

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.233 of 2016**

1. South Eastern Coalfield Limited, Seepat Road, Thana Sarkanda, District Bilaspur (C.G.) Through its Chairman Cum Managing Director.
2. Director (Personal), South Eastern Coalfield Ltd., Seepat Road, Thana Sarkanda, District Bilaspur (C.G.)
3. Dy. Chief Personal Manager (Labour), South Eastern Coalfield Ltd., Seepat Road, Thana Sarkanda, District Bilaspur (C.G.)
4. Chief Personal Manager, SECL, Dipika Area, P.O. Pragati Nagar, Dipika Thana Dipika, District Korba (C.G.)
5. Chief Personal Manager, SECL, Dipika Area, Thana Dipika, District Korba (C.G.)
6. The Personnel Manager/Enquiry Officer, SECL, Dipika & Dipika Expansion Manager, Thana Dipika, District Korba (C.G.)

--- Appellants**Versus**

Balkrishna, S/o Late Appa Rao, aged about 36 years, R/o Qr. No. M-532, Dipika Colony, Post SECL Gevra Project, Police Station Dipika, District Korea (C.G.)

--- Respondent

For Appellants : Mr. Vinod Deshmukh, Advocate.

For Respondent : None.

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****04/07/2016**

(1) This writ appeal is directed against the order dated

22.03.2016 passed by learned Single Judge in W.P. (S) No.354 of 2013.

(2) Main grievance of the appellants in the writ petition was that he had raised objection before the learned Single Judge that there is a statutory efficacious alternative remedy available to the respondent/writ petitioner under Section 10 of the Industrial Disputes Act to challenge the order of termination before the Labour Court and since that remedy had not been availed of by the respondent, writ petition could not have been entertained.

(3) On going through the entire order of the learned Single Judge, we found that there is no whisper with regard to this objection and the order of the learned Single Judge is totally silent about any such objection.

(4) Confronted with the judgment of the learned Single Judge, learned counsel appearing for the appellants stated that this objection had been taken by them in the return filed in the writ petition.

(5) In the return filed by the appellants/SECL, there is no objection taken in this regard. However, the learned Single Judge after hearing the arguments had directed the parties to file written submissions. These written submissions were filed on 5.10.2015. In the return filed no specific objection had been taken. However, in paragraph 6 of the written submissions it is stated that the

appellants adopt their detailed para-wise reply filed in W.P. (S) No.5761/2009 filed by them earlier.

(6) Here we would like to mention that earlier the respondent/writ petitioner had filed a writ petition and he was directed to avail of the alternative remedy and, thereafter, he filed second writ petition. If the appellants/SECL had any objection that the remedy, which the respondent/petitioner was to avail, had not been availed of despite the orders of this Court, we expect that a proper independent and complete objection in this behalf had to be raised in the return. No such objection has been taken in the return and merely because in the first writ petition an objection was taken that there is an alternative efficacious remedy available to the respondent and that writ petition has been rejected on this ground, when the second writ petition was filed, it should have been clearly mentioned that such alternative efficacious remedy has not been availed of. How could the learned Single Judge imagine that this objection was again being raised by the appellants. We are clearly of the view that no such objection was raised before the learned Single Judge.

(7) This litigation by the SECL which is a public sector undertaking, is an abuse of process of the Court. It has taken a ground in the appeal, which is totally false to its knowledge. We are constrained to observe that this public sector undertaking has taken a totally false stand before this Court and it is not expected from the public sector undertaking to raise totally false pleas. Since the writ

appeal has been filed taking totally false ground, we dismiss the same imposing exemplary cost of Rs.10,000/-, payable to the High Court Legal Services Committee within one month from today.

(8) Copy of this order be sent to the C.M.D. of the SECL to ensure that such false grounds are not raised in the litigations filed by the appellants/SECL.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(Sanjay K.Agrawal)
Judge

B/D