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(2013) 01 JH CK 0031

Jharkhand High Court

Case No: LPA No. 193 of 2011

Sanjeev Kumar Raha	APPELLANT
Vs	
Coal India Ltd. and Others	RESPONDENT

Date of Decision: Jan. 21, 2013

Citation: (2013) 3 JLJR 604

Hon'ble Judges: Prakash Tatia, C.J; Jaya Roy, J

Bench: Division Bench

Advocate: V.K. Prasad, for the Appellant; Ananda Sen, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the parties. The appellant is aggrieved against the judgment dated 11.4.2011 by which the appellant''s/writ petitioner''s writ petition has been dismissed.

2. The petitioner/appellant claims that he was selected and appointed on 27.11.1990 as Stipend Athlete in C.C.L. Sports Club for a period of one year on a stipend of Rs. 700/- per month. The petitioner participated in many athletic events and was awarded not less than 10 medals.

3. The petitioner''s contention is that the petitioner was senior but two Stipend Athletes R.K. Pathak and Rashmi Shanta Baxla who were engaged as Stipend Athlete/Player subsequent to the petitioner, were appointed on the post of Clerical Grade-Ill and thereby the petitioner has been discriminated and his claim has been ignored. The petitioner made several representations raising his grievance and ultimately, the Director (Personnel), C.C.L. vide its letter dated 17.4.1997 made recommendation for absorption of the petitioner in Clerical Grade-Ill. When in spite of such recommendation the petitioner was not offered appointment, then petitioner filed writ petition being C.W.J.C. No. 196 of 1999 (R) which was disposed of by the Patna High Court, Ranchi Bench vide order dated

25.1.2001 with direction to the respondents to consider the case of the petitioner for appointment/absorption in the service of respondent-Central Coalfields Limited. The petitioner submitted representation again which was considered by the committee and petitioner''s claim was rejected on the ground that the athlete R.K. Pathak and Rashmi Shanta Baxla were having better merit as athlete than to the merit of the petitioner and, there. fore, rejected the petitioner''s representation holding that petitioner is only a runner and also that his services are not required in the company. Hence, the petitioner approached this Court by firing this writ petition being C.W.J.C. No. 1976 of 2001. This writ petition has been rejected by the learned Single Judge after observing that it is admitted case that the petitioner was never given appointment against any sanctioned post and there is no legal right of the petitioner either for appointment or absorption on the post. The learned Single Judge also observed that petitioner''s own case is that he was appointed by the C.C.L. Sports Club and, therefore, his claim against the Central Coalfields Limited is not maintainable because of the reason that the C.C.L. Sports Club and Central Coalfields Limited both are different entities and because of the appointment by the C.C.L. Sports Club, petitioner cannot claim appointment in the Central Coalfields Limited.

4. Learned counsel for the appellant submitted that C.C.L. Sports Club and Central Coalfields Limited are two different entities was not the point taken by the respondents in the order of rejection of the petitioner''s claim and this new point has been taken for the first time in the reply to the writ petition which should not have been allowed to be raised and the petitioner being senior to above two athletes, his claim was better claim and he was entitled to appointment/absorption.

5. We considered submissions of the learned counsel for the appellant and perused the reasons given by the learned Single Judge which are in detail. Learned Single Judge rightly observed that petitioner admittedly was appointed by the C.C.L. Sports Club and that too, on a non-sanctioned post and, therefore, he has no right of claiming any appointment or absorption.

6. We also asked specific query to the learned counsel for the appellant that whether there is any rule which provides of giving appointment to the athletes in the above company and what can be the criteria on which one can claim absorption. It appears that no such rule or policy is there but some of the appointments were given by the company looking to the merit of the particular person as well as in view of any exigency and requirement of the company. Here in this case, when it has been held that comparative merit of the petitioner is less than two persons who have been given appointment, we are not inclined to interfere in that finding of fact. We are also not impressed by the argument of the learned counsel for the appellant that the C.C.L. Sports Club and C.C.L. are distinct entities was a new point, therefore, it should not have been allowed to be raised. It was the duty of the petitioner to ascertain his claim and right and to prove his right by showing his relation with the person with whom he wants to serve, therefore, in that fact situation also, we are of the view that the learned Single Judge rightly not entertained the claim of

the writ petition and dismissed the writ petition. There is no merit in the L.P.A. which is accordingly dismissed.