

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.5807 of 2017

1. Smt. Indraso, Wd/o Late Sonsai, aged about 53 years,
2. Maiya Rajwade, D/o Late Sonsai, aged about 30 years,
3. Parasnath Rajwade, S/o Shri Lalan, aged about 30 years,

All are R/o Village Newra, Post Basdai, P.S. & Tahsil Surajpur,
District Surajpur (C.G.)

---- Petitioner

Versus

1. South Eastern Coalfield Limited, Through the Chairman-cum-Managing Director, Basant Vihar, Seepat Road, Bilaspur, Tahsil & District Bilaspur (C.G.)
2. Senior Manager (Excavation), SECL, Rehar Mine, Regaj Sub-Area, Bishrampur Area, District Surajpur (C.G.)
3. Mines Manager, SECL, Rehar Mine, Regaj Sub-Area, Bishrampur Area, District Surajpur (C.G.)
4. Assistant Manager (Personal), Rehar Underground Mine, Regaj Sub-Area, Bishrampur Area, District Surajpur (C.G.)

---- Respondents

For Petitioners: Mr. Ashok Kumar Shukla, Advocate.
For Respondents/SECL: Mr. V.R. Tiwari, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/01/2018

1. Shri Sonsai, husband of petitioner No.1 and father of petitioner No.2, died in harness while working with South Eastern Coalfields Limited (SECL) as Driller Category-V, Rehar Underground Mines, Bishrampur Area, on 11-11-2015. Widow of the deceased employee filed application nominating petitioner No.3 herein, her son-in-law, for dependent employment and that application has been rejected on the ground that there is no such provision in the

National Coal Wage Agreement-V against which this writ petition has been filed.

2. Learned counsel for the petitioners would submit that clause 9.3.3 of the National Coal Wage Agreement-V would clearly provide that in case direct dependent is not available for appointment, son-in-law is also entitled to be considered for dependent employment, therefore, the impugned order is in teeth of clause 9.3.3 of the said Agreement.
3. Learned counsel for the respondents would support the impugned order.
4. I have heard learned counsel for the parties and considered the rival submissions and also gone through the record with utmost circumspection.
5. In order to decide the dispute, it would be appropriate to refer to clause 9.3.3 of the National Coal Wage Agreement-V which provides as under: -

“9.3.3 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 deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependants of the deceased.”

6. A careful perusal of the aforesaid clause would show that in case the dependents like unmarried daughter, son and legally adopted son is not available then younger brother, widowed daughter / widowed daughter-in-law or son-in-law residing with the deceased

and almost wholly dependent on the earnings of the deceased can be considered for grant of dependent employment.

7. Reverting back to the facts of the case and to the impugned order, it would show that SECL has rejected the application of the petitioners on the ground that there is no provision for consideration of son-in-law for dependent employment which is in teeth of clause 9.3.3. of the National Coal Wage Agreement-V which has force of law and therefore the impugned order is liable to be set aside. The order Annexure P-1 is hereby quashed. SECL is directed to consider the case of petitioner No.3 afresh for grant of dependent employment within 45 days from the date of receipt of a copy of this order. Petitioner No.3 is also at liberty to submit additional documents in support of his case for grant of dependent employment.
8. The writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge