

04.12.2023
Court No. 13
Item No. 5
AP

WPA 25874 of 2023

**Pavan Kumar Sharma and Anr.
Vs.
Union of India and Ors.**

Mr. Pavan Kumar Sharma
Mr. Rahul Jain

... Petitioners (in-person).

Mr. Shamit Sanyal
Ms. Manika Roy
Mr. Sabyasachi Roy
Ms. Shinjita Ray

... For the Coal India Limited.

1. The two petitioners are in the non-executive cadre Grade C with the Eastern Coalfields Limited. They are aggrieved by a notification dated 1st August, 2023 by which promotion/selection, of departmental employees in six several disciplines, to executive cadre i.e. E1 and E2 was notified.

2. The petitioner No.1 has completed eight years in the pharmaceutical department of the Eastern Coalfields Limited. He is in Grade C. He seeks to apply in the E2 cadre in the Legal Department. He has a law degree.

3. The petitioner No.2 is a postgraduate in Management and Social Work. He wishes to apply in the Marketing and Sales, Security and Personnel Department. He too is in Grade C in the non-executive cadre.

4. The minimum qualification in all sixteen disciplines appears to be Grade A in the non-executive section. Hence

neither of the two petitioners would qualify in the said process of promotion.

5. Both the petitioners, appearing in-person, would argue that said promotion Rules of 2023 has been made more stringent than the last promotion process of 2015. In the 2015 promotion process, the minimum qualification for entry into the executive grade from the non-executive grade was different and not restricted to Grade A only. There were some categories in which non-executive employees of Grade C would also participate in the promotion process to the executive grade.

6. The said promotion process of the year 2015 came to be questioned before a Division Bench this Court on the ground of non-completion. The division Bench directed completion by the year 2021, which has been done.

7. In support of the argument being discriminated and the promotional policy being violative of Article 14 of the Constitution of India, the petitioners appearing in-person, would rely upon a decision of the Supreme Court dated 15th January, 1997 in the case of **Dr. K. Ramulu and Anr. Vs. Dr. S. Suryaprakash Rao and Ors.** reported in **(1997) 3 SCC 59** decided by a Three Judge Bench of the Supreme Court. Particular reliance is placed on a paragraph 12 of the aforesaid decision. It appears to this Court that the facts of the case are substantially different from the facts of the instant case.

8. In the said case i.e. ***Dr. K. Ramulu (supra)*** the Supreme Court was considering the effect of a recruitment process in the Animal Husbandry Department of the Government of A.P. started temporarily under the un-amended rules prevailing before the introduction of AP Animal Husbandry Service Rules, 1996.

9. The question that arose for consideration is whether a promotion/recruitment process started before coming into force of 1996 Rules and amendment, would abide by the earlier Rules prevailing before the amendment or thereafter. It is essentially in that context that the Hon'ble Supreme Court held that there was no harm in applying the Rules pre-existing 1996 under which the recruitment process was started.

10. In the instant case, it is seen that the promotional rules of August 2023 are specific and the Coal India Limited in its wisdom has adopted a policy decision to prescribe a minimum qualification of Grade A in the non-executive cadre for promotion to E1 and E2 in the 6 disciplines of the Executive cadre.

11. Policy decisions of the State and its instrumentalities are not amenable to judicial review unless they take away any vested or existing rights.

12. There is also a presumption in favour of the employer that it is best to decide the eligibility criteria for

promotion from the non-executive to executive grade based on its past experiences.

13. This Court, therefore, is unable to countenance the arguments of the petitioners that there is discrimination or arbitrariness in the promotion criteria stipulated in the notification dated 1st August, 2023.

14. It is equally well settled that a person is entitled to participate in the process if he is otherwise eligible in terms of the rules. A person cannot, as a right, want to participate in a promotion process if he does not meet the criteria therefor.

15. The writ petition, therefore, fails and hereby dismissed.

16. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)