

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2876 of 2018**

1. Awadh Bihari S/o Shri Dukhram aged about 46 years R/o Chainpur, Tahsil Katghora District Korba Chhattisgarh.
2. Ajay Kumar Sharma S/o Shri S. C. Sharma aged about 52 years R/o Qtr. No. B-17, Dhelwadih, Colony Katghora, District Korba Chhattisgarh.
3. Chandan Singh S/o Sukhru Singh aged about 48 years R/o Village Dhelwadih, Colony Katghora, District Korba Chhattisgarh.
4. Tanesh Deep S/o Shri D. Deep aged about 46 years R/o Qtr. No.A-59/583, Dhelwadih, Colony Katghora , District Korba Chhattisgarh.
5. Parmanand Yadav S/o Shri B. Yadav aged about 49 years R/o Qtr. No. A-7/68 , Dhelwadih, Colony Katghora , District Korba Chhattisgarh.

---- Petitioners**Versus**

1. South Eastern Coalfields Limited Through, The Chairman - Cum - Managing Director Seepat Road , Bilaspur Chhattisgarh. 495006.
2. Chairman - Cum - Managing Director , South Eastern Coalfields Limited Seepat Road Bilaspur Chhattisgarh. 495006.
3. Director (Personnel) South Eastern Coalfields Limited Seepat Road, Bilaspur Chhattisgarh. 495006.
4. Director (Technical / Operation) South Eastern Coalfields Limited Seepat Road, Bilaspur Chhattisgarh, 495006.
5. Chief General Manager (Production) South Eastern Coalfields Limited Seepat Road, Bilaspur Chhattisgarh 495006.
6. General Manager, Korba Area, South Eastern Coalfields limited, District Korba Chhattisgarh.
7. Sub Area Manager Dhelwadih Sub Area, Korba Area, South Eastern Coalfields limited District Korba Chhattisgarh.
8. Colliery Manager, Dhelwadih U G Mine, Dhelwadih Sub Area, Korba Area, South Eastern Coalfields limited, District Korba Chhattisgarh.

---Respondents

For petitioner : Shri T.K. Jha, Advocate.

For Respondent : Shri Anish Tiwari on behalf of V.R. Tiwari, Adv.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/04/2018**

1. The present Writ Petition has been filed seeking relief of quashment of orders dated 11/05/2017 and 09/08/2017 issued by the respondents.
2. The grievance of the petitioner is that, the petitioners who are working with the respondents have been stopped of their Sunday duties and as a result their wages are being adversely affected considerably.
3. It is contended by the counsel for the petitioners that, same is also in violation of provisions of Mines Act. It was also contended that the other similarly placed employees were however provided with such similar benefits but was denied to only a small group of workers.
4. Perusal of nature of dispute and factual matrix of case would reveal that, the issue raised by the petitioner is not which is confined to the petitioner alone, but has been taken as a matter of policy by the respondents and as such it is an industrial dispute as per the provision of Industrial Dispute Act.
5. Further perusal of record also would show that, the union operating in the area have also raised this issue with the respondents as is evident from the representation – Annexure-P/7 filed with the Writ Petition.
6. The counsel for the petitioner during the course of arguments also refer to the representation which was signed by around 200 workers.
7. All these would show that it is not the petitioners alone who is affected, but a large group of workers affected by virtue of the policy decision taken by the respondents and as such it squarely falls within the ambit of dispute under the definition of Industrial Dispute Act.

8. Given the facts and circumstances, this Court is of the opinion that present is not a case for a judicial review under Article 226 of Constitution of India as the petitioners have an efficacious alternative remedy available i.e. under Industrial Disputes Act, 1947.
9. The petitioners would have the liberty to raise an industrial dispute in accordance with the provision of Industrial Dispute Act and seek redressal of their grievance.
10. The decision of this Court stands fortified by the Hon'ble Supreme Court in the case of Transport and Dock Workers Union & Ors. v. Mumbai Port Trust & Anr. [2011 2 SCC 575] wherein in paragraph 14 it has been held as under:-

“In our opinion the writ petition filed by the appellants should have been dismissed by the High Court on the ground of existence of an alternative remedy under the Industrial Disputes Act. It is well settled that writ jurisdiction is discretionary jurisdiction, and the discretion should not ordinarily be exercised if there is an alternative remedy available to the appellant. In this case there was a clear alternative remedy available to the appellants by raising an industrial dispute and hence we fail to understand why the High Court entertained the writ petition. It seems to us that some High Courts by adopting an over liberal approach are unnecessarily adding to their load of arrears instead of observing judicial discipline in following settled legal principles. However, we may also consider the case on merits.”

11. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE