

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.6632 of 2011

1. Tanmay Das Gupta, aged 49 yrs, Data Entry Operator Gr "D", South Eastern Coal Fields Ltd., AHQ : Raigarh (C.G.)
2. Ashwani Kumar Shukla, aged 35 yrs, S/o Shri Bhagwan Das, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., AHQ : Raigarh (C.G.)
3. Dhanesh Rao, aged 42 yrs, S/o Shri Bansi Rao, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., AHQ : Raigarh (C.G.)
4. Ajesh Mon P.K., aged 30 yrs, S/o Shri Kamlesh Mon, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., AHQ : Raigarh (C.G.)
5. Deepak Tiwari, aged 47 yrs, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Railway Siding Chhal Area : Raigarh, Raigarh (C.G.)
6. Manish Kumar Dubey, aged 41 yrs, S/o Shri S.P. Dubey, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Railway Siding Chhal Area : Raigarh, Raigarh (C.G.)
7. Pallav Khastagir, aged 28 yrs, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Railway Siding Chhal Area : Raigarh, Raigarh (C.G.)
8. Chandra Bhusan Das, aged 41 yrs, S/o Shri M.D. Mahant, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Chhal OCP : Raigarh, Raigarh (C.G.)
9. Anil Dighraskar, aged 42 yrs, S/o Shri K.D. Dighraskar, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Bilaspur
10. Jai Prakash Gupta, aged 30 yrs, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Chhal OCP : Raigarh, Distt. Raigarh (C.G.)
11. K.K. Suryavanshi, aged 26 yrs, S/o Shri Narayan, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Chhal Incline : Raigarh, Distt. Raigarh (C.G.)
12. Ramashankar Tiwari, aged 37 yrs, S/o Shri D.R. Tiwari, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Baroud : Raigarh, Distt. Raigarh (C.G.)
13. Sam John, aged 35 yrs, S/o Shri Yohann, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Baroud : Raigarh, Distt. Raigarh (C.G.)
14. Vijay Kumar Sen, aged 43 yrs, S/o Shri P.C. Sen, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Baroud : Raigarh, Distt. Raigarh (C.G.)

15. Dilip Kumar Biswas, aged 38 yrs, S/o Shri A.K. Biswas, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Baroud : Raigarh, Distt. Raigarh (C.G.)
16. Rohit Tripathi, aged 27 yrs, S/o Shri R.P. Tripathi, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Baroud : Raigarh, Distt. Raigarh (C.G.)
17. Sudarshan Sethi, aged 41 yrs, S/o Shri Raghu, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Bishrampur Area : Korea, Distt. Korea (C.G.)
18. Naresh Das, aged 39 yrs, S/o Shri Karm Das, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Dipika : Korba, Distt. Korba (C.G.)
19. Rameshwar Prasad, aged 45 yrs, S/o Shri Karam Das, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Deepika : Korba, Distt. Korba (C.G.)
20. Veeru Chouhan, aged 30 yrs, S/o Shri K.R. Chouhan, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Dipika : Korba, Distt. Korba (C.G.)
21. Smt. Krishna Chandra, aged 34 yrs, W/o Shri Chhatrapal Singh, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Korba, Distt. Korba (C.G.)
22. Smt. Swapna Basu, aged 41 yrs, W/o Shri Shankar Basu, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Korba, Distt. Korba (C.G.)
23. Smt. Lata Jaideo, Data Entry Operator Gr "D", South Eastern Coalfields Ltd., Head Quarter : Bilaspur (C.G.)
24. Smt. Savita Shitote, Data Entry Operator (Trainee), South Eastern Coalfields Ltd., Head Quarter : Bilaspur (C.G.)

---- Petitioners

Versus

South Eastern Coalfields Limited, Through:

1. The Chairman-cum-Managing Director, SECL : SECL, Head Quarters, Bilaspur (C.G.)
2. The Director : Personnel : SECL : SECL Head Quarters, Bilaspur (C.G.)

---- Respondents

For Petitioners: Mr. Anurag Dayal Shrivastava, Advocate.

For Respondents / SECL: -

Mr. H.B. Agrawal, Senior Advocate with Mr. Shailendra Shukla and Ms. Rashika Soni, Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/12/2021

1. Mr. Anurag Dayal Shrivastava, learned counsel appearing for the petitioners, would submit that the petitioners have been appointed by order dated 16-7-2007 (Annexure P-3), but by issuing the order Annexure P-1 dated 13-7-2009, rather the office memorandum dated 28/30-10-2009, they have excluded from pay protection without any rhyme or reason, whereas the benefit of pay protection has been extended to the employees who have been appointed up to 2005 / 2006, which runs contrary to the decision rendered by the Supreme Court in the matter of Kallakurichi Taluk Retired Officials Association, Tamil Nadu and others v. State of Tamil Nadu¹. He would further submit that pay protection has been provided to the employees who have been appointed after 1-1-2008, but no specific reason has been assigned as to why the petitioners who have been appointed on 16-7-2007 have not been given the benefit of pay protection.
2. The matter came up for hearing before this Court on 31-8-2021 and this Court directed the SECL to file affidavit as to why the petitioners have not been given the benefit of pay protection and reasons for their exclusion from pay protection. In response to the order dated 31-8-2021, affidavit has been filed on behalf of the SECL along with the resolution of 83rd Meeting of the Committee of Functional Directors of SECL held on 16-9-2021. The extract of the said Minutes of Meeting are as under: -

Item No.83.04

Sub: Pay Protection to workmen selected on higher posts in various posts – Filing of Affidavit in pursuance of Order

1 (2013) 2 SCC 772

Dtd. 31.08.2021 passed by the Hon'ble High Court of CG in WP (S) No.6632/2011 filed against SECL by Shri Tanmay Das Gupta and 23 others.

Ref: GM (P&A)/(IR)-HOD's e-Office Noting (e-563144 Dtd. 10.09.2021.

The Committee of Functional Directors (CoFD) discussed on the subject proposal and GM(IR)-HOD & GM(Legal)-HOD apprised the CoFD in detail on the order of the Hon'ble High Court of Chhattisgarh, Bilaspur, Dtd. 31.08.2021, the background of the issues involved, the earlier judgements of the Hon'ble CGIT & Hon'ble High Court in such cases, the extant SECL & CIL guidelines in the subject matter.

The CoFD noted the appraisal and the directives of Hon'ble High Court of Chhattisgarh, in its Order Dtd. 31.08.2021 and the extension of time granted and the CoFD after detailed deliberations, advised the IR & Legal Departments, SECL HQr to strictly implement the existing CIL's Order No.CIL/C-5B/Admn. Order/272 Dtd. 14.04.2016 regarding PAY PROTECTION, which provides that:

Quote:

Pay Protection:

"It was agreed that any workmen selected on higher post would be granted wage protection"

The above resolution is circulated for uniform implementation in all the Subsidiaries of Coal India Limited.

Unquote:

The CoFD further directed the IR & Legal Departments, HQr to comply with the directives of the Hon'ble High Court of Chhattisgarh immediately without any further delay, through an empaneled Sr. Counsel."

3. On the basis of the aforesaid resolution / order, Mr. H.B. Agrawal, learned Senior Counsel appearing for the respondents / SECL, would submit that now, the exclusion of the petitioners from pay protection that has been caused by order 13-7-2009 / office memorandum dated 28/30-10-2009 has now already been removed and all the workmen selected on higher post would be granted wage protection which

would include the petitioners herein also, therefore, no cause of action survives for consideration.

4. Mr. Anurag Dayal Shrivastava, learned counsel for the petitioners, would submit that in view of the order dated 17-9-2021 extracted herein-above and in view of the submission of learned Senior Counsel for the respondents / SECL, the writ petition be disposed of with a direction to the SECL to grant pay protection to the petitioners with effect from the date of their joining.
5. Be that as it may, in pursuance of the order dated 17-9-2021 passed by the SECL and filed before this Court along with the application for information regarding subsequent development dated 20-9-2021 (I.A.No.5), the respondent SECL is directed to take appropriate steps to grant pay protection to the petitioners with effect from the date of their appointment – 16-7-2007 (Annexure P-3) / joining within 90 days from today.
6. With the aforesaid observation and direction, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge