



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 282 of 2021

- D.P. Sharaf S/o Late K Anand Sharaf Aged About 64 Years
Chief Store Keeper, R/o Quarter No. E-22, 15 Block S.E.C.L.
Colony Korba District Korba Chhattisgarh., District : Korba,
Chhattisgarh

---- Appellant

Versus

1. Coal India Limited Through Chairman, 10 Netaji Subhas Road
Kolkata.
2. Coal India Limited Through Director (Personal I. R. and
Member Secretary J.B.C.C.I. IX, 10 Netaji Subhash Road,
Kolkata (West Bengal)
3. Government of India (Coal Ministry) Through Section Officer,
Coal Mantralaya , Shastri Bhawan New Delhi.

---- Respondents

WA No. 321 of 2021

- D.P. Sharaf S/o Late K. Anand Sharaf Aged About 64 Years
Chief Store Keeper, R/o Quarter No. E-22, 15 Block, S.E.C.L.
Colony Korba District Korba Chhattisgarh

---- Appellant

Versus

1. Union of India Through Secretary, Ministry of Coal, New Delhi
2. Coal India Limited Through Chairman, 10 Netaji Shubhash
Road, Kolkata (West Bengal)
3. S.E.C.L. Through C.M.D. Seepat Road, Bilaspur Chhattisgarh
4. Rajendra Prasad Singh President INMF (इंटक) Ghori Colliery,
District Bokoro Jharkhand Pin 825102
5. Ramendra Kumar President IMWUF (AITUC), Post
Bhurukunda, District Hajaribag, Jharkhand 829016
6. Dr. M. K. Pandhe President Situ B.T.Ranadive Bhawan, 13
A.Roj Avenue, New Delhi 110002
7. Nathulal Pandey Mahasachiv Koyla Majdur Sabha (H.M.S.)
1964 Right Town Jabalpur 482002 (M. P.)
8. Uday Patwardhan Mahasachiv Bhartiya Majdur Sangh B-1/11
LIC Quarter G. K. Road Pune 711016

---- Respondents

(Cause-title taken from Case Information System)





For Appellant	-	Mr. D.P. Sharaf, appellant in person.
For Respondents No.1 (in WA : No.321/2021) and respondent No.3 (in WA No.282/2021)		Mr. Ramakant Mishra, Assistant Solicitor General
For Respondents No.1 and 2 (in : WA No.282/2021) and respondents No.2 and 3 (in WA No.321/2021)		Mr. Abhishek Sinha, Senior Advocate assisted by Mr. Vinod Kumar Deshmukh, Mr. Shaileendra Shukla and Aditya Pandey, Advocates.
For Respondent No.8 (in WA : No.321/2021)		Mr. R. K. Verma, Advocate.
Date of hearing	:	22-04-2022
Date of Judgment	:	13-05-2022

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Rajendra Chandra Singh Samant, Judge

C A V Judgment

Per R.C.S. Samant, J.

1. The appellant in both the cases is the same person and the issue raised is also similar, therefore, both these writ appeals are being decided by this common order.
2. Writ Appeal No.282/2021 has been preferred against the order of Single Judge dated 26-07-2021 passed in WPS No.392/2012 and Writ Appeal No.321/2021 has been preferred against the order of Single Judge dated 26-07-2021 passed in WPS No.2914/2009.
3. In WPS No.392/2012 the appellant/petitioner has challenged the constitution of Joint Bipartite Committee for the Coal Industry (JBCCI)-IX on the basis of the wage revision of the workmen in the coal industry on the ground that such constitution was contrary to the provisions of the Industrial Dispute Act, 1947 and thus arbitrary



and unconstitutional. Learned Single Judge after hearing the arguments of the parties, has dismissed the petition.

4. In WPS No.2914/2009 the appellant/petitioner challenged the National Coal Wage Agreement -VIII entered into between the parties for a period of five years commencing from 01-07-2006 to 30-06-2011. Learned Single Judge after hearing the arguments of the parties, has dismissed the petition.

5. It is submitted by the appellant in person before this Court in Writ Appeal No.282/2021, that the appellant was employee of the respondent Coal India Limited, who had requested the respondent authorities for constitution of 9th Wage Board in accordance with the provisions under the Industrial Dispute Act, 1947, by letter dated 22-04-2010 and also by another letter dated 27-12-2010, which were not responded. The respondent authorities on their own constituted JBCCI-IX on 01-08-2011. The constitution of this committee was arbitrary and against the provisions of law. The objection of the petitioner is this, that none of the Labour Unions who were members in the said JBCCI-IX were registered and further, the petitioner was not a member of any of these unions. Therefore, such unions cannot represent the petitioner and other workmen. Further, Section 7A of the Industrial Disputes Act, 1947 provides for constitution of Tribunal to resolve dispute regarding wages. Hence, the constitution of JBCCI-IX is against this provisions. It is also submitted that the constitution of the committee





has been given approval by the Ministry of Coal vide letter dated 01-08-2011, which is not a proper approval, as such approval should have been given by the Labour Ministry. It is submitted that learned Single Judge has not considered these grounds and the legal ground of the petitioner, therefore, the impugned order is under challenge in this writ appeal.

6. Appellant in person in Writ Appeal No.321/2021, submits that the JBCCI-IX was a committee constituted illegally and Labour Unions who were the members of that committee, had no right to represent the petitioner and similarly placed other workmen. Therefore, National Coal Wage Agreement-VIII which was finalized on 24-01-2009 for a time period of five years commencing from 01-07-2006 to 30-06-2011, is invalid and the same cannot be enforced.

The petitioner is placing reliance on the decisions of Hon'ble the Supreme Court in the cases of **State Bank of India Staff Association and others Vs. State Bank of India and others**, AIR 1996 SC 1685, **Ford Corporation of India Staff Association Vs. Ford Corporation of India**, AIR 1995 SC 1344, **Oswal Agro Furane Ltd. And another Vs. Oswal Agro Furane Workers Union and another**, AIR 2005 SC 1555, **General Manager, Security Paper Mill Vs. R.S. Sharma and others**, AIR 1986 SC 954, **Workmen of M/s Delhi Cloth General Mills Ltd. Vs. The Management of M/s Delhi Cloth and General Mill Ltd.**, AIR 1970 SC 1851, **Brook Bond India Ltd. Vs. Workmen**, AIR 1981 SC



1660, **State of Bihar Vs. Kripa Shankar Jaiswal**, AIR 1961 SC 304, **Workmen of the Bombay Port Trust Vs. Trustees of Bombay Port and another**, AIR 1962 SC 481 and **Union of India Vs. S.B.Vohra and others**, AIR 2004 SC 1402.

The appellant also placed reliance on the judgment of Bombay High Court in the case of **National Organisation of Bank Workers' Federation of Trade Unions v. Union of India and others**, 1993 SCC OnLine Bom 495.

It is submitted by the appellant in person in both the cases, that the appeal in both the cases be allowed and the impugned orders be set aside and the relief be granted to the appellant as prayed.

7. Shri Abhishek Sinha, learned Senior Counsel for the respondents No.1 and 2 in Writ Appeal No.282/2021 and respondents No. No.2 and 3 in Writ Appeal No.321/2021 opposes the submissions made by the appellant in person and he submits that there is no infirmity in the orders passed by the Single Judge in both the writ petitions. It is submitted that constitution of JBCCI was challenged before the M.P. High Court in **WP No.8556/2016 (PIL)** by a union, namely, **Koyala Udyog Kamgaar Sangathan Vs. Union of India and others**, which was decided by order dated 23-11-2016 and the Division Bench of M.P. High Court has held that the constitution of JBCCI is not contrary or illegal or in contravention to the Industrial Disputes Act, 1947. It is submitted



that according to Section 18 of the Industrial Disputes Act, 1947, the settlement arrived at, in the course of conciliation proceeding, with recognized five Unions will be binding on all the workmen of the establishment as held in case of **Barauni Refinery Paragatisheel Shramik Parishad vs. Indian Oil Corporation Ltd. & Ors.**, (1991) 1 SCC 4, and also held in the case of **P. Virudhachalam and Ors. v, Management of Lotus Mitts and Anr.**, [1998] 1 SCC 650. Therefore, the constitution of JBCCI-IX being valid and the wage agreement entered into between the parties being applicable to all the concerned, there is no invalidity present to warrant any interference of this Court. The appellant has no locus standi to challenge the constitution of the JBCCI-IX and the wage agreement finalized on 24-01-2009. It is also submitted that the petitioner had not made the five National Coal Trade Unions who are signatories of the National Coal Wage Agreement (VIII), partin. Hence, dismissal of both the petitions by learned Single Judge is proper and there is no ground for interference present in these appeals.

8. We have heard the appellant in person and learned Senior counsel for respective respondents and also perused the documents present in the record of Writ Appeal No.282/2021 and Writ Appeal No.321/2021.

9. In the case of **Koyala Udyog Kamgaar Sangathan Vs. Union of India and others** in WP No.8556/2016 (PIL), The Division Bench of M.P. High Court has held as follows:-



“Section 7A of the Act, 1947 prescribed Constitution of Tribunal and power of the Tribunal. However, it is not necessary that each and every dispute has to be decided by the Tribunal when the provision of collective bargaining has been made in the Act of 1947, in accordance with Section 18. Certainly workers representatives on majority of votes the Unions have a right to settle their disputes through agreement and if the agreement is arrived during conciliation proceedings it is binding on all the parties to the dispute.

In view of the provisions made in Section 18 of the Act, 1947, in our opinion, the Constitution of JBCCI is not contrary or illegal or in contravention of Section 7 of the Act of 1947. We do not find any merit in this petition. It is hereby dismissed. No order as to costs.”

10. Therefore, constitution of the JBCCI-IX is not governed by Section 7A of the Industrial Disputes Act, 1947 (in short 'the Act, 1947'). It was decision of the Government to constitute a Joint Bipartite Wage Negotiating Committee, for the coal industry in the country consisting of the representatives from the management of coal companies and representatives of five Central Trade Union Organizations, namely, INTUC, AITUC, CITU, HMS and BMS. Therefore, there being nothing otherwise in the Act, 1947, for setting up for such wage negotiation committee, in no way it can be held that the wage negotiating committee, i.e. JBCCI-IX was illegal



and invalid.

11. As regards the objection raised with respect to the members of the said committee, it is only the oral submission of the appellant, that the Trade Unions, which were made members of the JBCCI-IX are not recognized or registered, is not supported with any kind of material or documents. On the contrary, it was decision of the Central Government to make the Central Trade Union Organizations, as representatives of the workmen in the coal industries, regarding which there is a mention in the letter dated 01-08-2011 about the constitution of JBCCI-IX members.

12. Learned Single Judge Held in paragraph 5, 6, 7 and 8 of the order dated 26-07-2021 passed in WPS No.392 of 2012 as follows:-

“5. National Coal Wage Agreement-IX (JBCC-IX) was signed on 31.1.2012 for a period of 5 years from 1.7.2011 to 30.6.2016 and that period has already come to an end during the pendency of this writ petition.

6. A careful perusal of the record would show that the petitioner is not adversely affected by constitution of JBCC-IX particularly when the said settlement arrived at between Management of Coal India Limited and Five National Coal Trade Unions which are binding to all workmen including the petitioner and furthermore, the petition is also liable to be dismissed on the ground of non-joinder of necessary party as five National Coal Trade Unions who have



signed NCWA-IX have not been made as party respondent, as such, JBCCI-IX cannot be quashed without their presence as party respondents in this writ petition.

7. In the considered opinion of this Court, since the JBCCI-IX constituted for a period 1.7.2011 to 30.6.2016 has already come to an end, examining the question would be purely academic, therefore, this Court is not inclined to examine the question on merits. However, the petitioner is at liberty to question JBCCI subsequently constituted, if so advised.

8. With the aforesaid stated observation, the writ petition stands finally disposed of. No cost(s)."

13. In the case of State Bank of India **State Bank of India Staff Association and others Vs. State Bank of India and others** (supra), it was held that the members of the Trade Union must be having employment in the industry to represent the other workman in the same industry as required under Section 22 of the Trade Unions Act, 1926. In this particular case, the five Central Trade Unions Organizations were a party to JBCCI IX. There is no such pleading of the petitioner that the members of the said Trade Unions were not employed in the industry. Hence, these Trade Unions were not fit to represent the petitioner and other workman is not established.

In the case of **General Manager, Security Paper Mill Vs.**



R.S. Sharma and others (supra), there was a settlement between management of the Union of the Workman. Subsequent to that the management and another union not representing the workers also came to settlement, regarding which it was held that the subsequent settlement shall not be binding on the workers, who were not represented by the union. This is not a case present here, therefore, this judgment is distinguishable.

In the case of **National Organization of Bank Workers' Federation of Trade Unions v. Union of India and others** (supra), the facts present before the Court that the Trade Union which negotiated was not a registered body under the provision of Trade Unions Act, 1926, and as such did not have the privilege to negotiate with the management. In the present case, the petitioner has not brought on any such material to show that the Central Trade Union Organizations which were the members of JBCCI IX were not registered body which has been discussed hereinabove. The other reliance of the petitioner on the judgment of **Ford Corporation of India Staff Association Vs. Ford Corporation of India** (supra), **Oswal Agro Furane Ltd. And another Vs. Oswal Agro Furane Workers Union and another** (supra), **General Manager, Security Paper Mill Vs. R.S. Sharma and others** (supra), **Workmen of M/s Delhi Cloth General Mills Ltd. Vs. The Management of M/s Delhi Cloth and General Mill Ltd.** (supra), **Brook Bond India Ltd. Vs. Workmen** (supra), **State of Bihar Vs.**

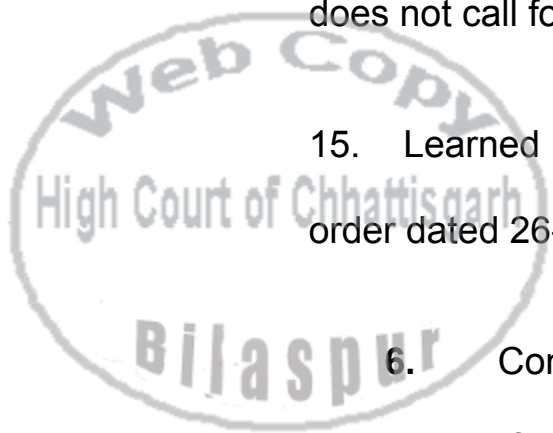


Kripa Shankar Jaiswal (supra), Workmen of the Bombay Port Trust Vs. Trustees of Bombay Port and another (supra) & Union of India Vs. S.B.Vohra and others (supra) are distinguishable from the present case on the basis of the facts present in those cases.

14. On the basis of the discussions made hereinabove and also the decision rendered by the Division Bench of M.P. in the Case of **Koyala Udyog Kamgaar Sangathan Vs. Union Of India And Others (supra)**, we are of the considered view that the decision of the Single Bench, holding the constitution of JBCCI-IX as valid, does not call for any interference.

15. Learned Single Judge has held in paragraphs 6 and 7 of the order dated 26-07-2021 in WPS No.2914 of 2009 as follows:-

6. Considering the fact that the writ petition was filed with a delay of 3 years and the National Coal Wage Agreement-VIII has already completed its life from 1.7.2006 to 30.6.2011 and the petitioner has further filed writ petition questioning the constitution of National Coal Agreement-IX in a duly constituted writ petition and he has not challenged the notification dated 28.2.2007 by which the Ministry of Coal, Government of India has conveyed the authorization of the Government of India to the Coal India to constitute JBCCI for Coal Industry, as such, at this point of time, I do not find any ground to entertain the instant writ





petition for the reasons of delay in filing the writ petition, the National Coal Wage Agreement-VIII has already come to an end after completing its tenure and the petitioner is not directly affected by that National Coal Wage Agreement-VIII, as such, I do not consider it a fit case to entertain the writ petition on merits. However, the petitioner is at liberty to proceed in accordance with law.

7. Accordingly, the writ petition stands finally disposed of. No order as to cost(s).”

There is specific mention in the impugned order, that Govt. of India authorized Coal India Limited to constitute JBCCI-III on 28-02-2007 and thereafter on 10-03-2007, in which all the five Central Trade Unions were nominated as representatives for constitution of JBCCI-VIII. Subsequent to which memorandum of Agreement for National Coal Wage Agreement -VIII was signed for a period of 5 years from 01-07-2006 to 30-06-2011. The notification dated 28-02-2007 giving authorization for constitution of the Committee has not been challenged, by the appellant which has been specifically taken note of by the learned Single Bench.

16. The submission of the petitioner that approval for constitution of JBCCI was not given by the appropriate Government, as has been defined in Section 2(a) of the Act, 1947, as it had to be Ministry of Labour, which should have granted approval for



constitution of committee. This definition has a wide scope, which includes various central public sector undertakings, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government. The Ministry of Coal is one of the various ministries of the Central Government and thus it represents the Central Government. There is no such specific rule, guideline or any provision of law according to which approval for constitution of JBCCI-IX was to be sought from the Labour Ministry only. Clearly, the petitioner was an employee in the Coal industry of the respondents which are public sector undertakings. Hence, there is no reason to find any fault with the approval granted by the Ministry of Coal, to the constitution of JBCCI and similarly there is no reason to hold that the wage agreement, which was challenged in the writ petition earlier and subsequent to which before this Court in Writ Appeal No.321/2021, is invalid and unfit to be enforced.

17. Further, the circumstances, that are present, show that the petitioner superannuated in the year 2017 and the time limit of National Coal wage Agreement has come to an end on 30-06-2016. Hence, for these reasons we are of this view that learned single Judge has not committed any error in holding that the writ petitions are not fit to be entertained. On the basis of these reasonings we are of the considered view that both these writ appeals are not fit to be entertained and allowed. Hence, these appeals are dismissed



and disposed off.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(R.C.S. Samant)
Judge

Aadil/Nisha

