

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

WRIT PETITION NO.2183 OF 2022

Pankaj Kishor Zodey, Chikhla, Bhandara

-vs-

Western Coal Fields Ltd. GOI Undertaking Thr. Dy. General Manager (P/IR) Coal Estate, Civil
Lines, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. S. Kalangiware, Advocate for petitioner.
Shri A. M. Ghare, Advocate for respondent No.1.
Shri N. S. Deshpande, ASGI for respondent No.2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : August 24, 2022

P.C.

Heard.

The petitioner, pursuant to the employment notification dated 11/10/2021 issued by the Western Coalfields Ltd. had applied for being considered for appointment on the post of 'Mining Sirdar' under OBC-NCL (Non-Creamy Layer) category. As per said notification the upper age limit was to be thirty years as on the date of notification. This upper age limit was relaxed by three years for OBC-NCL candidates. Under the notification, the declaration given by a candidate as regards eligibility was treated to be sufficient to enable such candidate to appear for the test. The candidates were required to upload a valid caste-certificate as well as a valid NCL certificate along with the application.

It was also stated that if such validity certificate was not uploaded, the candidate would be considered as a general candidate.

2. The petitioner applied under such notification as per his application dated 09/11/2021 in OBC-NCL category. He was however informed that he was not shortlisted for the written test on the ground that he was overage. He was then informed that his application has been rejected for failure to submit OBC-NCL certificate and that he was overage in the general category. Being aggrieved the petitioner has challenged the aforesaid resolution.

3. The learned counsel for the petitioner submitted that in the portal where the documents were to be uploaded online, there was no option for uploading the NCL certificate. The petitioner could only upload his caste-certificate. Since there was no option to upload the NCL certificate and he had applied under that category, his candidature was treated from the general category for want of NCL certificate. There was no fault on the part of the petitioner for being unable to upload the NCL certificate as there was no option in that regard. The petitioner has thus been deprived of an opportunity to seek employment and has been treated as overage. This has resulted in illegality for no fault on the part of the petitioner. Reliance was placed on the decision

in *Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and anr. (2016) 4 SCC 754* and it was submitted that the petitioner ought to be permitted to undertake a fresh written test by issuing such direction in terms of the posts advertised by notification dated 11/10/2021.

4. The learned counsel for the respondent No.1 opposed the writ petition. According to him there was a specific link provided in the portal for uploading all relevant documents. In the present case the NCL certificate was required to be uploaded at step 4/5. Since the relevant certificate was not uploaded the petitioner's candidature was treated from the general category in terms of the notification. Since it was found that the petitioner was overage as regards the general category, his candidature was rejected. In the selection list published on 26/05/2022, about 2692 candidates had uploaded the OBC-NCL certificate. 333 candidates whose age was above 30 years got benefit of that certificate since it was properly uploaded. Hence there was no fault with the process conducted by the respondent No.1 and there was no case made out to interfere in writ jurisdiction.

5. Having heard the learned counsel for the parties and having perused the documents on record we find that the petitioner would not

be entitled to any relief under Article 226 of the Constitution of India. While the petitioner urges that there was no option for uploading the NCL certificate, it is asserted by the respondent No.1 that a specific link was provided in the portal at step 4/5 for uploading the said certificate. The assertion in paragraph 6 of the affidavit in reply filed by the respondent No.1 that 2692 candidates had uploaded such certificate out of whom 333 candidates got benefit of the NCL certificate has not been controverted. It is thus a case of oath against oath, truthfulness of which cannot be adjudicated in writ jurisdiction.

Another aspect which cannot be ignored is that if the petitioner is permitted to undertake the written test in terms of the notification dated 11/10/2021, the same would also result in depriving other similarly situated candidates who may have a similar grievance as the petitioner. We therefore find that on the basis of the material on record, it would not be permissible to record a finding that there was no specific link provided for uploading the NCL certificate.

6. The learned counsel for the petitioner relied upon Clause 4(ii) of the notification dated 11/10/2021 to urge that the declaration as regards eligibility as mentioned in the online application was sufficient for permitting the petitioner to appear at the written test and the respondent No.1 was not justified in depriving the petitioner of such

attempt. It is however seen that the declaration as regards eligibility being treated as sufficient for appearing in the written test is with regard to essential qualifications prescribed in the notification. Whether the petitioner is entitled to claim benefit of age relaxation being a candidate from OBC-NCL category would not be an aspect of eligibility but would be a factor for age relaxation. On that ground clause-4(ii) would not come to the aid of the petitioner.

In that view of the matter, we are not in a position to consider the prayer for grant any relief to the petitioner in writ petition. The writ petition is thus dismissed with no order as to costs.

However, the petitioner is free to invoke other remedies available to him in accordance with law for redressal of his grievance, if so advised.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)