

CASE NO.:
Appeal (civil) 1031 of 2001

PETITIONER:
COAL INDIA LIMITED

Vs.

RESPONDENT:
BIBHU RANJAN KUMAR

DATE OF JUDGMENT: 05/02/2001

BENCH:
D.P. Mohapatra & Shivaraj V. Patil.

JUDGMENT:

D.P. MOHAPATRA, J.

L...I...T.....T.....T.....T.....T.....T.....T...J
Leave granted.

The short question that arises for determination in this case is whether the respondent possesses the prescribed qualification for holding the post of Welfare Officer (Trainee) under the appellant- company which is a Government Company. The question having been answered in the affirmative by the single Judge of the Calcutta High Court, vide the judgment dated 7.10.1999 in W.P.No.1449/97 which was confirmed by the Division Bench vide the judgment/order dated 24.11.1999 in G.A.No.4468 of 1999, the company has filed this appeal by special leave.

The relevant facts leading to the present proceeding may be stated thus :@@
JJJJJ

The respondent Bibhu Ranjan Kumar holds a post in the non- executive cadre of the company. The management decided to promote qualified and suitable persons in non-executive cadre to the executive cadre, By the letter dated 22.4.1997 addressed by the General Manager (Personnel) to the General Manager/Chief General Managers of different companies under the management of the appellant a request was made to send names of eligible departmental candidates for appointment to the post of Welfare Officer (Trainee). In the said letter it was specifically stated that the bio-data of the non-executive personnel who possess MBA degree (two years course) with specialisation in personnel management duly recognised by the Director General, Mines Safety (for short DGMS) with 40 % and above marks be sent. The respondent claiming to be an eligible candidate wanted his name to be recommended and his bio-data to be sent to the centralised cell of the appellant-company for the purpose. The appellant did not accept the respondent as a candidate possessing the prescribed eligibility qualification.

(emphasis supplied)

The respondent filed a writ petition in the High Court seeking a writ of mandamus to the appellant-company to consider his claim for the post. A single Judge of the High Court by the interim order passed on 17th July 1997 directed the appellant-company to allow the petitioner to sit for the examination but ordered that his result shall not be published for a period of two weeks from the date of the order. It was made clear that the order will be subject to the final order which will be passed in the writ petition.

At the hearing of the writ petition the main contention raised on behalf of the writ petitioner (respondent herein) was that the petitioner holds a MBA degree (two years course) from the Magadh University, Bodhgaya in the State of Bihar, with a special paper in personnel management and therefore he is duly qualified for holding the post of Welfare Officer (Trainee). On the other hand the stand taken by the respondent in the writ petition (appellant herein) was that the writ petitioner does not have the prescribed qualification inasmuch as he does not possess MBA degree with specialisation in personnel management recognised by the DGMS, and therefore, he is not eligible to be considered for the post.

The learned single Judge allowed the writ petition and directed the respondent (appellant herein) to publish the result of the examination within two weeks. From the discussions in the judgment it appears that the learned single Judge took the view that since the rules merely prescribed that the candidate must possess a degree or post-graduate degree or diploma with specialisation in certain subjects including 'Personnel Management; and the writ petitioner holds a MBA degree which is a post graduate degree from a recognised University with a special paper in 'Personnel Management' he possesses the prescribed qualification. The Division Bench, in appeal, confirmed the judgment.

The learned counsel appearing for the appellant referred to the provisions of Rule 72(2)(b) of the Mines Rules, 1955 (for short the Rules) and contended that a candidate in order to be eligible to hold the post of Welfare Officer must have a MBA degree with specialisation in 'Personnel Management' which is duly recognised by the Director General Mines Safety. Since the MBA degree from the Magadh University has not been recognised by the DGMS the respondent cannot be said to be a candidate possessing the eligible qualification.

Learned counsel appearing for the respondents supported the judgment of the High Court.

Since the determination of the controversy raised in the case depends on interpretation of Rule 72(2)(a) of the Rules it will be convenient to quote the said provision before proceeding to consider the merit of the contention raised on behalf of the parties. Sub-rule(2) of Rule 72 prescribes as follows:

"(2) No person shall act as a Welfare Officer of a mine unless he possesses -

(a) a university degree;

(b) a degree or diploma in social science, (or social work) or labour welfare (recognised by the Government for the purpose of this rule), and preferably practical experience of handling labour problems in any industrial undertaking for at least three years; and

(c) a knowledge of the language of the district in which the mine is situated or the language understood by the majority of persons employed in the mine;

Provided that in case of a person already in service as a Welfare Officer in a mine the above qualifications may, with the approval of the Chief Inspector, be relaxed.

(2A) Notwithstanding anything contained in sub-rule (2), the Labour Officers included in the Central Pool under the provisions of the Labour Officers (Central Pool) Recruitment and Conditions of Service Rules, 1951, shall be eligible for appointment as a Welfare Officer in a mine."

On a fair reading of the provisions of the Rule quoted above it is clear to us that clauses (a), (b) and (c) of sub-rule (2) of Rule 72 are to be read in conjunction with each other and a person in order to be eligible to hold the post of Welfare Officer must fulfil these conditions except the practical experience of handling labour problems in any industrial undertaking for atleast three years which is optional.

It is not in dispute before us that the respondent does not have a degree or post-graduate diploma in Social Science including any degree or post-graduate diploma in Sociology/Social Welfare/Work/ Service/Science Techniques or Labour Laws/Welfare or Industrial Relations and Personnel Management. The qualification possessed by him is MBA degree (two years course) with 'Personnel Management' as a special paper which on a bare reading of the provision of the Rule does not come within the qualifications provided therein.

The further question to be considered is whether the respondent possesses the qualification stated in the letter of the General Manager (Personnel) dated 22.4.1997 (Annexure P IV) in which the heads of different units were requested to send bio data of the non-executives who possess MBA degree (2 years course) with specialisation in Personnel Management duly recognised by DGMS with 40% and above marks. It is not the case of the respondent that MBA degree of Magadh University has been recognised by the DGMS. Indeed, it is the specific stand of the appellant that the said degree has not been recognised by the DGMS. Therefore, the respondent cannot be said to possess the qualification stated in the circular letter.

From the discussions in the foregoing paragraphs the resultant position that emerges is that the High Court erred in holding that the respondent possesses the qualification prescribed for the post of Welfare Officer (Trainee) or for promotion from non-executive cadre to the executive cadre.

In the result the appeal is allowed. The Judgment/order of the learned single Judge dated 7.10.1999 in W.P.No.1449/97 which was confirmed by the Division Bench in judgment/order dated 24.11.1999 in Appeal G.A.No.4468 of 1999, is set aside. There will however, be no order for costs.

JUDIS