



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

WRIT PETITION NO. 756 OF 2024

- 1) Ghanshyam Vishwanath Khade,
Aged about 70 years, Occ. Nil
- 2) Sunanda Meghshyam Khade,
Aged about 53 years, Occ. Anganwadi
Sewika
- 3) Vrushali w/o. Sudhir Masharkar,
Aged about 25 years, Occ. Housewife,
R/o. Chaprala, Tehsil Bhadrawati and
Dist. Chandrapur
- 4) Narendra Meghshyam Khade,
Aged about 19 years, Occ. Student
- 5) Rupali W/o. Manoj Khade,
Aged about 32 years, Occ. Nil

.. Petitioners

Above petitioner Nos. 1, 2, 4 and 5 are
R/o. At Mauza Ukhani, Tehsil Wani,
Dist. Yavatmal

Versus

- 1) Western Coal Fields Ltd. (WCL),
Thorough its Chairman Cum
Managing Director, Coal Estate, Civil
Lines, Nagpur
- 2) Area General Manager WCL, Wani
Area, Project and Planning
Department Urjagram, Post Tadali,
Dist. Chandrapur.

.. Respondents

Mr. S.O. Ahmed, Advocate for the petitioner.

Mr. C.S. Samudra, Advocate for the respondents

**CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.**

DATED : JULY 25, 2024

ORAL JUDGMENT (Per : Nitin W. Sambre, J.)

Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned Counsel appearing for the parties.

(2) In the Rehabilitation and Resettlement Policy of Coal India Ltd. 2012 (hereinafter referred to as "R and R Policy"), the definition of the family reads thus :-

*"(b) **"family"** includes a person, his/her spouse, son including minor sons, dependant daughters, minor brothers, unmarried sisters, father, mother residing with him or her and dependant on him/her for their livelihood; and includes **"nuclear family"** consisting of a person, his/her spouse and minor children. Provided that where there are no male dependants, the benefit due to a land loser may develop on the dependant daughter nominated by the land loser."*

(3) The petitioner No.5 is a daughter-in-law of the petitioner No.1/land owner, who got married to the son of the land owner on 11/06/2015. In relation to the property of the land owner, a notification under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as CBA (A&D) Act, 1957) was issued on 20/03/2015 i.e. prior to the date of marriage of the petitioner No.5 with son of the land owner.

(4) The husband of the petitioner No.5 sought employment under the aforesaid R and R policy, however, he was declared medically unfit and as such, became incapacitated to draw the benefit under the said policy. Same has prompted the petitioner No.5 daughter-in-law of the land owner to seek employment under the R and R policy on the ground that her husband is declared medically unfit and as such, he is not able to earn income to maintain her. It is the case of the petitioner No.5 that she is accordingly liable to maintain her husband provided the respondent employer grants employment to her under the R and R policy.

(5) In support of the aforesaid case, Mr.Ahmed, learned Counsel for the petitioners, has invited our attention to the order dated 22/09/2022 delivered in the matter of **Mahadev Sadashiv Nannaware and another vs. Western Coalfields Ltd. and another [Writ Petition No.3547 of 2020 decided on 22/09/2022]**, particularly paras 6, 7 and 8 thereof. The said judgment is informed to be further followed by the Division Bench in number of matters and as such, widowed daughters-in-law are granted employment.

(6) Mr.Samudra, learned Counsel for the respondents, has opposed the prayer on the ground that the definition of the "family"

does not include a daughter-in-law like the present petitioner No.5. According to him, the respondent employer is willing to offer employment to the other family members, who are covered within the definition of the "family" referred above.

(7) Mr.Samudra, learned Counsel for the respondents, would further urge that no right is conferred on the petitioner No.5 as she is not included in the definition of the family under the R and R policy as her marriage was solemnized on 11/06/2015, which is subsequent to the date of the notification issued under Section 9 of the CBA (A&D) Act,1957 i.e. 20/03/2015. That being so, he would urge that the petitioners cannot take benefit of the order of this Court in the matter of **Mahadev Sadashiv Nannaware** (cited supra) and that the impugned order is justified.

(8) We have considered the rival claims. No doubt the definition of "family" in express terms does not include the daughter-in-law. This Court accordingly proceeded to consider the claim of the widowed daughter-in-law in Writ Petition No.3547 of 2020 decided on 22/09/2022 and granted benefit under the R and R policy to the widowed daughter-in-law. The only difference in the case in hand is that the husband of petitioner No.5 is declared to be medically unfit for the grant of employment under the R and R policy of 2012.

(9) As a sequel to above, the status of the husband of the petitioner No.5 is that of dependant on the land owner so also he is unable to earn himself and for the petitioner No.5. In such an eventuality, the status of the petitioner No.5 can be compared with that of a widowed daughter-in-law to the extent that her husband, who is medically incapacitated for the employment, is unable to maintain his wife i.e. petitioner No.5 and his father. In that view of the matter, considering the very object with which the R and R policy of 2012 is formulated and the judgment of this Court in the matter of **Mahadev Sadashiv Nannaware** (cited supra), we are of the view that the benefit ought to have been extended to the petitioner No.5, particularly when it is an admitted position on record that the respondents themselves have certified incapacitation of the husband of the petitioner No.5 on medical ground for getting the benefits under the R and R policy.

(10) This takes us to the next submission that Section 9 notification was issued prior to the marriage of the petitioner No.5. As far as the said issue is concerned, the fact remains that the petitioner No.5 stepped into the shoes of her husband, who under the R and R policy of 2012 is not entitled for the benefit in the backdrop of certification issued by the respondent employer of he being incapacitated for the employment. In such an eventuality, the fact of

notification under Section 9 of the CBA (A&D) Act, 1957 being issued prior to the date of marriage will have hardly any adverse impact over the rights of the petitioner No.5.

(11) The fact remains that in the backdrop of the financial and medical condition as cited in this case, the other family members of the land owner who are covered within the definition of "family" have already extended "no objection" for extending the benefits under R and R policy in favour of the petitioner No.5.

(12) That being so, we are of the view that the impugned decision taken by the respondents is not sustainable. As such, we allow the petition in terms of its prayer clause (a) and direct the respondents to consider the claim of the petitioner No.5 in accordance with the R and R policy of 2012 as expeditiously as possible and in any case within a period of eight weeks from the date of this judgment and communicate the decision to the petitioners.

(13) Rule is made absolute in the above terms. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

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