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Court : Jharkhand

Decided On : Aug-01-2006

Reported in : [2008(4)JCR26(Jhr)]

Judge : Permod Kohli, J.

Appellant : Santosh Kumar

Respondent : Central Coal Fields Ltd. and ors.

Disposition : Petition allowed

Judgement :

ORDER

Permod Kohli, J.

1. Petitioner claims to be son of Late Ram Bahadur, a former employee of the respondent-Company, who died in harness on 20th May, 1995. He applied for compassionate appointment after the death of the deceased employee. His claim was earlier rejected vide order dated 23rd/26th April, 1999.

2. Petitioner filed a writ petition before his Court, being CWJC No. 3382 of 1999(R). This petition was disposed of vide order dated 21st June 2001, wherein following directions were issued:

In the aforesaid background, the impugned letter can not be upheld. Accordingly, the order contained in letter dated 23/26. 4. 1999 is set aside. The case is remitted to the respondents to decide the claim of petitioner for compassionate appointment taking into consideration the evidences as brought on record of the present case. If necessary, the respondents may request the S.P. to enquire the question as to whether the petitioner is the son of Late Ram Bahadur or not and obtain affidavit from the widow, Smt Tika Devi.

3. In view of the above directions of the Court, petitioner appears to have made representation, which has been considered, and order dated 6th/7th November, 2001 passed upon this representation rejecting his claim on the ground that he is not established that he is the son of the deceased employee.

4. Respondents have relied upon some documents made by the deceased employee in his LIC For-A somewhere In the year 1983. Even the School Certificate produced by the petitioner has not been accepted.

5. This Court while Issuing directions had also asked the respondents to obtain affidavit from Tika Devi, mother of the petitioner and second wife of the deceased employee and also, if necessary, request the Superintendent of Police to enquire the question. Indisputedly, no enquiry was got conducted through the concerned Superintendent of Police. Tika Devi's affidavit was obtained, but not agreed to.

6. From the perusal of the impugned order, it appears that all material evidence furnished by the petitioner has not been agreed to by the respondent-Company, but one fact remains that petitioner was not provided any opportunity to lead any evidence. As a matter of fact, no enquiry has been conducted. It is not a mere question of determination of claim of the petitioner for employment, it also Involves his social status in the society. The findings, thus, adversely affect civil rights of the petitioner.

7. Under such circumstances, it would have been appropriate for the respondents to have conducted an enquiry in association of the petitioner providing him opportunity to establish his status before the En- quiry Officer/Committee. Even the documentary evidence furnished by the petitioner has been rejected without

recording any reason and on conjectures and surmises.

8. I am conscious of the fact that this Court cannot sit as a Court of appeal over the decision of the authorities, but at the same time, if it appears to the Court that the decision has been arrived at on the basis of irrelevant material and the relevant material has not been taken into consideration, the Court thus bound to examine and if necessary to interfere in the order total process appears to be without observing the strict principles of natural justice.

9. In the aforesaid circumstances, I set aside the impugned order and direct the respondents to reconsider the issue of status of the petitioner and consequently his right to seek compassionate appointment after holding an enquiry in regard to his status. Respondents may appoint an appropriate officer to hold an enquiry. Petitioner shall be provided an opportunity to place any relevant material on record and also to lead evidence, if required. Respondents are also at liberty to get the matter examined through police/revenue agency, if so required process of consideration shall be completed within a period of four months.

Let appropriate order be passed thereafter if the claim of the petitioner is to be rejected it shall be by a reasoned order in the event, the claim of the petitioner is established as son of the deceased employee, his case will be considered for compassionate appointment in accordance with law within a period of two months thereafter.

10. Petition is allowed.

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