

WP.CT. 151 of 2023
(Ankur Kumar Nayak Vs. Union of India & Ors.)

Mr. Debashis Banerjee

Mr. Ramkrishna Das

Mr. Rakesh Jana

.... For the petitioner

Mr. Dwijadas Chakraborty

Ms. Ashima Roy Choudhury

..... For the respondents

Mr. Sauvik Nandy

..... For the respondents 2 & 5 (SAIL)

The present writ petition has been preferred challenging an order dated 11th January, 2013 passed by the learned Tribunal in the original application, being O.A. 977 of 2012.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the original application was dismissed on the first date of hearing without even issuing any direction towards service of the application upon the respondents and without perusing the relevant records, the application was abruptly rejected.

He contends that persons similarly situated and whose respective date of joining was in proximity with that of the petitioner were granted promotion to L-7 Grade but the petitioner was denied. Aggrieved thereby, the petitioner submitted a representation but the same was dismissed on 12th October, 2011 by a cryptic order. Challenging the same the petitioner preferred the original application and without returning any finding on the issues urged, the application was dismissed.

Per contra, Mr. Nandy, learned advocate appearing for Durgapur Steel Plant (in short, DSP) submits that the present writ petition has been preferred about 10 years after the petitioner's original application was dismissed by the learned Tribunal and there is also no explanation as regards such delay.

He further argues that pursuant to the judgment delivered in the writ petition being WP 362 (w) 2003 on 1st September, 2003 all the benefits were granted to the petitioner and he duly accepted the same. Admittedly, he did not serve during the period from the date of his termination till reinstatement and the said period cannot be taken into consideration for grant of promotion.

Heard the learned advocates and considered the materials on record.

Records reveal that challenging the order of termination the petitioner preferred a writ petition being WP 362 (W) 2003 which was disposed by a judgment delivered on 1st September, 2003 directing, *inter alia*, that 'the Authority will not pay salary to the petitioner for the period he did not render services, but the Authority will go on paying the emoluments of the petitioner month by month from the date of his joining the service, though the period he was not allowed to work will be treated as period spent on extra ordinary leave.'

The said judgment was duly complied with by the authorities and the period from the date of termination

still reinstatement was regularized by grant of leave as directed. The said period cannot be taken into consideration for the purpose of promotion since the petitioner did not discharge any service during the said period.

In the said conspectus, the learned Tribunal in our opinion rightly observed that grant of leave does not count for determination of eligibility for promotion, increments etc.

The learned Tribunal, upon dealing with the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned. There is also no explanation as regards the delay of about ten years in preferring the present writ petition.

In view thereof, no interference is called for and the writ petition is, accordingly, dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)