

20.11.2023.
Court No.13
Item No. 9
ap

W.P.A. No. 19527 of 2023

**Nirmal Sengupta
Versus
The Coal India Limited & Ors.**

Mr. Partha Ghosh,
Mr. Amal Kumar Datta,
Ms. Simran Sureka,
Mr. Debashis Das.

...For the petitioner.

Mr. Biswaroop Bhattacharya,
Mrs. Priti Banerjee.

...For the ECL.

1. The report filed by the respondent no.8 and the exception filed in respect of the said report by the petitioner are taken on record.

2. The facts of the case have been recorded by a Co-ordinate Bench of this Court in its order dated 22nd August, 2023.

3. The petitioner seeks medical benefits commensurate with the post of Executive Grade. He superannuated from service of the Eastern Coalfields Ltd in 2003.

4. By two several orders passed by a Division Bench of this Court dated 9th January, 2003 in M.A.T. No. 437 of 2002 and the Hon'ble Supreme Court of India dated 21st April, 2009 passed in Civil Appeal No. 10240 of 2003, it was directed that the petitioner should be granted monetary benefits in the Executive Grade.

5. The petitioner was granted all the monetary benefits thereafter. However, when it came to post-

retirement medical facilities, the writ petitioner was issued a Medical Facility Card dated 15th November, 2019 only to the post of Technical Assistant based on his application indicating that he was in the Executive Grade. Surprisingly, the Medical Card dated 20th November, 2011, Employee Code 84322 signed by the Personnel Manager, ECL, Sodepur Central Workshop, indicated that he was an Ex-Executive. This has been disputed by the Eastern Coalfields Limited (in short 'ECL') in their report before this Court.

6. The writ petitioner availed the medical facilities as a Technical Assistant post 2019 until 2023 when he filed this writ petition. Notwithstanding the Executive Medical Card dated 20th November 2011, he was not allowed to avail any Executive or other medical facilities until after 2019 albeit as a Technical Assistant Non-Executive.

7. One Smt. Sujata Dasgupta, Chief Manager (Personnel) posted at Sodepur Central Workshop has on behalf of General Manager (Personnel) & I.R., Eastern Coalfields Limited has filed a report dated 22nd September, 2023, for and on behalf of the G.M. (Personnel) of the ECL.

8. The report is an attempt to overreach the authority of the High Court and the Hon'ble Supreme Court of India. The said Chief Manager (Personnel) and General Manager (Personnel), ECL in paragraphs 1 to 8 and 9 (l) of the report, have chosen to sit in appeal and go

behind the orders of the Hon'ble Supreme Court of India and the Division Bench of the High Court.

9. This Court has no hesitation to say that the said paragraphs are ex facie contumacious. However under paragraph 9, an attempt has been made to indicate and justify as to why the petitioner has not been allowed to medical facilities in the Executive grade.

10. The substance of the objection of the ECL, is that that the orders of the Division Bench of this court and the Supreme Court of India (supra) only permit and allow the monetary benefits in the Executive Grade to the petitioner. No other benefit was ordered.

11. A fair reading of the orders of the Division Bench and the Hon'ble Supreme Court of India would essentially indicate that since the petitioner was at the last leg of his service while the matter was pending in the High Court and had superannuated by the time the matter reached the Supreme Court of India, indicates that two Constitutional Courts have permitted the petitioner to avail the retirement benefits in the Executive Grade. No doubt the expression "monetary benefits" has been used by the Hon'ble Supreme Court of India. The Single Bench of the High Court allowed the petitioner to be treated as E-II in 1982 and E-III in 1985. This was approved by the Division Bench. The Hon'ble Supreme Court of India has refused to interfere with the order of the Division Bench.

12. Yet another factor that goes in favour of the petitioner is the issuance of a Medical Card to the petitioner on 20th November, 2011 which has, however, been disputed by the ECL in the Executive Grade. The petitioner did not avail any medical facilities until 2019 as he was required to put in Rs.40,000/- as Contributory Medical Fund which was accepted by the respondents. He availed the Medical Facilities on the basis of a fresh Medical Card issued as a Technical Assistant (below that of an Executive Grade).

13. In the backdrop of the above facts, this Court has no hesitation to hold that apart from contumaciously averring in a report, the General Manager (Personnel) and Chief Manager (Personnel) of ECL have continued to harbour, malice against the petitioner and take a very narrow view of orders passed by this Court and the Hon'ble Supreme Court of India.

14. If the petitioner was allowed to enter Executive Grade by a Single Judge of this Court as confirmed by the Division Bench and the Hon'ble Supreme Court of India from 1982 onwards until his retirement in the year 2003, it would normally follow that the petitioner would also be entitled to any other facilities available (particularly medical) in the Executive Grade to any employee of ECL.

15. Taking an overall and holistic view of the orders of the Single Bench, Division Bench and that of the

Supreme Court of India, referred to hereinabove, this Court orders a writ of mandamus directing the respondents to issue a fresh medical card to the petitioner forthwith, in the Executive grade and the petitioner should be allowed to enjoy the benefits of Medical Facilities allowed to an executive.

16. The entire purpose and spirit of the orders of the Single Bench, Division Bench and that of the Hon'ble Supreme Court of India are to ensure that the petitioner retires as an Executive. Apart from the monetary benefits, a proper medical facility is the most vital facility available to a retired employee when he and his entitled dependants are most vulnerable to ailments and diseases.

17. Given the tenor, language and text of the report of the General Manager (Personnel) and Chief Manager (Personnel) of ECL, this Court was minded to issue suo motu rule of contempt. However, on repeated pleas for leniency made by Mr. Bhattacharya, this Court does not do so.

18. This Court is, however, issues a "warning" to the General Manager (P&IR), Eastern Coalfields Limited being the respondent no.8 herein and the Chief Manager (Personnel) of Sodepur Central Workshop from any misadventure and/or contumacious conduct in future. The warning shall be entered in their service records by the M.D. of ECL.

19. With the aforesaid observations, the instant writ petition shall stand disposed of without any order as to costs.

20. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)