

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.547 of 2015

Dharam Das, S/o Manohar Das, aged about 24 years, R/o Shanichri Bazar, Haldibadi, Chirmiri, District Koriya, C.G.

---- Petitioner

Versus

1. South Eastern Coalfields Limited, through the Chairman-cum-Managing Director, Seepat Road, Bilaspur, C.G.
2. The General Manager (Man Power), SECL, Seepat Road, Bilaspur, C.G.
3. The Chief General Manager, SECL, Chirmiri Area, District Koriya, C.G.
4. The Sub Area Manager, NCPH Colliery, Chirmiri Area, District Koriya, C.G.

---- Respondents

For Petitioner:	Mr. Rakesh Pandey, Advocate.
For Respondents:	Dr. N.K. Shukla, Senior Advocate with Mr. Shailendra Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/12/2015

1. The petitioner's father Manohar Das died in harness on 29-1-2005 and subsequently, the petitioner's mother also died on 17-5-2007. Civil Suit No.42-A/2009 was filed by the petitioner and his brother & sister against their step-mother and the respondent SECL with regard to service benefits which came to be dismissed on 30-11-2009 but in the said

civil suit a finding was retained that petitioner Dharam Das & Vishal Das are sons of Late Manohar Das and Chanda Kumari is daughter of Late Manohar Das.

2. The petitioner filed application for dependent employment on 1-7-2010, though the said application was processed to some extent but ultimately on 23-10-2013, the said application has been rejected by South Eastern Coalfields Limited (SECL) directing the petitioner to produce succession certificate / declaration that he was dependent upon the deceased SECL employee Manohar Das against which this writ petition has been filed.
3. Mr. Rakesh Pandey, learned counsel for the petitioner, would submit that the jurisdictional civil court having held that the petitioner is son of deceased Manohar Das, in a duly constituted civil suit though the civil suit was dismissed for some other reason, the SECL is not right in directing the petitioner to again procure succession certificate and to file it, such an order has been passed only to deny the just claim of the petitioner and as such, the respondent SECL be directed to consider the case of the petitioner in accordance with the law prevailing for dependent employment.
4. Dr. N.K. Shukla, learned Senior Advocate appearing on

behalf of the respondents / SECL, would oppose the writ petition and would submit that there is serious dispute with regard to claim of consequential service benefits of deceased Manohar Das, the civil suit filed by the petitioner, his brother and his sister has already been dismissed and, therefore, the SECL is absolutely justified in directing the petitioner to file succession certificate including declaration that he is dependent upon deceased Manohar Das.

5. I have heard learned counsel for the parties and perused the record.
6. It is not in dispute that the petitioner's father died in harness on 29-1-2005 and the civil suit was dismissed on 30-11-2009. The civil court has clearly recorded a finding that the petitioner, his brother Vishal Das and his sister Chanda Kumari are sons and daughter of deceased Manohar Das. Once such a finding is recorded by the jurisdictional civil suit and it is not shown to be set aside by the appellate Court and that too in a proceeding in which SECL is party defendant in the civil suit, it is binding on the respondents / SECL and it cannot be held that the petitioner is not son of the deceased SECL employee and, therefore, to direct the petitioner again to submit succession certificate is nothing but duplication of

proceedings particularly, when it relates to grant of dependent employment, as it is quite vivid that the petitioner is son of deceased Manohar Das duly declared by the civil court in a regular civil suit instituted by the petitioner and his brother & sister and in presence of SECL being party to lis. Therefore, the order passed by the SECL again directing the petitioner to claim declaration and submit succession certificate is nothing but denying the just claim of the petitioner.

7. Accordingly, the order dated 23-10-2013 (Annexure P-1) is set aside. The SECL is directed to consider the case of the petitioner for dependent employment in terms of the applicable National Coal Wage Agreement within 45 days from the date of receipt / production of a copy of this order, keeping in view the fact that the petitioner's father died on 29-1-2005, and pass order expeditiously.
8. The writ petition is allowed to the extent indicated herein-above with a cost of Rs.2,500/- to be paid by the respondents to the petitioner.

Sd/-
(Sanjay K. Agrawal)
Judge