

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

WRIT PETITION 4999 OF 2022

Pramod s/o. Dewaji Mahajan,
Aged about 57 years,
Occupation – Chief Manager
(Mining), Coal Controller
Organization, Nagpur Region,
Nagpur, r/o. Flat No. 501
Plot No. 50-B, Prajakta Marigold
Apartment, Bajaj Nagar,
Nagpur 440 010

.....PETITIONER

..V E R S U S..

1. Union of India, through, Secretary
(Coal), Ministry of Coal, Shastri
Bhawan, Dr. Rajendraprasad Road,
New Delhi 110 001, Delhi-110 092
2. Coal India Limited, through its
CMD, “Coal Bhawan”, Premise
No. 04, MAR, Plot No. AF-III,
Action Area-1A, Newtown,
Rajaghat Kolkata-700 156 (WB)
3. The Coal Controller,
Office of the Coal Controller,
Scope Minar, Laxmi Nagar,
Delhi-110 092
4. Western Coalfields Limited,
Through its CMD, Coal Estate,
Civil Lines, Nagpur 440 001
5. The Regional Head/OSD,
Office of the Officer on Special
Duty, Coal Controller’s
Organization, WCL Complex,
Jaripatka, Nagpur 440014

6. The Regional Director,
Central Mine Planning and Design
Institute CMPDI, Kasturba Nagar,
Jaripatka, Nagpur 440 014

..RESPONDENTS

Mr. S.M. Puranik, counsel for petitioner.
Mr. N.S. Deshpande, Deputy Solicitor General
of India for respondents 1 & 5.
Mr. A.M. Ghare, counsel for respondents 2 to 4.
Mr. P.V. Ghare, counsel for respondent 6.

CORAM:- ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.
DATE : 19.01.2023

JUDGMENT (Per: Rohit B. Deo, J.)

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

2. The principal prayer in the petition is that the
communication-cum-order dated 27.7.2022, issued by respondent
3 – The Coal Controller be quashed and set aside.

3. Fact are broadly admitted.

4. The petitioner graduated in Bachelor of Engineering
(Mining) from the Vishveshwarya Regional College of
Engineering, Nagpur and was selected by Coal India Limited

(“CIL”) as Junior Executive Trainee (Mining). The petitioner served with various subsidiaries of CIL and was posted at the Regional Institute IV - Central Mine Planning and Design Institute (“CMPDI”), Nagpur from 4.7.2012 to 23.10.2018, while holding the substantive post of Chief Manager (Mining).

5. The petitioner was transferred to the establishment of the Coal Controller and posted at the Nagpur Regional Office, vide order dated 22.10.2019, issued by the General Manager (Personnel), CIL.

6. While working at the office of the Coal Controller, the Deputy Assistant, Coal Controller and HO addressed communication dated 27.7.2022 (impugned communication) to the Chairman-cum-Managing Director, Western Coalfields Limited (“WCL”), which we extract below :

*“To,
The Chairman Cum Managing Director,
Western Coalfields Ltd,
Coal Estate, Civil Lines,
Nagpur 400 001*

Sub :- Surrendering of services of Shri P.D. Mahajan, Chief Manager (Mining) (EIS No. 9021526) of RO CCO Nagpur-reg

*Sir,
I am directed to convey that the services of Shri P.D. Mahajan, (EIS No. 9021526) Chief Manager,*

WCL, presently posted at RO CCO Nagpur, is surrendered with immediate effect on administrative grounds.

This issues with the approval of Coal Controller.

Yours faithfully

(Joydeep Ghosh)

Dy. Asstt. Coal Controller & HO

7. While the petitioner has levelled serious allegations attributing malafides, and contends that since he was a whistle-blower, he is victimized, we have consciously not examined the allegations on merit, since we have found that the communication impugned is issued without authority, and is otherwise illegal.

8. In all fairness, neither the learned Deputy Solicitor General of India Mr. Nandesh Deshpande nor Mr. A.M. Ghare, who appears for WCL have rebutted the submission that the decision to depute the officers of CIL to other organizations or subsidiary companies and the repatriation of the deputed officers could not have been taken by the Coal Controller without prior consent of CIL.

9. The petitioner was working in E-6 grade at WCL vide order dated 4.6.2012, issued by CIL, he was transferred to

CMPDIL, and posted at RI-IV, Nagpur. CIL issued order dated 22.10.2019 transferring the petitioner to the establishment of the Coal Controller, till further orders (*emphasis supplied*). The office of the Coal Controller issued office order dated 26.11.2019 which recites that the petitioner is advised to report for duty to the regional office of CCO at Nagpur and that the petitioner shall draw salary from WCL, Nagpur.

10. The communication-cum-order impugned dated 27.7.2022 purports to convey to CIL, the decision of the Coal Controller that the services of the petitioner is surrendered with immediate effect on administrative grounds. Nothing is brought to our notice by the learned counsel appearing on behalf of the respondents to throw light on the authority of the Coal Controller to transfer the services of the petitioner, *albeit* by purporting to surrender his services to the parent organization. *Au contraire*, CIL has issued a caution vide Circular dated 17.3.1998, which reads thus:

*“To,
The Chairman/Mg. Director, WCL, Nagpur
The Chairman/Mg. Director, NCL, Singrauli
The Chairman/Mg. Director, CMPDIL, Ranchi
The Chairman/Mg. Director (Actg), ECL, Sanctoria
The Chairman/Mg. Director (Actg), CCL, Ranchi
The Chairman/Mg. Director (Actg), SEGL, Bilaspur
The Chairman/Mg. Director (Actg), MCL, Sambalpur*

Dear Sir,

Sub : Posting of executives in Coal Controller's Organization.

It has been observed that transfer/posting of executives from subsidiary companies to Coal Controller's Orgn is being done by subsidiary companies without consulting Coal Controller, Calcutta or CIL. Since, transfer of executives to Coal Controller's Orgn amounts to transfer of a person from CIL to an outside organization, it has been decided that such transfer order should be issued only by CIL. Similarly, for executives presently posted in Coal Controller's Orgn, the transfer order would also be issued by CIL in consultation with respective CMDs and Coal Controller, Calcutta.

We would therefore, request you not to make such transfer/posting of executives to Coal Controller's Orgn and back and refer all such cases to CIL for necessary action in consultation with Coal Controller, Calcutta

Yours faithfully

*(C.H. KUISTY)
DIRECTOR (PERS & HO)"*

11. We further find from the communication dated 2.12.2022, addressed by the office of the Coal Controller to CIL, that as regards other 22 executives of CIL, who were working with the establishment of the Coal Controller on deputation, the office of the Coal Controller requested the CIL to replace or recall the executives. We reiterate, the learned counsel for the respondents are fairly not disputing that even a repatriation of a deputationist to the parent organization, could not have been done unilaterally,

particularly, since the deputation was not for a particular tenure. We, therefore, find that the Coal Controller could not have unilaterally transferred the petitioner under the garb of surrendering services to CIL. It is in this view of the matter, that we have refrained from considering the challenge to the communication-cum-order impugned on the ground of malafides and victimization.

12. We, therefore, allow the petition, in the following terms:

Order dated 27.07.2022 issued by respondent 3 – Coal Controller purporting to surrender the services of the petitioner is quashed and set aside.

2. The order dated 28.07.2022 issued by respondent 5 – Regional Head/OSD, Coal Controller's Organization, Nagpur is also quashed and set aside.

3. We declare that the petitioner shall be deemed to be working at the respondent 5 as per the order dated 26.11.2019 and that he shall be entitled to every consequential benefit including salary from the date of the order of surrender of services till October, 2022.

(Y.G. Khobragade, J.)

belkhede

Digitally Signed By BELKHEDE
RAVINDRA SURESHRAO
P.A. to the Hon'ble Judge

Signing Date:25.01.2023 12:05

(Rohit B. Deo, J.)