

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6316 of 2007

Heman Mandal (Dead) Through Lrs

1. Sarita Devi Wd/o. Late Heman Mandal, Aged about 41 years, R/o. Village Birnadaber, PO Chunglo, District Giridh, Jharkhand, 815318, At present R/o. B-29, Pragati Nagar, Po And Ps Dipka, District Korba, Chhattisgarh
2. Sanjay Kumar S/o Late Heman Mandal Aged About 22 Years R/o B-29, Pragati Nagar, Po And Ps Dipka, District Korba, Chhattisgarh
3. Rubi Kumari D/o Late Heman Mandal Aged About 19 Years R/o B-29, Pragati Nagar, Po And Ps Dipka, District Korba, Chhattisgarh
4. Rita Kumari D/o Late Heman Mandal Aged About 16 Years, Minor Through Natural Guardian And Mother Sarita Devi, widow Of Late Heman Mandal, Aged About 41 Years, R/o Village Birnadaber, Po Chunglo, District Giridh, Jharkhand-815318, At Present R/o B-29, Pragati Nagar, Po And Ps Dipka, District Korba, Chhattisgarh
5. Sandeep Kumar S/o Late Heman Mandal Aged About 13 Years, Minor Through Natural Guardian And Mother Sarita Devi Wd/ O Late Heman Mandal, Aged About 41 Years, R/o Village Birnadaber, Po Chunglo, District Giridh, Jharkhan-815318, At Present R/o B-29, Pragati Nagar, Po And Ps Dipka, District Korba, Chhattisgarh

---- Petitioners

Versus

1. South Eastern Coalfields Limited Through- Chief Managing Director, Seepat Road, Bilaspur, Chhattisgarh
2. General Manager (P & A) Seepat Road, P.B. No. 60, Bilaspur, Chhattisgarh
3. Chief General Manager, S.E.C.L. Dipika Area, District – Korba, Chhattisgarh
4. Personnel Manager, S.E.C.L. Dipika Extension Project, District - Korba, Chhattisgarh
5. Deputy Personnel Manager S.E.C.L. District - Bilaspur Chhattisgarh
6. Coal India Limited, Netaji Subhash Chandra Bose Road, Kolkata W.B.
7. Government Of India Through The Secretary Of Coal Department, New Delhi

---Respondents

For Petitioners	:	Mr. Anshuman Shrivastava, Advocate
For Respondents	:	Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/07/2019

1. Pending the petition before this Court, the petitioner-deceased employee has died on 03.02.2015 and thereafter the family members have been substituted and who have been pursuing the writ petition further.
2. The challenge in the present writ petition is to the order Annexure P/13 dated 06.10.2007, whereby the services of the petitioner Heman Mandal has been terminated.
3. The facts of the case is that the petitioner was appointed as a Mining Sardar on 31.07.2000. The appointment was based on the Mining Sardar Certificate that the petitioner had furnished along with his application. The employee had obtained the employment under the reserved category claiming himself to be a scheduled tribe. The caste certificate that the petitioner had produced was that which was issued on 03.06.1999 by the Block Development Officer, Mandu Hajaribag, Bihar.
4. It is a case where it is said that the father of petitioner belonged to the unreserved category and his mother belonged to the scheduled tribe category, based upon which the caste certificate was obtained. Subsequently, there was a notification issued by the State of Jharkhand whereby it was held that person born out of a wedlock where the father is an unreserved category person and the mother belongs to reserved category, the child born from the said wedlock would not be entitled for the benefits of reservation. Based upon the notification dated 03.01.2007 on the basis of which the competent authority i.e. the authority who had issued the order earlier had cancelled the same vide its order dated 24.08.2007. A communication in this regard was also forwarded by the competent authority to the respondent-SECL intimating the respondents

so far as the cancellation of his caste certificate is concerned. It is based upon the said communication that the impugned order Annexure P/13 dated 06.10.2007 was issued terminating the services of the petitioner.

5. At this juncture, the counsel for the petitioners refers to a judgment passed by the Jharkhand High Court in WPC No. 229/2008, whereby the petitioner had challenged the order of cancellation of certificate dated 24.08.2007 and the communication made to SECL dated 06.09.2007. The High Court of Jharkhand vide its order dated 06/07.12.2012 allowed the writ petition quashing the two orders. The said order of the Jharkhand High Court thus has attained finality. Meanwhile the petitioner has challenged the said order of termination by way of the present writ petition.
6. So far as the impugned order dated 06.10.2007 is concerned, this Court is of the opinion that the said order does not have any basis to withstand in the light of the judgment of the Jharkhand High Court whereby the basis on which impugned order dated 06.10.2007 was issued, has been set-aside/quashed. In view of the same, this Court is left with no other option, but to hold that the impugned order is not sustainable and the same stands set-aside /quashed.
7. At this juncture, the counsel for the respondents refers to a document filed by the respondents in the present writ petition as early as on 21.06.2013, whereby a communication of the Government of India, Director General of Mining and Safety dated 12.11.2007. The said correspondence reflects that the petitioner/deceased employee had obtained his appointment on the basis of a false/forged experience certificate that he had produced for the purpose of obtaining the Mining Sardar Certificate and the Government of India thereby had passed an order canceling the Mining

Sardar Certificate No. 51772 issued in favour of the petitioner. The petitioner was further debarred for 5 years starting from 07.07.2007 for obtaining fresh certificate. This order of Government of India has not been challenged by the petitioner before any competent Court of law and the said has since attained finality. As a consequence of this, the very basis of the order of appointment earlier issued in favour of the petitioner would also have to be declared to have been obtained by playing fraud and in the light of the said development, the deceased employee would not be entitled for the benefit of reinstatement or any consequential relief. However, the petitioners would be at liberty to challenge the same if they so feels and the respondents/Management also would be at liberty for taking appropriate steps in the light of the communication dated 12.11.2007 in respect of the Mining Sardar Certificate on the basis of which the petitioner had obtained employment.

8. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved