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IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR

M.C.C. NO. 254 / 2005

③

APPLICANTS

Respondents

1. Chairman, Coal India Ltd., 10, Netaji Subhas Road, Kolkata (W.B.)
2. Director (P & IR), Coal India Ltd., 10, Netaji Subhas Road, Kolkata (W.B.)
3. Member Secretary, JBCCI-VI, (Joint Bipartite Committee for the Coal Industry), Coal India Limited, 10, Netaji Subhas Road, Kolkata (W.B.)
4. Chairman-cum-Managing Director, South Eastern Coalfields Ltd., Seepat Road, Bilaspur (C.G.)
5. Director (Personnel), South Eastern Coalfields Ltd., Seepat Road, Bilaspur (C.G.)
6. Chief General Manager, Hasdeo Area, South Eastern Coalfields Ltd., P.O. Hasdeo, District - Korea (C.G.),
7. Chief General Manager, Chirmiri Area, South Eastern Coalfields Ltd., P.O. Chirimiri, Distt. Korea (C.G.)
8. Chief General Manager, Ramgarh Area, South Eastern Coalfields Ltd., P.O. Ramgarh, Dist. (C.G.)
9. Chief General Manager, Bistrampur Area, South Eastern Coalfields Ltd., P.O. Bistrampur, Distt. Surguja (C.G.)

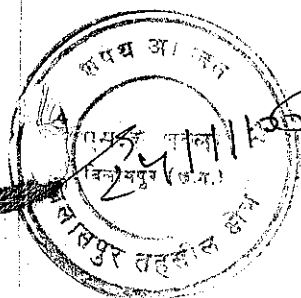
VERSUS

NON-

APPLICANTS

Petitioners

1. Jivendra Prasad Tiwari, S/o. Shri Jagdish Prasad Tiwari, aged about 29 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt. Korea.



P.R. No. 3037/05
Presented by Shri. Jagdish Prasad Tiwari
dated 29/11/05

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2. Prashant Kumar Patel, S/o. Shri Sumeshwar Prasad Patel, aged about 28 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
3. Shiv Kumar Patel, S/o. Shri Ram Pratap Patel, aged about 30 years, Ex-ITI Trade Apprentice Electrician, Chirimiri Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
4. Indralal Patel, S/o. Shri Ram Sumiran Patel, aged about 31 years, Ex-ITI Trade Apprentice Fitter, Chirimiri Area, South Eastern Coalfields Ltd., Distt. Surguja (C.G.).
5. Narendra Kumar Patel, S/o. Shri Buddhsen Patel, aged about 31 years, Ex-ITI Trade Apprentice Fitter, Chirimiri Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
6. Rajesh Soni, S/o. Shri Girish Prasad Soni, aged about 34 years, Ex-ITI Trade Apprentice Fitter, Chirimiri Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
7. Vanshpati Patel, S/o. Shri Ramkaran Patel, aged about 33 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
8. Vishnu Kant Patel, S/o. Shri Rameshwar Prasad Patel, aged about 28 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South



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Eastern Coalfields Ltd., Distt.Korea
(C.G.).

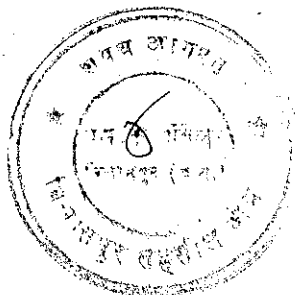
9. Jawahar Lal Patel, S/o. Shri
Ramkhilawan Patel, aged about 28
years, Ex-ITI Trade Apprentice
Electrician, Hasdeo Area, South
Eastern Coalfields Ltd., Distt.Korea
(C.G.).
10. Bhupendra Singh, S/o. Dalpratap
Singh, aged about 28 years, Ex-ITI
Trade Apprentice Electrician, Hasdeo
Area, South Eastern Coalfields Ltd.,
Distt.Korea (C.G.).
11. Narendra Singh, S/o. Shri Gopinath
Singh, aged about 27 years, Ex-ITI
Trade Apprentice Electrician, Hasdeo
Area, South Eastern Coalfields Ltd.,
Distt.Korea (C.G.).
12. Krishna Nand Sharma, S/o. Shri
Ram Milan Sharma, aged about 27
years, Ex-ITI Trade Apprentice
Electrician, Hasdeo Area, South
Eastern Coalfields Ltd., Distt.Korea
(C.G.).
13. Narendra Kumar Singh, S/o. Shri
Ram Ashray Singh, aged about 29
years, Ex-ITI Trade Apprentice
Electrician, Hasdeo Area, South
Eastern Coalfields Ltd., Distt.Korea
(C.G.).
14. Virendra Singh, S/o. Shri Motilal
Singh, aged about 31 years, Ex-ITI
Trade Apprentice Electrician, Hasdeo
Area, South Eastern Coalfields Ltd.,
Distt.Korea (C.G.).



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15. Ramraj Patel, S/o. Shri Narmada Prasad Patel, aged about 30 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
16. Upendra Singh Parihar, S/o. Shri Shobhanath Singh Parihar, aged about 28 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
17. Rajesh Tiwari, S/o. Shri S.N.Tiwari, aged about 28 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
18. Shrikant Sharma, S/o. Shri Triveni Prasad Sharma, aged about 27 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
19. Hetlail Singh, S/o. Shri Motilal singh aged about 31 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
20. Samar Bahadur Singh, S/o. Shri Vidheshawari Singh, aged about 30 years, Ex-ITI Trade Apprentice Electrician, Hasdeo Area, South Eastern Coalfields Ltd., Distt.Korea (C.G.).
21. Rajendra Prasad Patel, s/o. Shri Mudi Prasad Patel, aged about 28 years, Ex-ITI Trade Apprentice



(7) (5)

Electrician, Hasdeo Area, South
Eastern Coalfields Ltd., Distt. Korea
(C.G.).

22. Kaushal Singh, S/o. Shri Ramdhani
Singh, aged about 28 years, Ex-ITI
Trade Apprentice Fitter, Chirimiri
Area, South Eastern Coalfields Ltd.,
Distt. Surguja (C.G.).

23. Nemchandra Dubey, S/o. Shri
Sambhu Prasad Dubey, aged about
30 years, Ex-ITI Trade Apprentice
Fitter, Chirimiri Area, South Eastern
Coalfields Ltd., Distt. Surguja (C.G.).

24. Hetlal Singh, S/o. Shri Keshav Singh,
aged about 23 years, Ex-ITI Trade,
Apprentice Fitter, Ramgarh Area,
South Eastern Coalfields Ltd., Distt.
(C.G.).

25. Nagendra Singh, S/o. Shri Keshav
Singh, aged about 23 years, Ex-ITI
Trade Apprentice Fitter, Bishrampur
Area, South Eastern Coalfields Ltd.,
Distt. Surguja (C.G.).

APPLICATION FOR REVIEW OF ORDER DT. 8/11/05

PASSED IN W.P.1357/02

on behalf of the applicants

HIGH COURT OF CHHATTISGARH AT BILASPURM. C. C. No. 254 of 2005

Petitioners
Chairman, Coal India Ltd. &
others
Versus
Respondents
Jivendra Prasad Tiwari & others

Post for order on 28th April, 2006.

Sd/-
Satish K. Agnihotri
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

M. C. C. No. 254 of 2005

Petitioners Chairman, Coal India Ltd. & others
Versus
Respondents Jivendra Prasad Tiwari & others

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri P. S. Nair, Senior Advocate with Shri Praveen Das, Advocate
for the petitioners.

Shri Rahul Mishra, Advocate for the respondents.

ORDER

(28th April, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. This petition seeks review of the order dated 8.11.2005 passed by this Court in W. P. No. 1357/2002, on the ground, inter alia, that the judgment and order passed by the Supreme Court in the case of **Chairman/MD, Mahanadi Coalfields Ltd. and others Vs. Sadashib Behera & others** { (2005) 2 S.C.C. 396 } was not considered.
2. The writ petition was filed by the present respondents No. 1 to 25, seeking appointment of the writ petitioners as General Mazdoor Category-1 w.e.f. the successful completion of their apprenticeship with all consequential benefits. It was further prayed that the writ petitioners be granted proficiency certificate as per the provisions of Section 21 of the Apprentices Act, 1961. This Court after hearing learned counsel for both the parties and having carefully perused the

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judgment of the Supreme Court passed in the case of **U. P. State Road Transport Corporation and another Vs. U. P. Parivahan Nigam Shishukhs Berozgar Sangh and others** { (1995) 2 S.C.C. 1}, directed the review petitioners to consider the case of the writ petitioners for absorption on the post of General Mazdoor Category-1 immediately after the ban imposed vide order dated 28th July, 2000, issued by the Ministry of Coal Ltd. is lifted, in accordance with the direction passed by the Supreme Court in the case of **U. P. State Road Transport Corporation and another** (supra). It was further expected that the review petitioners would take steps to get the relaxation from ban for appointment of the writ petitioners on the above stated posts.

3. The review petitioners in the present review petition are seeking rehearing of the writ petition on the ground that the subsequent judgment of the Supreme Court in **Chairman/MD, Mahanadi Coalfields Ltd. and others** (supra) has held that it is not obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship in absence of any condition in the contract which is entered into between the employer and the apprentice at the time of commencement of his apprenticeship training.
4. Learned counsel appearing for the review petitioners did not point out the judgment of the Supreme Court in the case of **Chairman/MD, Mahanadi Coalfields Ltd. and others** (supra) at the time of hearing of the writ petition and this can not be treated as error apparent on the face of the record to entertain the review petition. The Supreme

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Court in **Dokka Samuel Vs. Dr Jacob Lazarus Chelly** { (1997) 4 SCC 478} has observed as under:-

"4. xxxxx The omission to cite an authority of law is not a ground for reviewing the prior judgment saying that there is an error apparent on the face of the record, since the counsel has committed an error in not bringing to the notice of the Court the relevant precedents. xxxxx"

5. In the judgment in earlier case i.e. **U. P. State Road Transport Corporation and another** (supra) the Supreme Court observed as under:-

"7. The aforesaid provisions are sufficiently indicative of the fact that the training imparted is desired to be result-oriented; and the trainees are treated akin to employees. Even so, Section 22 of the Act states, and it is this provision which has been pressed into service by the appellants, that it shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment unless there be a condition in the contract to the contrary. The model contract form finding place in Schedule VI of the Rules echoes the voice of Section 22 (1) in its second para. The Corporation has placed on record a model contract form entered into between it and the trainees which also states about the aforesaid non-obligation."

6. Subsequently, the Supreme Court in the case of **Chairman/MD, Mahanadi Coalfields Ltd. and others** (supra) observed as under:-

"7. These provisions show that apprentice is a person who is undergoing a training in pursuance of a contract of apprenticeship duly registered with the Apprenticeship Adviser and the employer who is imparting training is under no obligation to offer any employment to such a person. The legislature has made the aforesaid position clear by making a specific provision in this

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regard namely Section 22 of the Act and sub-section (1) thereof lays down that it shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training. Sub-section (2) however provides that notwithstanding anything in sub-section (1) where there is a condition in a contract of apprenticeship that an apprentice shall, after successful completion of apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract. Thus the provisions of the Act and the Rules made thereunder show that in absence of any condition in the contract which is entered into between the employer and the apprentice at the time of commencement of his apprenticeship training and which is registered with the Apprenticeship Adviser to the effect that the apprentice shall serve the employer, an apprentice cannot claim any right to get an employment on successful completion of his training.”

7. There is no modification of the earlier decision of the Supreme Court by the subsequent decision, as is submitted by the review petitioners in the review petition. The directions passed by the Supreme Court in the case of **U. P. State Road Transport Corporation and another** (supra) still holds good. As such there is no question of review of the earlier order dated 8.11.2005 passed in W.P.No. 1357/2002.

8. The Supreme Court in the case of **Government of T.N. and others Vs. M. Ananchu Asari and others** {(2005) 2 SCC 332} has observed as under:-

“3. Certain contentions are raised on the merits, especially, in regard to the conclusion of this Court that the process of absorption did not take place in 1975. We are not inclined to



rehear the arguments on merits. If the petitioners failed to furnish the necessary material even during the pendency of appeal in this Court, that is no ground to review the judgment. xxxxx"

9. Recently, the Supreme Court in the case of **Haridas Das Vs. Smt. Usha Rani Banik & others** { 2006 (3) Supreme 125}, after having considered the decisions of the Supreme Court in the cases of *M/s Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh* (AIR 1964 1372), *Meera Bhanja Vs. Smt. Nirmala Kumari Choudhary* (AIR 1995 SC 455), *Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma* (AIR 1979 SC 1047), and *Satyanarayan Laxminarayan Hegde Vs. Mallikarjun Bhavanappa Tiruymale* (AIR 1960 SC 137), has observed as under:-

"13. In order to appreciate the scope of a review, Section 114 of the CPC has to be read, but this section does not even adumbrate the ambit of interference excepted of the Court since it merely states that it "may make such order thereon as it thinks fit." The parameters are prescribed in Order XLVII of the CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the Court and thereby enjoyed a favourable verdict. This is amply evident from the explanation in Rule 1 of the Order XLVII which states that the fact that the decision on a question of law on which the judgment of the Court, is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and



efficacious remedy and the Court should exercise the power to review its order with the greatest circumspection. xxxxx"

10. At the hearing of this review petition, learned counsel appearing for the writ petitioners filed an affidavit pointing out that there are vacancies and the review petitioners are making appointment. I am not inclined to take into consideration this fact at this stage, as it will amount to rehearing of the case on merit.
11. Keeping in view the above stated observations of the Supreme Court and having regard to the facts of the present case, this petition for review of the earlier order dated 8.11.2005 passed by this Court in W.P. No. 1357 of 2002, is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge