

(2013) 02 JH CK 0042

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3507 of 2010

Kailash Rajak

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-02-2013

Acts Referred:

Citation : (2013) 02 JH CK 0042

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Saurav Arun, for the Appellant;

Final Decision : Disposed Off

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for direction on the respondents to consider him for regular promotion to the vacant post of District Mining Officer from the post of Assistant Mining Officer and also for further promotion and to grant all consequential benefits. It has been stated that the petitioner has been holding the post of Assistant Mining Officer since July 1984. He has also been discharging the duty of In-charge District Mining Officer since December, 1990. The petitioner has, all the required eligibilities and qualification for promotion to the post of District Mining Officer. The petitioner, thus, represented before the departmental authority for consideration of his promotion to the post of District Mining Officer. The Departmental Promotion Committee recommended the petitioner's promotion to the post of District Mining Officer w.e.f. 1.10.1992. in spite thereof, the petitioner's promotion has been withheld on the plea that a criminal case is pending against him. The petitioner has been already acquitted of the charges in the criminal case. After acquittal, the petitioner filed representation before the concerned authority to grant promotion to the post of District Mining Officer as per recommendation of the Departmental Promotion Committee. The other concerned authorities recommended for his promotion. But in spite of the same, no order on his claim of promotion has been passed till date. The petitioner has been working as In-

charge District Mining Officer and discharging all the duties of District Mining Officer since long, but he has been deprived of benefits admissible to the District Mining Officer by withholding his promotion. It has been further submitted that the petitioner is a senior most Assistant Mining Officer in the State of Jharkhand and deserves to be promoted to the post of District Mining Officer.

2. The respondents have opposed the writ petition by filing counter affidavit. It has been stated, inter alia, that though, the petitioner is the senior most Assistant Mining Officer, he has no requisite qualification for promotion to the post of District Mining Officer. However, it has been admitted that the Departmental Promotion Committee, after considering the petitioner's eligibility for the post/has recommended for his promotion long back. The other authorities have also recommended for his promotion.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner's claim has been maliciously opposed in this writ petition without taking into consideration the recommendations of Departmental Promotion Committee which is the competent body and also the higher authorities of the department. Frivolous pleas have been taken in the counter affidavit only for objection sake.

4. Having heard learned counsel for the parties, I find that the petitioner's claim has been opposed contrary to the record of the department. The petitioner's name was recommended for promotion to the post of District Mining Officer by the Departmental Promotion Committee long back on 10.6.2009. The higher authorities of the department also recommended for the petitioner's promotion. It is not disputed that the petitioner is the senior most Assistant Mining Officer in the State of Jharkhand. In spite of the same, if the respondents have any justified ground for withholding the petitioner's promotion, they should have passed speaking order on the petitioner's claim. But no order has been passed till date by the competent authority.

5. Considering the above, this writ petition is disposed of directing the Principal Secretary, Department of Mines and Geology, Government of Jharkhand to pass speaking and reasoned order on the petitioner's claim within two months from the date of receipt/production of a copy of this order. The respondents shall communicate the order to the petitioner, in writing.