



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No: 4331/014/2015

Dated:- 28.11.2016

**In the matter of:**

Shri Manoj Nunia, <sup>D543</sup>  
S/o Smt. Binda Devi,  
General Mazdoor, a female worker of Kuardi Colliery,  
Satgram Area, ECL, P.O. Kalipahari,  
District Burdwan (West Bengal)

..... Complainant

**Versus**

Coal India Ltd., <sup>D544</sup>  
Through: Chairman-cum-Managing Director,  
10. Netaji Subhash Road,  
Kolkata-700001,

..... Respondent No. 1

Eastern Coalfields Ltd., <sup>D545</sup>  
Through: Chairman-cum-Managing Director,  
Santoria, P.O. Desergarh,  
Burdwan, West Bengal.

..... Respondent No. 2

Date of hearing : 13.06.2016 & 22.07.2016

**Present:**

13.06.2016

1. Shri Manoj Nunia Complainant alongwith Shri Rajendra Prasad Sharma.
2. Shri Ravindra Kumar Raut, GM (P&IR), on behalf of the Respondent.

22.07.2016

1. Shri Manoj Nunia Complainant alongwith Shri Rajendra Prasad Sharma, Working President.
2. Shri Ravindra Kumar Raut, GM (P&IR), on behalf of the Respondent.

**O R D E R**

The above named complainant, a person with 40% visual impairment and dependent son of Smt. Binda Devi, General Mazdoor, a female worker of Kuardi Colliery, Satgram Area, Eastern Coalfields Ltd. filed a complaint dated 20.05.2015 before the Chief Commissioner for the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding denial of employment under Coal India Special Female Voluntary Retirement Scheme, 2014 (Revised).

2. The complainant submitted that he in response to Coal India Limited Circular No.CIL/C-5B/MP/SPVRS/379 dated 26.11.2014, her mother Smt. Binda Devi, a female worker of Kuardi Colliery, Satgram Area, Eastern Coalfields Ltd., applied for offering employment in his favour on 07.03.2015 as he is her only son. Her proposal was forwarded to the competent authority under Reference No. 291

.....2/-

dated 17.03.2015. Since the scheme was only for 6 months effective from 26.11.2014 to 25.05.2015, action to offer employment was already delayed by the Management of Eastern Coalfields Ltd. ignoring the provision of implementation of employment to a handicapped person as per PwD Act. He has further stated that ECL has offered a number of employment to the handicapped dependants in the past. But in his case, the Management takes plea of SF VRS Scheme for effective manpower in lieu of female worker.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 29.05.2015.

4. The respondent vide letter dated 20.06.2015 submitted that the motto of the scheme is to substitute the non technical female employees not gainfully deployed with their sons capable of working in any part of the mines especially in jobs directly connected with coal production. Said sons are also to be found medically and physically fit as per Mines Act and are to be within stipulated age group. The scheme is not optional meaning female employees are forced by the Management to retire prematurely nor can a female employee claim that her son must be employed in her place regardless of the decision of the Management not to dispense with her service. In this scenario, allowing a female employee to be substituted by a son not capable of working in the mines where there is a requirement and his being not found medically fit will defeat the purpose of the scheme. In such case, the female employee is continuing her service till the date of superannuation and she is not losing anything. Apart from above he also submitted that in compassionate employment cases, where the employee dies or becomes disabled while in the service, their company is appointing nominees with disabilities upto the extent of 3% of total employment provided in a year. In the instant case the service of the female employee is not terminated, the vacancy is not created. And once the vacancy is not created, the concept of reservation is not attracted. The rationale of providing employment to nominee with disability in case of death is quite different from the instant case of the complainant. Therefore, the representation of Shri Manoj Nunia has no merit of consideration as his mother Smt. Binda Devi is not preventing from working. He will be duty bound to abide by the order of this Court that may be passed in the matter.

5. A copy of reply dated 20.06.2015 received from the respondent was forwarded to the complainant vide this Court letter dated 08.07.2015 for his comments/rejoinder.

6. The complainant vide his letter dated 01.08.2015 has submitted that on receipt of respondent's reply he sent his comments on 02.07.2015. However, in response to this Court's letter dated 08.07.2015, he has enclosed the copy of his letter dated 01.07.2015 and submitted that in addition to his earlier comments he wants to add comments over point 7 of the respondent's reply about vacancy which has been blocked by respondent only because he is person with disability and

that is the subject matter of the complaint made by him which may kindly be disposed off. In his letter dated 01.07.2015, he has submitted that there is no mention of prohibiting employment to nominee with disability in place of female worker in the SFVRS 204. The respondent accepted in their statement that the nominees with disabilities are being accommodated for employment in place of workers dies in harness or in case of medically unfit.

7. The copies of the comments/rejoinder dated 01.07.2015 and 01.08.2015 received from the complainant were forwarded to the respondent vide this Court's letter dated 30.09.2015 for comment in the matter.

8. The respondent vide letter No.ECL/CMD/C-6B/GM(P&IR) /15/556 dated 14.10.2015 submitted that the Special Female Voluntary Retirement Scheme, 2014 (Revised) was formulated to get rid of surplus female employees. Smt. Binda Devi, the petitioner as per terms of contract is entitled to continue in her services till the date of her superannuation. This case is different from the compassionate employment cases where the employee dies in harness and one dependent of the deceased is offered employment to save the family from the distress. However, the respondent company is duty bound to comply with the order of this Court that may be passed in this case under the provisions of law.

9. Upon considering the replies dated 20.06.2015 and 14.10.2015 of the respondent No.2 and complainant's rejoinder dated 01.07.2015, 01.08.2015, 17.10.2015 and 18.03.2016, a hearing was scheduled on 13.06.2016.

10. During the hearing on 13.06.2016, the complainant reiterated his written submissions and submitted that there are large number of posts on surface such as Pump Operator, Switch Board Attendant, Cap Lamp Charger, Cap Lamp Cleaner, Store Mazdoor, Canteen Boy, General Mazdoor, Clerk, Office Peon which can be suitable for PwD nominee. In his case, he is having loss of vision in one of his eyes but clear vision in other eye. He is having sound health with extra curricular activities in football and cricket and if employed, he can be gainfully and honourably utilized in any job assigned to him. He also submitted a copy of application dated 17.01.2016 already submitted by his mother Smt. Binda Devi to ECL, a copy of Coal India Special Female Voluntary Retirement Scheme, 2014 (Revised) and a copy of the Order dated 10.03.2016 passed in Writ Petition No. 219 of 2016 during the hearing which were taken on record. He further submitted that there is no whisper for PwD nominee to deny him the benefit of Special Female Voluntary Retirement Scheme, 2014.

11. The representative of the respondent submitted that they have already filed their rejoinder before this Court on today. The aim of the Coal India Special Female Voluntary Retirement Scheme is to get rid of surplus female employees who come for employment against compassionate employment under Land User Scheme which female employees are not fully deployed. On the other hand, the mines are shortage of manpower directly linked to production. In the Voluntary Retirement Scheme,

the female employee has to opt out in favour of his adult son if found medically fit for the job in the mines. In Eastern Coalfields Limited, a company having maximum underground mines, for which they require manpower. The complainant because of his deficiency in vision, is not fulfilling the Medical Standards. Hence, they are unable to grant employment to a handicapped dependent son under Coal India Special Female Voluntary Retirement Scheme, 2014 (Revised). He further submitted that the W.P. No. 219 of 2016 is made in the different context. Nevertheless the same has been challenged and an appeal is pending in the Hon'ble Division Bench of Calcutta High Court.

12. The Court after hearing both the parties and on perusing the record available on file, directed the respondent to submit a copy of Mines Act, 1952 in this Court before the next date of hearing. The next date of hearing was fixed on 22.07.2016.

13. During the hearing on 22.07.2016, the complainant submitted his written arguments which were taken on record. He further submitted that the objective of the Special Female Voluntary Retirement Scheme is to optimize man power utilization of the company by reducing female manpower deployed in non technical jobs by appointment of their sons on job where there is requirement without increasing the overall manpower. Once there is a scheme, the benefit of the scheme cannot be denied. In the scheme, it is mentioned that the son must be fit for underground work. Mining operation is not continued to underground alone. In ECL, more than 30% of the mining jobs in underground mines are performed in surface. Thus, thousands are employed in such jobs. There is no restriction in Open Caste mines. 2/3<sup>rd</sup> of ECL's production comes from OC mines and 90% coal India's production comes from OC mines today. There are even subsidiary companies of CIL namely, NCL, CMPDL where the scheme was implemented. They have no underground mines. In MCL, BCCL and CCL, 99% of mines are OC. Because of discriminatory attitude of authorities at subsidiary level, the trade unions approached CIL Management and CIL issued a circular to subsidiaries directing to follow Medical Standard set under Mines Act. An honest appreciation of above facts and points of law would entitled the complainant to get the benefit of the scheme.

14. The representative of the respondent submitted that the Management have already submitted their written statement and also the written arguments. They do not have anything further to add to it.

15. After hearing the parties and after perusal of the record placed on the file, this Court observed that the complaint was made by Shri Manoj Nunia son of Smt. Binda Nunia, a person with 40% visual impairment and not by his mother Smt. Binda Devi. As per record, Smt. Binda Devi is not a person with disability. The Coal India Limited had introduced a scheme called "Coal India Special Female Voluntary Retirement Scheme, 2014 (Revised)" with effect from 26.11.2014 for a period of six months i.e. upto 25.05.2015. The objective of this Special Female Voluntary Retirement Scheme is to optimize manpower utilization of the company by reducing female manpower deployed in non-technical jobs by appointment of their sons on jobs where there is requirement, without increasing the

overall manpower. The Scheme shall apply to regular/permanent female employees of Coal India Ltd. And its subsidiary companies who are deployed in a non-technical jobs.

16. Since Smt. Binda Devi is not a person with disability and even she has not filed any representation in this Court showing her willingness to get her son, Shri Manoj Nunia, a person with visual impairment to be employed under the Special Female Voluntary Retirement Scheme, there is no violation of any provision of the Persons with Disabilities Act, 1995 or Government instructions in the matter. Apart from above, it is also pertinent to mention here that as per DoP&T's letter No.36035/1/2007-Estt. (Res) dated 30.07.2007, there is no provision of reservation while making appointment on compassionate ground. In view of the above, the case is devoid of merit and hence is disposed off without giving any direction to the respondent.



( Dr. Kamlesh Kumar Pandey )  
Chief Commissioner  
for Persons with Disabilities