

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 4937 of 2012**

Shobha Ram, S/o Late Mahabir, Aged about 60 years, R/o Mines Colony, Bishrampur, Q. No. 264, Post Office Bishrampur, P.S. Bishrampur, Tahsil Bishrampur, Distt. Surajpur, Chhattisgarh.

---Petitioner

Versus

1. South Eastern Coalfields Limited, through Chairman-cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur, Chhattisgarh, 495006.
2. Chief General Manager, South Eastern Coalfields Limited, Bishrampur Area, Post Office Bishrampur Colliery, P.S. Bishrampur, Tahsil Bishrampur, Distt. Surajpur, Chhattisgarh, 497226.
3. Dy. General Manager (Personnel), South Eastern Coalfields Limited, Bishrampur Area, Post Office Bishrampur Colliery, P.S. Bishrampur, Tahsil Bishrampur, Distt. Surajpur, Chhattisgarh, 497226.
4. Superintendent (Mines), South Eastern Coalfields Limited, OCM Bishrampur Area, Post Office Bishrampur Colliery, P.S. Bishrampur, Tahsil Bishrampur, Distt. Surajpur, Chhattisgarh, 497226.

---Respondents

For Petitioner :- Mr. A.K. Yadav, Advocate

For Respondents:- Mr. Abhishek Sinha, Senior Advocate
with Mr. Anumeh Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****14/09/2021**

1. Petitioner herein has questioned the action of the respondents in not declaring the petitioner permanently disabled and further not extending the benefit of dependent employment to his son under the Social Security Scheme as envisaged under Clause 9.4.0 of National Coal Wage Agreement.
2. It is the case of the petitioner that he was working with the respondent Company as Dozer Operator in the OCM Bishrampur Area and on 13/06/2007, he suffered with some illness and was admitted to the respondent Company's hospital at Bishrampur Area wherein the Doctors made a diagnosis of Intercerebral Hemorrhage with Left Haemiplegia and therefrom he was referred to Apollo Hospital, Bilaspur and he was subsequently discharged on 25/06/2007 but half of his body got paralyzed and he became disabled to perform his duty. Thereafter, the petitioner requested the respondent Company to declare him medically unfit and grant the benefit of dependent employment to his son in accordance with the provisions

contained under the National Coal Wage Agreement. Thereafter, from time to time, petitioner was medically examined but no action was taken by the respondent Company and ultimately, he retired on 30/04/2012.

3. Return has been filed by the respondents stating that petitioner was medically examined from time to time and since he was never declared permanently disabled, therefore, he is not entitled for benefit under Clause 9.4.0 of the National Coal Wage Agreement. Even otherwise, the petitioner has already completed his service and after completing the age of superannuation, all the monetary service benefits have been given to him in accordance with law which he has also accepted and thereafter, he has filed this writ petition on 30/10/2012 which is just an afterthought to get backdoor entry and it cannot be granted.

4. Mr. A.K. Yadav, learned counsel for the petitioner, would submit that the action of the respondents in not declaring the petitioner as permanently disabled after his illness and not extending the benefit of dependent employment to his son under Clause 9.4.0 of National Coal Wage

Agreement is arbitrary and illegal, as such, appropriate direction be given to the respondents to examine the petitioner medically and after declaring him permanently disabled, all the benefits claimed by him under Clause 9.4.0 of the National Coal Wage Agreement be granted to him.

5. Mr. Abhishek Sinha, learned senior counsel for the respondents, would submit that petitioner's illness was examined medically and he was even referred to Apollo Hospital, Bilaspur where he was discharged and thereafter, he was examined from time to time but he was never found medically unfit so as to declare him permanently disabled which was also accepted by the petitioner as he completed the age of superannuation on 30/04/2012 and as per his service record, all the monetary service benefits were given to him which he has also accepted and only after six months, as a measure of an afterthought and to take backdoor entry, this writ petition has been filed by the petitioner. Since, during the course of his service, petitioner was never found to be medically unfit, therefore, the benefit of dependent employment under Clause 9.4.0 of National Coal Wage Agreement has rightly not been given to his son

and accordingly, the writ petition deserves to be dismissed.

6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

7. True it is that on 13/06/2007, petitioner suffered from some illness and he was hospitalized in respondent Company's hospital at Bishrampur Area and thereafter, he was also referred to Apollo Hospital, Bilaspur and after being discharged from there, he was examined from time to time till his retirement but he was never found to be medically unfit and he was never declared permanently disabled to attract the benefit of Clause 9.4.0 of National Coal Wage Agreement. The petitioner also completed the age of superannuation on 30/04/2012 and after six months, this writ petition has been filed by him on 30/10/2012 claiming the benefit of dependent employment under Clause 9.4.0 of National Coal Wage Agreement. Since the petitioner was never medically unfit rather he was examined by the Medical Board (Screening) on three dates i.e. 03/03/2010, 30/01/2012 and 19/04/2012 (Annexure

R/3, R/4 and R/5) wherein he was not found to be medically unfit so as to declare him permanently disabled. This was even accepted by the petitioner as he completed the tenure of his service as a fit person and the act of the respondents in not declaring the petitioner permanently disabled was never questioned by the petitioner before the competent court of law during the course of his employment till the date of superannuation. On completing the age of superannuation, the petitioner even accepted all the monetary service benefits in accordance with the post that he was holding at the time of retirement without any protest or demur and then after retirement, that too after six months, the petitioner cannot claim that the benefit of dependent employment ought to have been given to his son under Clause 9.4.0 of the National Coal Wage Agreement.

8. Petitioner took a calculated chance of working on the post in which he was working prior to his illness, even after suffering from the alleged illness and he completed his tenure of service on that post and took all the service benefits given by the respondent Company after completing the age of superannuation. As such, considering to

the conduct of the petitioner, this writ petition filed after six months from the date of superannuation of the petitioner, claiming dependent employment in accordance with Clause 9.4.0 of National Coal Wage Agreement, cannot be entertained. The petitioner has failed to demonstrate any arbitrary action on the part of the respondents in not declaring him permanently disabled and thereafter, not granting the benefit of dependent employment to his son under Clause 9.4.0 of National Coal Wage Agreement.

9. As a fallout and consequence of the aforesaid discussion, this writ petition deserves to be and is accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet