

28-11-2023

ct no. 13

Sl. 61

sp

WPA 16783 of 2022

Amarendra Deo Gupta

-Versus-

Coal India Limited & Anr.

Mr. Swarup Banerjee ,

Mr. Arindam Chatterjee

...for the petitioner

Mr. Shiv Sankar Banerjee

... for the respondent no. 1

Mr. Nikhil Kumar Roy

..for the respondent no. 2

1. The short question that comes for consideration in this writ petition is the scope and purport of the circular dated October 5, 2007 of the Coal India Limited (CIL) with regard to promotion of an employee who has been met with a minor penalty of "Censure".
2. The facts of the case are that the disciplinary proceedings came to be instituted by the Coal India Limited, against the petitioner, who was a Deputy Manager (Finance) Grade E3 at Rajmahal area of Eastern Coalfields Limited.
3. The said proceedings ended up in a minor penalty of Censure on August 18, 2021 under the CDA Rule.

4. For the purpose of promotion to the post of Manager E3 to E4, a provisional list was prepared by the Departmental Promotion Committee (DPC) on July 31, 2021. The petitioner was in the list of eligible promotees on the said date.
5. In the meantime, as indicated hereinabove, the employer, in a regular CDA proceeding against the petitioner, imposed a penalty of censure on him. The final list of promotee to E4 grade was prepared in the DPC meeting on August 21, 2021. The petitioner was not on the said list.
6. Mr. Banerjee, learned counsel for the petitioner would vehemently argue by reference to the circular of the CIL dated October 5, 2007, particularly, the second part thereof and say that since as on date of the final DPC, i.e., August 21, 2021, the punishment of censure was already awarded on August 18, 2021. The DPC must be deemed to have the benefit of the CDA and minor penalty of censure against the petitioner. The petitioner ought to have been promoted from E3 to E4 grade.
7. The facts in the instant case, however, reveal a different picture. The DPC was originally held on July 31, 2021 when the petitioner's

name featured in the list of eligible candidate for promotion to E4 grade. The minor penalty of censure intervened in the meantime, i.e., on August 18, 2021.

8. Applying the clause (i) in the said circular dated October 5, 2007 at the third paragraph, the DPC very rightly excluded the petitioner from the promotion process, concluded on August 21, 2021.
9. Interpretation of the aforesaid circular dated October 5, 2007 as above is supported by a decision dated August 8, 2013 of a Co-ordinate bench in the case of **Satyajeet Kumar Vs. Coal India Limited and others** passed in **W.P. 15961 (W) of 2012**.
10. For the reasons above, this Court does not find any infirmity in the decision taken by the employer. Hence, the instant writ petition fails and is hereby dismissed.
11. There shall be no order as to costs.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)