

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 490 of 2015**

- Smt. Sumitra Bai W/o late Shri Gahbar, aged about 36 years, R/o Village Raj Kishor Nagar, PO Batra, PS Bishrampur, Tehsil Bhaiyathan, Revenue and Civil District Surajpur (CG).

---- Petitioner**Versus**

1. South Eastern Coal Fields Limited, through Chief Managing Director (SECL Head Office), Seepat Road, Bilaspur, post & PS Sarkanda, Tehsil Bilaspur, Revenue and Civil District Bilaspur (CG).
2. South Eastern Coal Fields Limited, through Chief Managing Director (Bhatgaon Area) Post & PS Bhatgaon, Tehsil Bhaiyathan, Revenue and Civil District Surajpur (CG).
3. Regional Personal Manager (Bhatgaon Area) Tehsil Bhaiyathan, Revenue and Civil District Surajpur (CG).
4. Sub Area Manager, Bhatgaon Area, Tehsil Bhaiyathan, Revenue and Civil District Surajpur (CG).

---- Respondents

For Petitioner
For Respondents

Shri Sarfaraz Khan, Advocate.
Shri Vaibhav Shukla, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/03/2016**

1. Challenge to the present writ petition is order dated 14.01.2015 (Annexure P/1) which is rejection of the representation of the petitioner for dependent

employment.

2. The contention of the petitioner is that her husband was an employee of the respondent who died in harness on 16.03.2008. Subsequent to his death, the petitioner moved an application for dependent employment, but the same was not considered by the respondents and on the contrary, the respondents had offered the petitioner for payment of monetary compensation payable to the widow of the deceased employee who at the relevant time had crossed the maximum age of appointment of 45 years under Chapter-IX of the National Coal Wage Agreement (Social Security) (for short, NCWA).
3. According to the petitioner, though initially the petitioner had refused to accept the monetary compensation and was insisting for grant of dependent employment, but the same was not considered by the respondents. The petitioner on an earlier occasion filed a writ petition which was registered as Writ Petition(S) No.5238 of 2014 which was decided on 08.10.2014 directing the respondents to consider and decide the case/claim of the petitioner in accordance with relevant circulars/schemes. Subsequently, the respondents have now decided the representation of the petitioner on 14.01.2015 (Annexure P/1) rejecting her claim for dependent employment on the ground that in view of provisions of Chapter-IX of NCWA as the petitioner has crossed maximum age of 45 years, she is not eligible for dependent employment under the respondent's establishment and the only relief which she would be entitled for is the monetary compensation under the scheme framed by the respondents. The respondents have also mentioned that on a couple of occasions they have asked the petitioner for collecting monetary compensation but she refused to accept.
4. Considering the total facts and circumstances and on perusal of the case what is an admitted position is that, in the respondents establishment there is a

provision for dependent employment as has been engrafted in Chapter-IX of NCWA. Clause-9.5.0 of which deals with the case where the claimant seeking dependent employment has crossed 45 years of age, it has been held that in that event she would be dis-entitled for dependent employment, but would be entitled for monetary compensation. The said scheme or policy of the respondent's establishment is not under challenge. Any claim for dependent employment can be considered strictly in accordance with the scheme prevailing in the respondent's organization. Chapter-IX of NCWA specifically dis-entitles the petitioner for claiming dependent employment after having crossed the maximum age of appointment of 45 years.

5. In these circumstances, the only relief which the petitioner could have been granted was the relief which has been made available to her right from the first instance by the respondent's organization of paying monetary compensation.
6. Accordingly, this court does not find any infirmity in the order impugned dated 14.01.2015. However, looking to the facts and circumstances of the case, at this stage it is directed that on petitioner's moving fresh representation for releasing monetary compensation payable to her, the respondent No.2 shall consider and release the same in accordance with the prevailing scheme as expeditiously as possible preferably within a period of three months from the date of receipt of fresh representation along with copy of this order.
7. With the aforesaid observations, the writ petition stands disposed of. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE