

Suraj Narayan Singh Vs. Chief Mining Manager

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Court : Madhya Pradesh

Decided On : Jul-10-2012

Appellant : Suraj Narayan Singh

Respondent : Chief Mining Manager

Advocate for Def. : Shri. R.K.Verma

Judgement :

HIGH COURT OF MADHYA PRADESH : AT JABALPUR Writ Petition No :

16858. of 2010 Suraj Narayan Singh - V/s - Chief Mining Manager, MP State Mining Corporation Ltd and otheRs.Present : Honble Shri Justice Rajendra Menon.

----- Ms.Sangeeta
Sharma, counsel for the petitioner.

Shri R.K.Verma, counsel for respondents 1 to 3.

----- Whether
approved for reporting: Yes / No.

ORDER

10/07/2012 Contending that petitioner has not been promoted and his juniors - respondents 4 to 6, have been promoted ignoring his claim, this writ petition is

filed.

2- Petitioner is working as Mining Mate in the MP State Mining Corporation Limited and at the relevant time, when this writ petition was filed, he was posted at Tikamgarh.

Petitioner claims to be a person having passed the Mining Foremans Certificate conducted by the Directorate of Mines Safety and it is his case that respondents 4, 5 and 6 are juniors to him in the cadre in question.

According to the petitioner, respondents have been promoted to the next higher post whereas claim of the petitioner is not considered and, therefore, this writ petition is filed.

3- Even though in the writ petition neither any order is indicated as to when the respondents were promoted, the petitioner has only brought on record the Mining Foremans Certificate issued to the petitioner and the applications for promotion submitted by the petitioner alongwith representations since 24.4.1989.

It is, therefore, clear that respondents were promoted prior to 1999 and this writ petition is filed after a period of more than 10 years in the year 2010.

4- Be it as it may be, on notices being issued respondents have filed reply and from the reply it transpires that the promotions in question were affected initially in the year 1999 and thereafter a Departmental Promotion Committee (hereinafter referred to as DPC) was held on 29.3.2007 vide Annexure R/5, to consider the case of eligible candidates for promotion.

From the proceedings of the DPC, it is seen that the claim of the petitioner was also considered for promotion, but finding the petitioner to be medically unfit to carry out the work on the promotional post, he has not been recommended for promotion.

The disability certificate of the petitioner is filed as Annexure R/4 on the basis of the documents produced by the petitioner on 26.3.2007, and in this certificate dated 21.3.2007, it is indicated that petitioner is permanently physically disabled

due to certain ailment.

The proceeding of the DPC indicates that petitioner was not recommended for promotion keeping in view his physical condition.

Shri Verma, learned counsel, points out that as the petitioners case was considered for promotion by the DPC and as he has been rejected for promotion due to his physical incapacity, no interference is called for.

5- After the return was filed by the respondents, petitioner has brought on record certain additional documents by way of I.A.No.14120/2011 and has placed on record a medical certificate of the petitioner issued by the District Medical Board, Tikamgarh.

According to the petitioner, the aforesaid medical certificate was produced by the petitioner when he was sent for medical examination by the respondent Corporation vide communication dated 13.1.2011 and it is stated that in this medical report, in Column No.25, the petitioner is shown to be fit and, therefore, the contention of the respondents that petitioner was physically unfit for promotion is not correct.

6. Shri R.K.Verma, learned counsel, refutes the aforesaid and points out that in Column No.23 of the medical report submitted by the petitioner now, vide I.A.No.14120/2011, it is shown that the petitioner is suffering from para plagia meaning paralysis and, therefore, it is argued by Shri Verma that the physical condition of the petitioner is as it was in the year 2007 and no relief can be granted to the petitioner.

Accordingly Shri R.K.Verma, learned counsel for the respondents, seeks for dismissal of this writ petition.

7- Having heard learned counsel for the parties and on a perusal of the records, it is clear that complaining his supersession by juni ORS.petitioner has filed this writ petition.

However, in the body of the writ petition no particulars with regard to date on which the juniors have been promoted, the orders of their promotion and other particulars are given.

It is only from the return filed by the respondents that it transpires that petitioners claim was also considered alongwith various other persons, who were promoted in the year 2007 and in the DPC that met petitioners case was considered, but due to his medical condition he was not declared fit for promotion.

The documents - Annexures R/4 and R/5, filed by the respondents indicate that the petitioner was found to be 75% physically disabled and, therefore, the DPC did not recommend his case for promotion.

That being so, supersession of the petitioner by the respondents in the year 2007 is on the basis of the medical condition of the petitioner as was reflected in the medical certificate dated 21.3.2007, which was placed before the DPC that met on 29.3.2007.

As the petitioner was medically unfit on 29.3.2007, this Court does not find any error in the action of the respondents in not promoting the petitioner.

8- As far as the present physical condition of the petitioner is concerned, the certificate in this regard is issued after 13.1.2011 i.e.on 19.1.2011 and if the petitioner feels that his physical condition not has improved and he is entitled for promotion, respondents may consider his case based on his present physical condition as and when further promotion exercise in the matter takes place.

9. For the present, as the petitioners claim was rejected in the year 2007 on due consideration as is indicated hereinabove, no interference into the matter is called for.

10- Accordingly, granting liberty to the petitioner to seek promotion again as and when further promotion exercise takes place depending upon his medical condition, this petition is dismissed.

(RAJENDRA MENo.) JUDGE Aks/-

