

HIGH COURT OF CHHATTISGARH, BILASPURWA No. 388 of 2021

- 1.A Smt. Nasima Begam W/o Late Shajada Khan Aged About 61 Years
- 1.B Shanawaz Khan S/o Late Shajada Khan Aged About 41 Years
- 1.C Firoz Khan S/o Late Shajada Khan Aged About 39 Years
- 1.D Sabir Khan S/o Late Shaajada Khan
- 1.E Shabina Khan D/o Late Shajada Khan W/o Jalaluddin -A Aged About 34 Years
- 1.F Mohd. Sams Tabrez Khan Late S/o Late Shahjada Khan Aged About 29 Years .
- 1.G Jishan Mohd. Khan S/o Late Shahjada Khan Aged About 25 Years
- 1.H Rabiya Khan D/o Late Shahjada Khan Aged About 24 Years
All R/o Bartunga Colliery Chirmiri, Thana Chirmiri, Tahsil Khadagawa District Korea Now R/o of 156 -B/ 21-D, B Mak Town, Area Karela Bagh, Allahabad (Prayagraj) U.P.

---- Appellants

Versus

- 1 South Eastern Coalfield Limited South Eastern Coalfield Limited, Through Its Chairman, Cum Managing Director, Seepat Road Bilaspur Chhattisgarh
- 2 Director, Personal, Seepat Road Bilaspur Chhattisgarh
- 3 Deputy Chief Medical Officer, Regional Hospital Kurasia Chirmiri Area District Korea Chhattisgarh
- 4 Chief Medical Superintendent, SECL Seepat Road Bilaspur Chhattisgarh
- 5 Deputy Regional Manager, Chirmiri Open Caste Project Chirmiri District Korea Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Appellants	: Ms. Naushina Afrin Ali, Advocate.
For Respondents No 1 to 3 and 5	: Mr. Sudeep Agrawal, Deputy Advocate General.
For Respondent No. 4	: Mr. Animesh Tiwari, Advocate.

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Goutam Bhaduri, Judge

Judgment on board

Per Arup Kumar Goswami, Chief Justice

24.11.2021

Heard Mr. Parag Kotecha, learned counsel for the appellants. Also heard Mr. R.K. Gupta, learned counsel for the respondents.

2. This appeal is presented by the legal representatives of Shahjada Khan, who were substituted during pendency of the writ petition, against an order dated 14.09.2021 passed by the learned Single Judge, dismissing the writ petition.
3. Writ petition was filed, essentially, with a prayer to declare the petitioner as medically unfit and also to grant benefits to him and his family as per Clause 9.4.0 of the National Coal Wage Agreement-IX. The case presented by the predecessor-in-interest of the appellants in the writ petition is that he was suffering from various diseases and he had amputation on his leg. In the appeal, it is stated that his right leg below the knee was amputated because of development of Gangrene.
4. Because of the condition of the petitioner, request was made by him to declare him medically unfit, and as the same was not done, recourse was taken by filing the writ petition.
5. In the reply filed by the respondents, it is stated that because of his physical condition, on the basis of recommendation of the Medical Screening Board, he was given "Alternative Surface Duty".

6. The predecessor-in-interest of the appellants had retired on superannuation on 01.07.2012 and he died on 25.05.2013.

7. Neither the writ petitioner nor the respondents brought on record Clause 9.4.0 of the National Coal Wage Agreement-IX.

8. Be that as it may.

9. On a query of the Court, Mr. Kotecha submits that the predecessor-in-interest of the present appellants was paid salary till the date of his retirement.

10. When the predecessor-in-interest of the appellants continued to remain on duty and accordingly, was paid full salary, the view taken by the learned Single Judge cannot be said to be suffering from any infirmity.

9. In that view of the matter, finding no merit, this appeal is dismissed.
No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge