

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (S) No.585 of 2015

1. Birhulia, W/o. Late Shri Sujaan Ram, Aged about 60 years,
 2. Parmeshwar, S/o. Late Sujaan Ram, Aged about 35 years,
- Both the petitioners are R/o. Village – Pachira, P.S. & P.O. Surajpur, Tehsil-Surajpur, Revenue & Civil District-Surajpur (CG)

---Petitioners

Versus

1. South Eastern Coal Field Limited through Chief Managing Director (S.E.C.L Head Office), Seepat Road, Bilaspur, Post & P.S. Sarkanda, Tehsil-Bilaspur, Revenue & Civil District-Bilaspur (CG)
2. South Eastern Coal Field Limited, through Chief General Manager (Bishrampur Area), Post & P.S.Bishrampur, Tehsil-Surajpur, Revenue & Civil District-Surajpur (CG)
3. Personnel Manager, (Rehar, Gayatri, Jai Nagar Sub-Area), Tehsil-Surajpur, Revenue & Civil District – Surajpur (CG)
4. Sub-Area Manager, Jai Nagar Sub-Area, Tehsil-Surajpur, Revenue & Civil District-Surajpur (CG)

---Respondents

For Petitioners	:	Mr. Sarfaraz Khan, Advocate
For Res. No.1 to 4	:	Dr.N.K.Shukla, Senior Advocate with Mrs.Vijya Laxmi Saraf, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

19/02/2016

1. Learned counsel for the petitioner would submit that husband

of petitioner No.1 and father of petitioner No.2 died in harness on 7.7.2002 while working as Lineman Category-V with the respondents/SECL.

2. It appears that the petitioners have filed the application for dependant employment/compensation, which was not decided. Thereafter, writ petition being WP(S) No.4839 of 2014 was filed before this Court, in which this Court has directed to decide the claim of the petitioners in accordance with law. Now, by order dated 3.12.2014 (Annexure P/1) the SECL has rejected the claim of the petitioners holding that application for dependant employment has been filed on 12.1.2010 whereas death occurred on 7.7.2002 and as such, after a period of five years, application for dependant employment cannot be considered. It has also been held that petitioner No.1 is also not entitled for monetary compensation.
3. Mr.Sarfaraz Khan, learned counsel appearing for the petitioners, would submit that petitioner No.1 has also given option for monetary compensation in terms of sub-clause (ii) of clause 9.5.0 of the National Coal Wage Agreement-VI (hereinafter referred to as "NCWA-VI") i.e. Joint Bipartite Committee for the Coal Industry, which has force of law and

there is no such time limit for claiming monetary compensation as it is recurring entitlement of the petitioner No.1 and recurring responsibility of the respondent-SECL to make payment of monetary compensation.

4. On the other hand, Dr.N.K.Shukla, learned Senior Advocate appearing for the respondents, would oppose the writ petition and submit that the petitioners made an application after eight years from the death of Sujaan Ram, therefore, petitioner No.1 is not entitled for monetary compensation in terms of sub-clause (ii) of clause 9.5.0 of the NCWA-VI.
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. Clause 9.5.0 of the NCWA-VI provides for Employment/Monetary Compensation to female dependant. Sub-clause (ii) and (iii) of clause 9.5.0 of the NCWA-VI reads as under:-

“9.5.0 Employment/Monetary compensation to female dependant

Provision of employment/monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

(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.3000/- per month or employment.”

(iii) In case the female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.”

7. Admittedly, petitioner No.1 was more than 45 years of age while the deceased SECL servant died on 7.7.2002, therefore, the respondent-SECL has no option except to make payment of monetary compensation to petitioner No.1 as she had no other option except to accept monetary compensation.
8. Respondent-SECL has filed the document (Annexure R/3) showing that petitioner No.1 has filed an application for monetary compensation on 20.5.2010, which has been rejected by order dated 3.12.2014 (Annexure P/1) holding that she is not entitled by virtue of sub-clause (ii) of clause 9.5.0 of the NCWA-VI.
9. Petitioner No.1 being female dependant of deceased Sujaan Ram was above 45 years of age on the date of death of Sujaan Ram and therefore, she was entitled for monetary

compensation, which she has claimed on 20.5.2010 and same has been rejected on the ground of delay. Monetary compensation to be received by dependant of deceased Sujaan Ram is a recurring right, which cannot be denied by the respondents/SECL on the ground of delay, whereas petitioner No.1 has claimed the said monetary compensation on 20.5.2010.

10. In view of above, order dated 3.12.2014 (Annexure P/1) to the extent of refusing/declining the payment of monetary compensation is quashed. It is held that petitioner No.1 is entitled for monetary compensation to the extent of ₹3000/- per month from 20.5.2010 along with 7.5% interest. Respondent-SECL will pay the monetary compensation along with interest within a period of two months from the date of receipt of certified copy of this order and continue to make payment as permissible under NCWA-VI.
11. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-