

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

and

The Hon'ble Justice Md. Shabbar Rashidi

FMA No. 880 of 2024

With

IA No: CAN/1/2024

Kamta Prasad Nigam and Others

Vs.

Union of India and Others

For the appellant : Mr. Atarup Banerjee, Adv.
: Mr. Rajdeep Pramanik, Adv.
: Mr. Arka Roy, Advocate

For the respondent
nos. 2 to 7 : Mr. Lakshmi Kumar Gupta, Sr. Adv.
: Mr. Samrat Mukherji, Adv.
: Ms. Dakshayani Basu, Adv.
: Mr. Rik Mukherji, Adv.

For the UOI : Mr. Rameshwar Sinha, Adv.

Heard on : August 07, 2024

Judgment on : August 14, 2024

Md. Shabbar Rashidi, J.

1. The instant appeal at the behest of the writ petitioners is directed against the judgment and order dated May 01, 2024 passed in WPA 438 of 2022.
2. By the impugned judgment and order, the learned Single Judge disposed of the writ petition being WPA 438 of 2022 with certain directions. It was held that promotion in the survey department of the respondent Coal India Limited (CIL) could not be restricted by necessity and requirement principles. The learned Single Judge directed that CIL and all its subsidiaries shall follow the same pattern and timeline for the survey department as followed for all other disciplines. By the impugned order, the CIL and its subsidiaries were further directed to endeavor to fill up any vacant post in the survey discipline from E6 to E8 on the basis of available vacancies.
3. The court also directed that criteria for promotion applicable for all other discipline together with specific criteria for survey discipline is uniformly followed by the CIL and all its subsidiaries in the upcoming promotion process likely to be taken up in September, 2024, except written examination for promotion.

Learned Single Judge also directed the respondents to fill up all the vacancies in the promotional posts subject, of course, to the availability of suitable candidates.

4. Being aggrieved by such order, the writ petitioners have preferred the instant appeal on the ground that the petitioners being members of the survey discipline, have been arbitrarily denied benefits of promotion as in respect of the members of other discipline, in the fact that there is no provision for direct appointment in the survey discipline. Such an action on the part of respondents is arbitrary and violates Article 14 of the Constitution of India.

5. It was also submitted that the respondents being an Article 12 authority, have denied the benefits of promotion with retrospective effect to the petitioners considering their promotion to grade E1 as appointment in the management cadre. Learned Single Judge also failed to appreciate that the respondent authorities have not addressed the request of the petitioner to work out pay parity between the cadres of common coal cadre which is violative of clause 3.15 of CCC.

6. Learned advocate for the appellants further submitted that the appellants have been denied their legitimate claim for promotion

resulting in huge monetary loss for the last 18 years. Such benefits have been extended to the members of all other employees except those belonging to survey discipline.

7. On the contrary, learned advocate for the respondents submitted that due promotion has been given to the members of survey discipline. The promotion to the next higher grade, satisfactory service for a particular period of 3 years is required to qualify for being considered for promotion to the next higher grade. Such period is reckoned on September 30, every year.

8. It is also contended that the next promotion exercise is likely to be taken in September this year i.e. 2024. The petitioners who qualify such criterion and have requisite qualification would be considered for promotion to the next higher grade in due course.

9. The appellants came up before this Court in Writ Petition being WPA 438 of 2022 seeking equal benefits for the petitioners in terms of office order dated March 22, 2012 and all benefits at par with all other discipline including that for promotion from 01.01.2007 upon setting aside the reasoned order dated December 03, 2021.

10. Admittedly the petitioners belong to the survey discipline of the Coal India Ltd and have been promoted to the management

cadre. The appellants came up with the case that the direct recruits as well as the promotees in the management quota of all other disciplines in Coal India Ltd. were extended certain disciplines which were denied to the persons promoted to executive cadre from survey discipline. It was also the case of the appellants that there was no provision for direct recruitments in survey discipline. The persons belonging to such discipline were promoted from non-management to management grade.

11. In the writ petition, the appellants wagered their claim on the basis of an order and judgment passed in WP 1064 of 2015 at the behest of some employees from personal discipline of the Coal India Limited. The said writ application was dismissed. However, in an appeal preferred against such dismissal being APO No. 368 of 2017, the judgment and order passed in writ petition No. 1064 of 2015 was set aside directing granting the benefits of the office order dated March 22, 2012 to the writ petitioners therein belonging to the personal discipline of Coal India Ltd.

12. By filing the writ petition, in which the impugned order has been passed, similar benefits were claimed by the present appellants, who belong to survey discipline of the Coal India Ltd.

13. The materials placed before us demonstrates that by an order passed in WPA 5079 (W) of 2020, the authorities of the Coal India Ltd. considered and disposed of the representation made by the employees of Coal India Ltd. by a reasoned order, dated December 03, 2021.

14. From the reasoned order so passed, it appears that the departmental candidates belonging to various discipline like Survey, Civil, E&M, Excavation, Industrial Engineering, Security, E&T, Finance and Coal Preparation etc. were not extended the benefits of deemed placement. The authorities have given reason for such denial of benefit on the ground of lesser educational qualification. It was also mentioned in the reasoned order that there was no lateral entry in the survey discipline of Coal India Limited, as such there was no question of parity in ranks within the survey discipline of Coal India Limited. There was also no express direction from the learned Court for extending such benefits to the persons belonging to survey discipline.

15. No materials have been placed before us that such reasoning given in the reasoned order dated December 03, 2021 was perverse and violative of Article 14 of Constitution of India. The respondents have already given out that Coal India Limited is likely

to undertake the process of promotion, in due course, shortly. The candidature of the appellants belonging to survey discipline of the Coal India Ltd. is expected to be taken up in the month of September 2024, by which time, the appellants are expected to attain the qualification for promotion to the next higher grade.

16. In the light of the above discussions made herein, we find no merit in the appeal so as to interfere with the judgment and order dated May 01, 2024 passed in WPA 438 of 2022.

17. Accordingly, the instant appeal being **FMA 880 of 2024** is hereby dismissed, however, without any order as to costs. Connected applications, if any, shall stand disposed of.

18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

19. I agree.

[DEBANGSU BASAK, J.]