
(2004) 02 JH CK 0015
In the Jharkhand High Court
Case No : Writ Petition (C) No. 6314 of 2002

Smt. Jharna Sharma

APPELLANT

Vs

Central Coalfields Ltd. and Others

RESPONDENT

Date of Decision : 11-02-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 244

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Ajit Kumar and Mukesh Kumar, for the Appellant; Benani Verma, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—Heard the parties.

2. In this writ application the petitioner, who is the widow of Late Deepak Kumar Sharma, has come out with a case that her husband was a General Manager's Schedule Contractor who was working at the Central Sunda Mines of CCL and he had submitted bills to the authorities for payment but since they were not being honoured, there was a hunger strike which was called by the representatives of the contractor. The petitioner has further stated that on 23.8.2001, while her husband was carrying out his contractual work inside the colliery, he met with an accident and died.

3. It is in the backdrop of the aforesaid developments that the petitioner has come forward making a claim/demand to the effect that the respondents should make necessary verification in relation to the works already done by her husband so that payments are released and then, to pay compensation as per agreement (Annexure-4). She has also prayed that the respondents should also consider the employment of one Dhaneshwar Ram, a Contractor Mazdoor, said to be a dependent, of the petitioner's husband.

4. Upon perusal of the facts pleaded, it is evident that this case pertains firstly to a monetary claim and secondly, to a claim for employment on compassionate considerations.

5. In the counter-affidavit filed on behalf of the respondents, it has been stated that the petitioner is not entitled to any amount at all. It has further been stated that all contractual works have necessarily to be approved by either the General Manager or the Tender Committee but there are no records which can show execution and/or completion of work performed by the petitioner's husband nor are there records available in their office establishing the entrustment of work to the husband of the petitioner. They have further stated that the respondents being "a Government Company, are guided by rules and regulations in writing and in absence of records approving endorsement of works to the petitioner's husband, it cannot be inferred that the petitioner's husband had done any work for Central Coalfields Limited. It is, the further case of the respondents that the husband of the petitioner trespassed into the mine and met with an accident and the agreement (Annexure-4) was enforced upon them because the representatives of the Contractor were on hunger strike. In the concluding portion of paragraph 15 of the counter-affidavit, it has been stated that a sum of Rs. 20,000/- was paid under pressure of Trade Unions.

6. Whether the petitioner was a regular contractor or not cannot, therefore, be ascertained either through the pleadings made in this petition or through arguments advanced in Court. Plainly, therefore, such a question is a question of fact and a writ Court will not enter into such disputed terrains.

7. Consequently, therefore, the petitioner may, if so advised, claim payment of the works said to have been done by her husband provided she is able to establish that her husband was a contractor who was entrusted with works through a machinery prescribed in law. Such a claim may be made only through filing of an appropriate suit before a competent Court of Civil Jurisdiction.

8. So far as the claim of compensation and/or employment is concerned, this Court, at the very threshold, rejects and dismisses the same. The petitioner's husband was neither an employee nor a regular worker of the respondents. Payment of compensation for death arising during the course of employment is provided under the Workmen's Compensation Act. The petitioner's husband cannot be brought within the definition of worker/workman under the said Act and therefore, he cannot claim any compensation through the processes of Court under Article 226 of the Constitution of India.

9. The matter relating to appointment also must be rejected following the same analogy. Additionally, the respondents being a Public Sector/Government Undertaking are guided by their own rules and regulations. The matter pertaining to appointment on compassionate considerations falls within the domain of National Coal Wage Agreements and they all pertain to a workman or an employee dying during the course of employment. A contractor is clearly outside

the purview of such a definition.

10. For the reasons aforesaid, this Court is not inclined to pass any orders in relation to the reliefs prayed for herein. As has already been indicated above, the petitioner may move an appropriate Court of Civil jurisdiction for redressal of her grievance in relation to prayer No. 1 i.e., in relation to payment of dues of her husband provided of course, she is able to give evidence and prove that her husband had actually worked and/or there was an existing valid contract betwixt the respondents and her husband. So far as other prayers are concerned, no writ can be issued. 11. With the aforesaid observations, this writ application is dismissed. There shall, however, be no order as to costs.