

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.5 of 2017**

1. South Eastern Coalfields Limited Through Chairman-Cum- Managing Director, Seepat Road, Bilaspur (Chhattisgarh)
2. Chief General Manager, SECL Gevra Area, Gevra, District Korba (Chhattisgarh)
3. Senior Manager (Personnel) SECL, Gevra Area, Gevra, District Korba (Chhattisgarh)

---- Appellants**Versus**

Bajrang Singh (now dead) Through Legal Heirs:

(a) Smt. Sita Devi, Aged about 52 Years Wd/o. Bajrang Singh, R/o. Rajapara, Near Bandhwa Talab, Babaghat, Post And Tahsil Champa, District Janjgir Champa (Chhattisgarh)

(b) Ku. Paushpi Singh, D/o. Late Bajrang Singh R/o. Rajapara, Near Bandhwa Talab, Babaghat, Post And Tahsil Champa, District Janjgir Champa (Chhattisgarh)

---- Respondents

For Appellants	: Dr. N.K. Shukla, Senior Advocate with Shri Pankaj Agrawal, Advocate.
For Respondents	: Shri Parag Kotecha, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board**Per Deepak Gupta, Chief Justice****24/01/2017**

1. Heard on the application for condonation of delay in filing the writ appeal. For the reasons mentioned in the application, the same is allowed. Delay is condoned.
2. The Appellants have challenged the judgment dated 18.9.2015 passed in Writ Petition (S) No.4927 of 2010 whereby the writ petition filed by Bajrang Singh was allowed in the following terms:-

“6. Therefore, the impugned order dated 24-08-2010 (Annexure P-4) cannot be sustained and therefore, set aside. Salary of the petitioner as granted to him vide order dated 17/18-06-2004 (Annexure P-3), shall be restored and whatever amount already deducted, shall also be refunded to the petitioner by the

respondents. It is, however, made clear that it would be open for the respondents to give proper notice to the petitioner herein and then decide the matter. It has to be clarified that the respondents shall first restore the petitioner to his original pay and refund the entire recovered amount and only after this being done, opportunity of show cause notice and hearing may be taken recourse to.”

3. This order was passed on 18.9.2015. Bajrang Singh had already retired in the year 2015 and therefore, review petition was filed in which it was prayed that no hearing could be given to Bajrang Singh and therefore the order may be recalled. This review petition was dismissed and thereafter, present appeal has been filed. Unfortunately, in the meantime, Bajrang Singh died on 1.3.2016. It would be highly unjust to ask the heirs of Bajrang Singh to explain how he was wrongly paid an excess amount. This would not be proper.

4. Bajrang Singh was paid this amount by the Appellants/SECL. It is not the case of the SECL that Bajrang Singh had misrepresented or stated any wrong facts. All that is stated is that higher pay-scale was given to him by mistake. Even if it is mistake, now that Bajrang Singh is dead it would be highly unjust to ask his heirs to repay the amount.

5. Therefore, we find no merit in the appeal. It is dismissed accordingly. It is however made clear that this order is passed in the peculiar facts and circumstances of the case and shall not be treated as precedent in any other case.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE