

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4449 of 2010

Date:09.9.2015

Between:

Bella Komuraiah,
S/o Bellam Mondi

..... **Petitioner**

And:

The Singareni Collieries Company
Ltd., Kothagudem, repled., by its Chairman
and Managing Director and three others.

.....**Respondents**

Counsel for the Petitioner: Mr. Chidagam Srinivas
For Mr. K.Vasudeva Reddy

Counsel for Respondent Nos.1 to 3: Mr. N.S.Pattabhirama
Reddy
For Mr.Nandigam Krishna
Rao

Counsel for Respondent No.4: Mrs. C.K.Udaya Sri

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent Nos.1 to 3 in appointing respondent No.4 in place of his father, who was declared medically unfit for being continued in employment, as illegal and arbitrary.

I have heard learned counsel for the respective parties and perused the record.

The petitioner and respondent No.4 are the sons of one Bellam Mondi, who was an employee of respondent

No.1-Company and was allowed to retire, with effect from 10.9.2008, after being declared as unfit by the Medical Board. As per the policy of respondent No.1-Company, employment has to be provided to one of the dependent family members of the medically unfit retired employee. Respondent Nos.1 to 3 have appointed respondent No.4 in place of his father. Assailing this action, the petitioner filed this Writ Petition.

The petitioner averred that he is the eldest son of his father and that ignoring his claim, on a misrepresentation made by respondent No.4 that he is mentally unsound, respondent No.4 was provided employment.

Separate counter-affidavits have been filed on behalf of respondent Nos.1 to 3 and respondent No.4.

In the counter-affidavit filed by the Chief General Manager of respondent No.1-Company, it is *inter alia* stated that as per the policy of respondent No.1-Company, employees declared as unfit by the Medical Board are eligible to claim dependent employment to their son/son-in-law at their own choice; that Mr. Bellam Mondi at his own discretion has opted for providing dependent employment to respondent No.4; and that respondent No.1-Company's Management will not interfere with such option exercised by the retiring employee. Along with the counter-affidavit, respondent Nos.1 to 3 have filed a copy of letter, dated 31.01.2009, addressed by Mr. Bellam Mondi to respondent No.1-Company, wherein he has informed that he has three sons and two daughters; that his first and second sons have got married; that his third son (respondent No.4) has been looking after his welfare; and that therefore, respondent No.4 may be provided with the dependent employment.

In his counter-affidavit, respondent No.4 has averred that as per the policy of respondent No.1-

Company, dependent employment has to be provided to one of the dependent family members of the employee retiring on medical invalidation ground; that for the last 18 years, the petitioner has been living separately from his father and other family members, whereas he is living with his father and is depending upon his employment; and that therefore, he was rightly chosen for providing dependent employment by respondent No.1. He has also denied the allegations that he has fabricated the documents and he is not a natural son to his parents.

Though a reference was made to the policy of respondent No.1-Company relating to providing of dependent employment to one of the dependent family members of the retiring employee in the counter-affidavit, no such policy has been produced by respondent No.1-Company.

Be that as it may, it is not in dispute that as per the policy of respondent No.1-Company, one of the dependent family members of the employee retiring on medical invalidation ground will be provided with dependent employment.

As indicated above, respondent No.1-Company has pleaded that option is provided to the employee retiring on medical invalidation ground to choose the dependent from among his family members for providing dependent employment and that it will not interfere with such option exercised by the retiring employee.

From a perusal of the copy of letter, dated 31.01.2009, addressed by Mr. Bellam Mondli to respondent No.1-Company, it is evident that he has chosen respondent No.4 for providing dependent employment. Therefore, respondent Nos.1 to 3 cannot be found fault with for providing dependent employment to respondent No.4 at the option of his father. If the petitioner is not satisfied with the option exercised by his

father, respondent Nos.1 to 3 cannot be held responsible for the same.

For the above-mentioned reasons, I do not find any merit in the Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, interim order, dated 19.4.2010, is vacated and WPMP.No.5738 of 2010 shall stand dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*09th September 2015
DR*