

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 7797 of 2011**

Sameer Kumar Nath son of Shri Yasoda Jiban Nath, aged about 47 years, resident of Kapursingh Dafai, College Road, Post Chirimiri, District Korea, Chhattisgarh.

---- Petitioner**Versus**

1. General Manager, Chirimiri Area of SECL, Post West Chirimiri Colliery, District Korea (wrongly mentioned as Surguja) Chhattisgarh (wrongly mentioned as MP)
2. President, MP Koyla Sramik Sangh (CITU) West Chirimiri Colliery, Post Kurasia, District Korea, (wrongly mentioned as Surguja) Chhattisgarh (wrongly mentioned as MP)

---- Respondents

For Petitioner	: Shri Amrito Das, Advocate.
For Respondent No 1	: Shri Vaibhav Shukla, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****08/03/2019**

1. Heard learned counsel for the Petitioner and the Respondent No. 1.
2. Writ application has been filed by the Petitioner challenging the award dated 08.07.2010 passed by the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur (for short 'the Tribunal'). Since the said Tribunal has answered the reference against the present Petitioner refusing to hold him to be an employee of Coal Mines Welfare Organisation (for short 'the CMWO'), the said award is being assailed.
3. The basic facts do not seem to be in much of a dispute in the sense that at the time of nationalisation of various coal mines, the Central Government created a body known as CMWO. It is the said organisation which was operating in the Chirimiri Area that finally got merged into South Eastern Coalfields Limited (for short 'the SECL') with effect from 01.10.1986. The employees or the officers of the CMWO had set up a Central Cooperative Stores. Hiring was done and the Petitioner happened to be one of those

persons who was supposed to be working as an Accountant-cum-Typist in the Cooperative Store.

4. It is his case that one Shri B.L.Sharma and B.M.Mandal were also said to be employees of the Cooperative Society but their services came to be absorbed by the SECL but it refused to recognize or consider absorption of any of the employees of the Central Cooperative Stores.
5. It was in this background that the Government of India, Ministry of Labour made reference dated 25.03.1991. The reference reads as under:

"Whether the action of the management of Chirimiri Area of SECLtd, in not absorbing Shri D.K.Das Gupta, Shri Jwala Prasad, Shri S.K.Nath, Shri N.C.Sarkar, Shri Nanhu, Shri Shievbachan and Shri Raju on company's roll, is legal and justified? If not to what relief the workmen are entitled for?"

6. The case was agitated by the union known as Madhya Pradesh Koyala Shramik Sangh (CITU) on behalf of the workmen. Objection was taken before the Tribunal as to the locus of the said union, however, that is not much of significance. What was necessary for the Tribunal to decide was whether the workmen whose name figured in the reference had a right for similar consideration as Shri B.L.Sharma and Shri B.M.Mandal.
7. Evidence were led. On the basis of evidence, it emerges that two persons who came to be absorbed under the SECL were actually employees of CMWO and they were assigned the duty to take care of the working of the Central Cooperative Stores. In relation to the other employees including the present petitioner, no evidence had come that they had anything to do with the CMWO. They were hired by the cooperative society and they happened to be the employee of the cooperative society.
8. The Tribunal found that there is no master-servant relationship existing between CMWO and the workman in question. The cooperative society had its own independent status and merely because it came to be set up by the

workmen or the employees of what was known as CMWO, they do not become the part and parcel of CMWO.

9. After having heard the learned counsel for the Petitioner and the Respondent No. 1, in absence of any material to link the hiring of the Petitioner by the CMWO and not by the cooperative society, this Court finds it difficult to hold that the view so taken by the Tribunal in refusing to pass any order in favour of the union or the workmen, holding that they were entitled to relief of being absorbed under the SECL to be an erroneous view to take.
10. Distinction between CMWO and the Central Cooperative Stores set up by the employees of the CMWO has to be maintained and that is the reason why relief could not be extended, since there was no similarity between the status of the present Petitioner and Shri B.L.Sharma and Shri B.M.Mandal.
11. The writ application has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE