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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7870/2020 and CM APPL. 25824/2020

NIRANJAN KUMAR .....Petitioner

Through: Mr. Aditya Ajgaonkar, Mr. Vikas Jain, Ms. Rupal Shrimal and Ms. Shrawani, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Amit Sharma, Mr. Dipesh Sinha, Ms. Pallavi Barua and Ms. Aparna Singh, Advocates for Respondents No. 3 and 4.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **06.08.2024**

1. This petition has been preferred on behalf of the Petitioner seeking the following reliefs:

> *"(I) To issue a writ of Mandamus, writ in the nature of mandamus any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing Respondent No. 1 to consider the representation 28.09.2020 made by the Petitioner.*
>
> *(II) To issue a writ of Mandamus directing Respondent No. 1 to implement the guidelines proposed by the Respondent No. 2 in its DPE O.M. No. 15(2)/2003-DPE(GM)/GL-57 dated 29th July, 2004.*
>
> *(III) To issue a writ of Certiorari, quashing the disciplinary (by treating the resignation as incomplete) and recovery proceedings sought to be initiated against the Petitioner and surety by the Respondent No. 4 (under administrative control of Respondent No. 1) vide the notice the notice dated 25.06.2018, 27.08.2020, 22.09.2020 and 28.09.2020*
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> *(IV) In the alternate, without prejudice, to issue a writ of Certiorari, quashing the decision of the Respondent No. 4 in not allowing the set off for the sum and interest due to the Petitioner on account of his contribution to the Coal Mines Provident Fund (or National Pension Scheme of CIL), Pension Fund and gratuity etc.*
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> *(V) Pending the hearing and disposal of the present Petition, to restrain the Respondents from undertaking any coercive action against the Petitioner."*

2. Petitioner joined Respondent No. 3/Coal India Limited in 2011 as Management Trainee (Mining) and was promoted to the post of Assistant Manager with Respondent No.4/Bharat Coking Coal Limited in 2015. On 22/23.12.2015, Petitioner was granted study leave to pursue M.Phil. course at Jawaharlal Nehru University and he furnished a surety and an indemnity bond with Respondent No. 4, undertaking to continue for five years after resuming duty. In 2016, while pursuing M.Phil., Petitioner applied for Civil Services Examination-2016 as a first attempt and on being successful was informed of allocation to Indian Revenue Service vide letter dated 02.08.2017.

3. It is averred in the petition that on 07.09.2017, Petitioner tendered his resignation with Respondent No. 4 with a request to transfer the bond executed by him to his new employment in terms of DPE O.M. dated 29.07.2004. By a letter dated 26.03.2018, Respondent No.4 informed the Petitioner that as per paragraph 7.8.5 of Coal India Limited Circular dated 22.12.2014, Petitioner was required to deposit a sum of Rs. 19,93,946/- against which the Petitioner preferred his objections pointing out that the purpose of the O.M. was to enable employees of Central Government/State Government/Public Enterprises to get employment in other branches of the Central Government/State Government/Public Enterprises, without any bond that they might have executed with their previous employer being enforced, which would ensure mobility of talent between public servants and employees of CPSEs, in order to facilitate promotion of talent and growth of national interest. By a letter dated 25/27.08.2020, Respondent No.4 called upon the Petitioner to deposit the aforementioned amount as a pre-condition for considering his resignation and rejected the request of adjustment of the

bond amount from the dues payable to the Petitioner, if the resignation was accepted. Petitioner was further informed that if he failed to deposit the amount within 15 days, it will be presumed that he was not interested in resigning and his period of absence will be treated as unauthorized absence leading to disciplinary action and recovery of bond money. This led to the Petitioner filing the present petition.

4. Stand of Respondent No. 4 in the counter affidavit is that Petitioner had applied for CSE-2016, without prior permission/No Objection Certificate whilst in the employment of the answering Respondent. He was granted study leave for two years with pay, in terms of Coal India Executive Leave Rules, 2010 to pursue the M.Phil. course at JNU, however, without completing the course, Petitioner chose to apply for CSE-2016 without permission and is now liable to refund the salary paid to him for two years for pursuing the M.Phil. course and since he did not complete this course and had not applied to the UPSC through proper channel, DPE O.M. relied on by the Petitioner does not come to his aid.

5. On the last date of hearing, the matter was adjourned to enable the parties to find an amicable solution to the disputes arising in the present petition. Learned counsels on both sides endeavored hard to resolve the matter and the Court is apprised that in order to put a quietus to the litigation, parties have amicably settled and resolved the issues.

6. Mr. Amit Sharma, learned counsel for Respondents No. 3 and 4, on instructions, submits that the answering Respondents have agreed, without treating this case as a precedent, to waive off the interest component on the amount payable by the Petitioner under the Indemnity Bond and therefore, Petitioner may deposit only a sum of Rs.17,12,358/-, instead of the

demanded sum of Rs.19,93,946/- and on deposit of the same, his resignation shall be considered and if accepted, No Objection Certificate will be issued alongwith release of statutory dues payable to the Petitioner on resignation, such as Gratuity and Leave Encashment etc. Insofar as Provident Fund is concerned, it is submitted by Mr. Sharma, that Petitioner will have to approach the Competent Authority specified under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 for release of the Provident Fund.

7. Learned counsel for the Petitioner, on instructions, agrees to deposit the Bond amount of Rs.17,12,358/- but seeks a period of 5 months to do so as the amount is high.

8. This writ petition is accordingly disposed of leaving it open to the Petitioner to deposit the Indemnity Bond amount of Rs.17,12,358/- within a period of 5 months from today. As soon as the amount is deposited by the Petitioner, Respondents No.3 and 4 will consider the resignation tendered by the Petitioner on 07.09.2017 and if the same is favorably accepted, No Objection Certificate will be issued to the Petitioner and all the statutory dues payable shall be released, subject to the Petitioner filling the necessary forms and completing the requisite formalities. For release of provident fund, Petitioner is at liberty to approach the Competent Authority in this regard.

9. It is directed that decision on the resignation of the Petitioner shall be taken within six weeks from the date of deposit of the Bond amount, as agreed between the parties. If the resignation is accepted, the amounts due to the Petitioner towards his statutory and other dues, payable on resignation shall be released within two months thereafter. It is made clear that this

order is being passed on account of the parties having mutually settled the disputes amicably and will not be treated as a precedent in any other case.

10. The Court appreciates the efforts put in by the respective counsels and the parties to bring about an amicable resolution of the *inter se* disputes and put a quietus to the litigation.

11. Pending application also stands disposed of.

JYOTI SINGH, J

AUGUST 6, 2024
B.S. Rohella/DU