

M.A.T. 870 of 2025

**The Chairman-cum-Managing Director,
Coal India Limited & Ors.
Vs.
Anand Pandey**

Ms. Manika Roy,
Ms. Ankita Chowdhury,
Mr. Atanu Sur

...for the Appellant/Coal India

Mr. Anand Pandey

...Respondent in person

1. Heard the learned counsel for the appellants and the writ petitioner/respondent in person.
2. The facts are taken note of by the Hon'ble Single Judge allowing the writ petition. The Judgement of the Hon'ble Single Judge in appeal, in the present proceeding is dated 08.05.2025. The Hon'ble Single Judge has given a positive direction to appoint the writ petitioner against the post of Company Secretary.
3. The respondent is aggrieved by such direction in view of the factual background preceding the Judgement dated 08.05.2025. The facts which emerge from the record are that in 2022 an advertisement was issued for the recruitment of Company Secretary against 4 existing vacancies, wherein the writ petitioner participated. He had obtained good marks so as to bring him within the zone of consideration, but was held disqualified since he did not upload certain documents as was

required under the advertisement. The Hon'ble Single Judge, as an exception and without creating any precedence, directed the respondents to consider his application physically and to offer him appointment.

4. The respondent organisation assailed the order of the Hon'ble Single Judge passed in W.P.A. No. 2956 of 2024 dated 22.03.2024, by filing an intra court appeal. The intra court appeal was numbered as M.A.T. 867 of 2024.
5. The order of the Hon'ble Single Judge was not interfered with by the Division Bench while disposing of M.A.T. No. 867 of 2024 on 31.07.2024. While disposing of the appeal, the coordinate Bench accorded such consideration :

*“17. The ratio laid down in **Cherukuri Mani (supra)** is not attracted to the facts and circumstances of the present case, as we do not find any clause in the advertisement which shows that, failure to upload a document will automatically result in the disqualification of the candidature.*

*18. Similarly the ratio laid down in **Mahendra Singh, Bedanga Talukdar (supra)** and **Sanjay K. Dixit (supra)** are of no assistance to the appellants. Learned Single Judge did not grant relaxation of any terms and conditions of the selection process per se. All that the learned Single Judge did, was direct the appellants to*

consider the candidate of the writ petitioner in accordance with law upon physical verification of his eligibility.

19. In such circumstances, we find no merit in the present appeal. For abundant caution we clarify that, the appellants is at liberty to deal with the candidature of the writ petitioner, in accordance with law and in terms of the impugned order before us.”

6. The authorities after according consideration to the petitioner's claim in terms of the Division Bench order found that the petitioner was a candidate under the General (Unreserved Category). Out of the four advertised vacancies, three were filled up. Two from General (Unreserved Category) and one from the OBC (Non-Creamy Layer Category). There was, therefore, only one vacancy remaining which according to the respondents could not be offered to the petitioner since he was not a PwD candidate and the post was reserved for PwD. The vacancy was required to be carried forward for a year in terms of the reservation policy and therefore, the same could not be made available to the petitioner since he was not a PwD candidate.
7. The authorities have laid emphasis on the fact that the Division Bench had clarified the Hon'ble Single Judge's order, as extracted above. The requirement was to take a decision in accordance

with law. Since law did not permit diverting of the vacancy meant for person with disability to unreserved general category candidate, the appointment could not be offered to the writ petitioner.

8. The petitioner in the circumstances invoked the writ jurisdiction by filing another writ petition. The writ petition was numbered as WPA 29434 of 2024. The Hon'ble Single Judge in the writ proceeding has passed a positive direction by a Judgement dated 08.05.2025 in the following terms :

*“28. The respondent Coal Company through its appropriate Authority /authorities upon compliance of all the formalities required to be complied with in accordance with law shall immediately give appointment to the petitioner for the post he has applied for and shall issue the necessary appointment letter in favour of the petitioner positively within a period of **Four Weeks** from the date of communication of this judgment.*

*29. As there was a specific direction in the order of the previous Coordinate Bench dated **March 22, 2024** that the direction of the Coordinate Bench would not be treated as a precedence and the same has not been interfered by the Hon'ble Division Bench and has been upheld in its order dated **July 31, 2024**, this Court merely follows the same. Accordingly, this judgment shall also not be treated as a precedence in so far as,*

the direction for appointment of the petitioner is concerned.”

9. The respondent before the writ court is aggrieved by such direction since the same is not in accord with the coordinate Bench order disposing of the M.A.T. 867 of 2024, which we have extracted above. It is submitted that the order passed by the Division Bench in the M.A.T. 867 of 2024 is binding *inter partes*. The petitioner was entitled only to an opportunity for consideration of his case upon physical verification of his eligibility instead of online verification. Otherwise, mandate of the coordinate Bench was clear that consideration is to be accorded in accordance with law. Since the law did not permit diversion of the vacancy meant for PwD to an unreserved category, there was no post on which the petitioner could be appointed and therefore, the direction of the learned Single Judge in the order under appeal is unsustainable and in teeth of the directions passed by the coordinate Bench in the earlier round of litigation which is today binding *inter partes*.
10. The writ petitioner/respondent in person has vehemently submitted that by not offering him a post, the authorities have meted out injustice to him. He submits that the petitioner as per the

order passed by the Hon'ble Single Judge in the earlier writ proceedings is entitled to be offered a job and therefore, the directions issued by the Hon'ble Single Judge in the Judgement under appeal requires no interference and is required to be implemented to render justice to him.

11. We, however, find the submission of the learned counsel for the appellant acceptable. The direction of the learned Single Judge, in our opinion also is in teeth of the Judgement passed by the coordinate Bench in M.A.T. 867 of 2024.
12. From a bare reading of the Judgement of the coordinate Bench, operative portion of the which has been extracted above, it is clear that the petitioner was to be accorded consideration in accordance with law. There being no vacancy available in his category and there being direction not to dislodge anyone already appointed, there was no occasion for the authorities to give an employment to the writ petitioner by diverting the vacancy meant/reserved for PwD category.
13. At this juncture, the writ petitioner/respondent in person has submitted that recently some employee has retired; therefore, a vacancy has arisen.
14. We do not find any force in such submission.

15. None of the orders passed in any earlier proceeding granted a perennial right in favour of the petitioner towards any vacancy that may arise in future so as to consider his case for appointment.
16. We find the directions passed by the Hon'ble Single Judge in the writ proceeding to be unsustainable for the above reasons.
17. The order of the Hon'ble Single Judge is set aside.
18. The appeal is allowed.
19. There will be no order as to costs.
20. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)