

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 7198 of 2007**

- Shahida Begum, W/o Late Ajwant Ali, aged about 48 years, R/o Khongapani, Chhappan Dafai, District Korea (C.G.)

---- Petitioner**Versus**

1. South Easter Coal Filed Ltd., through its Chief Managing Director, Seepat Road, Bilaspur, District Bilaspur (C.G.)
2. Director, South Eastern Coalfields Ltd., Seepat Road, District - Bilaspur (C.G.)
3. Manager, South Eastern Coalfields Ltd., Palkimada Colliery District - Korea (C.G.)
4. Manager, South Eastern Coalfields Ltd., Hasdeo Area, District Korea (C.G.)
5. Commissioner, C.M.P.F. South Eastern Coalfields Ltd. Gupteshwar, District - Jabalpur (C.G.)
6. Senior Personnel Officer, South Eastern Coalfields Ltd. Sub Region Bhaogapani, District - Korea (C.G.)
7. Assistant Personnel Officer, South Eastern Coalfields Ltd. Sub Region Bhaogapani, District - Korea (C.G.)
8. Rahim Baksh, S/o (not known), R/o village – Mirzapur, P.O. Patna, Manendragarn, District Korea (C.G.)
9. Momin Ali, S/o Late Shri Ajwant Ali, aged about 26 years, 56 Dafai, Khongapani, P.S. and Tehsil Manendragarh, District – Korea (C.G.)

---- Respondents

For Petitioner	:	Mrs. Fouzia Mirza, Advocate
For SECL / Respondents	:	Mr. Shiv Shankar Tiwari, Advocate
No. 1, 2, 3, 4, 6 & 7		
For Respondents No. 5, 8 & 9	:	None present

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****21/11/2016**

1. The petitioner, who is unfortunate widow of late employee of SECL, has filed this petition way back in the year 2007 seeking direction for release of amount of Coal Mines Provident Fund (herein after refereed to as 'CMPF') lying in the account credited in the name of her departed husband.

2. The husband of the petitioner, late Ajwant Ali, was working as Mechanical Fitter in SECL. He unfortunately died in the year 1999, itself, when he retired. The petitioner, thereafter, started claiming for amount of gratuity and CMPF. It appears that the petitioner made serious allegation against her father-in-law that he had interpolated the records relating to nomination in collusion with one of the employees of the SECL. However, during the pendency of this petition, issue of pensionary benefit has already been settled and the pensionary benefits have already been released in favour of the petitioner.

3. Learned counsel for the petitioner submits that the father-in-law of the petitioner had interpolated the SECL record in collusion with one of the employees of SECL and presently both of them are facing criminal case. It is next submitted that the fact that the pension was released in favour of the petitioner, therefore, there should not be any difficulty for the Commissioner, CMPF in releasing the amount of CMPF lying with him in the credit of late Ajwant Ali.

4. The Nomination Form placed on record as Annexure R-J/7 appears to be in the name of the petitioner.

In the return filed by respondent No.5, it has been stated in para 7 that 1/3rd of the CMPF accumulation in the account of late Ajwant Ali has already been paid to the petitioner and rest of the amount be payable to the family members of the deceased employee.

It appears that because of the controversy as to who are real family members of the deceased employee, entitled to payment, respondent No.5 has not released the balance amount till date.

In para 7 stated above, it has been clearly recorded that they are prepared to release payment as per the direction of the Court, as and when directed to do so.

5. It appears that the widow of retired employee has suffered much for the mistake committed by other persons. Despite notices issued to respondents No. 8 and 9, they have not appeared before the Court. Once the nomination has been made, any one who disputes the nomination, should have obtained the decree from the Civil Court. The amount ought to be released in favour of the person who has been

nominated in the service record. As per Annexure R-J/7, the nomination stands in favour of the petitioner. Not only this, the petitioner is a person in whose favour pensionary benefits have already been released. Therefore, in these circumstances, it would be most unfair on the part of respondent No.2 to withhold the payment merely because some kind of dispute has been raised, unless the other party produces before the Commissioner of CMPF, order of any Court declaring right of another party to receive either fully or in part, the provident fund amount along with the pension.

6. In that view of the matter and that now the dispute raised mainly between the petitioner & respondent No.5 and respondents No. 8 & 9 are not represented, this petition is allowed to the extent that respondent No.5 shall release the entire amount of provident fund lying in the credit of late Ajwant Ali to the petitioner forthwith without any further delay. If the amount is not released within a period of two months from the date of receipt of copy of this order, it shall carry on interest of 10% on annual basis.

Sd/-
(Manindra Mohan Shrivastava)
Judge