

18.12.2024

**Sl. No. 05
Ct. No. 23
Srimanta**

WPA/24227/2023

Tapas Muchi (Ruidas)

-Vs.-

Coal India Limited & Ors.

Md. Nauroz Rahber,
Mr. Adnan Ahmed,
Md. Jawwad

... for the petitioner.

Mr. Debabrata Das,
Mr. Puspall Chakraborty,
Mr. Saptarshi Mukherjee

...for the respondent nos. 2 to 6.

This matter appears to have a chequered history. On 14th January, 2013, the father of the petitioner was terminated from service being declared medically unfit on the basis of permanent disablement declared by the Medical Board.

Under the provisions of National Coal Wages Agreement (in short, NCWA) in case of a person being terminated from service on being declared permanently disable for the purpose of performing his duties is to provide an appointment on compassionate ground to a dependent family member of such employee.

Immediately thereafter, the petitioner's father had applied for granting appointment on compassionate ground to the petitioner being one of his sons. Challenging the action on the part of the

respondent authorities the petitioner's father filed a writ petition being WP No. 30604 (W) of 2013. This writ petition was disposed of by an order dated 22nd July, 2014 by directing the General Manager, CV Area, Area No. XII, Bharat Coking Coal Limited (in short, BCCL), Barakar, Paschim Burdwan being the respondent no. 4 in the said writ petition to dispose of the matter for appointment of the petitioner by passing a reasoned order in accordance with the provisions contained in the NCWA within a period of 10 weeks from the date of presentation of a certified copy of the said order. This resulted in the passing of a reasoned order dated 25/29th September, 2014 which was the subject-matter of challenge in a subsequent writ petition being WP No. 97 of 2015. The said writ petition was disposed of by an order dated 5th May, 2016 by setting aside the reasoned order dated 29th September, 2014 and directing the General Manager, CV Area of BCCL to reconsider the matter in accordance with law. It was made clear that only if Tapas Munchi (Ruidas), the petitioner herein was found not to be the son of Subal Munchi, the petitioner in the said writ petition then only appointment on compassionate ground to Tapas Munchi will be declined. The concerned General Manager was directed to pass appropriate order in the

light of the said order within four weeks from the date of the receipt of the same. This culminated into a reasoned order dated 4th October, 2016 wherein it was clearly held that Tapas Munchi (Ruidas), the petitioner herein is the youngest son of Subal Munchi, the former employee of BCCL and that Subal Munchi had nominated Tapas Munchi (Ruidas) for the employment after he was declared medically unfit. After passing of such order in the light of the order dated 5th May, 2016 passed in WP No. 97 of 2015 there was no embargo in granting the petitioner employment if he was medically fit. However, the issue of granting employment to the petitioner appears to have got stalled at this stage on the ground that one Amit Kumar Munchi (Ruidas), a son of Subal Munchi did not turn up when Subal Munchi was directed to appear in person with his family members before the General Manager, CV Area on 30th September, 2016 at 11.00 A.M. Since Amit Kumar Munchi did not appear the proceedings, according to BCCL, could not be completed. The issue of Amit Kumar Munchi was set to rest by a Judgment and order dated 7th January, 2020 passed in APO NO./438/2017 arising out of WP No. 97 of 2016. After dismissal of the appeal, the petitioner was called for investigation on 29th October, 2020 and Initial

Medical Examination (in short, IME) on 30th October, 2020 by a Memo dated 22/23rd October, 2020 issued by the Deputy Manager (P), Begunia Project of BCCL. Subsequently, the petitioner's file was sent by the Area Personal Manager, CV Area to the Deputy Manager (P), Begunia Project of BCCL which pre-supposes that the petitioner was found fit and the IME and only thereafter his file was forwarded. It further appears that only on technical grounds the actual appointment of the petitioner could not be processed till date which is evident from the letter dated 21st June, 2021 issued by BCCL to the petitioner. Yet another writ petition was filed being WPA/4014/2023. The said writ petition was disposed of by an order dated 10th April, 2023 by directing the Director (P) or any other authority delegated by him to dispose of the petitioner's representation dated 24th January, 2023 by a reasoned order. A reasoned order was passed on 15th July, 2023 wherefrom it appears that the respondents have tried to reopen the issues which have been set to rest by this Court in the previous rounds of litigation. It is apparent from the reasoned order dated 15th July, 2023 that by citing some alleged unresolved issues the respondents are further delaying in granting appointment to the petitioner.

On a perusal of the reasoned order dated 15th July, 2023, I find that the Project Officer, Begunia Project, CV Area of BCCL has also opined that the petitioner's case be examined and disposed of at the earliest on receipt of necessary implementation/instruction of NCWA-II after ensuring that no legal case is pending in connection with the claim for compassionate employment and the antecedents of the petitioner has to be verified to be good which is a prerequisite providing employment in the coal company. After so many rounds of litigation, it appears that according to the BCCL, the petitioner's claim for compassionate appointment may be considered. This stand of BCCL is contrary to the finding of this Court in the early rounds of litigation wherein almost a direction was given to grant appointment. It is also surprising to note that the antecedent of the petitioner has not yet been verified and/or checked even after lapse of more than 10 years as claimed by BCCL. It further appears that by causing delay in granting appointment on compassionate basis, the respondents have flouted the basic rationale for granting compassionate appointment in case of permanently disabled employee. The delay in granting appointment on compassionate ground will deprive the family of such

employee from the benefit of such appointment which is provided with the sole intention to allow the bereaved family to come out of the financial uncertainty arrived at on the service of the employee being terminated on being declared permanently unfit. The delay at the same time will also deprive the applicant as he is not permitted to serve BCCL for over 10 years for which he would have got his salary/honorary and other benefits.

In the facts and circumstances as aforesaid, without waiting for any further inquiry and/or investigation, since the facts are now crystal clear in this fourth round of litigation, I direct BCCL to issue appointment letter to the petitioner unless there is any absolute legal bar in giving so.

The entire exercise should be completed by 3rd January, 2025, failing which the petitioner shall be entitled to bring the same to the notice of the Court. It is also made clear that in the event the appointment is not granted save and except for any legal bar which is brought to the notice of this Court despite the writ petition is disposed of thereof such appropriate orders will be passed against respondents and each one of them.

Nothing further remains to be adjudicated in this writ petition and the same is accordingly disposed of.

(Arindam Mukherjee, J.)