
(2013) 04 JH CK 0115

In the Jharkhand High Court

Case No : Writ Petition (L) . No. 5938 of 2012

Mahabir Mahato and Ramsingar Singh

APPELLANT

Vs

Central Coal Fields Limited and Others

RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:

Citation : (2013) 138 FLR 740

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : A.R. Choudhary, for the Appellant; Ananda Sen, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. These 2 petitioners have alleged in the present writ application that in the garb of identification of these petitioners a de-novo inquiry has been initiated by the respondent-CCL to deny the claim of regularization of these 2 workmen along with 54 others whose verification process have already been undertaken by the Registrar General of this Court pursuant to the order passed by the Hon"ble Supreme Court in Civil Appeals No. 1600-1601/2005 (Annexure-1).

2. In respect of the petitioner No. 1, Mahabir Mahato, learned counsel for the petitioners submitted that it may not have been necessary on the part of the respondents to once again require a fresh identification process to ensure the bonafides of the petitioner, who furnished a duly filled proforma prescribed by the respondent-CCL and authenticated in his favour by the same learned advocate who had identified the present petitioner No. 1 during the course of verification inquiry before the learned Registrar General of this Court. Despite that the respondents have chosen to take into account irrelevant considerations in order to deny his claim as would appear from the extracts of the identification proceeding conducted by them as Annexure-H to the counter affidavit and more specifically in respect of the petitioner No. 1 whose name is reflected at Item No. III at page 121. Learned counsel for the petitioners submitted that so far as the physical identification of the workmen is concerned, one can understand that

productions of the photograph duly identified by the learned Advocate and proforma attested by the BDO/CO may be necessary requirement but the respondents have undertaken exercise by taking statements of the persons concerned before a committee which is wholly unwarranted since the matter has become final after the report of the learned Registrar General of this Court, pursuant to the direction of the Hon''ble Supreme Court. In respect of petitioner No. 2, Ramsingar Singh, it is submitted by counsel for the petitioner that he has not received any communication for furnishing the prescribed proforma issued by the respondent-CCL and if the authorities permit him or if he is directed to furnish the said proforma, he will surely prove his physical identity in the same manner. Learned counsel for the petitioner also submitted that in order to further substantiate the claim as being the same person in whose respect the verification process for identifying their physical identity has been under taken by the Registrar General of this Court, the certified copy of the original enclosures which form part of the report of the Registrar General shall also be produced on their behalf before the respondent-CCL.

3. Counsel for the respondent-CCL in turn submitted that the entire exercise was necessitated because of claim made by more than 1 person having same name, and, therefore, physical identification by fulfilling the necessary prescribed proforma and its authentication by the learned Lawyer concerned or any other competent authority was required in order to comply with the directions for the regularization of these identified workmen by the respondent-CCL. The said exercise having been undertaken, the petitioner should not complain as it is only intended to grant benefit of regularization to the bonafide person and not interloper/stranger. However, the respondent-CCL submits that if the petitioner fulfills the prescribed proforma and also furnishes the supporting documents as were part of the proceedings before the learned Registrar General in the verification process, their claim would be considered in accordance with law for grant of regularization pursuant to their identification, as aforesaid.

4. I have heard counsel for the petitioner at some length and gone through the relevant materials on record. The instant exercise of regularization of around 56 workmen are in pursuance to an award passed in the industrial reference being Reference Case No. 250 of 1986. The matter went up to the Hon''ble Supreme Court in Civil Appeals No. 1600 of 2005 and analogous case No. 1601 of 2005. The Registrar General of this Court was directed to conduct verification exercise for physical identification of the beneficiary of the award. The process of physical identification was conducted by the learned Registrar General of this Court and a report was submitted vide Annexure-2 in the writ petitioner being CWJC No 1175 of 1989(R) in obedience of the judgment passed by the Hon''ble Supreme Court in the aforesaid civil appeals. It appears that 56 workmen were identified. The respondent-CCL was required to undertake an exercise for regularization of the identified workmen as per the directions contained in para 9-10 of the judgment of the Hon''ble Supreme Court, which has been reported in *The Workmen of Bhurkunda Colliery of Central Coalfields Ltd. Vs. The Management of Bhurkunda*

Colliery of Central Coalfields Ltd., . The respondents in their exercise, undertaken to comply with the directions of the Hon''ble Supreme Court for regularization of the concerned 56 workmen had directed the concerned workmen to furnish properly filled up proforma prescribed by the respondents to establish their physical identity before the respondent-authorities. In such exercise in respect of petitioner No. 1, he has furnished his photograph duly countersigned by the Block Development Officer, Patratu, District Ranchi as also countersigned by the learned Advocate, who identified the petitioner before the learned Registrar General in the verification inquiry, which is annexed as Annexure-7 at Page 113 of the writ application. The petitioner No. 2 and other concerned workmen are also required to complete the aforesaid prescribed proforma in the manner required by the respondent-CCL for physical identification of the concerned workmen, as already have been undertaken by the petitioner No. 1. Accordingly, the petitioners shall also produce the certified copy of the document which forms the part of the report of the learned Registrar General of this Court establishing his physical identification before the Respondent-Authorities along with duly filled said prescribed proforma, indicated herein above. Learned counsel for the workmen submits that if such formalities are completed then the exercise of regularization of such workmen should be completed as per the directions of the Hon''ble Supreme Court in the judgment referred to herein supra.

5. In these circumstances, petitioners are given liberty to approach the respondent-CCL and fulfill the prescribed proforma along with the documents being part of the verification inquiry conducted by the learned Registrar General of this Court which establish their physical identity, within a period of 4 weeks. However, since petitioner No. 1 has already filed the prescribed documents which is annexed in page 113 of the writ application, therefore, he may not be required to do so. The respondent-CCL, thereafter, shall complete the exercise of regularization in accordance with law and also as per the directions passed by the Hon''ble Supreme Court and report of the learned Registrar General of this Court.

6. Needless to say that the respondents are already under a mandate pursuant to the directions of the Hon''ble Supreme Court for completing the exercise within stipulated period. In that view of the matter, the respondents would complete the exercise without unreasonable delay to fulfill the said mandate. The writ petition is disposed of in the aforesaid terms.