

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 442 of 2018

1. South Eastern Coalfields Limited, Through The Chairman Cum Managing Director, Basant Vihar Seepat Road Bilaspur Tahsil And District Bilaspur Chhattisgarh.
2. Senior Manager (Excavation) South Eastern Coalfields Limited, Rehar Mine, Regaj Sub Area, Bishrampur Area, District Surajpur Chhattisgarh.
3. Mines Manager, South Eastern Coalfields Limited, Rehar Mine, Regaj, Sub Area, Bishrampur Area District Surajpur Chhattisgarh.
4. Assistant Manager (Personal), Rehar Underground Mine, Regaj Sub Area, Bishrampur Area District Surajpur Chhattisgarh.

---- Appellants

Versus

1. Smt. Indraso W/o Late Sonsai Aged About 53 Years R/o Village Newra, Post Basdai, Police Station And Tahsil Surajpur District Surajpur Chhattisgarh.
2. Maiya Rajwade D/o Late Sonsai Aged About 30 Years R/o Village Newra, Post Basdai, Police Station And Tahsil Surajpur District Surajpur Chhattisgarh.
3. Parasnath Rajwade S/o Shri Lalan Aged About 30 Years R/o Village Newra, Post Basdai, Police Station And Tahsil Surajpur District Surajpur Chhattisgarh.

---- Respondents

For Appellants	: Shri H.B. Agrawal, Senior Advocate with Ms. Prabha Sharma, Advocate.
For Respondents	: Shri Ashok Kumar Shukla, Advocate.

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

Judgment on Board

05/03/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. Writ application was filed by the private Respondents when the Appellant-Company i.e. South Eastern Coalfields Limited ('SECL') rejected the claim as well as nomination made by the dependents of the employee who died in harness for compassionate ground appointment for the reason that a son-in-law was not entitled to compassionate appointment. This order was annexed as Annexure P/1 dated 24.07.2017/29.07.2017.

3. The learned Single Judge took note of Clause 9.3.3 of the National Coal Wage Agreement-V, and in fact, extracted the same in paragraph-5, which reads as under:-

“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.”

4. Taking note of the same, the impugned order contained in Annexure P/1 to the writ application was set aside because Clause 9.3.3 did envisage grant of employment even to a son-in-law, but provided he was residing with the deceased.

5. The impugned order in the writ application did not give the reason that he was not residing with the deceased. The reason given was that son-in-law was not entitled to benefit of compassionate appointment.

6. The learned Single Judge therefore rightly allowed the writ application gave leeway to the private Respondents to provide additional inputs and evidence if the Company so wanted, but the obligation on behalf of the SECL to reconsider the matter was created by the said order.

7. We do not find any infirmity in the order so passed by the learned Single Judge because the reason for rejection was that the son-in-law was not entitled to benefit and not for the reason that he was not living with the deceased.

8. The appeal is dismissed. The Appellant-Company will take a decision on the claim of the private Respondent, the son-in-law, in terms of the direction of the Court. Whatever verification or evidence is required for establishing the factum that he was living with the deceased can be very well carried out, but that will not become the basis for an indefinite exercise. The same should be done preferably within a period of three months from today since counsel for the Respondents submits that all the details have been furnished to the Company.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE