(2009) 10 JH CK 0010

Jharkhand High Court

Case No: None

Ramayan Singh		APPELLANT
	Vs	
Bharat Coking Coal Limited and Others		RESPONDENT

Date of Decision: Oct. 28, 2009

Hon'ble Judges: Amareshswar Sahay, J

Bench: Single Bench

Judgement

Amareshwar Sahay, J.
Heard the parties and with their consent this writ petition is being disposed at this stage itself.

2. The petitioner, who was an employee of Bharat Coking Coal Limited and was holding a post of an Executive in E-3 Grade (Senior Estate Officer), retired from service on 31/12/2000. His grievance is that though he was entitled to be promoted to E-4 Grade (Deputy Estate Manager) prior to his retirement but at one hand his case for promotion was not considered and on the other hand one T.B.S. Tiwary, who was just above to this petitioner in gradation list and four other persons namely, Ravindra Chakraborti, Arun Kumar, Ramesh Chakraborty and M. Khalkho, who were juniors to the; petitioner in gradation list, contained in Annexure-1 to this writ petition, were given the said benefit of promotion from E-3 Grade to E-4 Grade and, therefore, a prayer has been made to direct the respondents to give him the promotional benefit with all consequential benefits.

3. It is further stated by the petitioner that: he had filed several representations before the concerned authorities for giving him the aforesaid promotion but no heed was paid and, ultimately, by a letter dated 24/09/2002 contained in Annexure-4, issued under the signature of Chief Personnel Manager (EE), he was informed by the concerned authority regarding their inability to accede to the request of the petitioner for promotion.

4. A counter affidavit has been filed on behalf of the respondent Nos. 1 to 4, i.e. M/S B.C.C.L. and its officers, wherein it has been stated that the representation of the

petitioner was forwarded to Coal India Limited for consideration but the Chief General Manager (Personnel) of M/S Coal India Limited by his letter dated 10/04/2002, has communicated the inability to accede to the request for consideration of promotion on the ground that the petitioner has seized to be in the employment of M/s Bharat Coking Coal Limited and, therefore, giving him promotion with retrospective effect is not possible. In support of the above statement, a copy of the letter dated 10/04/2002 sent to Dy. Chief Personnel Manager (EE), B.C.C.L., Dhanbad, by the Chief General Manager (Personnel) 0f Coal India Limited has been annexed as in Annexure-"A" to the counter affidavit.

5. From perusal of the aforesaid letter contained in Annexure-A to the counter affidavit, it appears that the Chief General Manager (Personnel) has informed the B.C.C.L. that the DPC (Board-IV) meeting held on 9-10/11/2000, considered promotion of executives from E3 to E4 Grade, whose date of entry was on or before 30th September, 1994 and had completed five years service in the Grade on or before 30th September, 1999. The said DPC decided to consider those executives only whose EER (Executives Evaluation Report) rating for at least two years out of three years (i.e. 1997-98, 1998-99 and 1999-2000) was available on the date of DPC, if they otherwise eligible for promotion as per existing norms. Following the above norms, the said DPC did not consider the case of the petitioner Ramayan Singh for promotion since his EER (Executives Evaluation Report) rating for the years 1998-99 and 1999-2000 was not sent to Coal India Limited on or before the DPC meeting held on 9-10/11/2000 and, therefore, on the recornmendation made to the DPC the batchmates/juniors to the petitioner were promoted to E4 Grade on 19/ 12/2000.

6. From the aforesaid reasons stated by the Coal India Limited, contained in Annexure-A, it is apparent that it was the responsibility and duty of M/S Bharat Coking Coal Limited to send the complete relevant papers of the petitioner to the DPC for consideration of his case for promotion but as it appears that the B.C.C.L. failed to send the E.E.R. (Executive Evaluation Report) rating of the petitioner for the year 1998-1999 and 1999-2000 in time to the DPC and, therefore, in absence of those relevant papers the case of the petitioner for promotion to E4 Grade could not be considered. For this latches and negligence on the part of M/s B.C.C.L., the petitioner cannot be allowed to suffer. If all the relevant papers, i.e. E.E.R. rating for the year 1998-99 and 1999-2000 would have been sent by the B.C.C.L. to the DPC then the petitioner"s case for promotion could have been considered at the stage alongwith others who were given promotion.

7. It also appears from Annexure-A itself that after retirement of the petitioner his case was recommended for giving him notional promotion with fixation of pay to the post of Dy Estate Manager in E4 Grade w.e.f. 19/12/2000, i.e. the date on which the juniors to the petitioner were promoted to E4 grade but the Coal India Limited rejected the said recommendation on the ground that the petitioner is already superannuated.

8. In my view, denial of consideration for promotion of the petitioner to E4 grade because of the latches and negligence on the part of the M/s Bharat Coking Coal Limited and for

no fault on the part of the petitioner, he cannot be justified in any manner.

9. Accordingly, this writ application is allowed. The respondent Coal India Limited is directed to get the case of the petitioner considered afresh for giving him notional promotion with fixation of pay to the post of E4 grade from 19/12/2000, i.e. the date on which the batchmates/juniors to the petitioner were given promotion to E4 grade, on the basis of the recommendation made by the M/s Bharat Coking Coal Limited and, thereafter, shall pass consequential orders within a period of three months from the date of receipt/production of a copy of this order. In the facts and circumstances of the case, there shall be no order as to cost.