

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 713 of 2018

1. South Eastern Coalfields Ltd. Through Chairman Cum Managing Director, South Eastern Coalfields Limited, Seepat Road, 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.
6. Chief of Medical Services South Eastern Coalfields Limited, Seepat Road, Bilaspur Chhattisgarh

---- Appellants

Versus

1. Karlu Ram S/o Shhote Gunja Aged About 54 Years R/o Ward No. 16, Churcha Colliery, Shivpur, Korea, District Korea Chhattisgarh.
2. Ku. Salita D/o Karlu Ram Aged About 21 Years R/o Ward No. 16, Churcha Colliery, Shivpur, Korea, District Korea Chhattisgarh.

---- Respondents

For Appellants-SECL	:	Shri Abhishek Sinha, Advocate
For Respondents	:	Shri Syed Majid Ali, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

26.09.2018

1. Appeal has been preferred by the South Eastern Coalfields Limited (SECL) against an order dated 19.07.2018 passed by the learned Single Judge who gave the following directions :

“9. Considering the peculiar health condition of the petitioner wherein according to him, he has been declared 100% blind by the District Medical Board, it is directed that the respondent No.1 should personally ensure that the Medical Board is constituted at the earliest preferably within a period of 60 days from today and the Medical Board shall also consider the case of the petitioner so far as his disability is concerned and pass a final order within a further outer limit

of 60 days. If required, the respondent No.1 should consider constitution of the Medical Board if not constituted for other similarly placed persons atleast for the petitioner without any further delay caused and if for any reason the respondent No.1 finds it difficult in constituting the Medical Board, it is directed that the Chairman, Coal India shall personally provide all necessary instructions to the competent authorities ensuring the early constitution of the Medical Board for compliance of the order passed by this Court.”

2. The above direction was passed in the background that the employee in question who is also private Respondent filed an application for constitution of Medical Board for the first time on 09.09.2015 to be medically de-categorized . When nothing came to be done despite several remainders, thereafter, WPS No.3049 of 2017 was filed by the private Respondent which was disposed off with following direction :

“3. In that view of the matter, at this stage, this petition is finally disposed off with a direction that the respondents shall place for consideration of petitioners cases before the next Medical Board examination. In case, the petitioner No.1 is found to be ineligible for appointment, it goes without saying that the respondents will have to proceed to provide other relief according to the relevant provisions of NCWA. All measures shall be taken to ensure that the exercise be completed as early as possible. In case, case of petitioners is not decided within a period of four months, they would be at liberty to revive the petition.”

3. Again nothing was done by the Appellants despite such a direction, therefore, the poor employee was compelled to come to the High Court yet again through WP(S) No.4445 of 2018. Writ application was allowed in terms of the direction reproduced in the earlier part of the order, against which the present appeal has been preferred.

4. One of the main argument on behalf of the counsel for the SECL is that as per the National Coal Wage Agreement (NCWA) – 10, there is no provision for providing employment to the dependents of medically de-categorized employee. A Committee has been set up to take a decision as to what is required to be done in such cases and since the Committee has not yet given its report, the direction of the learned Single Judge is erroneous and is required to be set aside.
5. We are not convinced with the submission of the counsel for the Appellants for the reason that the cause of action for consideration of the claim of the employee arose when he made a demand way back on 09.09.2015 and it is a inaction on the part of the Appellants-Coal Company, due to which the employee was compelled to approach the High Court time and again and despite direction of the High Court the Company has been avoiding if not evading the issue, for considering the request / claim of the private Respondent.
6. The Court fails to understand as to why a Public Sector Undertaking committed to concept of welfare state would act in a fashion and manner which takes away the very object and purpose behind measures meant for persons working in the Mines and who have given away the major part of their life working for the Company. Obviously, there are certain persons in the organization who do not have a humane face nor any feelings for another human being.
7. The circumstances being such and keeping in mind that the Company 's inaction on the issue if not deliberate resistance to taking a decision despite earlier orders and directions passed by the Court, the Court is

compelled not only to uphold the order of the learned Single Judge dated 19.07.2018 which does not suffer from any infirmity, but also award a cost of Rs.25,000/- which will payable by the Company to the Petitioner because he has been made to spend money on litigations against the Company, even though it meant living beyond his means.

8. The above cost be paid to the employee within a period of four weeks from today. The direction as passed by the learned Single Judge in paragraph 9 of the writ application which has also been reproduced in the previous part of the order must be implemented by the Company within the time frame laid down therein or else the Petitioner will be free to approach the Court for violation of judicial orders and directions.
9. The appeal stands dismissed being devoid of merit.
10. Before parting, the prayer made on behalf of the counsel for the Company that since time frame fixed by the learned Single Judge has already expired, the same must be now complied within a period of 30 days from today is accepted.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge