

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Partha Sarathi Sen**

**M.A.T. 2474 of 2023
with
CAN 1 of 2023
CAN 2 of 2024
Shri Sanjit Kumar Maji
vs
The Coal India Limited & Ors.**

For the Appellant : Mr. Rabindra Nath Bag
Ms. Sharmila Datta Das
Ms. Anasuya Bhattacharya

For the Respondent Nos. 2 to 4: Mr. Manik Das

For the UGC : Anil Kumar Gupta

Heard on : July 3, 2024

Judgment on : July 3, 2024

PARTHA SARATHI SEN, J.:-

1. The report as submitted by the respondent no. 5 is taken on record.
2. At the very outset, learned advocate appearing for the appellant submits before this Court that he is not placing the prayer (A) of the writ petition, i.e.

W.P.A. No. 4745 of 2022.

3. The instant appeal is directed against an order dated December 4, 2023 as passed in W.P.A. 4745 of 2022 by the learned Single Judge whereby and whereunder the said Single Judge found that the writ petitioner though can claim right to participate in the promotional process, but he cannot straightway claim promotion. The learned Single Judge also held that the writ petitioner ought to have approached the Tribunal and the authorities within the meaning of Industrial Dispute Act, 1947 since he is a workman. On the aforesaid two counts, the said writ petition was dismissed.

4. At the time of hearing of the instant appeal, the learned advocate for the appellant at the very outset draws our attention to the Internal Notification dated February 15, 2021 as published by the respondent no. 4 whereby the eligibility and other criteria for the post of Overseer (Civil) has been declared. It is submitted on behalf of the appellant that the appellant/writ petitioner was a prospective candidate in such selection process and he actually participated in the said selection process and stood first in the written test for selection to the said post of Overseer (Civil). It is submitted further that despite such ranking, the writ petitioner was not given posting as Overseer (Civil) and on the contrary the respondent authorities have proceeded to appoint some other candidates without publishing any list of successful candidates. Drawing attention to the reasoned order dated May 13, 2021, it is submitted further on behalf of the appellant/writ petitioner that the reason

assigned in the said reasoned order by the respondent authority no. 4 is not acceptable in view of the fact that the selection process as has been done by the respondent authorities violates the principle of natural justice and contrary to the rules for such selection.

5. Learned advocate appearing for the appellant submits further that learned single Bench ought to have granted relief in terms of prayer B of the writ petition.

6. Per contra, learned advocate for the respondent authorities in course of his submission took us to the selfsame notification dated February 15, 2021. Attention of ours is also drawn to a communication dated September 25, 2021 made by the Controller of Examinations of the University from which the writ petitioner obtained his diploma in Civil Engineering. It is submitted that in the internal notification dated February 15, 2021, it has been categorically mentioned that the candidate who is to appear in the selection process of Overseer (Civil) must possess a recognized diploma in Civil Engineering. However, from the communication dated September 25, 2021, it would reveal that the diploma as has been obtained by the writ petitioner is in the mode of distance education which is not a recognized diploma in view of the circular of All India Council for Technical Education (hereinafter referred to as AICTE) as published on December 30, 2020.

7. It is submitted further on behalf of the respondent authorities that the said circular dated December 30, 2020 made it clear that AICT has not given any approval for conducting diploma courses in the engineering through distance mode. It is thus submitted that since the present appellant/writ petitioner was not found to have a valid qualification as per the said notification dated February 15, 2021, the writ petitioner could not come under the consideration zone and, therefore, the writ petitioner is not entitled to the relief as prayed for.

8. As discussed (*supra*), a report has been submitted on behalf of the University Grant Commission, i.e. added respondent no. 5 and the said report which has been taken by us on record clearly indicates that a Joint Committee of the UGC, AICT and DEC (Distant Education Council) has not given its recommendation to B.E and B.Tech programme of any University through distance mode and to that effect, a publication has been issued by AICT in the year 2010 wherein it has been categorically mentioned that AICT does not recognize the qualification acquired through distance education mode at diploma, bachelors and masters level in the field of engineering.

9. In reply, however, learned advocate appearing for the appellant submits before this Court that materials have been placed before this Court that there are Government notification to the effect that for starting a distance education for imparting diploma/degree in technical and management

education by a deemed University, there is no requirement to obtain a prior approval of AICT.

10. It is further submitted that in this appeal, the materials have also been placed that AICT has also published a notification to the effect that in the field of technical education, the technical courses conducted by various professional bodies/institution which was duly recognized by MHRD with permanent recognition till May 31, 2013, no further recognition is necessary and the student who have enrolled with these institution with permanent recognition upto May 31, 2013 stand recognized.

11. On consideration of the entire materials as placed before us and after hearing the learned counsel for the contending parties, it appears to us that the authorities by its internal notification dated February 15, 2021 had published a minimum qualification for applying for the post of Overseer (Civil) and out of the said qualifications, one such qualification is that the prospective candidate should possess a recognized diploma in Civil Engineering.

12. Materials have been placed before us that the appellant/writ petitioner obtained once such diploma from a deemed University through distance education course which neither AICT nor UGC recognizes. Therefore, in our considered view, the diploma as acquired by the appellant/present petitioner through distance education cannot be considered

to be a recognized diploma as per requirement of the notification dated February 15, 2021. Admittedly, there were some notifications with regard to the non-requirement of the prior approval of the AICT by some deemed Universities, but in our considered view those notifications are no way helpful to the present appellant/writ petitioner in view of the fact that the said Government notifications though say about initiation of the various courses in the technical and management level, but those notifications are absolutely silent with regard to the recognition by the AICT.

13. In view of the discussions made hereinabove and keeping in mind that the present appellant/writ petitioner has not pressed the prayer 'A' of the writ petition, we find there is no illegality and/or infirmity on the part of the respondent authorities in not considering the present appellant/writ petitioner as a valid candidate for the aforementioned post of Overseer (Civil) being not possessed of the requisite qualification and, therefore, the learned single Judge is very much justified in refusing to grant the prayers as made in the writ petition before him.

14. In view of such, we thus find no merit in the instant appeal and accordingly the instant appeal is dismissed.

15. In view of the dismissal of the appeal, the connected applications being CAN 1 of 2023 and CAN 2 of 2024 are disposed of.

(Partha Sarathi Sen, J.)

16. I agree

(Debangsu Basak, J.)

S.D.