

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2264 OF 2021

Shri Sandeep s/o Vithoba Mohitkar,
 Aged 36 years, OccU. Cultivation,
 R/o. Hirapur, Post-Antargaon (Bk),
 Tah. Korpana & Dist. Chandrapur. .. Petitioner

.. Versus ..

1. Western Coal Fields Limited, through
 its Chairman-cum-Marketing Director,
 Coal Estate, Civil Lines, Nagpur-02.
2. Chief General Manager,
 Western Coal Fields Ltd.,
 Wani Area, Urjagram, Tadali,
 Tah. Bhadrawati, Dist. Chandrapur.
3. Area General Manager,
 Western Coal Fields Ltd.,
 Wani Area, Urjagram, Tadali,
 Tah. Bhadrawati, Dist. Chandrapur.
4. Manager, Penganga Open Cast Mines,
 Western Coal Fields Ltd., Virur Gadegaon,
 Tah. Korpana, Dist. Chandrapur. .. Respondents

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Ms. Kirti Satpute, Advocate for the petitioner,
 Shri C.S. Samudra, Advocate for the respondents.

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CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.
DATED : 01.03.2022.

JUDGMENT (Per : A.S. Chandurkar, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2. Land ad-measuring 0.86 HR belonging to the petitioner was the subject matter of acquisition under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957. In terms of the Rehabilitation and Resettlement Policy-2012, the petitioner was offered employment in lieu of acquisition of that land. By an order dated 17.11.2014, his employment was sanctioned by the respondents. The petitioner was therefore required to undergo a medical examination. The petitioner initially was declared to be not fit on account of his poor vision. Subsequently, the Civil Surgeon certified the petitioner to be fit with spectacles. The petitioner sought reference of the fitness certificate to be made to the Apex Medical Board. The petitioner was thereafter again declared unfit. Since he was examined without glasses, the petitioner then sought re-examination by the Appellate Medical Board under Rule 29-J of the Mines Rules, 1955. The Appellate Medical Board examined the petitioner on 22.9.2016. As per the certificate issued, it was

opined that he was found fit for employment in surface and open cast mine.

3. It is the case of the petitioner that despite such certificate, his case was not being considered for grant of suitable employment. A representation to that effect was made on 21.2.2020 and legal notice was issued on 1.12.2020. Since there has been no response from the respondents, the petitioner has filed this writ petition.

4. Reply has been filed by the respondents. It has been stated that the Appellate Medical Authority has merely to examine the medical fitness of a candidate and it has no authority to make any recommendation for grant of appointment of a particular nature. It is further stated that on account of poor vision of the petitioner, it would not be possible to extract work from him in any underground mine of the Company.

5. On hearing the learned counsel for the parties and on perusing the documents on record, it is seen that the petitioner has been examined by the Appellate Medical Board and its opinion has been forwarded to the respondents. The final decision in the matter of grant of employment under the Policy of 2012 has to be taken by the respondents. Since no decision was being taken, the

petitioner had made a representation dated 21.2.2020 followed by a legal notice. The interests of justice would be served by directing the respondent nos.2 to 4 to take a decision on the petitioner's representation dated 21.2.2020 in the matter of grant of employment under the Policy of 2012. The said respondents shall take into consideration the report of the Appellate Medical Board as well as the relevant provisions of the Policy of 2012. Such decision be taken within a period of eight weeks from the production of copy of this order by the petitioner. After such adjudication, if the grievance of the petitioner still survives, the petitioner is free to take such steps as are permissible in law for redressal of those grievances. It is also open for the petitioner in alternate, to accept monetary compensation in lieu of employment.

6. With these directions, the writ petition is disposed of.
Rule accordingly. No costs.

[SMT. M.S. JAWALKAR, J.]

[A.S. CHANDURKAR, J.]