

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4819 of 2021

Preety Nillay Matreja W/o Ankit Matreja, D/o Late Ajay Kumar Aged About 29 Years Resident Of Quarter No. C.H/32, Shahid Bhagat Singh Colony, SECL Korba , Post And District Korba Chhattisgarh

---- Petitioner

Versus

1. Coal India Limited Through Its Chairman 10 Netaji Subhash Road Calcutta (West Bengal), District : Kolkata, West Bengal
2. South Eastern Coalfields Limited Chairman Cum Managing Director , Seepat Road, Bilaspur District Bilaspur Chhattisgarh.
3. Senior Manager (Personnel) South Eastern Coalfields Limited, Central Workshop SECL Korba, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For Respondent/s	:	Mr. Vinod Deshmukh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/09/2021

1. Aggrieved by the order Annexure P-1 dated 08.07.2021 the present writ petition has been filed.
2. Vide the said order the respondents have rejected the claim of the petitioner for compassionate appointment. The father of the petitioner was working under the respondents and who died in harness on 29.03.2021. On the date of death, the deceased was survived by his widow and two daughters and petitioner being one of them, the petitioner moved an application for dependent employment which vide impugned order stands rejected. The sole ground of rejection was the status of the petitioner

being that of a married daughter. Therefore they would not fall within the ambit of dependents under the provisions of NCWA Chapter- IX.

3. So far as the issue whether a married daughter would fall within the ambit of dependent of the deceased under the provisions of NCWA Chapter-IX, the law as of now stands settled and it is no longer res-integra. This High Court in the case of **Smt. Asha Pandey Vs. Coal India Ltd. & Others, passed in WPS 4994/2015** decided on 15.03.2016 has already held that a married daughter also would be fall within the ambit of a dependent and rejection of candidature of a married daughter for dependent employment only on the ground of her marital status is bad in law. The said order of this Court in the case of **Smt. Asha Pandey Vs. Coal India Ltd. & Others**, have been upheld by the Division Bench of this Court and also by Hon'ble Supreme Court.
4. The said judgment of the Single Bench dated 15.3.2016 was subjected to challenge in an appeal i.e. Writ Appeal No.246 of 2016 along with couple of other Writ Appeals preferred by the respondent management. The said bunch of Writ Appeals got dismissed by the Division Bench vide order dated 3.9.2019. The Division Bench while dismissing the Writ Appeals, in paragraph 18, held as under:

“18. It is made clear that the writ Court after holding part of Clause 9.3.3 of NCWA -VI and Clause 9.4.0 (1) of NCWA – IX to be void and inoperative to the extent it excludes married daughter from consideration for dependent employment, directed appellant company to consider the claim of petitioners therein for dependent employment afresh, in accordance with law. Said direction of the writ Court is only with regard to consideration of claim for dependent employment and to grant the same subject to fulfillment of other requirements of becoming entitled for dependent employment as prescribed in Clause 9.3.3 of NCWA- IX.”
5. In view of the aforesaid decisions laid down by the Single Bench as well as by the Division Bench, this Court in the present Writ Petition is of the

firm view that the factual matrix of the present case and the contentions put forth by the management in support of their contentions being the same that have been raised and decided in the aforementioned Writ Petition as well as Writ Appeals, the present Writ Petition also deserves to be allowed in similar terms.

6. Accordingly, the present Writ Petition also stands allowed in terms of the order passed by the Division Bench in Writ Appeal No.246 of 2016 and other Writ Appeals decided analogously on 3.9.2019.
7. As a result, the impugned order dated 08.07.2021 Annexure P-1 passed in the case of petitioner deserves to be and is accordingly set aside and matter stands remitted back to the respondent authorities for taking a fresh consideration on the claim of the petitioner for dependent employment. The same shall be considered and decided by the respondents after due verification of the entitlement part of the petitioner in accordance with the policy governing the field at the earliest preferably within a period of 90 days from the date of receipt of copy of this order subject to the petitioner being otherwise eligible for all the grounds other than her marital status.
8. Let this exercise be completed within a period of ninety days from the date of receipt of copy of this order.
9. Writ Petition stands allowed and is disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

Rohit