

09.08.2021
Sl. No.67
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 10820 of 2021

Shri Anil Kumar
Vs.
The Coal India Limited & Ors.

Mr. Indrajeet Dasgupta,
Ms. Puspita Bhowmick,
Ms. Shamik Chatterjee

....for the petitioner.

Ms. Amrita Pandey

...for the respondents.

The petitioner is an employee of Eastern Coalfields Limited (in short 'ECL') and is presently working as Agent/Chief Manager (Mining) at Madhaipur-Mandarboni Group since 1st May, 2017. The petitioner says that there is a procedure for evaluation of the performance of different categories of employees of ECL including the petitioner through an online process. The evaluation is termed as Pride Rating. The petitioner has questioned the Pride Rating made by his higher officials in ECL for the years 2017-18, 2018-19 and 2019-20. The petitioner says that the Pride Rating for the years 2017-18, 2018-19 and 2019-20 was made available to the petitioner only on 13th March, 2021 and immediately thereafter the petitioner has challenged the same by filing an appeal as permissible under the service rules

applicable to the petitioner. The petitioner filed the appeal challenging Pride Rating before the Chairman, Coal India Limited, Kolkata, who, according to the petitioner, is the Appellate Authority. The petitioner says that since ECL is a subsidiary of Coal India Limited, the Chairman, Coal India Limited is the competent authority to decide such an appeal. Since the appeal was not heard, the petitioner has filed the instant writ petition challenging his Pride Rating.

On behalf of ECL, it is submitted that the Pride Rating in respect of an employee of ECL is an online process wherein each employee has to fill in necessary data which is appreciated by the officer entitled to do so and thereafter the Pride Rating is uploaded in the portal. The petitioner has challenged the Pride Rating in respect of the years 2017-18, 2018-19 and 2019-20. So far as the Pride Rating for the years 2017-18, 2018-19 and 2019-20 are concerned, they have been uploaded in the portal of ECL maintained for that purpose long before 13th March, 2021 when the petitioner claims to have been aware of the same. The appeal preferred by the petitioner challenging the Pride Rating for the years 2017-18, 2018-19 and 2019-20 is barred by limitation as the Office Memorandum dated 8th May, 2018 in serial no.7 provides for 15 days time to prefer an appeal. Inasmuch the petitioner was aware about

the Pride Rating much before 13th March, 2021, his appeal is beyond time and cannot be entertained. That apart and in any event, there is no discrepancy in the petitioner's Pride Rating.

Responding to this submission of ECL, the petitioner says that the petitioner received a notice on 9th March, 2021 to appear in an interview before the authority concerned on 13th March, 2021 for his promotion being considered. On 13th March, 2021 the petitioner actually came to know about the Pride Rating and as such, appeal filed on 26th March, 2021 is within 15 days' time as per serial no.7 of the Office Memorandum dated 8th May, 2018. It clearly appears that there is an assertion from the side of the petitioner that the Pride Rating was made over to him only on 13th March, 2021 while a clear and specific denial from the side of the ECL that the Pride Rating was uploaded in the portal long before 13th March, 2021. This disputed fact is an aspect which cannot be conveniently gone into by the writ Court even if affidavits are called for. The Appellate Authority, in terms of serial no.7 of the Office Memorandum dated 8th May, 2018, is more equipped to consider the factual aspect of the case regarding the date on which the petitioner became aware of the Pride Rating and arrive at a decision on the basis thereof.

On behalf of ECL, it is submitted that the petitioner belongs to E7 category of executive and the Competent Authority to decide on the petitioner's appeal is the Functional Director of Coal India Limited.

The Functional Director of Coal India Limited has not been made a party in the writ petition. However, the petitioner says that the respondent no.2, being the Director (P & IR), Coal India Limited, is at the highest the Functional Director referred to by ECL.

Without going into the dispute as to whether there is a Functional Director or that the respondent no.2 or the Chairman, Coal India Limited is the Appellate Authority in respect of the petitioner, I direct the Competent Authority as per serial no.7 of the Office Memorandum of Coal India Limited dated 8th May, 2018 to consider the petitioner's appeal dated 26th March, 2021. ECL and Coal India Limited shall inform the petitioner within 7 (seven) days as to who will hear the petitioner's appeal as the Competent Authority.

The Competent Authority be that the Functional Director of Coal India Limited or the respondent no.2 or the Chairman, Coal India Limited shall first decide on the issue of limitation that is to say whether the petitioner was aware about the Pride Rating for the years 2017-18, 2018-19 and 2019-20 prior to 13th

March, 2021 or came to know about the same only on 13th March, 2021 and whether the petitioner's appeal is time barred. In the event Competent Authority finds that the petitioner's appeal dated 26th March, 2021 can be entertained, on the same being within time or by condoning the delay, if any, then the matter has to be gone into on merits. The Competent Authority shall pass a reasoned order after hearing the petitioner and ECL on the issue of limitation as the first issue inviting documents and records from the petitioner and ECL. The Competent Authority shall pass a reasoned order on the issue of limitation. The Competent Authority shall also decide the matter on the merits, if the appeal is found entertainable, also by a reasoned order affording a reasonable opportunity of hearing to the petitioner and ECL. The issue of limitation has to be decided within a period of eight weeks from date. The appeal, if is tried on merits, shall be disposed of within sixteen weeks from date. The reasoned order for both the stages as applicable shall be immediately communicated to the parties.

It is needless to mention that the petitioner's Pride Rating shall be subject to the decision that may be passed by the Competent Authority in appeal.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)