

(2009) 08 JH CK 0019
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4819 of 2004

Ram Kishun Ram

APPELLANT

Vs

Central Coal Fields Ltd. and Others

RESPONDENT

Date of Decision : 19-08-2009

Acts Referred:

Citation : (2010) 124 FLR 661

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : Rohit Roy, for the Appellant; Ananda Sen, for the Respondent

Judgement

D.G.R. Patnaik, J.—Heard learned Counsel for the parties.

The petitioner in this application has prayed for a direction to the respondents to allow him to continue on duty on the basis of the appointment letter issued on 12.12.1997 and also for direction to pay him the arrears of salary.

2. Facts of the case, in brief, is as follows:

The petitioner's father was employed as a Ward Attendant in Dakra Hospital under the Central Coalfields Limited and he died in harness on 21.4.1996. After the death of his father, the petitioner applied for grant of compassionate Appointment to him under the provisions of the NCWA. The respondents considered the claim of the petitioner and issued a letter of appointment dated 4.12.1997 to work as underground labour. The petitioner was referred to the Medical Board for medical examination. The Board found him unfit because of his suffering from physical disability, inasmuch as one of his legs was shorter than the other. On the basis of the medical report, his appointment was withdrawn, on the ground that he was unfit for service.

3. Learned Counsel for the petitioner submits that the withdrawal of the appointment of the petitioner is illegal, arbitrary and not tenable in law. Learned Counsel explains that the petitioner's father who was employed as Ward

Attendant in the hospital, under the CCL died in harness and the petitioner could have very well served in the same capacity notwithstanding his purported physical disability or deformity. It is further submitted that the respondents have not considered for offering him alternative employment in view of the fact that Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

4. Learned Counsel for the respondents submits that the petitioner being found physically unfit could not possibly be granted employment. However, it is not denied or disputed that other than the work in the underground colliery, other jobs could possibly be available to engage the petitioner.

5. Considering the facts and circumstances of the case, since admittedly the petitioner's prayer for compassionate appointment was considered and he was offered appointment, such appointment cannot be withdrawn on the ground of the petitioner suffering from physical deformity which even though may not be congenial for his deployment in the colliery underground but may not cause any impediment in performing any surface work. The respondent authorities are therefore directed to consider the employment of the petitioner in any other job which he could render even with his physical disability or deformity pointed out by the Medical Board. The respondents shall also consider that employment to disabled persons is reserved under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 also and such benefit has to be extended to the deserving candidates. The decision on the petitioner's prayer in this regard should be taken and effectively communicated to the petitioner within a period of two months from the date of receipt/production of a copy of this order.

6. With the above observations, this application is disposed of.

7. Let a copy of this order be given to the learned Counsel for the respondents.