
(2016) 01 JH CK 0136
In the Jharkhand High Court
Case No : W.P. (S) No. 137 of 2016

Ram Lakhan

APPELLANT

Vs

Coal India Ltd. through its Chairman, Kolkata

RESPONDENT

Date of Decision : 28-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 JCR 100 : (2016) 4 JLJR 116

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Mahavir Pd. Sinha, Advocate, for the Appellant; M/s Anoop Kr. Mehta, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the parties.

2. Petitioners are essentially aggrieved as they have not been allowed to participate in the exam scheduled on 17.01.2016 for promotion from Non Executive Cadre to Executive Cadre in the respondent-Coal India Ltd. This exercise was conducted in the respondent company vide internal notification dated 16.10.2015, which is enclosed as Annexure- E to the reply of the respondent no. 4 dated 20.01.2016. It lays down the eligibility criteria, mode of application, scrutiny of bio data particulars and methodology and other norms for conduct of the exam. The Notification lays down important dates of various activities to be performed in the process. Cut off date for eligibility criteria is 30.09.2015; Activation of on-line application, link start from 23.10.2015 from 10.00 Hours; Last date of submission of on-line application is 23.11.2015 till 23.59 Hours; Last date of submission of application at subsidiary Headquarters/ CIL including NEC/RSO's is 12.12.2015; Last date of submission of all Applications along with scrutiny report and all enclosures as referred above to General Manager (Personnel/ Recruitment)/CIL is 26.12.2015.

3. Petitioners have tried to make out a case that they made online application within time and submitted hard copy thereof with relevant documents at the Area Personnel Department, Lodhna through proper channel. It is their contention that those whose application along with relevant documents were scrutinized by the committee constituted at the headquarters of Coal Company were called to undertake two weeks of training before scheduled exam. The respondents excluded the name of these petitioners without any rhyme or reason at the level even before duly constituted Screening Committee required under the notification to undertake such exercise as the respondent no. 4 failed to sent the applications along with relevant documents by the cut off date before the headquarters of Coal Company. Later on, it is stated that applications of Sri Ram Lakhan, Ajit Kumar, Prabir Kumar Goswamy, Akhileshwar Pd. Singh, Manoj Kumar Bhagat, Rajpati Chouhan and Sanjay Kumar have been sent on 28.12.2015 along with relevant documents though that document is not on record. It is submitted that action of the respondents no. 4, Personnel Manager Lodna Area of BCCL, Jorapokhar, Dhanbad is malafide as he deliberately has left out applications along with relevant documents of the petitioners to deny them right of consideration for such promotion. Consideration for promotion is at least a fundamental right, though there is no right to promotion. Counsel for the petitioners has relied upon the same internal notification dated 16.10.2015 and the relevant provisions made therein to advance his submission.

4. Counsel for the respondent-BCCL has taken this Court to the averments made in their counter affidavit and the other pleadings on record to submit that application of the petitioners herein did not contain all relevant documents i.e. educational certificates/ caste certificate etc. which were mandatory and required to be scrutinized by Screening Committee Constituted by the Director (Personnel) of the subsidiary company also before forwarding it to the headquarters of Coal Company. The case of the respondents is that after these applications were found wanting in relevant enclosures, petitioners were informed, but by the cut off date 12.12.2015, enclosures were not submitted by the individual petitioners. The time line indicated in the internal notification for the recruitment process has to be mandatorily followed at all levels. If applications were wanting in relevant documents, the same could not be subjected to scrutiny as being made out on the part of the petitioners. It is further submitted on their behalf that about 494 applications have been forwarded to the headquarters of the Coal India by the respondent-Coal Company of all such Personnel who belonging to Non Executive Cadre and fulfilled the eligibility criteria and whose applications contained all details with relevant enclosures/certificates. It is submitted that allegations of malafide are neither made nor established in the body of the writ petition. The examinations have also been held on 17.01.2016 itself. Therefore no interference should be made in such matters where the petitioners have failed to show that they have completed all necessary formalities for competing in the relevant exercise by making application with relevant enclosures within time.

5. I have considered the submission of the parties and gone through the relevant materials on record. The relevant provisions of the internal notification dated 16.12.2015, which are material for consideration of the issue involved herein are quoted hereunder:-

"3. Mode of Application: - Eligible candidates have to apply only through online application system. To apply visit Our people -Career -Departmental Selection From Non-Executive to Executive Cadre- section of our website www.coalindia.in and click on the line Apply online for selection from non-executive to executive cadre. The Home Page will open on clicking the link.

Detailed instruction for filling the form will be given under the tab HOW TO APPLY and the application form will be given under the tab APPLY HERE.

Before applying, the candidate must ensure that He/She has a valid Email ID. This is very important since the same Email ID will be used for further communication on selection process.

On successful submission of the on-line application, a bio-data in PDF format will be auto generated for viewing and printing. A copy of the same will also be sent to the Email ID as provided by the candidate in his online application.

The candidates will be required to take a print out of the PDF bio-data format and submit the same through proper channel, along with all relevant documents, viz., educational certificate, caste certificate (in case of SC/ST) etc.

Such bio-data should bear signature of the candidate and his controlling authority. The same should also be verified from the service records/personal files of the candidate and should be certified under the signature of Personnel executive I/C of the Unit/Project/Area/Head Quarter. The photograph of the candidate in Bio-data (hand copy) should also be attested by Personnel executive I/C.

While submitting online application the candidate is to follow the instructions provided in the website and before final submission there will be option to check, verify and edit the information/data they have filed. But once an application is finally submitted, the same cannot be changed.

On final submission of each application, a unique Registration No. & Password will be generated. The Registration No. and the Password will be sent to the Email ID as provided by the candidate in his online application. The same Regn. No. and Password is to be used by the candidate as per the instruction at different stages of the selection process.

All the required information/instructions at different stages of the selection process will be communicated through CIL Website. Candidates are advised to visit the CIL Website regularly.

Scrutiny of Bio-Data Particulars:

I) On receipt of the Bio-Data particulars & relevant documents, Screening Committee constituted by the Director (Personnel) at the respective subsidiary company/GM (MP & IR), CIL in case of CIL/RSO/NEC, will scrutinize the said biodata particulars strictly as per relevant provisions/cadre Scheme i.e., educational certificates/caste certificates issued by competent authority (in case of SC/ST) etc. The members of such committee should not be below the rank of E5 grade and In-charge of the Committee should not be below the rank of E7 grade.

Important Dates of Various Activities

Sl. No.

Process/Activity Description

Applicable Dates

1

Cut-Off Date for Eligibility Criteria

09/30/15

2

Activation of on-line application link

23-Oct-15 From 10.00 Hours

3

Last date of submission of on-line Application

23-Nov-15 Till 23.59 Hours

4

Last date of submission of Application at subsidiary Hqrs/CIL including NEC/RSOs

12-Dec-15

5

Last date of submission of all Applications along with scrutiny report and all enclosures as referred above to General Manager(Pers/Rectt)/CIL

26-Dec-15"

6. On an earlier date considering the specific statement made at para-7 of the writ petition that petitioners had submitted their application along with relevant documents through proper channel, respondents were directed to produce the relevant records relating to petitioners' application from its submission before the office of the Assistant Manager (P) NT/ST Project, BCCL up to the authority at the level of Headquarters, BCCL. This was specifically felt as the whole issue

turned on the question whether applications were duly enclosed with relevant educational certificates or not. Counsel for the respondent-BCCL has produced the records relating to petitioners' application. The entire format of applications filled up by individual petitioners on-line and downloaded in PDF Format does not show any check list relating to supply of enclosures of relevant certificates as required under the eligibility criteria. It is, therefore, not evident from the applications produced by the respondents that they did carry any such certificates. At the same time at the bottom of the applications in the signature required to be made by Personnel Executive of the Establishment (Units/Area), which bears the counter signature of the Assistant Manager, Personnel North South Tisra Project, it is also recorded that technical certificates were not submitted and verified. These are the endorsement in the relevant applications of the petitioners. It therefore becomes completely difficult for the Court to arrive at a determination on a question of fact, in absence of any supporting documents in the writ petition, that petitioners enclosed the relevant certificate along with hard copy before the area office concerned by the cut off date 12.12.2015. So far as the contention of the petitioners relating to rejection of their application at the level before the Screening Committee Constituted by the Director Personnel is concerned, perusal of the relevant provisions of the internal notification quoted herein above gives an impression that candidates after making on-line application were required to submit all relevant documents along with hard copy of the application obtained in PDF format through proper channel. Such Bio Data were also required to bear signature of the candidate and its controlling authority. It were also required to be verified from the service records/personal files of the candidate and required to be certified under the signature of the Personnel Executive Incharge of the Unit.

7. In the facts of the present case, it therefore cannot be said that if the applications in hard copy did not contain relevant enclosures, there was an obligation on the part of the area officer to forward the said documents before the Headquarters of the Coal Company for scrutiny by the duly constituted committee. Perusal of the provisions relating to scrutiny of Bio Data particulars gives the same impression that Screening Committee Constituted by the Director (Personnel) of the subsidiary company were required to scrutinize those applications which contain the relevant Bio Data particulars and relevant documents also.

8. If the factum of the enclosure of certificate along with hard copy of the application is not established, I am afraid this Court cannot determine any such claim raised on that pretext in exercise of power under the writ jurisdiction of this Court, such issue being in the realm of disputed questions of fact. Therefore, petitioners have failed to make out any case for interference. The writ petition is accordingly dismissed.