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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5177/2022

1. Khushbu Sagar Choutel,
Before Marriage Name Khushbu d/o Raju Usare),
A/A 24 years, Occ. Nil,
R/o. Chor Khidki, behind Veternary Hospital,
Naginabag Ward, Chandrapur, Dist. Chandrapur.
 2. Smt. Sushila Raju Usare,
Aged 64 years, Occ. Housewife,
R/o. Chor Khidki, behind Veternary Hospital,
Naginabag Ward, Chandrapur, Dist. Chandrapur.
 3. Varsha Pappu Rathod
Before Marriage Name Varsha d/o Raju Usare),
Aged 30 years, occ.- Housewife,
R/o Pnchasheel Chowk, Ghutkala Ward, Chandrapur,
Tah. and Dist. Chandrapur .
- Petitioners.

Versus

1. Western Coalfields Ltd.,
through is Chairman,
10, Netaji Subhashchandra Bose,
Calcutta. (West Bengal).
 2. General Manager,
Western Coalfields Ltd.
Chandrapur Area, Post Babupeth, dist. Chandrapur.
 3. Dy. General Manager/
Regional Personal Manager,
Chandrapur Area, Western Coalfields Ltd. Chandrapur.
 4. Sub-Area Manager (Personnel),
Western Coalfields Ltd.,
Durgapur Area, Chandrapur. Distt. Chandrapur.
- Respondents.

Mr. A.A. Dhawas, Adv for petitioners.
Mr. Pushkar Ghare, Adv for resp. nos.1 to 4.

**CORAM : AVINASH G GHAROTE &
URMILA JOSHI-PHALKE, JJ.**
DATE : 27-09-2023

ORAL JUDGMENT (Per- Avinash G Gharote, J)

Heard.

2. **Rule.** Rule is returnable forthwith with the consent of learned counsels appearing for the parties.

3. This petition questions the communication dated 31-08-21 by which the claim of the petitioner no. 1 who is the married daughter of the deceased employee Raju s/o Nandu Usare, who was employed as a sweeper, for compassionate appointment has been rejected on the ground that a married daughter is not included in clause 9.3.3 of the National Coal-wage Agreement, IX which adopts the National Coal-wage Agreement, VI in which Chapter-9 provides for social security by making a provision for appointment of one of the legal heirs of the deceased employee. Mr. Dhawas, learned Counsel for the petitioners invites our attention to the judgment in WP (s) No 4994/2015 (**Smt Asha Pandey V Coal India Ltd and others**) rendered by the learned Single Judge of the Chattisgarh High Court, whereby clause 9.3.3 of the aforesaid agreement has been declared to be violative and discriminatory insofar as it excludes married daughter from consideration of dependent employment. A writ appeal carried against this judgment before the learned Division Bench, the learned Division Bench dismissed the same on 03-09-2019 against which SLP Diary No. 238/20 carried before the Hon'ble Apex Court, the same has been dismissed on 31-01-2020. It is therefore contended in light of the above, the petitioner no.1 is entitled for employment.

4. Mr Ghare, learned counsel for the respondents, does not dispute the above position. He, however, contends that in a case of sister of

the deceased employee which was excluded under the same clause 9.3.3 of Chapter-9 of the National Coal-wage Agreement, IX, the Hon'ble Apex Court in petition for Special Leave to Appeal No. 6766/23 has issued notice and therefore the petition needs to be rejected.

5. In our considered opinion, since clause 9.3.3 as it stands today is held to be arbitrary and violative, the petition against which, the Hon'ble Apex Court has dismissed, the same would hold the field. The Western Coalfields Limited being the subsidiary of Coal India Ltd. is equally bound to abide by the policy and decision of the Coal India Limited and therefore would be equally bound by the aforesaid decision. In that view of the matter, the present petition is allowed by directing the respondents to reconsider the application of the petitioner no.1 in light of what has been held in **Smt Asha Pandey** (supra) and take appropriate decision in that regard within a period of one month from today vis- a- vis the claim made by petitioner no.1 alone.

6. Rule is made absolute in above terms. No costs.

JUDGE

JUDGE