

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.2601 of 2008

Manoj Kumar, S/o Somra (Adopted Son), aged about 28 years, R/o Govindpur, Tah. Surajpur, District Sarguja (C.G.)

---- Petitioner

Versus

1. South Eastern Coalfields Ltd., through its Chairman-cum-Managing Director, Head Quarter, Seepat Road, Bilaspur (C.G.)
2. Deputy Personnel Manager, SECL Kumda Sub Area, Bishrampur, Distt. Sarguja (C.G.)
3. Sub Area Manager, SECL Kumda Sub Area, Bishrampur, Distt. Sarguja (C.G.)

---- Respondents

For Petitioner: Mr. Ashok Kumar Shukla, Advocate.
 For Respondents: Dr. N.K. Shukla, Senior Advocate with Mr. Vikram Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/01/2018

1. The petitioner's father Shri Somra was declared medically unfit while working with the SECL. Thereafter, the petitioner made an application for dependent employment in terms of clause 9.4.0 of the National Coal Wage Agreement-V. The petitioner's candidature has been rejected on the ground that he has no valid adoption deed in his favour in accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956 against which this writ petition has been preferred.
2. Mr. Ashok Kumar Shukla, learned counsel appearing for the petitioner, submits that the petitioner is adopted son of Late Somra as in Civil Suit No.29A/2001 (Manoj Kumar v. Somra) it has been

declared by the Civil Judge, Class-I, Surajpur, on 17-4-2001 that he is adopted son of Somra, therefore, refusal on the part of respondent No.1 to grant dependent employment is absolutely unjustified and appropriate writ be issued to grant dependent employment to the petitioner.

3. Dr. N.K. Shukla, learned Senior Advocate appearing for the respondents, would submit that the decree is not binding on the SECL, as SECL is not party to the suit.
4. I heard learned counsel for the parties and considered their rival submissions and also went through the record with utmost circumspection.
5. The jurisdictional civil court has declared in Civil Suit No.29A/2001 that the petitioner is adopted son of Somra who was declared medically unfit / permanently disabled. The decree granted by the civil court declaring the petitioner as adopted son of Somra, is binding on the SECL unless it is set aside by the jurisdictional civil court.
6. Relevant portion of clause 9.4.0 of the National Coal Wage Agreement-V provides as under: -

9.4.0 Employment to one dependant of a worker who is permanently disabled in his place.

.....

(iii) The dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment younger brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the employee and almost wholly dependant on the earning of the employees

may be considered.

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7. A careful perusal of the aforesaid clause would show that legally adopted son is also dependent and is entitled to be considered for dependent employment. It is not in dispute that the petitioner's father was declared medically unfit / permanently disabled, but the case of the petitioner has not been considered merely on the ground that he has not been adopted in accordance with the Hindu Adoptions and Maintenance Act, 1956. The decree granted by the civil court declaring the petitioner as adopted son of Somra is binding on the respondent SECL. Therefore, the impugned order Annexure P-7 is set aside and SECL is directed to consider the case of the petitioner for dependent employment in accordance with clause 9.4.0 of the National Coal Wage Agreement-V within 45 days from the date of receipt of a copy of this order and also to consider grant of consequential benefit to the petitioner as, the petition is pending since 3-3-2008.
8. The petition is allowed to the extent indicated herein-above. The petitioner will be entitled for a cost of ₹ 5,000/- from the respondents / SECL.

Sd/-
(Sanjay K. Agrawal)
Judge

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Head Note

Adopted son is also entitled for dependent employment in SECL.

दत्तक पुत्र भी एस.ई.सी.एल. में आश्रित रोजगार का पात्र है।