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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1198 of 2017**

- Dhananjay Kumar S/o Late Chandeshwar Prasad Aged About 35 Years Working As Dumper Operator, Kusmunda Project, South Eastern Coalfields Colliery, Kusmunda, District- Korba, Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through The Managing Director, Headquarter, Seepat Road, Sarkanda, Bilaspur, District- Bilaspur, Chhattisgarh
2. The Manager (Personnel), Kusmunda Project, South Eastern Coalfields Colliery, Kusmunda, District- Korba, Chhattisgarh
3. The Chief Medical Services, South Eastern Coalfields Limited, Seepat Raod, Bilaspur, Chhattisgarh
4. The Deputy Manager (P),apm, South Eastern Coalfields Limited, Kusmunda Area, District- Korba, Chhattisgarh
5. The Mining Manager, Kusmunda Project, South Eastern Coalfields Colliery, Kusmunda, District- Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Shahid Ahmed Ansari, Advocate
For Respondents	:	Shri Vivek Ranjan Tiwari, Advocate

SB: Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/03/2017**

1. This is second round of writ petition. The grievance of the Petitioner is that son of the Petitioner was seriously ill. The Petitioner took his son to SECL Hospital, Mudapar, Korba, the hospital of the Respondents. The Doctors of the Respondent referred the Petitioner's son to Ramkrishna Care Hospital, Raipur. Further, the Doctors of Ramkrishna Care Hospital, Raipur taking into consideration that the condition of the

child was very critical and he had to be provided specialized treatment within a couple of hours, advised the Petitioner to take his son to Medanta Hospital, Gurgaon (Delhi). Since the time was running, he was advised to take his son through Air Ambulance, which the Petitioner immediately arranged and took his son through Air Ambulance to Delhi wherefrom after providing immediate specialized treatment, he survived and subsequently discharged from Hospital.

2. Claim application had been filed by the Petitioner claiming the travel allowance including the expenses incurred in taking of the Petitioner's son to Delhi by Air Ambulance. The amount claimed is of Rs. 4,09,975/-. The said claim application of the Petitioner was not considered by the Respondents – Authorities. The Petitioner, thereafter, had filed a petition before this Court in the year 2016 which was registered as Writ Petition (S) No. 3188 of 2016. This Court at the first instance, prima-facie finding that the claim of the Petitioner was not settled by the Respondents, disposed off the petition with a direction to the General Manager / Chief General Manager of the Kusmunda Area to look into the grievance of the Petitioner and take a decision on his claim within a period of 60 days. Subsequently, it appears that the Area Personnel Manager, SECL Kusmunda Area vide its order dated 11.02.2017 pursuant to the direction given by this Court on 15.12.2016 in Writ Petition (S) No. 3188 of 2016, decided the claim of the Petitioner and mechanically held that the Petitioner was only entitled for an amount of Rs.7,169/- for the expenses made for travel by Air Ambulance. The calculation of the Petitioner's claim was considered as per the Rail fair from Korba to Delhi in A.C. Second Class. While

deciding the claim of the Petitioner, the Respondents have also found that since the son of the Petitioner was below 5 years of age, he does not require a ticket and was granted the Rail fair only to Petitioner for Rs.7,169/-. Subsequently, the Petitioner appears to have made fresh representation to Respondent No.1 vide representation dated 13.02.2016.

3. True it is that this Court has already referred the matter earlier for a decision to be taken by the General Manager of the Area where the Petitioner was working. It seems the authorities concerned have proceeded to technically and in a mechanical manner strictly in accordance with Rules.
4. However, still it was expected of the General Manager to consider the case more on the humanitarian ground and also to consider the case from the angle of being an employer having the structure of a Mini Ratna Company. It was also expected from the General Manager to think from the welfare of its employees point of view. The General Manager was supposed to consider that it was not a usual travel allowance which was sought to be passed, but a travel which was inevitable. He ought to have appreciated that but for the said travel the illness of the child of the Petitioner could have been fatal.
5. Taking all the aforesaid facts into consideration, this Court does not want the petition to be kept pending seeking a reply from SECL and then venture to decide the case.
6. Rather this Court feels that ends of justice would meet if the petition is now disposed of with a direction that since the Petitioner has made a mercy appeal to the Respondent No.1, the Chairman-cum-Managing

Director let a final decision to be taken by the CMD of SECL. The Petitioner is also at liberty to make a detailed representation to the Court in this regard.

7. Undisputedly the patient was referred to Medanta, Gurgaon by the SECL Hospital. Undoubtedly, there was an urgency to the treatment to be provided to the patient. What is more important is the patient could survive because of the prompt specialized treatment.
8. Considering the fact that the condition of the patient was too critical and had to be given immediate treatment at a specialized Hospital, under these circumstances, the Petitioner had to avail the benefit of Air Ambulance and with which he could save the child. The Chairman-cum-Managing Director may also consider whether any discretion is left in the hands of the Managing Director to relax the Rules under extraordinary circumstances purely as humanitarian and as a welfare measure towards his own employee so that the Petitioner's grievance gets redressed. Let the Managing Director take a decision within a period of 90 days from the date the Petitioner makes fresh representation within a period of 15 days from today.
9. With these observations / directions, the instant writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE