

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2438 of 2019

Smt. Kailaso W/o Late Sokhlal, Aged About 55 Years, R/o Village
Sihpur, Police Station Khadgawa, District Koriya, Chhattisgarh

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Chairman-Cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Police Station Sarkanda, District Bilaspur, Chhattisgarh
2. General Manager (P / IR), South Eastern Coalfields Limited, Chirimiri Area, District Koriya, Chhattisgarh
3. Sub Area Manager, South Eastern Coalfields Limited, North Chirimiri, Doman Hill Group, Police Station Sonavani Colliery, District Koriya Chhattisgarh

---- Respondents

For Petitioner	:	Shri Chandresh Shrivastava, Advocate
For Respondents	:	Shri Vinod Deshmukh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/04/2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 11.09.2015 whereby the services of the husband of the petitioner have been terminated.
2. The facts of the case are that the petitioner is the wife of deceased employee Sokhlal. The husband of the petitioner was working under the respondents as a general mazdoor. He got implicated in a criminal case for the offence punishable under Sections 302, 201, 120-B of IPC and Section 2 (2) (5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The matter

was put to trial before the Sessions Court in S. T. No. 24/12. The husband of the petitioner got convicted vide judgment dated 24.09.2014. The husband of the petitioner, on account of his getting involved in the criminal case, remained absent from duty for a considerable long period. Meanwhile, the department initiated disciplinary proceeding against the husband of the petitioner and finally an order of termination was passed on 11.09.2015.

3. What is relevant at this juncture is that the allegation against the husband of the petitioner is that of long unauthorized absence from duty and even during the departmental enquiry, he did not appear before the Enquiry Officer. It is said that the husband of the petitioner meanwhile died on 01.09.2015 i.e. just about 10 days before the order of termination was passed.
4. After the impugned order was passed, the department is said to have released certain dues that were payable to the deceased employee to the petitioner. The present writ petition has been filed alleging that it is only now that the petitioner has been informed that her husband was in fact terminated and therefore, the petitioner has now challenged the order of termination dated 11.09.2015.
5. This Court is not inclined to entertain the writ petition at this juncture for the simple reason that it is hard to believe that the petitioner was not aware that her husband was terminated from service. Moreover, the contention is also hard to accept for the reason that the petitioner has been paid certain dues that were payable to the deceased employee. Another reason why this Court is not inclined to entertain the writ petition is that even as on date the husband of the petitioner stands convicted in the criminal case which disqualifies him to remain in Govt. employment. Even if the husband of the petitioner died after

the order of termination was issued, the position would not change, for the reason that the husband of the petitioner on the date of death was a convict. Unless the judgment of conviction is set aside, the petitioner would find it difficult to claim the benefit that she has sought for. This Court has been informed that the criminal appeal against the judgment of conviction preferred by the husband of the petitioner is still pending consideration before this Court vide Criminal Appeal No. 1033/2014 and the petitioner has substituted herself in the said criminal appeal and the appeal is still pending consideration.

6. In view of the same, this Court is of the opinion that whatever claim if at all if the petitioner is entitled for, could be claimed only after the outcome of the criminal appeal that is pending consideration before this Court. At this juncture, this Court finds it difficult to entertain the writ petition for the relief sought for by the petitioner.
7. The writ petition accordingly stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE