

MAT 1409 of 2022
with
IA No. CAN 1 of 2022

(Abhishek Sharma & Ors. Vs. Union of
India & Ors.)

Mr. Victor Chatterjee
Mr. Barnamoy Basak

.... For the appellants

Mr. Narendra Prasad Gupta

..... For the respondent no. 1

Mr. Kishore Datta, Ld. Sr. Adv.
Mr. Varun Kedia

..... For the Coal India Limited

Affidavit-of-service filed by the appellants be kept on record.

The present appeal has been preferred challenging an order dated 22nd August, 2022 passed in a writ petition being WPA 17844 of 2022. By the said order, the interim order, as prayed for by the writ petitioners, was denied.

Mr. Chatterjee, learned advocate appearing for the appellants/writ petitioners submits that the executive posts in Coal India Limited (in short, CIL) are filled up by direct recruitment and by promotion of the candidates from the non-executive cadre. The total number of vacancies in executive cadre are, accordingly, divided and earmarked for direct recruitment and for promotion respectively. Without taking any step for filling up the vacancies earmarked for promotion, the CIL authorities are filling up the vacancies earmarked for direct recruitment and to that effect, an advertisement no. 2 of 2022 dated 23rd June, 2022 and an advertisement no. 3 of 2022 dated 8th July, 2022, have been issued.

He further submits that unless the CIL authorities are restrained from giving effect to the said advertisements, the appellants would suffer irreparable loss and their seniority would be affected.

Per contra, Mr. Datta, learned senior advocate appearing for CIL submits that for filling up the vacancies earmarked for promotion, a process was initiated in the year 2015. The first examination, as scheduled on 17th January, 2016, had to be cancelled and a re-examination was conducted on 31st July, 2021. In the said re-examination, the appellant nos. 1 to 4 and 5 participated and were unsuccessful. The appellant no. 3, however, did not even appear in the said examination.

The writ petition has already been admitted for considering the grievances of the appellants upon exchange of affidavits. Admittedly, the appellants herein belong to the non-executive cadre and their claim is pertaining to the vacancies earmarked for promotion. The advertisements have been issued for filling up the vacancies earmarked for direct recruitment. In our opinion, a restraining order, as prayed for on behalf of the appellants, would cause a greater loss and prejudice to the respondents than the loss and prejudice, the absence thereof, is likely to be caused to the appellants.

In view thereof, we are not inclined to interfere in the present appeal. The appeal and the connected application are, accordingly, dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)