

IN THE SUPREME COURT OF INDIA  
 CIVIL APPELLATE JURISDICTION  
 CIVIL APPEAL NO.10240 OF 2003

EASTERN COALFIELDS LTD.

... APPELLANT

VERSUS

NIRMAL SENGUPTA AND ORS.

... RESPONDENTS

ORDER

The first respondent was an employee of the appellant Company. A dispute was raised and referred to the Central Government Industrial Tribunal as to whether the action of the management in denying technical Grade 'A' to the first respondent was justified, and if not, what relief he was entitled. The Industrial Tribunal by its award dated 31.10.1981 held that the action of the management in denying technical Grade 'A' to the first respondent was not justified and he was entitled to the said Grade with effect from 1.5.1978. In spite of the said award the said relief was not given to the first respondent and the appellant challenged the award before the High Court. Being unsuccessful the appellant approached this Court also. Ultimately, in the year 1997 after the appellant had lost both before the High Court and this Court, the first respondent filed Writ Petition No.9665 / 1997 alleging that all consequential benefits in respect of the award of the Tribunal was not extended to him. He sought a declaration that he need not undertake any training for further promotion and for a direction to the appellant to promote him to the higher executive cadre posts from E- 2 to E- 5 after constituting D PC and to give him all arrears etc. A learned Single Judge of the High Court disposed of the writ petition by order dated 27.11.2001 directing that the first respondent be promoted to E- 2 and E- 3. He also granted the following further relief :

" In the circumstances, if any opportunity of such training is made available to the petitioner along with others and if the petitioner undergoes such training, his case may be considered for promotion to E- 4 to E- 5

respectively, as the case may be, and if he is successful in such selection in that event he shall may be given benefit of such selection when he becomes eligible and his next junior was so promoted to such post.

The respondents should calculate the difference of pay in terms of this order within a period of 3 months from the date of communication of this order and pay the differences after calculation within a period of 3 months thereafter. So far as the question of undergoing training and selection for promotion in the next

3

2 higher posts i.e. E- 4 and E- 5 are concerned the opportunity should be made available to the E- 4 and if successful then thereafter within the similar period to the post of E- 5.

In case the petitioner has retired, in that event all retirement benefits, treating him to be promoted to E- 2 and E- 3 respectively as directed above, unless unsuccessful in E- 4 or E- 5, as the case may be, shall be made available to the petitioner within 6 months from the date of his retirement or from this date whichever is later."

That was challenged by the appellant before a Division Bench and the writ appeal was dismissed by the impugned order dated 9.1.2003. The said order is challenged in this appeal. The appellant contends that the High court ought to have merely ensured that the first respondent got the relief that was awarded by the Industrial Court and that it could not have travelled beyond the award of the Industrial Court by granting relief from non-executive cadre to higher executive cadre ignoring the requirements of the relevant Rules.

It is not in dispute that the respondent has retired from service in the year 2003. The appellant, by challenging Industrial Tribunal's award dated 31-10-1981 denied the benefits thereof for nearly 16 years. In this background the High Court gave him relief as aforesaid. Having regard to the fact that he has retired in 2003, the

4

first respondent will only be entitled to the monetary benefits now. We find that the order of the High Court is just and no purpose would be served by interfering in the matter at this stage. The appeal is therefore dismissed, leaving open the question of law.

.....J.  
( R.V. RA V E E N D R A N )

