

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on:13.07.2021****Order delivered on:26.07.2021****Writ Petition (S) No.392 of 2012**

D.P.Saraf, aged 52 years, S/o. Late K. Anand Saraf,
 Chief Storekeeper, R/o.Quarter No.E-22, 15 Block
 S.E.C.L. Colony Korba, District Korba (CG)

---Petitioner***Versus***

1. Coal India Limited through Chairman, 10 Netaji Subhash Road, Kolkata
2. Coal India Limited through Director (Personal and I.R. and Member Secretary JBCCI-IX, 10 Netjai Subhash Road, Kolkata (West Bengal)
3. Government of India (Ministry of Coal), through Section Officer, Ministry of Coal, Shashtri Bhawan, New Delhi

---Respondents

For Petitioner	: Mr.D.P.Saraf in person
For Respondents No.1&2	: Mr.Vinod Deshmukh, Advocate
For Respondent No.3	: None present

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. The petitioner-in-person calls in question the communication dated 1.8.2011 constituting JBCCI-IX and prays for quashing of the said order/communication.
2. Mr.D.P.Saraf, petitioner-in-person would submit that said constitution of Joint Bipartite Committee for Coal Industry (JBCCI-IX) is arbitrary, unconstitutional and contrary to the provisions of the Industrial Disputes Act, 1947 and liable to be set-aside in view of decisions of the Supreme Court in the matters of **State Bank of India Staff Association and**

others v. State Bank of India and others¹, Ford Corporation of India Staff Association v. Ford Corporation of India², Oswal Agro Furane Ltd. And another v. Oswal Agro Furane Workers Union and another³, General Manager, Security Paper Mill v. R.S. Sharma and others⁴, Workmen of M/s Delhi Cloth General Mills Ltd. v. The Management of M/s Delhi Cloth and General Mill Ltd.⁵, Brook Bond India Ltd. v. Workmen⁶, State of Bihar v. Kripa Shankar Jaiswal⁷, Workmen of the Bombay Port Trust v. Trustees of Bombay Port and another⁸ and Union of India v. S.B.Vohra and others⁹.

3. On the other hand, Mr.Vinod Deshmukh, learned counsel for respondents No.1 and 2, would submit that there is Bipartite Agreement between the Management of Coal India and all functional Trade Unions operating in Mine/Units of Coal India known as Joint Bipartite Committee for Coal Industry which decides the salary/wages, fringe benefits, welfare measures and social security measures to be provided to the workers of the Coal India for a period of 5 years known as National Coal Wage Agreement-IX and it is binding upon the Management and all workers of Coal India and its

1 AIR 1996 SC 1685

2 AIR 1995 SC 1344

3 AIR 2005 SC 1555

4 AIR 1986 SC 954

5 AIR 1970 SC 1851

6 AIR 1981 SC 1660

7 AIR 1961 SC 304

8 AIR 1962 SC 481

9 AIR 2004 SC 1402

subsidiaries and validity of said agreement was from 1.7.2011 to 30.6.2016 which has already come to an end during the pendency of the writ petition and the petitioner has also retired from service and there is no relationship between employer and employee between them and as on the date the petitioner has no locus standi to challenge the terms of settlement called as NCWA-IX and as such, the writ petition has become infructuous. He would rely upon the judgment of the Supreme Court in the matter of Barawni Refinery Pragtisheel Shramik Parisad v. Indian Oil Corporation¹⁰. He would further submit that five National Coal Trade Unions who have signed NCWA-IX are necessary party, as such, the writ petition liable to be dismissed.

4. I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. National Coal Wage Agreement-IX (JBCCI-IX) was signed on 31.1.2012 for a period of 5 years from 1.7.2011 to 30.6.2016 and that period has already come to an end during the pendency of this writ petition.
6. A careful perusal of the record would show that the

10 (1991) 1 SCC 4

petitioner is not adversely affected by constitution of JBCCI-IX particularly when the said settlement arrived at between Management of Coal India Limited and Five National Coal Trade Unions which are binding to all workmen including the petitioner and furthermore, the petition is also liable to be dismissed on the ground of non-joinder of necessary party as five National Coal Trade Unions who have signed NCWA-IX have not been made as party respondent, as such, JBCCI-IX cannot be quashed without their presence as party respondents in this writ petition.

7. In the considered opinion of this Court, since the JBCCI-IX constituted for a period 1.7.2011 to 30.6.2016 has already come to an end, examining the question would be purely academic, therefore, this Court is not inclined to examine the question on merits. However, the petitioner is at liberty to question JBCCI subsequently constituted, if so advised.
8. With the aforesaid stated observation, the writ petition stands finally disposed of. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-