

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1037 of 2017

1. Bihari Lal S/o Late Dholu Ram, Aged About 27 Years R/o. Minus Quarters, House No. 1257, Vivekanand Colony, Charcha Colliery, District Korea (Chhattisgarh).
2. Urmila D/o. Late Dholu Ram, Aged About 32 Years Caste Uraon, R/o. Minus Quarters, House No. 1257, Vivekanand Colony, Charcha Colliery, District Korea (Chhattisgarh).
3. Vijay Lal Sahu, S/o Late Dholu Ram, Aged About 16 Years Caste Uraon, Through : Natural Guardian Brother Bihari Lal (Petitioner No. 1) R/o. Minus Quarters, House No. 1257, Vivekanand Colony, Charcha Colliery, District Korea (Chhattisgarh).

---- Petitioners

Versus

1. South Eastern Coalfields Limited Through : The Chairman-Cum- Managing Director, Seepat Road, Bilaspur, District Bilaspur (Chhattisgarh)
2. The General Manager, South Eastern Coalfield Limited, Baikunthpur, District Korea (Chhattisgarh)
3. Deputy Chief Personnel Manager, South Eastern Coalfield Limited, Baikunthpur District Korea (Chhattisgarh)
4. The Personnel Manager, South Eastern Coalfield Limited, Charcha Colliery, Baikunthpur, District Korea (Chhattisgarh)
5. Sub Area Manager, South Eastern Coalfield Limited, Charcha Colliery, Baikunthpur, District Korea (Chhattisgarh)

---- Respondents

And

WPS No. 6576 of 2016

1. Urmila D/o. Late Dholu Ram, Aged About 32 Years Caste Uraon, R/o. Vivekanand Colony, Charcha Colliery, P. S. Charcha, Tahsil Baikunthpur, District Korea (Chhattisgarh)
2. Bihari Lal S/o Late Dholu Ram, Aged About 27 Years Caste Uraon, R/o. Vivekanand Colony, Charcha Colliery, P. S. Charcha, Tahsil Baikunthpur, District Korea (Chhattisgarh)

3. Vijay Lal S/o Late Dholu Ram, Aged About 16 Years Caste Uraon, Minor, Through The Natural Guardian Sister Urmila (Petitioner No. 1), R/o. Vivekanand Colony, Churcha Colliery, P. S. Churcha, Tahsil Baikunthpur, District Korea (Chhattisgarh)

---- Petitioners

Versus

1. South Eastern Coalfield Limited Through : The Chairman-Cum- Managing Director, Seepat Road, Bilaspur, District Bilaspur (Chhattisgarh)
2. The General Manager, South Eastern Coalfield Limited, Baikunthpur, District Korea (Chhattisgarh)
3. Deputy Chief Personnel Manager, South Eastern Coalfield Limited, Baikunthpur, District Korea (Chhattisgarh)
4. The Personnel Manager, South Eastern Coalfield Limited, Churcha Colliery, Baikunthpur, District Korea (Chhattisgarh)
5. Sub Area Manager, South Eastern Coalfield Limited, Churcha Colliery, Baikunthpur, District Korea (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Syed Majid Ali, Advocate
For Respondents	:	Dr. N.K. Shukla, Senior Advocate with Shri Vinod Deshmukh, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/11/2017

Heard.

1. Writ Petition (S) No.6576 of 2016 has been filed by the petitioners being aggrieved by non-payment of retiral dues of the deceased employee- Dholu Ram and also for grant of dependent employment under National Coal Wage Agreement. This Court directed the respondents to examine the petitioners' claim. The authority thereafter passed an order on 21.2.2017 by which claim was rejected on the ground that respondents are not possessed of the records in the office to establish that petitioners are the

legal representatives of the deceased employee Late Dholuram. Thereafter, WPS No.1037 of 2017 was filed by the petitioners assailing correctness and validity of action of respondents in rejecting petitioner's claim.

2. Learned counsel for the petitioners would submit that the petitioners are the sons and daughter of the deceased employee Dholu Ram who was in the employment of SECL as General Majdoor in Charcha (West Colliery) Baikunthpur. After the death of the employee, retiral dues of the deceased-employee was not paid to the petitioners and the representation has also been rejected by saying that respondents are not possessed of the relevant records.
3. Learned counsel for the petitioners submits that if the records have been lost, the petitioners cannot be faulted with and the authority is under an obligation to release retiral dues in favour of the petitioners and also provide them dependent employment under the scheme applicable.
4. Learned senior counsel for the respondents would submit that in the establishment of the respondents, despite all efforts made, only one or two documents relating to employment of Dholu Ram could be traced. He submits that Form-B and two receipts of life insurance premium could be traced and except this, no other records are available. He would further submit that the records do not contain the name of the petitioners as the son and daughter and, therefore, in these circumstances, they are unable to extend benefit to the petitioners.
5. After hearing learned counsel for the parties and after going through the records, it is found that respondents have failed to keep intact service records of Late Dholu Ram, except the 'Form-B' entry and two receipts of life insurance premium. Once it is admitted by respondents that Late Dholu Ram was their employee, it is clear that the officers and employee of the respondents are responsible in the present state of affairs and if the records are missing, they alone are responsible.

Learned senior counsel for the respondents further informs that in fact, a departmental enquiry has also been initiated against the concerned

officers who have been prima facie found responsible for loss of service records of Late Dholu Ram.

6. If the relevant records of service of Late Dholu Ram are not available, the petitioners will have to establish the relationship in the properly constituted proceedings. Though learned counsel for the petitioners sought to convince this Court by placing certain documents on record that the petitioners are the legal heirs of deceased employee, this Court is of the view that the exercise of issuance of succession certificate cannot be undertaken by the writ Court. Even though the petitioners are not responsible for the present state of affairs, in order to establish their lineage and relationship with deceased employee, they are required to obtain succession certificate from the competent Court.
7. Learned Senior counsel for the respondents would fairly submit that as soon as succession certificate is placed before the authority, all the retiral dues would be promptly paid and proper consideration would also be made to claim for dependent employment according to applicable policy under the National Coal Wage Agreement applicable at the time of death of the employee.
8. In view of the above consideration, both Writ Petition (S) No. 1037 of 2017 and Writ Petition (S) No. 6576 of 2016 are being disposed off at this stage with liberty to the petitioners to apply for succession certificate before the competent authority under the Law. Thereafter, the petitioners may again approach the respondent authority and seek appropriate relief. In the event succession certificate is granted to the petitioners by the competent authority under the Law, it will be open for the petitioners to claim other reliefs including interest on account of delay in release of retiral dues due to loss of records.

Sd/-
(Manindra Mohan Shrivastava)
Judge