

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.3873 of 2013**

Sunil Kumar (dead) through LR's

1a. Bilesiya Bai, aged about 32 years, W/o Late Sunil Kumar

1b. Raja Dewangan, aged about 15 years, S/o late Sunil Kumar

1c. Ku.Roshani, aged about 11 years, D/o late Sunil Kumar

1d. Ku.Kashish, aged about 7 years,

Proposed petitioner No.1b to d being minor through natural guardian mother Bilesiya Bai, aged about 32 years, W/o late Sunil Kumar

All R/o ward No.6, Gokul Nagar, Chirmiri, Baikunthpur, Distt.Koriya

----- LR's of the petitioner

Versus

1. South Eastern Coalfield Ltd. Through its Chairman cum Managing Director, Seepat Road, Bilaspur
2. Chief General Manager, West Chirmiri Area, South Eastern Coalfield Ltd. Distt.Koriya
3. Chief Manager, South Eastern Coalfield Ltd. Seepat Road, Bilaspur
4. Personnel Manager, Chirmiri Area, South Eastern Coalfield Ltd. Distt.Koriya
5. Smt.Radha Bai, Aged about 52 years, R/o 44 Quarter, West Chirmiri, Thana Pondi, Baikunthpur, Distt.Koriya

----- Respondents

For LR's of Petitioners: Mr.Parag Kotecha and Mr.Shalvik
Tiwari, Advocates

For Res.No.1 to 4 : Mr.Vinod Deshmukh, Advocate

For Respondent No.5 : Mr.Sanjay Agrawal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04.10.2021

1. Shri Ram Dulare while working as SECL employee died in

harness leaving original petitioner Sunil Kumar (son of Shri Ram Dulare from his first wife) and wife Radha Bai-respondent No.5. Earlier, the writ petitioner had filed writ petition being WPS No.41/2009 before this Court, in which this Court on 29.8.2013 directed respondent No.3 therein to consider the case of the petitioner as well as respondent No.5 for dependant employment keeping in mind the conditions mentioned in the National Coal Wage Agreement.

2. By the impugned order dated 10/11.11.2013, the respondent SECL has granted monetary compensation to respondent No.5 and denied the dependant employment to the writ petitioner.

3. The writ petitioner has filed this writ petition questioning the order dated 10/11.11.2013 granting monetary compensation to respondent No.5 and declined to grant dependant employment to him and during pendency of this writ petition, original writ petitioner has died and his widow, son and daughters were substituted.

4. Mr. Shalvik Tiwari, learned counsel for legal representatives of the writ petitioner, would submit that petitioner No.1a being widowed daughter-in-law is also entitled for dependant employment after death of her husband in accordance with clause 9.3.3 of the

National Coal Wage Agreement and therefore, the impugned order deserves to be set aside.

5. On the other hand, Mr. Viod Deshmukh, learned counsel for respondents No.1 to 4, would submit that monetary compensation as opted by widow of deceased SECL servant duly nominated in SECL record has already been paid monetary compensation as per affidavit given by the respondent SECL.

6. Mr. Sanjay Agrawal, learned counsel for respondent No.5, would submit that Sunil Kumar's widow / petitioner No.1a herein has already remarried and therefore, she is not entitled for dependant employment.

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

8. In first round of litigation, this Court directed the respondent SECL to consider the case of petitioner-Sunil Kumar and respondent No.5-Radha Bai in accordance with National Coal Wage Agreement, which was considered and order dated 10/11.11.2013 (Annexure P-6) was passed granting monetary compensation to respondent No.5 in accordance with clause 9.3.3 read with clause 9.5.0 (ii) of the National Coal Wage

Agreement. Clause 9.5.0 (ii) of the National Coal Wage Agreement states as under:-

"9.5.0 Employment/Monetary compensation to female dependant

Provision of employment/monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

(i) xxx xxx xxx

(ii) In case of death/total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0., if the female dependant is below the age of 45 years, she will have the option either to accept the monetary compensation of Rs.8,000/- per month or employment.

(iii) xxx xxx xxx."

9. As such, as per consent opted by respondent No.5, monetary compensation is being paid to her, who is admittedly and undisputedly wife (II) of deceased SECL servant and among the person who is entitled for dependant employment / monetary employment and the writ petitioner being won who also died during pendency of the writ petition. Though widowed daughter-in-law is also entitled for dependant employment, but since son has already died and wife of deceased SECL servant / respondent No.5 has already opted for monetary compensation and getting the same since long and now substituted petitioner / wife of Sunil Kumar is already said to have been remarried, I do not find it is a fit case to interfere with order

granting monetary compensation to respondent No.5.

10. Accordingly, the writ petition deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-