

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5100 of 2021

1. Smt. Sumitra W/o Late Ratan Lal Aged About 52 Years R/o Ward No. 12 Amanala Dafai, Haldibadi Police Station Chirmiri, Tehsil Chirmiri, District Koriya Chhattisgarh
2. Smt. Gita W/o Shri Chandan Samundre, D/o Late Ratan Lal Aged About 32 Years R/o Ward No. 12 Amanala Dafai, Haldibadi Police Station Chirmiri, Tehsil Chirmiri, District Koriya Chhattisgarh.

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Chairman Cum Managing Director, South Eastern Coalfields Limited, Head Quarter, Seepat Road, Sarkanda, District Bilaspur Chhattisgarh
2. Director (Personnel) South Eastern Coalfields Limited Head Qtrs, Seepat Road, Police Station Sarkanda , Bilaspur.
3. Chief General Manager Chirmiri Area, Police Station Podi (West Chirmiri), Chirmiri, District Koriya Chhattisgarh.
4. Sub Area Manager NCPH Sub Area, South Eastern Coal Fields Ltd., Chirmiri Area, Chirmiri, Post Haldibadi, District Koriya .

---- Respondents

For Petitioner	:	Mr. Chandresh Shrivastava, Advocate.
For SECL	:	Mr. Sudhir Kumar Bajpai, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/09/2021

1. Challenge in the present Writ Petition is to the action on the part of the respondents whereby the claim of the petitioner No.2 for dependent employment has been denied only on the ground that the petitioner No.2 happens to be a married daughter of deceased employee.

2. The petitioner No.2 in the present writ petition had moved an application for dependent employment in the capacity of daughter of the Late Ratan Lal who died in harness working under the respondents on 12.03.2020. The deceased was working as a General Mazdoor being Mason Helper posted on NCWA by the respondents. The petitioner's claim has been rejected vide the impugned order Annexure P-1 only on the ground that petitioner No.2 happens to be the married daughter. Petitioner no.1 is the mother of the petitioner No.2 and the widow of the deceased. The reason assigned by the respondents is that the married daughter does not fall within the ambit of dependents for the purpose of claiming dependent employment under the provisions of National Coal Wage Agreement (in short 'NCWA')
3. The issue involved in the present writ petition does not need much deliberation and consideration in the light of the judgment passed by the Single Bench of this court in WPS No.4994 of 2015, decided on 15.03.2016 in case of Smt. Asha Pandey Vs. Coal India Ltd. & Others. The High Court in its order after considering all the objections and contentions that were raised by the management while denying the dependent employment to the petitioner therein on the ground of she being a married daughter, the Single Bench allowed the writ petition holding that denial of dependent employment to married daughter of employees under the respondents to be gender bias and unreasonable and also held it to be violative of Articles 14 and 15 of the Constitution of India. It was also held to be impermissible under law and the High Court after went on and held that the provisions of NCWA excluding consideration of the married daughter for dependent employment to be unjust, unfair and opposed to law.

4. The said judgment of the Single Bench dated 15.03.2016 was subjected to challenge in Writ Appeal i.e. Writ Appeal No.246 of 2016 along with couple of other Writ Appeals preferred by the respondents-management. This bunch of Writ Appeals got dismissed by the Division Bench vide order dated 03.09.2019. 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 fulfilment 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 has 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 03.09.2019.

7. As a result, the petitioner is directed to approach the respondents and the respondents, in turn, are directed to reconsider the claim of the petitioner for dependent employment and to grant the same subject to fulfillment of other requirements entitled for dependent employment in terms of the provisions of law governing the field.
8. Let this exercise be completed within a period of sixty days from the date of receipt of copy of this order.
9. Of late, this Court has been receiving too many litigations of similar and identical nature. The point of issue involved in the present writ petition already stands well settled for well over a couple of years now. In spite of that the respondents still are not considering the claim for dependent employment in terms of the decision which already stands settled the judgment of this Court in the case of **Smt. Asha Pandey Vs. Coal India Ltd. & Others** and a series of judgments thereafter which have all been upheld uptill the Stage of Supreme Court.
10. It is high time that respondents should take necessary steps for modifying the NCWA to the aforesaid extent and Respondent Authorities also should take necessary steps in sending necessary instructions to the various Area Headquarters under the SECL highlighting these aspects and also apprise the officers in respect of judgment rendered in the case of **Smt. Asha Pandey Vs. Coal India Ltd. & Others** and subsequent decisions on the same issue. The claim for dependent employment should henceforth be considered ignoring the aspect of claimant being a married daughter. Respondent Authorities should consider the claim of the claimants strictly in accordance with the provision of NCWA except the ground of claimant being a married daughter.

11. Let a copy of this order be placed before the respondent no.1 & 2 for taking all necessary remedial steps in this regard to avoid unnecessary litigations in the future.

12. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit