

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Petition (S) No.122 of 2013

Roopa Singh, D/o Late Amar Singh, Aged about 28 years,
 R/o Village – Ratanpur, P.O. Tamdaad, P.S. & Tahsil –
 Khargawan, District-Koriya (CG)

---Petitioner

Versus

1. South Eastern Coalfield Limited, Through its General Manager, Seepat Road, Bilaspur (CG)
2. Deputy Regional Manager, South Eastern Coalfield Limited, NCPH Colliery, Chirimiri Area, Post-Haldibadi, District-Koriya (CG)
3. Collector, Koriya, At Collectorate, Baikunthpur (CG)

---Respondents

For Petitioner : Mr.Khitij Sharma, Advocate

For Respondents : Mr.R.K.Gupta, Advocate
 No.1 &2

For Respondent No.3: Mr.Dhiraj Wankhede, Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04/12/2015

1. Petitioner's father Shri Amar Singh while working as Tramer in the respondent/SECL died in harness on 01.10.2009. The petitioner made an application for dependant employment in terms of the applicable National Coal Wage Agree-

ment-VIII on account of death of his father on 19.10.2012. Claim of the petitioner was denied and it was advised to her mother to take ₹ 6000/- per month monetary compensation in lieu of employment, against which, this writ petition has been filed stating inter-alia that the petitioner being daughter of the deceased SECL servant is entitled to get dependant employment in terms of the NCWA as she has already opted for dependant employment as has been provided in clause 9.5.0 (ii) of the applicable NCWA-VI, which is applicable to the petitioner's case.

2. On notice being issued, the respondents No.1 and 2 have filed its return stating inter-alia that the petitioner is not entitled for dependant employment. There is delay in filing the writ petition and the respondent/SECL has not finally taken decision not to give dependant employment to the petitioner. Annexure P/1 is only communication issued by the respondent No.2 informing the mother of the petitioner about her claim. The petitioner has not averred that she is still unmarried and as such, the writ petition is liable to be dismissed.
3. Mr.Khitij Sharma, learned counsel appearing for the petitioner would submit that clause 9.5.0 (ii) of the NCWA-VI

clearly provides two alternatives to dependant of the deceased i.e. employment or monetary compensation and the petitioner is the only surviving daughter has applied for dependant employment and all the certificates have been submitted on 19.10.2012 to the respondent/SECL, but yet dependant employment has not been provided to her and even the return filed by the SECL has insisted for acceptance of the monetary compensation and as such, the petitioner is entitled for dependant employment in terms of the NCWA-VIII. Therefore, appropriate writ be issued commanding the respondents No.1 and 2 to consider and grant dependant employment to the petitioner.

4. Mr.R.K.Gupta, learned counsel appearing for the respondents No.1 and 2 would submit that the petitioner has not made any application for compassionate appointment. He would further submit that in the service excerpts, name of dependant employment has not been entered into and claim of the present petitioner is also not found in the SECL records. The petitioner has also not shown her status to be unmarried and as such, the petitioner is not entitled for any dependant employment.

5. I have heard learned counsel appearing for the parties, given thoughtful consideration to the submissions raised therein and also gone through the record with utmost circumspection.
6. It is not in dispute that services of the deceased SECL servant were governed by the NCWA-VIII. Clause 9.5.0 (ii) of the NCWA-VI which has been made applicable by NCWA-VIII provides as under:-

“9.5.0 (ii) In case of death/total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0., if the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs.3,000/- per month or employment.”

7. A bare perusal of the afore-stated provision would show that there is provision of payment of monetary compensation or employment under Chapter-IX of Social Security Scheme pursuant to a “settlement” entered into between representatives of the employees and coal companies known as Memorandum of Agreement i.e. Joint Bipartite Committee for the Coal Industry. Clauses 9.4.0 and 9.5.0 of NCWA-VI are made applicable in NCWA-VIII and clause

9.5.0 (ii) of the NCWA-VI provides for dependant employment.

8. Thus, by virtue of clause 9.5.0 of the NCWA-VI, which is also applicable in the NCWA-VIII, once option is given by the present dependant, she is entitled for employment, though the petitioner has submitted her all the documents with some delay, but the respondent/SECL was required to consider the same in accordance with the terms of NCWA-VIII, which the respondent/SECL has not considered.
9. By memo dated 19.9.2012 (Annexure P/1), three objections have been raised by the respondent No.2. First is that no application has been filed claiming dependant employment, but it appears from the record that on 19.10.2012 i.e. after memo dated 19.9.2012, the petitioner has submitted all the documents with the respondent SECL for claiming dependant employment and thereafter, return has been filed on 27.10.2015, but nothing has been stated about the said application which has been filed by the petitioner. Second objection has been taken that in the record of the respondent/SECL names of son and daughter have not been mentioned. The petitioner has filed statutory documents as prescribed under the Coal Mines Pension

Scheme, 1998 i.e. Form PS-3 and Form PS-4 in which name of the petitioner has been recorded and that has duly been accepted by the Assistant Regional Manager, SECL/NCPA Colliery, Chirmiri in which name of the petitioner has duly been recorded as daughter of the deceased SECL servant and which has duly been acknowledged by SECL officers. Likewise the petitioner has submitted his application along with records which clearly demonstrates that she is the only surviving daughter, as other daughter and petitioner's sister has already died and her death certificate has been filed on 19.10.2012 along with application and as such, the grounds raised by the respondents No.1 and 2 are not available to them. So far as the objection raised by the respondent/SECL that the petitioner is married or she must have been married by this time, such a ground has not been mentioned in memo dated 19.9.2012, whereas the petitioner has filed the document voter ID Annexure P/7 i.e. election identity card issued by the Election Commission of India, in which name of the petitioner has been shown as Ku.Roopasingh Gond, daughter of Amar Singh.

10. Be that as it may, case of the petitioner has not been considered by the respondent/SECL in accordance with the provisions contained in NCWA-VIII, therefore, the writ peti-

tion is allowed and the memo dated 19.9.2012 (Annexure P/1) issued by the respondent No.2 is hereby quashed. The respondents No.1 and 2 are directed to consider the case of the petitioner for grant of dependant employment in accordance with the provisions contained in NCWA-VIII, which was prevalent at the time of death of her father, on its own merit within forty-five days from the date of receipt of certified copy of this order and to pass appropriate order.

11. Accordingly, the writ petition is allowed to the extent indicated hereinabove. The petitioner will be entitled for cost of ₹ 7500/- from the respondents No.1 and 2, which shall be paid by the respondents No.1 and 2 within four weeks.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-