SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Satyawan Nahak. Vs. South Eastern Coalfields Ltd, and Another.

Satyawan Nahak. Vs. South Eastern Coalfields Ltd, and Another.

SooperKanoon Citation : sooperkanoon.com/911309

Court : Chhattisgarh

Decided On : Jun-17-2010

Judge : I.M.Quddusi; Shri N.K. Agarwal, Jj.

Appeal No. : WRIT APPEAL NO.167 of2010

Appellant : Satyawan Nahak.

Respondent : South Eastern Coalfields Ltd, and Another.

Advocate for Def. : Dr. N.K. Shukla; Mr. S. Shukla, Adv.

Advocate for Pet/Ap. : Mr. Anup Mazumdar, Adv.

Judgement :

1. Heard learned counsel for the parties.

2. This writ appeal has been filed against the impugned order dated 06.05.2010 passed by the learned Single Judge in W.P. (s) No.7285/2007 dismissing the writ petition.

3. The writ petition was filed claiming age relaxation in the appointment of Mining Sirdar on the basis that the writ appellant was engaged as apprentice in the year 1991 for three years and as such, according to the learned counsel for the writ appellant, the writ appellant was entitled to get age relaxation as was done in the year 1991 with other co-trainees of the appellant.

4. We have perused the record of writ petition and found that on 3.6.1991 the writ appellant was engaged as apprentice under the Apprentice Act, 1961 for a period of three years. It was specifically mentioned in the engagement order of the writ appellant that soon after completion of training period, he will have to submit the pass certificates of Mining Sirdar Shot fire & all three gas testing and at that time in case any vacancy arises and he is found suitable, he will be given appointment.

5. It is not in dispute that the writ appellant completed his training of three years in the year 1994 but could not get passing certificates of Mining Sirdar as well as gas testing at that time. In the year 1999 appointment on the post of Mining Sirdar was considered and at that time co-trainees namely Shri Gopal Sinha & Shri Ajay Nair, who had also completed three years training in the year 1994 and were qualified to hold the post, were given appointment after making age relaxation in their cases. However, there was no question of giving appointment to the writ appellant, who was not even qualified in the year 1999 as from perusal of Annexure P-3 it is clear that the writ appellant appeared in the Mining Sardar examination held on 19.11.2005 and certificate was issued to him on 7.3.2006.

6. An advertisement was made to appoint Mining Sirdar by the respondent in the year 2007 in which the maximum age limit for OBC candidates on 31.10.2007 was mentioned as 33 years. The writ appellant, who belongs to OBC category and whose date of birth is 22.5.1972, became over age. The writ appellant claimed parity with other candidates namely Shri Gopal Sinha & Shri Ajay Nair on the ground that they were co-trainees with him and in their cases age relaxation was made. But, to our mind when the age relaxation was considered in the year 1999 and the appointment of apprentices on the regular post of Mining Sirdar was considered, the writ appellant was not qualified as he could not obtain the passing certificate of Mining Sirdar. Therefore, in the year 2007, when he passed Mining Sirdar examination, he cannot claim parity with the co- trainees as the respondents considered the cases of regular appointment in the year 1999 on the availability of posts of Mining Sirdars after giving age relaxation as at that time the appellant was not qualified to hold the post.

7. We also think that a person like the writ appellant, who could not qualify after getting three years training and could obtain passing certificate only in the year 2005, cannot be given parity with others who had submitted their certificates and were declared qualified to hold the post when the vacancies of Mining Sirdars were available after completion of their training i.e. after 1994. Therefore, no benefit can be given to the writ appellant on that ground.

8. It is also matter of consideration that the respondent establishment is a prestigious establishment and naturally they would want quality of work and there is no sense to relax the age limit on the ground that the writ appellant after getting three years apprentice training, which completed in the year 1994, could not pass the Mining Sirdar examination and could not submit the certificate even up to 11 years from the completion of training.

9. Learned counsel for the writ appellant has placed reliance on the case of U. P. State Road Transport Corporation and another v. U. P. Parivahan Nigam Shishukhs Berozgar Sangh and others (AIR 1995 SC 1115), in which Hon'ble Supreme Court held in para 12 as under : "12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training :- (1) Other things being equal, a trained apprentice should be given preference over direct recruits. (2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India v. Hargopal, AIR 1987 SC 1227, would permit this. (3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given. (4) The concerned training institute would maintain a list of the persons trained year wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior. In the instant case other things were not equal as the appellant completed successful training and obtained certificate after a lapse of 12 years. With regard to the age relaxation the Hon'ble Apex Court has directed to relax the age, if the apprentice

has become over age during his period of training but in the instant case the writ appellant has become over age after completion of the training and when he could not obtain a certificate for about 12 years.

10. Learned counsel for the writ appellant has further relied upon a decision of Hon'ble Supreme Court in U. P. Rajya Vidyut Parishad Apprentice Welfare Association and another v. State of Uttar Pradesh and others (AIR 2000 SC 2621) in which similar directions were given, as in the above case of U. P. State Road Transport Corporation and another (supra). But unfortunately, the law laid down in these cases is not applicable in the instant case as we have already observed that when the absorption in service of an apprentice was considered by the respondents in the year 1999, the writ appellant was not qualified as he could not pass the requisite examinations.

11. In view of above, we are not inclined to interfere with the impugned order dated 6.5.2010 passed by the learned Single Judge rather we confirm the same.

12. The writ appeal is misconceived and therefore dismissed on the admission stage itself. Consequently, I.A. 1, application for grant of interim relief also stands dismissed. No order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com