

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS NO. 5541 OF 2020**

- Chitra, W/o Late Shri Dattatray, aged about 58 years, R/o Ward No 15, B. Seam Colliery, Post Khongapani, District Korea (CG)

... Petitioner**versus**

1. South Eastern Coalfields Limited, through Chairman cum Managing Director, South Eastern Coalfields Limited, Head Quarter, Seepat Road, District Bilaspur (CG)
2. Chief General Manager, South Eastern Coal Fields Ltd., Hasdeo Area, Post Office South Jhagrakhand Colliery, District Koriya (CG)
3. Sub Area Manager, J.K.D. Sub Area, South Eastern Coalfields Limited, Hasdeo Area, Post Office Khongapani, District Koriya (CG)
4. Manager (Personnel), J.K.D. Sub Area, South Eastern Coalfields Limited, Hasdeo Area, Post Office Khongapani, District Koriya (CG)

... Respondents

For Petitioner	:	Mr. Pawan Kesharwani, Advocate.
For Respondents	:	Mr. Sudhir Kumar Bajpayi, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/02/2021**

1. Challenge in the present Writ Petition is to the action on the part of Respondents whereby the claim of Petitioner for dependent employment has been denied only on the ground that the Petitioner happens to be a married daughter of deceased employee.

2. Brief facts of the case are that, the father of Petitioner late Dattatray was working under Respondents as Haulage Khalasi. He died in harness on 8.7.2019. Subsequent to death of deceased employee, i.e., the father of Petitioner, the widow moved an application on 2.11.2020 seeking for dependent employment in favour of her daughter i.e. Petitioner herein. Respondents vide their letter dated 3.12.2020 (Annexure P-1) intimated the Petitioner that her claim for dependent employment cannot be considered for the reason that the Petitioner is a married daughter and a married daughter do not come within the ambit of the National Coal Wage Agreement (in short, "NCWA") for the purpose of grant of dependent employment. It is being aggrieved by this action on the part of Respondents that the Petitioner has filed the present Writ Petition.

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 15.3.2016 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 thereafter 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 15.3.2016 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 Petitioner is directed to approach the Respondents and the Respondents, in turn, are directed to reconsider the claim of 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 ninety days from the date of receipt of copy of this order.

9. Writ Petition stands allowed and is disposed of accordingly.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE