

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 5918 OF 2018**

- Hiramani, W/o Harish Chandra, aged about 35 years, D/o Late Shri Shyamlal, R/o Gram Panchayat Kevra, Post and Tahsil Bhaiyathan, District Surajpur (CG)

... Petitioner**versus**

1. Coal India Ltd., through Chairman, 10 Netaji Subhash Road, Calcutta (West Bengal)
2. South Eastern Coalfields Limited, Chairman-cum-Managing Director, Seepat Road, Bilaspur, District Bilaspur (CG)
3. Deputy Regional Manager, South Eastern Coalfields Limited, Chirmiri Area, Post Haldibadi, District Korea (CG)

... Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For Respondents	:	Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****[28/09/2021]**

1. Aggrieved by Order dated 26.3.2018 (Annexure P-1), the present Writ Petition has been filed by Petitioner.
2. Vide the impugned Order, the claim for dependent employment by Petitioner has been rejected. The ground of rejection has been only on the ground of Petitioner being the married daughter of the deceased employee.
3. The father of Petitioner was working under the Respondents as General Mazdoor (Category-II) and who died in harness on 24.3.2016. The deceased employee had a son who also died immediately thereafter on 14.9.2016. Thereafter, the Petitioner, the only daughter, was left in the family along with the widow of the deceased employee, as dependent.
4. Contention of learned Counsel for Petitioner is that the husband of Petitioner also is an unemployed person and was staying along with the widow after the death of the deceased employee. Petitioner, in her capacity as the daughter of the deceased employee, had moved an

application for dependent employment but vide the impugned Order her claim has been rejected only on the ground that the Petitioner happened to be a married daughter and thereby she would not fall within the definition of 'dependents'.

5. As regards the issue of married daughter whether would fall within the definition of 'dependent' or not, this Court in the case of “Smt. Asha Pandey Vs. Coal India Ltd., & Others” decided on 5.3.2016 in W.P.(S) No. 4994/2015 has specifically held that the married daughter would also be a dependent to the deceased employee. In the said judgment, the clause of excluding married daughter from the definition of 'dependents' under the National Coal Wage Agreement (NCWA) was held to be bad. The judgment of this Court in “Smt. Asha Pandey” (supra) has been upheld also by the Hon'ble Supreme Court. Thereafter, this Court in a series of decisions has held that the action on the part of Respondents in rejecting the claim of dependent employment only on account of marital status of the claimant being not proper. Once when the law stands settled by the aforementioned decision and also subsequently by a catena of decisions rendered by this Court, the action of Respondents in rejecting the claim of Petitioner, therefore, is unsustainable and deserves to be and is accordingly set-aside.

6. Learned Counsel appearing for Respondent SECL, however, submits that Petitioner as such cannot claim dependent employment as a matter of right. In spite of the fact that this Court has settled the issue that married daughter can also be considered for dependent employment, the aspect of dependency has to be verified and scrutinized and only thereafter can the Petitioner be further considered for dependent employment.

7. Learned Counsel for Respondent SECL further submits that there can also be a situation where the Petitioner or the daughter must have got married subsequent to the death of the deceased employee. In that case also the dependency may change from the deceased employee to the husband with whom the marriage has been undertaken subsequent to the death of the deceased employee. In that event also the dependency part has to be ascertained before reaching to a conclusion.

8. Be that as it may, since the impugned Order reflects the rejection only on the ground of Petitioner being a married daughter and the order of rejection of dependent employment on similar set of facts having already been set-aside by this Court in "Smt. Asha Pandey" (supra), the present matter is remitted back to the Authorities concerned who shall conduct due verification and scrutiny, particularly in respect of the dependency part, strictly in accordance with the provisions of NCWA, except for the ground of marital status of Petitioner.

9. Considering the fact that it is a case where the death of the deceased employee took place in the year 2016, the Respondents are directed to take a final decision on the claim of Petitioner within an outer limit of 60 days from the date of presentation of certified copy of this Order before them.

10. Writ Petition accordingly stands partly allowed.

Sd/-
(P. Sam Koshy)
Judge