

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5963 of 2023

- Subhash Mali S/o Late Sohan Lal Aged About 60 Years R/o Ward No. 6, Dipika, Near Icici Bank, Katghora, District- Korba (C.G.)

---- Petitioner

Versus

1. South Eastern Coal Fields Ltd. Through- C.M.D (Personnel/ Administration) Seepat Road, Bilaspur (C.G.)
2. Director (Personnel) South Eastern Coal Fields Limited, Head Quarter- Seepat Road, Bilaspur, District- Bilaspur (C.G.)
3. Chief General Manager South Eastern Coal Fields Limited, Gevra Project, Gevra, District- Korba (C.G.)
4. Assistant Manager (Personnel) South Eastern Coal Fields Limited, Gevra Project, Gevra, District- Korba (C.G.)
5. Deputy General Manager (Mining)/mines South Eastern Coal Fields Limited, Gevra Project, District- Korba (C.G.)
6. The Regional Commissioner C.M.P.F., Beside Sarkanda Police Station, Seepat Road, Sarkanda, Bilaspur (C.G.)

---- Respondents

For Petitioner : Mr. Pushkar Sinha, Advocate
For SECL : Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

31.08.2023

1. The petitioner who was working as Assistant Foreman with the respondent- SECL was terminated on 20.12.2022 by respondent No. 5 Deputy General Manager (Mining).
2. Learned counsel for the petitioner would submit that he has filed appeal before respondent No. 1 the C.M.D (Personnel/ Administration) which was rejected on 25.04.2023 upholding the order dated 20.12.2022, therefore, he has filed the present writ

petition challenging the order dated 25.04.2023.

3. Learned counsel for the respondent-SECL would submit that since the petitioner was working as Assistant Foreman therefore, he was a workman as defined under Section 2(S) of the Industrial Dispute Act, 1947 and respondent employer being industry as defined under section 2(J) of the Industrial Dispute Act, 1947 therefore, the petitioner has alternate and efficacious remedy to raise Industrial Dispute, as such, the present petition is not maintainable. He would further submit that the petitioner was terminated from service after conducting regular departmental inquiry as such disputed facts are involved in the present case which can be ascertained by the Central Government Industrial Tribunal-cum-Labour Court, as such, also the writ petition is not maintainable.
4. I have heard learned counsel for the parties and perused the record.

5. From the documents it is quite vivid that the petitioner was working as Assistant Foreman, as such he is workman as defined under Section 2(S) of the Industrial Dispute Act. For ready reference Section 2(S) is extracted below:-

"Section 2(S) "Workman" is any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950) or the Army Act 1950 (46 of 1950) or the Navy Act 1957 (62 of 1957) or,
- (ii) who is employed in the police service or as an officer or other employee of a prison, or,

(iii) who is employed mainly in managerial or administrative capacity, or

iv) who, being employed in a supervisory capacity draws wages exceeding Rs. 10000/- per month or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

6. Thus, the petitioner is a workman as defined under Section 2(s) of the Act, therefore, he has alternate and efficacious remedy of raising industrial dispute, as such this writ petition is not maintainable. However, liberty is granted to the petitioner to raise industrial dispute. Therefore, it is directed that in the eventuality of filing of raising industrial dispute before the Assistant Labour Commissioner (Central)-cum-Conciliation Officer, Bilaspur and on failure of conciliation proceeding, the matter may be referred to the Central Government for referring the dispute to the Central Government Industrial Tribunal-cum-Labour Court for deciding the same in accordance with law.
7. With the aforesaid observation and direction, the writ petition (S) is dismissed.

**Sd-
(Narendra Kumar Vyas)
Judge**