
(2010) 05 JH CK 0030

Jharkhand High Court

Case No: None

Gambhir Prasad Singh

APPELLANT

Vs

Eastern Coalfields Ltd.
and Others

RESPONDENT

Date of Decision: May 7, 2010

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.G.R. Patnaik, J.

Heard counsel for the parties.

2. The petitioner in this writ application has prayed for issuance of direction to the concerned authorities of the Respondents for conversion/regularization of the petitioner from the post of Store Boy/Store Mazdoor (T.R. Category) to Assistant Store Keeper (MR. Category Grade-II).

3. The grounds of the petitioner's claim is that, though the petitioner was appointed on compassionate ground as a General Mazdoor, but he was authorized by authorization letter issued by the Manager of the concerned Colliery (Annexure-5), to work in the stores of the Colliery. The further ground of the petitioner is that the other employees including one C.P. Sengupta and Amp Rawani, who were also performing jobs under the T.R. Category, were given regularization/conversion to the MR. Category Grade-II, but the petitioner's claim has not been conceded as yet.

Learned counsel for the petitioner refers to the order passed by this Court dated 24.08.2005, in earlier writ application whereby, on considering the petitioner's claim for the same reliefs, this Court had directed the concerned authorities of the Respondents to consider the case of the petitioner and to give him equal treatment as given to the other similarly situated co-employees.

In support of his grounds, learned Counsel would also refer to a judgment of the Kolkata High Court passed in the case of Bhabani Ghosh and Ors. v. C.I.L. and Ors. vide W.P. No. 365 (w) of 2004 and explains that the writ petitioner- Bhabani Ghosh was also initially appointed on compassionate ground as a Mazdoor, but when the concerned authorities of the Respondent-C.I.L. had refused to consider her claim for regularization as Hindi Typist, she had filed a writ petition in which, after considering her case, the Kolkata High Court had directed the Respondent authorities to consider her case for regularization and take an appropriate decision thereon in accordance with law.

4. From the counter affidavit of the Respondents, the entire claim of the petitioner has been denied and disputed on the following grounds:

(i) The petitioner was admittedly appointed as a general mazdoor and the nature of job allotted to him was that of mazdoors;

(ii) The authorization letter (Annexure-5) was though given to him to work in the stores, but only in the capacity of mazdoor;

(iii) At no point to time was the petitioner appointed as an Assistant Store Keeper, nor was he authorized to perform the duty of Assistant Store Keeper;

(iv) The other employees whom the petitioner has referred to, do not stand on the same footing as that of the petitioner.

5. It is explained that though the other co-employees were initially appointed in the T.R. Category, but upon their conversion to the M.R. Category Grade-II, they were placed in the Technical Section in which they have worked from the beginning itself. Whereas the petitioner's claim that he has been discharging the functions of Clerk as an Assistant Store Keeper, and therefore, he should be given the benefit of conversion to the post of Store Keeper, is incorrect and misleading.

6. From the rival submissions, the facts which emerge are that admittedly, the original appointment of the petitioner was as a general mazdoor. He was authorized to work in the Stores as a Store Boy for collecting materials. Such authorization does not suggest that the nature of his job is that of Store Keeper or Assistant Store Keeper or of the clerical nature. The other two employees referred to by the petitioner in this writ application, were inducted in service in the T.R. Category, but they were placed initially in the Technical Section and subsequently, they have been given conversion in the technical side, pursuant to the scheme which was adopted by the Management and which was operative till the year 2002.

7. The petitioner, therefore, cannot possibly claim parity with the other two co-employees since there is a marked distinction in case of the petitioner and those employees in as much as, the nature of the petitioner's work was never a clerical job.

8. The order passed in the case of Bhabani Ghosh (supra), does not apply to the facts of the petitioner's case in view of the fact that, as per the admitted facts in the case of Bhabani Ghosh, she was authorized to discharge the work of Hindi Typist even though she was designated as a Mazdoor and it is in consideration of this fact that the Court had directed the Respondent-Management to consider her claim for regularization of her service as Clerk in M.R. Category.

9. It further appears that, pursuant to the directions issued by this Court, in the earlier writ application, the concerned authorities of the Respondent have considered the petitioner's claim and have taken a decision by passing a reasoned and speaking order, vide (Annexure-4), dated 20.12.2005.

10. It also appears that in the matter of granting the benefit of conversion -from T.R. Category to M.R. Category, the Respondent-Company had adopted its own policy. The employees of the Respondent-Management have, therefore, to be guided by the policy decision of the Management and unless the employee points out any deviation in the conduct of the Management, contrary to the policy decision and the procedure laid down under the policy decisions, this Court in exercise of its writ jurisdiction, cannot possibly issue any order of Mandamus or such direction to the Respondent-Management to take any decision in a particular manner as the petitioner in the present case would desire.

11. There being no merit in this writ application, the same is hereby dismissed.

12. However, in the event, the Management adopts any such policy to enable the conversion of the employees in the T.R. Category to the M.R. Category, enabling the benefits thereof to the petitioner also, then the Respondent authorities shall reconsider the petitioner's case in the light of such policy decisions and pass appropriate orders accordingly.