

(2000) 12 JH CK 0001
In the Jharkhand High Court
Case No : CWJC No. 4300 of 2000

Balaswamy Akala

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-12-2000

Acts Referred:

Citation : (2001) 49 BLJR 422

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal J.

1. Heard learned counsel for the petitioner and learned counsel appearing for the Union of India.
2. In this writ application the petitioner, inter alia, prayed for the following reliefs :--

"That by the instant Writ Application, the petitioner above-named prays for the issuance of appropriate writs/orders/direction commanding upon the respondent Nos. 1, 2 and 3 to give effect to the recommendation for appointment of the petitioner to the post of Chairman, Coal India Limited which they have been illegally refusing, though the petitioner stood selected as No. 1 in the select panel and got cleared from the CVC as on the relevant date 1.10.2000, wherein aforesaid respondents have in a mala fide, discriminatory and arbitrary manner appointed respondent No. 4 for the post of Chairman-cum-Managing Director, Coal India Limited with effect from 1.10.2000, though he was never considered for selection, or been named anywhere in the select panel nor the appropriate authorities have at any stage considered him for the said post in the manner legally followed for the appointment of Chairman, Coal India Limited.

And

For the issuance of an appropriate writ/order/direction seeking quashing of the order dated 3rd October, 2000 as contained in Memo No. CIL/C-5A (ii)/CH/CDA/1034 issued by Director (PERS & IR) in pursuance to Ministry of Coal Order No. 21/13/2000-ASO dated 29.9.2000 sent by fax, whereby the Respondent No. 4 has been assigned the charge of Chairman-cum-Managing Director, Coal India Limited with effect from 1.10.2000.

And

For the issuance of appropriate writ(s)/order(s)/direction(s) seeking" quashing of the order dated December 12, 2000 as contained in Memo No. CIL/C-5A (ii)/CMD/1257 issued by Chief General Manager (Personnel) in pursuance of Ministry of Coal fax message No. 21/35/98-ASO dated 12.12.2000 whereby the Respondent No. 5 has been transferred with immediate effect as CMD, CCL in place of the petitioner.

And

For the issuance of appropriate writ(s)/order(s)/direction(s) commanding upon the respondent No. 1, 2 and 3 to consider the petitioner to take charge of the office of Chairman, Coal India Limited with effect from 1.10.2000 as per the practice and tradition rightly followed in earlier appointments.

And

For the issuance of appropriate writ(s)/order(s)/direction(s) commanding upon the Respondents to place the petitioner as Chairman, Coal India Limited in the fact and circumstances of this case with all consequential benefits and after placing the file before the appropriate authorities, in case any further approval is necessary ignoring the subsequent mala fide action of the respondents in adding the petitioner as accused No. 4 in a pending investigation by CBI of a ten-year-old case as the D.O.P.T. guidelines constituted as per the settled law by the Hon"ble Supreme Court whereby it has been held that merely institution of an F.I.R. or registration of a case shall not prevent/withhold promotion of a duly selected candidate on merit and also recommended by the authorities concerned.

And/or

For issuance of appropriate writ/order/direction, for doing con-scionable justice to the petitioner, and not to renew the appointment of the Respondent No. 4 as Chairman, CIL, beyond 31.12.2000.

And/or

For the issuance of appropriate writ/order/direction, directing the respondents not to appoint any person in any other manner during or after 31.12.2000 and pending hearing of this application status quo may be maintained with regards to appointment to the post of Chairman, Coal India Limited."

3. I have gone through the entire facts stated in the writ application and also

considered the submissions made by the learned counsel for the petitioner as also the counsel for the Union of India, who has also raised objection with regard to jurisdiction.

4. So far as the first relief claimed by the petitioner for issuance of appropriate writ directing the concerned respondents to give effect to the recommendation for appointment of the petitioner to the post of Chairman, Coal India Ltd. is concerned, I am of the view that this Court cannot issue writ of mandamus or any other writ directing the Union of India to appoint the petitioner to the post of Chairman, Coal India Ltd. It is well settled that a mere selection or inclusion of name in the panel of selected candidates does not confer any right to appointment. But the appointing authority must give reasonable explanation for non-appointment. However, when the selection process for appointment to the post of Chairman, Coal India Ltd. has been initiated by the respondents, it is desirable that the respondent-Union of India should fill up the post of Chairman Coal India Ltd. in accordance with law expeditiously.

5. So far the prayer made by the petitioner for quashing the order dated 12th December, 2000, whereby the petitioner and the concerned respondent have been transferred and posted as C.M.D. in different subsidiaries of the Coal India Ltd., I am of the view that the concerned respondents have every right to transfer one C.M.D. from one subsidiary to another subsidiary. Learned counsel for the petitioner very fairly submitted that the petitioner has joined his transferred post and, therefore, he has no grievance.

6. No relief, therefore, can be granted to the petitioner in this writ application, which is dismissed with the aforesaid observation.

7. Writ petition dismissed.