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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2805 of 2021

1. Deepak Das S/o Late Dinesh Chandra Das Aged About 57 Years Occupation Service , Presently Posted And Working As Senior Manager (Mining) Grade E-6, Safety And Rescue Department, South Eastern Coalfields Limited, Head Quarter, Seepat Road, Bilaspur , R/o HIG No. 8, Parijat Castle, Ring Road No. 2, Bilaspur Chhattisgarh.
2. B. Siddananda S/o B. Ramulu Aged About 52 Years Occupation Service , Presently Posted And Working As Senior Manager (Mining) Grade E-6, South Eastern Coalfields Limited, Raigarh Area, Raigarh , R/o Plot No. 90, Chandra Nagar, Kelovihar, Raigarh, District Raigarh Chhattisgarh.
3. Rajendra Prasad Dubey S/o Late B.P. Dubey Aged About 50 Years Occupation Service, Presently Posted And Working As Senior Manager (Personal) Grade E-6, South Eastern Coalfields Limited, Rajgamarsuli Area, Korba Area, Korba Chhattisgarh R/o A - 401, Atmosphere, Rajeev Vihar Bilaspur Chhattisgarh.
4. Ashok Kumar Soni S/o Late R.L. Soni Aged About 56 Years Occupation Service, Presently Posted And Working As Senior Manager (Mining) Grade E-6, South Eastern Coalfields Limited, Bataunga Hill Mine, Chirimiri Area, District Koriya Chhattisgarh, R/o Ward No. 8, Guest House Road, Kotma, District Anuppur Madhya Pradesh.
5. Kalyan Kumar Roy S/o Late Krishna Dulal Roy Aged About 57 Years Occupation Service, Presently Posted And Working As Senior Manager (Mining) Grade E-6, South Eastern Coalfields Limited, Churcha Mines, Churcha, District Koriya, R/o C/7, Officers Colony, Near Panchavati Guest House Churcha, District Koriya Chhattisgarh.
6. Gopesh Dwivedi S/o S.K. Dwivedi Aged About 51 Years Occupation Service , Presently Posted And Working As Senior Manager (Mining) Grade E-6, South Eastern Coalfields Limited, Kusmunda Area, Korba Chhattisgarh R/o R-7/19, Rama Valley , Bodari Bilaspur Chhattisgarh.
7. Prasanna Kumar Nigam S/o Late J.P. Nigam Aged About 54 Years Occupation Service, Presently Posted And Working As Senior Manager (Mining) Grade E-6, P And P Department, South Eastern Coalfields Limited, Head Quarter, Seepat Road, Bilaspur, R/o R-7/3, Rama Valley, Bodari Bilaspur Chhattisgarh.
8. Akashaya Kumar Tiwary S/o Late D.K. Tiwary Aged About 54 Years Occupation Service , Presently Posted And Working As Senior Manager (Mining) Grade E-6, South Eastern Coalfields Limited, Head Quarter, Seepat Road Bilaspur, R/o A 401, Atmosphere Rajeev Vihar Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. Union of India Through Secretary, Ministry of Coal Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi 110001.
2. Coal India Limited Through Its Chairman, Coal Bhawan Premise No 04 MAR, Plot No. AF III, Action Area 1A, Newtown, Rajarhat, Kolkata 700156.
3. South Eastern Coalfields Limited A Mini Ratna Company Subsidy of Coal India Limited Through Its Chairman Cum Managing Director, SECL Bhawan, Seepat Road, Sarkanda, Bilaspur Chhattisgarh.

---Respondents

For Petitioners	:	Shri Malay Shrivastava, Advocate.
For Respondents 2&3	:	Shri Vinod Deshmukh, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

16.06.2021

1. Aggrieved by the orders dated 09.09.2020 (Annexure P/1), 21.05.2021 and 24.05.2021 (Annexure P/2) the present writ petition has been filed.
2. Perusal of pleadings and documents enclosed along with the writ petition would show that the order dated 09.09.2020 is an order by which the petitioners have been promoted from E-5 to E-6 Grade i.e. from Manager level to Senior Level Manager in the pay scale of Rs.90,000-2,40,000/- and on promotion the place of posting of the petitioners also have been provided. The petitioners seem to be aggrieved of the place of posting or change of posting on account of promotion. Vide letters dated 21.05.2021 and 24.05.2021 the respondents have extended the period of joining as per the order of promotion dated 09.09.2020 till 31.06.2021 with an observation that they would stand released w.e.f. 01.07.2021 for joining at the new place of posting.
3. Challenge to the place of posting in Annexure P/1 dated 09.09.2020 is on the ground that the same amounts to transferring the petitioners from one company to another company which the respondents should have avoided taking into consideration the Covid-19 pandemic situation.
4. At the outset, this court is of the opinion that no strong case has been made out by the petitioners calling for an interference to the impugned order for the reason that the order dated 09.09.2020 has been periodically modified by the respondent No.2 considering the pandemic situation deferring the date of joining which stood extended from time to time. None

of those orders which were earlier passed were questioned by the petitioners. It is only now when the situation in the entire country is returning to normalcy the respondents have issued the order dated 21.05.2021 and 24.05.2021 that the petitioners seem to be aggrieved.

5. This court is also of the firm view that the impugned order dated 09.09.2020 cannot be construed as an order of transfer for the reason that admittedly vide the said order the petitioners have been promoted from Manager level to Senior Level Manager i.e. from E-5 to E-6 Grade. All the petitioners herein have already accepted the promotion and are discharging their duties on the promoted post till date. Therefore, it is wrong to say that the order under challenge is an order of transfer.
6. As regards the order Annexure P/2, this court is of the opinion that the respondent No.2 has already shown their benevolence towards the petitioners by extending the period of joining on the promotional post at the place of posting upon transfer for a period of nine months. This nine months itself is pretty long time which the respondents have granted to the petitioners considering the ground reality existing and after nine months if the respondents have now issued Annexure P/2 asking the petitioners to join by 01.07.2021, the same cannot under any circumstances be termed to be either harsh, illegal, arbitrary or contrary to service regulations governing the field.
7. At this juncture the counsel for the petitioners prays that Petitioner No.3 and 8 do not want to pursue the present writ petition as they do not have any further grievance with the respondents in the light of their place of posting getting modified.
8. The counsel for the petitioners are accordingly permitted to delete the name of petitioner Nos. 3&8 from the array of parties.

- 9.** The counsel for the petitioners also submits that the petitioners No.1,2 and 4 are willing to forgo their promotion which they have received vide order dated 09.09.2020 and have further requested that their request for forgoing of the promotion be accepted and they be permitted to remain at the present place of posting.
- 10.** This court is of the view that such a request cannot be entertained by the High Court because decision in this regard has to be taken purely on the administrative side taking into consideration the rules and regulations governing the field particularly taking note of the fact that the petitioners have already accepted the promotion about nine months back. The petitioners would be free to approach the respondents No.2&3 in this regard ventilating their grievance. Right of the petitioners for that stands reserved.
- 11.** If at all if the petitioners approach the respondents with such a prayer, the authorities are expected to take a decision in accordance with rules and regulations governing the field at the earliest. The petitioners would also be at liberty to approach the respondents seeking for a further modification to the order dated 21.05.2021 requesting for further time to release from their present place of posting to the new place of posting as ordered vide promotion order dated 09.09.2020.
- 12.** If the petitioners approach the respondents with such request, that may also be considered by the authorities in accordance with rules and regulations and also considering the ground realities of the respective place of posting where the petitioners have been ordered to be posted on their promotion.
- 13.** Today when the matter is taken up for hearing, the counsel for the respondents No.2&3 has brought to the notice of this court an order

passed by the Division Bench of High Court of Bombay, Bench at Nagpur, in WP No.1886 of 2021 wherein the same order dated 21.05.2021 was subjected to challenge by a group of petitioners who were posted in WCL and who have been promoted from Grade E-5 to E-6 and have been shifted to different companies and the High Court has vide order dated 08.06.2021 dismissed the writ petition, thereby veracity of the order dated 21.05.2021 passed by the respondent No.2 has already been tested by another High Court under the writ jurisdiction and the Division Bench of the said High Court has not find any illegality or arbitrariness on the part of the respondents in issuing the said order dated 21.05.2021.

- 14.** The writ petition accordingly stands disposed of with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge

inder