

10.03.2022
Item No. 11
Crt.No.11
b.r.

MAT 210 of 2022
with
IA No. CAN 1 of 2022

Coal India Limited & Anr.
-Vs.
Vivek Singh & Ors.

Mr. L.K. Gupta, Sr. Adv.
Mr. S. Majumder
Mr. S. Prasad
Mr. P. Basu

..... for the appellants.

Mr. Biswaroop Bhattacharyya
Mrs. Ashmita Chakraborty
Mr. Pratik Majumder

..... For the Respondents.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

This is an appeal against the order passed by the
Hon'ble Single Judge in WPA No. 1354 of 2022 dated 27th
of January, 2022 wherein the Hon'ble Single Judge has
passed the following order:-

*"The two issues raised in the main writ
application are that the petitioners have been
graded in their A.C.R.s by persons in the same
rank Grade and not from a higher Grade or
superior in rank to them.*

*The second grievance is that there is no
provision in the rules of the Coal India Ltd. either
for access to such Graduation or to make a
representation against such gradation or to make
a representation against such gradation.*

The aforesaid two grounds have been taken to challenge a promotional process from E-6 to E-7 Grade of Mining discipline of the Coal India Ltd.

At the time when the writ application was moved, a Coordinate Bench of this Court had ordered that the promotion granted after the writ application has been filed, was to abide by its result.

CAN 232/2020 has been filed seeking stay of promotion being granted inter alia pursuant to the notice dated 05.03.2020 even during the pendency of the writ application.

It is reiterated that all promotions granted after the filing of the writ application and, particularly, to persons after 05.03.2020 would be treated as ad hoc/temporary and shall abide by the final result of the writ application.”

The Coal India Limited has preferred the instant appeal on the ground that the Learned Single Judge failed to appreciate that the Chairman of the Coal India Limited has issued the circular dated 06.01.2022 in exercise of power vested on him under the provision of Clause 1.7(c) and 1.7(f) of Chapter IV of the Common Coal Cadre.

It is further urged that the Learned Single Judge has passed the impugned order on the supposed ground that the circular was an attempt to overreach the Hon'ble Court merely on the basis of a suspicious assertions by the writ petitioners that the promotional policies of CIL were in question in W.P. 17774(W) of 2019.

It is further submitted that the Learned Single Judge failed to take note of the fact that the interim order passed in W.P.No.17774(W) of 2019 which already mandated the *ad hoc* character of promotion from E6 to E7 grade would automatically make further promotion from E7 to E8 *ad hoc* and within the ambit of the said interim order whereas the impugned order would create a deadlock in the matter of promotion from E7 to E8 grade and jeopardise the functions of Coal India Limited.

It is further submitted that due to the impugned order passed by the Hon'ble Single Judge, the Coal India Limited is not in a position to give promotion to the persons in E7 to E8 grade for which the work of the Coal India Limited has been stopped.

Learned Counsel for the respondent/writ petitioners submitted that while passing the interim order, the Hon'ble Single Judge had directed the appellants to file Affidavit-in-Opposition within two weeks but the appellants did not file their affidavit. The writ petition was again listed before the Hon'ble Single Judge on March 3, 2022 but the Respondents have not filed any Affidavit-in-Opposition and prayed for extension of time.

The Hon'ble Single Judge had extended the interim order and also extended the time for filing Affidavit-in-Opposition till 29th of March, 2022 and reply

thereto, if any, shall be filed by 12th of April, 2022 and directed the matter to be listed by 21st of April, 2022.

The Learned Counsel for the respondents/writ petitioners submitted that the appellants have filed Affidavit-in-Opposition and have served the copy of the same on 8th of March, 2022.

Learned Counsel for the respondents further submitted that he will file Affidavit-in-Reply within a week from this date.

This Court finds that the writ petition is pending before the Hon'ble Single Judge wherein the legality of the impugned circular dated 6th of January, 2022 is to be adjudicated.

This Court finds that the Learned Single Judge granted limited stay and was of the view that this matter and other matters will be heard by the Hon'ble Judge having determination.

This Court is of the view that the writ petition is pending before the Hon'ble Single Judge is to be disposed of as the respondents have already filed their Affidavit-in-Opposition and writ petitioners will file their reply within a week.

In view of the above, there is no requirement of interfering with the order impugned, at this stage.

MAT 210 of 2022 along with the connected application being **CAN 1 of 2022** stand thus **disposed of.**

In view of the order passed above, no affidavits are necessary. Since Affidavits are not invited, allegations made in this appeal are deemed to be denied and disputed.

The Hon'ble Single Judge is requested to dispose of the writ petition as early as possible as per the convenience of His Lordship.

All parties shall act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)