
(2003) 07 JH CK 0025
In the Jharkhand High Court
Case No : CWJC No. 2468 of 1997 (R)

Dr. Sudhansu Ranjan

APPELLANT

Vs

Coal India Ltd. and Others

RESPONDENT

Date of Decision : 18-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 410

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

Bench : Single Bench

Advocate : B.B. Sinha and S.K. Laik, for the Appellant; M.M. Banerjee and Indrajit Sinha, for the Respondent

Judgement

M.Y. Eqbal, J.—Petitioner is aggrieved by the Office Order dated 02.4.1997 issued by respondent No. 4, Director Personnel, Coal India Ltd., Calcutta whereby he was intimated that in the light of the judgment passed in CWJC No. 1665 of 1993(R), he will not be entitled to Dearness and interim relief.

2. Petitioner joined the service of State Colliery in 1953 as an Assistant Surgeon Grade-I. At that time the service condition of the petitioner was governed by the Rules applicable to be Central Government Services. After the formation of the National Coal Development Corporation Ltd, by virtue of taking over the State Collieries, petitioner claims that he opted to continue in NCDC and he would be entitled to governed by the service condition as per circular dated 16.8.1965. Petitioner's case is that although he opted for being governed by the Government Service Rules, the Service Condition of the petitioner was protected including the retirement benefits. It is contended by the petitioner that he opted for Coal Mines Authority Ltd. pay scale (in short C.M.A. scale) in the year 1974 as per the offer given by the respondent vide letter dated 27.12.1974. Petitioner retired as Chief of Medical Services, Coal India Ltd. On 1,9,1993. After retirement petitioner was given pension, Dearness Reliefs etc. as per the Central Government Pension Rules till December, 1991. Petitioner's further case is that

the respondents in the light of the judgment dated 13.9.1994 passed in the aforementioned writ petition stopped payment of Dearness and retirement benefits to the petitioner on the misinterpretation and mis-conception that petitioner's case will also be governed by the said judgment. Admittedly, petitioner started getting benefit from 1993 till 1995 but the same was withdrawn by the respondents by taking ex-parte decision.

3. Mr. M.M. Banerjee, learned counsel appearing for the respondents has admitted that the judgment passed in CWJC No. 1665 of 1993(R) relates to non-executive governed by Wage Board Scale. According to learned counsel, petitioner will be entitled to pension as per C.M.A. Scale. In view of the fair stand taken by Mr. Banerjee and having regard to the fact that petitioner never opted for being governed either by Wage Board Agreement or National Coal Wage Agreement, decision aforesaid cannot be made applicable to the case of the petitioner,

4. From perusal of letter dated 16.8.1965, issued by the Government of India it transpires that after the transfer of ownership and management of the State Collieries to the National Development Corporation Limited, the employees serving in the State Collieries were given option either to govern by the Service Conditions of National Coal Development Corporation or to continue to be governed by the Service Conditions of the Government Service. Petitioner exercised his option stating that he will not be governed in terms of the letter-dated 16.8.1965. It is the admitted fact that the petitioner got all the benefits till 1992 and retired on 2.1.1993. In my opinion therefore, respondents ought not to have taken ex-parte decision to stop the Dearness and the retirement benefits to the petitioner. The matter therefore needs reconsideration by the respondents. This Court therefore direct the Chief General Manager (Personnel and Industrial Relations) Coal India Limited to reconsider the case of the petitioner in the light of the observation made herein above and take fresh decision within a period of 30 days from the date of receipt/production of copy of this order.

5. With the aforesaid observation and direction this writ application is disposed off.