Department i.e. Appellants herein to file the appeal. Notice was issued by this Court to the private Respondents. Service is complete. But, when the matter came up for consideration on the earlier occasions, it was submitted from the part of the private Respondents that they did not intend to contest the matter and this was recorded.
7. There is no representation for the private Respondents today as well. Admittedly, since the merit of the case was not decided by the learned Single Judge and further since, it is submitted from behalf of the private Respondents that they do not intend to contest the matter, we are of the view that the verdict passed by the learned Single Judge requires to be interdicted. It is ordered accordingly and Annexure A/1 verdict dated 20.02.2019 passed by learned Single Judge stands set aside as unopposed.
8. The appeal stands allowed. No cost.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge