

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/782/2025

RAJESH RANJAN SRIVASTAVA
VS
COAL INDIA LTD. AND ORS.

BEFORE:

The Hon'ble JUSTICE SAUGATA BHATTACHARYYA

Hearing concluded on : 21.01.2026

JUDGEMENT ON : 21.01.2026

For Petitioner : Mr. Partha Ghosh, Advocate
Mr. Amal Kr. Datta, Advocate
Mr. Debashis Das, Advocate
Mr. Bratin Suin, Advocate

For Respondents : Mr. Susanta Pal, Advocate
Mr. Nikhil Kumar Roy, Advocate

Saugata Bhattacharyya, J. :

1. In this writ petition, *inter alia*, petitioner has prayed for promotion to the appropriate executive cadre in accordance with norms and seniority as the petitioner is presently working in executive cadre in Bharat Coking Coal Limited (for short "BCCL").
2. In connection with an accident occurred in Bagdigih Colliery, Lodna area on 2nd January, 2001, a disciplinary proceeding was initiated against the petitioner.
3. It is submitted on behalf of the Coal India Ltd. (for short "CIL") and BCCL that a criminal proceeding was also initiated against one Mr.

A.K. Sengupta and five others, which is before the jurisdictional Chief Judicial Magistrate and next date is fixed on 12th February, 2026 for defence evidence. It is contended on behalf of the respondent authorities that petitioner is one of the accused in the said criminal proceeding.

4. From the submissions made on behalf of the parties it appears that a disciplinary proceeding was initiated against five officers in connection with the accident occurred on 2nd January, 2001 in Bagdigih Colliery. Further it is found from page 71 of the writ petition that in the month of August, 2005 enquiry officer found that there was impasse in enquiry proceeding which could not be proceeded further. Finding no other option enquiry officer closed the enquiry and it was endorsed on 19th August, 2005 that case might be forwarded to the disciplinary authority for taking further steps.
5. It is submitted on behalf of the petitioner that one Mr. A. K. Sengupta, Deputy Chief Mining Executive of ECL, who was similarly circumstanced like the present petitioner against whom criminal proceeding is pending and disciplinary proceeding was initiated, was favoured with promotion from E-7 grade to E-8 grade vide order dated 1st July, 2017 whereas the petitioner has been denied promotion on the count of pendency of criminal proceeding. It is also contended on behalf of the petitioner that he is going to retire on 31st May, 2026.
6. It further appears from a document at page 74 that the performance of the petitioner from 2008 – 2023 was assessed Excellent

(E)/Outstanding(OS)/Very Good (VG). Therefore, it is contended that there is no impediment in granting promotion to the petitioner as per seniority and in this regard reliance is placed on clause 1.17 (h)(iii)(4) of Cadre Schemes and Promotion Procedures.

7. On behalf of BCCL and CIL prayer for promotion of the petitioner during pendency of criminal proceeding is opposed and it is submitted that there is no vigilance clearance and safety clearance and at this stage, the petitioner is not found fit to be granted promotion.
8. It is submitted on behalf of the respondents that though departmental enquiry was closed on 19th August, 2005 but just before his retirement, petitioner has approached this Court with the present writ petition claiming promotion, as a result whereof, writ petition needs to be dismissed on the ground of delay.
9. It is brought to the notice of this court that when Court is in seisin of this matter and passed an order on 7th January, 2026, subsequent thereto, Director (HR), BCCL vide office order dated 17th January, 2026 constituted an enquiry committee having four members to enquire the matter relating to the allegations made against the petitioner in connection with the accident which took place on 2nd January, 2001. Copy of the office order dated 17th January, 2026 is taken on record.
10. Question crops up after departmental enquiry which was closed by the concerned enquiry officer on 19th August, 2005 and there was quietus for a period of nearly 20 years, whether pendency of

criminal proceeding leads to denial of right of the petitioner to be promoted to the higher executive cadre or not.

11. Answer is found in Clause 1.17(h)(iii)(4) of Cadre Schemes and Promotion Procedures which is quoted below :-

“4. In context of the delays in completion of prosecutions launched by DGMS in the Courts of Law or in case of Court of Enquiry, for more than 18 months from the date of filing the case or the start of proceeding by Court of Enquiry as the case may be, grant of the Safety Clearance may be proposed to the Board of the Subsidiary Company along with appropriate justifications as per clause 3 mentioned above, by the Head of ISO in the following situations:

- a. When the Executive concerned is not found responsible in ISO enquiry or Executive has been exonerated by DA.*
- b. When the Executive concerned is found responsible in ISO enquiry and the penalty/penalties has/have been awarded but the currency period of punishment is over.”*

12. It is provided in Clause 1.17 (h)(iii)(4) in the event of continuation of criminal proceedings initiated by the department in Courts of law and in the event of delay of more than 18 months from the date of filing of the case, grant of Safety Clearance may be proposed to the Board of the Subsidiary Company along with appropriate justification as per Clause 3 when the Executive concerned is not found responsible in ISO enquiry or Executive has been exonerated by D.A.

13. In the present case, though the criminal case was filed on 20th November, 2003, the same has not been disposed of till date and more than 20 years have passed in the meantime. Disciplinary

proceeding was initiated against the petitioner which was closed as it appears from a document at page 71 of the writ petition on 19th August, 2005 and there was quietus for a period of 20 years. It is also found that one A.K. Sengupta, Deputy Chief Mining Executive of ECL, similarly circumstanced like petitioner was granted promotion vide order dated 1st July, 2017 from E-7 grade to E-8 grade. Therefore, there is no justification in withholding promotion of the petitioner taking note of the fact that the petitioner is going to retire on 31st May, 2026. Moreover, performance of the petitioner was assessed in a fashion as it appears from a document at page 74 of the writ petition by the concerned respondent authority which does not impede promotion of the petitioner since petitioner's performance was assessed in between 2008 and 2023 as Excellent(E)/Outstanding (OS)/Very Good(VG).

14. Office order dated 17th January, 2026 smacks of malafide. There were no steps taken after closing enquiry on 19th August, 2005 for a period of 20 years and the present writ petition which was filed on 27th October, 2025 was last heard on 7th January, 2026 when on behalf of Coal India Limited accommodation was prayed for to obtain instruction. As the prayer for accommodation was made by the learned Advocate representing Coal India Limited, same was allowed and matter was fixed for further hearing today, 21st January, 2026. Before considering the matter today, 21st January, 2026, on 17th January, 2026 after a period of 20 years a decision was taken by issuing office order to constitute an enquiry committee

in order to revive the enquiry proceeding. Such step as it transpires from the said office order dated 17th January, 2026 is nothing but a ploy to frustrate transfer of the petitioner, since petitioner is going to retire on 31st May, 2026. Office order dated 17th January, 2026 stands set aside.

15. Concerned respondent authorities of Bharat Coking Coal Limited and Coal India Limited are directed to grant promotion considering seniority of the petitioner at an early date but not later than eight weeks from the date of communication of this order and release consequential benefits.

16. Writ petition stands disposed of.

17. Urgent xerox certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(SAUGATA BHATTACHARYYA, J.)