IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 5277 of 2019

Mainwa Harin, aged about 51 years, wife of Late Kalia Hari, C/o Office of the Project Officer, Katras Choitodih, Colliery, M/s Bharat Cooking Coal Ltd., P.O. Katrasgarh, P.S. Katras, District-Dhanbad

.... …. Petitioner

Versus

1. The Director (Personnel), Bharat Cooking Coal Ltd, Dhanbad
2. The Project Officer, Bharat Cooking Coal Ltd, Katras Choitodih Colliery, Dhanbad
3. The Chief Manager, (Personnel), Bharat Cooking Coal Ltd, Katras Choitodih Colliery, Dhanbad
4. The Area Manager, (Personnel), Bharat Cooking Coal Ltd, Katras Choitodih Colliery, Dhanbad ……. ……. Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Manoj Kumar Sinha, Advocate
For the Respondents-BCCL: Mr. Vipul Poddar, Advocate

4/Dated/01/12/2020

Heard Mr. Manoj Kumar Sinha, learned counsel for the petitioner and Mr. Vipul Poddar, learned counsel for the respondent-State.

This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

The petitioner has preferred this writ petition for direction upon the respondents to provide employment under "Coal India Special Female Voluntary Retirement Scheme-2014.

Learned counsel for the petitioner submits that respondents invited application from 26.11.2014 to 25.05.2015 by female employees under "Coal India Special Voluntary Retirement Scheme-2014" with objective to optimize manpower utilization of the company by reducing female manpower deployed in non-technical jobs by appointment of their son's on

jobs where there is required. The petitioner has applied in view of the said terms and the case of the petitioner has been considered in light of annexure-5 dated 06.06.2017.

Mr. Vipul Poddar, learned counsel for the petitioner submits that the case of the petitioner cannot be considered in view of the fact that same scheme has been struck down in the case of ***"Fir Kuwar Vs. Coal India Limited & Ors"*** reported in ***2018 SCC Online Jhar 1511*** in which in para 7 it has been held as under:-

> *" As regards constitutionality of the scheme, in our opinion, the same cannot survive the test of Articles 14 and 16 of the Constitution of India. We accept the reasoning of the Coordinate Bench expressed in L.P.A. No. 340 of 2016. Such a scheme would not be capable of being legally enforced. The writ petitioners cannot claim any vested legal right for enforcing the scheme, which is ex-facie unconstitutional."*

Learned counsel for the respondents-BCCL submits that the case of the petitioner was considered on 06.06.2017 and the aforesaid judgment was delivered on 27.08.2018. He submits that in view of the aforesaid judgment, earlier consideration contained in Annexures 5 & 6 has got no leg to stand.

In view of the aforesaid facts and the judgment of the Division Bench in ***'Fir Kuwar' (Supra),*** no relief can be extended to the petitioner. Accordingly, this writ petition stands dismissed. However, the petitioner is at liberty to file fresh representation for consideration of the case in another scheme of respondents/BCCL which will be considered by the respondent-BCCL as per rules, regulations and guidelines of the scheme.

(Sanjay Kumar Dwivedi, J.)

Satyarthi/-