

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT JABALPUR**  
**BEFORE**  
**HON'BLE SHRI JUSTICE SANJAY DWIVEDI**  
**ON THE 25<sup>th</sup> OF APRIL, 2025**  
**WRIT PETITION No. 16945 of 2014**  
**DR. SANJEEV UPPAL**  
*Versus*  
**COAL INDIA LTD. AND OTHERS**

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**Appearance:**

*Shri D.K. Dixit – Senior Advocate with Shri Anshul Dixit – Advocate for the petitioner.*

*Shri Anoop Nair – Senior Advocate with Ms. Aparna Sthapak – Advocate for the respondents.*

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**Heard on :** 28.01.2025

**Pronounced on :** 25.04.2025

**ORDER**

The petition is of the year 2014. Since pleadings are complete and counsel for the parties are ready to argue the matter finally, therefore, it is finally heard.

2. The petitioner by the instant petition is not challenging any particular order but is claiming that salary for the period from 23.05.2005 to 07.07.2011 be paid to him with interest. It is further claimed that the respondents be directed to pay leave salary and working salary from 25.10.2004 to 22.05.2005 to the petitioner along with other benefits.

3. As per facts of the case, the petitioner was an employee of the respondent/Department and was transferred from Western Coalfields Limited (WCL) to Eastern Coalfields Limited (ECL) in 2004 and he joined duties at ECL on 27.10.2004. Thereafter, petitioner proceeded on leave with effect from 30.10.2004 and joined back his duties on 18.01.2005 and thereafter again went on leave from 24.01.2005 and thereafter did not report back for his duties. As per the averments made in the petition, after joining at ECL, the petitioner applied for 45 days leave but was granted leave for 21 days only that too from 30.10.2004 to 21.11.2004. After availing the said leave, petitioner further requested for extension of leave till 16.12.2004 but unfortunately he became ill and applied for sick leave till 17.01.2005. Thereafter, the petitioner joined duties on 18.01.2005 and worked up to 23.01.2005. Thereafter, he applied for earned leave with joining leave from 24.01.2005 to 14.02.2005 but due to frequent travel, he again fell sick and applied for sick leave from 15.02.2005 to 22.05.2005. The medical certificate of the competent authority was also submitted by the petitioner to the Chief Medical Officer, Sanctoria from Chhindwara. The petitioner submitted his joining on 23.05.2005 by moving an application at Sanctoria Hospital but CMO Sanctoria Hospital did not permit him to join and application for leave was not taken on record.

4. Learned counsel for the petitioner has submitted that the petitioner was not being paid salary, therefore, he approached the authorities along with necessary documents but no proper response was given by the respondents. The petitioner thereafter submitted an application for premature retirement as no option was left before him. The application is Annexure P/5 but on his application, he did not receive any communication.

5. According to the learned counsel, the petitioner received a notice/letter on 21.01.2010 (Annexure P/7) from the respondents apprising him that his

premature retirement application dated 31.12.2007 cannot be accepted because there is no provision for premature retirement and, therefore, it was directed that he may submit an unconditional resignation by giving three months' notice or salary in lieu thereof. In response to the said notice/letter dated 21.01.2010, the petitioner submitted a letter on 08.02.2010 asking that in such a circumstance when his premature retirement is not accepted, he wants to withdraw the same and as such, he may be permitted to join. The letter dated 08.02.2010 (Annexure P/6) is available on record.

6. A Memorandum was issued to the petitioner vide letter dated 03.01.2007 containing some charges against him. The petitioner attended the said proceeding of enquiry on different dates at Sanctoria, ECL on his own expenses. The petitioner also made a request that he may also be paid to and fro fare from Chhindwara to Asansol for which he is otherwise entitled but that has been deemed rejected because no reply to the said application was given by the respondents. The Departmental enquiry was closed on 29.01.2008. The petitioner served the authorities with legal notices on 28.09.2010 and 10.01.2011 asking them either to allow him to join his duties or accept his voluntary retirement application. However, after repeated requests, the petitioner received a letter on 30.05.2011 by the respondents asking him to rejoin his duties with the pending report of enquiry. As per the said instruction, the petitioner rejoined his duties on 07.07.2011. The conclusion of enquiry was sent to the petitioner after three years of its completion in which it was opined that the charges levelled against him were not found proved.

7. Although, disagreeing with the said enquiry report of the Enquiry Officer, an order was passed by the respondent/authority inflicting punishment of censure vide order dated 22.05.2012. The said order was further assailed by the petitioner in an appeal but no decision was taken on the appeal and, therefore, the

petitioner was under great mental tension because after joining the services in 2004 till 2011, his colleagues were promoted but no benefit was granted to the petitioner. The petitioner, therefore, submitted an application for voluntary retirement and that application was rejected in 2011. The petitioner sent number of representations before 08.09.2011 for salary during the period from 23.05.2005 to 07.07.2011, but no amount was paid to him.

8. According to the learned counsel, under the Right to Information Act 2005, the petitioner asked the ECL authorities about the voluntary retirement scheme. Petitioner got the reply wherein the ECL authorities have specially mentioned that they have accepted his application for voluntary retirement from the date of his application i.e. 08.09.2011 vide order dated 24.9.2013, meaning thereby it was accepted with effect from 08.09.2011 retrospectively and petitioner was relieved accordingly vide order dated 05.08.2014.

9. On the other hand, learned counsel for the respondents has opposed the submissions made by counsel for the petitioner and submitted that the petitioner proceeded on leave with effect from 30.10.2004 and joined duties on 18.01.2005 and then again went on leave with effect from 24.01.2005 and thereafter did not reported back on his duty. No leave application was submitted by the petitioner and he was never authorized for going on leave and as such, he is not entitled for salary for the said period. The petitioner's application for voluntary retirement was accepted from the date of his application, i.e. dated 08.09.2011 vide order dated 24.09.2013.

10. I have heard the rival contentions made by counsel for the parties and also perused the record.

11. The objection with regard to territorial jurisdiction of this Court is rejected because though initial action was taken by the office situated at West Bengal but after transferring the petitioner in ECL, he has joined at Chhindwara

and retired from Chhindwara and, therefore, this petition is maintainable because both the companies, i.e. WCL and ECL are the residuary Companies of Coal India Limited and, therefore, this petition is maintainable and as such, objection with regard to territorial jurisdiction is hereby rejected.

12. The objection raised by the respondents with regard to delay in raising the claim of the petitioner is also rejected on the ground that petitioner repeatedly has been asking the respondents about payment of his salary. He was in the employment and, therefore, if dispute with regard to non-payment of salary has not been settled by the respondents and retiring him in the year 2013, the petition was filed in the year 2014 and as such, looking to the claim raised in the petition, I am of the opinion that there is no delay in filing the petition. The objection with regard to maintainability of the petition on the ground of delay and laches is also rejected.

13. It is clear from the record that the petitioner remained absent unauthorizedly and an enquiry was conducted with regard to his unauthorized leave but the enquiry ended with a finding that the charges levelled against him have not been found proved. Although, petitioner has submitted leave applications along with the rejoinder and submitted that even otherwise ignoring the finding of the Enquiry Officer, leave applications were very much there and thus it is clear that on the applications submitted by the petitioner, no decision was taken by the authority, meaning thereby, it is the fault on their part. Not only this, the rejection of the application for voluntary retirement was also illegal because it has been refused on the ground that there is no provision for retrospective retirement whereas other persons who submitted application for voluntary retirement with retrospective effect, that has been considered by the authority and order in this regard was also passed in favour of Dr. Chakraborty and Dr. (Smt.) Satyawati and documents in this regard are also filed along with the rejoinder. Not only this, but

acceptance of petitioner's application vide order dated 24.09.2013 with retrospective effect itself clarifies that stand of the respondents rejecting the application of the petitioner was contrary to their own conduct and to the practice prevailing in the Department. It clearly indicates that respondents were unnecessarily harassing the petitioner and neither accepting his application for voluntary retirement nor paying him salary and other allowances for which he was otherwise entitled.

14. The petitioner also faced the enquiry and appeared before the Enquiry Officer for which also he has not been paid any expenses and the enquiry was closed on 29.01.2008. By letter dated 21.01.2010, the petitioner was asked to submit unconditional resignation because premature retirement has been rejected and on the request of the respondents, the petitioner rejoined his duties on 07.07.2011 when enquiry remained pending and ultimately vide order dated 24.09.2013, his resignation was accepted with effect from 08.09.2011. Thus, it is the petitioner was neither allowed to join his duties nor salary was being paid to him. The period from 1980 to 2004 and further till 24.09.2013, has to be counted treating the petitioner to be in service and that period would also be counted for the purposes of payment of retiral dues. From the documents available on record, it is clear that petitioner has shown his willingness to perform the duties but respondents deliberately avoided the same and somehow kept him away from service.

15. Considering the aforesaid, I am of the opinion that when enquiry was conducted, charge-sheet issued and petitioner was not found guilty therein then he cannot be held responsible for remaining on leave unauthorizedly and as per the conduct of the respondents it is clear that though the petitioner was inclined to perform his duties but he was restrained somehow and his application for voluntary retirement was also not accepted saying that there is no provision for

retrospective retirement but later on by order of the respondents, that has been accepted with retrospective effect. There is no answer even in the additional return of the respondents about the stand taken by the petitioner in his rejoinder that other employees have been granted voluntary retirement with retrospective effect, thus, it can be held that the respondents have acted arbitrary and illegally.

16. Accordingly, the petition is allowed directing the respondents to treat the petitioner on duty with effect from 23.05.2005 till the date of performing the duties i.e. 24.09.2013 on the date he remained in service and salary for that period be also paid with all other allowances and consequential benefits. The aforesaid exercise shall be completed by the respondents within a period of three months from the date of order and payment be made to the petitioner with interest @8% till the actual payment is made to him.

17. The petition accordingly stands **allowed and disposed of**.

**(SANJAY DWIVEDI)**  
**JUDGE**