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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCHNo. TA 4 of 2012
(WP 30123 (W)/2008)Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SARAT BAURI

VS

DURGAPUR STEEL PLANT & ORS.

For the applicant : Mr.A.Debnath, counsel

For the respondents : Mr.T.K.Banerjee, counsel
Mr.A.Roy, counsel

Order on : 12.9.16

O R D E RMs. Bidisha Banerjee, J.M.

This application has been filed seeking the following reliefs :

- a) A writ of Mandamus commanding the respondents to show cause as to why the respondents should not allow the petitioner to resume into his duties forthwith and direction to pay service benefits to the petitioner since 14.6.08;
- b) A writ of Mandamus commanding the respondents to show cause as to why the respondents without taking any statutory actions but throw the petitioner out from the company;
- c) A writ of Certiorari directing the respondents to produce all the documents relevant to the present case so that consonable justice may be done;
- d) Rule NISI in terms of prayers (a) & (b) as above.
- e) An interim order directing the respondents to allow the petitioner to resume into his duty in the post of Ty. USW forthwith till the disposal of the present application.

2. The admitted position that could be culled out from the pleadings of the parties are as follows :

The applicant was appointed as Temporary Unskilled Worker (temporary USW) under the respondents. As per extant rules of the respondents upon death of a permanent employee in harness his or her direct dependents i.e. son/wife/unmarried daughter can apply for compassionate appointment and the case can be considered only when no family members (spouse or children) of the said deceased employee is or was in the service of the company. For the purpose the person seeking consideration has to submit an affidavit duly

sworn in before a Notary Public declaring the same and has to undertake that in the event of any incorrect or false information found at any point of time during his or her service tenure the management of Durgapur Steel Plant will have the right to terminate his or her employment forthwith.

The applicant Sarat Bauri has given such declaration on the basis of which he was offered employment as Temporary Unskilled Worker. Since there was an urgent need of manpower he was employed without verifying his bio-data form, on the basis of interview, medical form and joined on 11.6.08 as Temporary Unskilled Worker.

Subsequently on scrutiny of papers it got revealed that Sarat Bauri declared in his bio-data form that his elder brother namely Kartik Bauri, Ticket No. 322578 is working in Canteen Department of Durgapur Steel Plant whereas in the affidavit duly sworn in before Notary Public he has declared that no family members (spouse or children) of the deceased employee was or is employed in Durgapur Steel Plant or any other Unit/Subsidiary/Joint Venture of Steel Authority of India Limited. The respondents found that such brother was working in the Canteen Department.

Upon detection of such declaration fraudulently made by the applicant, he was instructed to meet Recruitment Section along with all original papers. When he visited and furnished all papers, he was verbally informed that due to false declaration his offer of appointment will be revoked. The respondents have averred that the applicant had himself abandoned the service knowing fully well the implications of giving the false declaration. Therefore no further action was taken against him as the false declaration on oath was glaring on the face of the record.

However, he lodged a criminal case against one Ramesh Chandra Mishra, the Dy. Manager (Personnel) of Steel Authority of India Limited, Durgapur Steel Plant under Section 156(3) of Criminal Procedure Code on 3.8.08 i.e. about one and half months from his date of absconding from service. He had alleged that he was physically manhandled on the direction of Ramesh Chandra Mishra by the CISF.

3. Ld. Counsel for the applicant vociferously submitted that before termination of service no notice was given to the applicant and no reply was given to the legal notice he had served. D. Counsel would further argue that there was no suppression of fact in the form filled in by the applicant.

4. Per contra Ld. Counsel for the respondents would argue vehemently opposing the claim of the applicant that he had deliberately given a false declaration on oath and since he was himself absconding, there was no reason to hold any enquiry to unearth any truth. That apart in terms of the clause of compassionate appointment rules since his brother was already employed he was not eligible to apply for employment on compassionate ground.

5. We have considered the rival contentions and perused the materials on record.

6. Ld. Counsel for the applicant has relied up on a decision in **D.K. Yadav - vs. J.M.A. Industries Ltd. [1993 (3) SCC 255]** which we found to be not applicable to the factual matrix of the present case in as much as the applicant has not denied of making a false declaration in order to secure compassionate appointment, as well as not joined back after he was called by the Recruitment Section with his antecedents and testimonials.

7. Accordingly we find no merit in the application and dismiss the OA. No order is passed as to costs.

(JAYA DAS GUPTA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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