

*** THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**+ W.P.Nos.33111 OF 2013, 8244 AND 8292 OF 2016,
14717 OF 2018 AND 6266 OF 2020**

% Date: 26-07-2022

J.V.Rama Rao

... Petitioner

v.

\$ Union of India, rep. by its Secretary,
Ministry of Labour, Secretariat, New Delhi and others
... Respondents

! Counsel for the Petitioners : Mr. Y.Pullu Rao

^ Counsel for respondents 1 and 5: Mr. T.Suryakaran Reddy,
learned Additional Solicitor
General of India
along with Mr. K.Aravind Kumar,
learned Central Government Counsel

^ Counsel for respondent No.4 : Mr. J.Srinivasa Rao,
learned Standing Counsel for
Singareni Collieries Company Limited

< **GIST:**

> **HEAD NOTE:**

? **CASES REFERRED:**

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION Nos.33111 OF 2013, 8244 AND 8292 OF 2016,
14717 OF 2018 AND 6266 OF 2020

COMMON JUDGMENT AND ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

This order will dispose of the above writ petitions. As a matter of fact, the above writ petitions are before the Division Bench on a reference made in view of the conflicting decisions of learned Single Benches.

2. We have heard Mr. Y.Pullarao, learned counsel for the petitioners; Mr. T.Suryakaran Reddy, learned Additional Solicitor General of India along with Mr. K.Aravind Kumar, learned Central Government Counsel for respondent Nos.1 and 5; and Mr. J.Srinivasa Rao, learned Standing Counsel for respondent No.4 – Singareni Collieries Company Limited.

3. The reference is before Division Bench to answer the following question which has been framed by the learned referral Judge:

Whether a driver employed by a transport contractor engaged by the Singareni Collieries Company Limited for transportation of coal would fall within the definition of the term 'employee' under Section 2(d) of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 or not?

4. The referral order succinctly sums up the controversy in question. However, we will advert to the same a bit later. It may be mentioned that petitioners in all the cases were awarded contract by Singareni Collieries Company Limited for transportation of coal for certain periods. Petitioners commenced transportation work immediately and had executed the work awarded to them by complying with the work order, whereafter bills were raised by the petitioners for payment of contractual dues. According to the petitioners, Singareni Collieries Company Limited (briefly 'the company', hereinafter) is insisting on petitioners to pay contribution @ 10.5/6% on behalf of the contractor to the Coal Mines Provident Fund. Petitioners contend that they are not liable to pay the same in as much as provisions of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 do not apply to

contractors who are employed to transport coal from one place to another as per work orders.

5. The referral Bench noticed that one of the first cases which came up before this Court was W.P.No.11107 of 2009 and batch. The said batch of writ petitions was disposed of by a learned Single Judge of this Court vide the common judgment and order dated 30.03.2011. In the said judgment, learned Single Judge recorded that a serious doubt arose as to whether the activity assigned to the petitioners would be treated as one in 'coal mine'. Learned Single Judge observed that the necessity for an employer to make contribution to the Coal Mines Provident Fund would accrue only when an employee is made a member of the fund. Parameters for an employee to become a member of the fund are provided in the Coal Mines Provident Fund Scheme. However, learned Single Judge found that there was nothing on record to show that any effort was made by the company to ascertain these facts. Contributions were being deducted merely on the basis of the number of workers that are supposed to

be engaged. It is only when such worker is made a member of the fund, that a meaningful contribution can be made. If deduction is made without the worker being a member of the fund, it would amount to an illegal collection which is not contemplated under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (briefly, 'the Act' hereinafter). Learned Single Judge held as follows:

The Act was brought into existence for the benefit of the workers in the coal mines. In exercise of power under the Act, the Central Government framed the Coal Mines Provident Fund, Family Pension, and a Trust, to operate the same. The salient features of the Scheme are that, the employees, who are engaged in the coal mines, are to be made members of the CMPF, and are issued cards, apart from being assigned numbers. That in turn create obligation on the part of the employee and the employer to make contribution to the fund. The benefits arising out of the fund in favour of the members are also enlisted. The allotment of account numbers, issuance of cards, the renewal thereof, etc., are provided for under Clauses 39, 40, 41 and 42 of the Scheme. The membership in the fund is coextensive with the employment in the coal mines.

It is not in dispute that the petitioners are assigned the work of transporting coal, which is already extracted from the mines. A serious doubt arises, as to whether the activity assigned to them can be treated as the one, in 'coal mine'. The definition of 'coal mine', under Section 2 (b) takes in its fold, vast number of activities enlisted from Clause (i)

to (xiii). In these writ petitions, it is not necessary to make a final pronouncement, as to whether the transport activity of coal falls within that definition.

Even where an activity is referable to a 'coal mine', the necessity for an employer to make contribution to the CMPF arises, only when an employee is made a member of the fund. The parameters for an employee to become a member of the fund are stipulated under the Scheme. Nowhere in the correspondence between the parties, it is evident that any effort was made by the respondents, to ascertain these facts. The contributions are being deducted, just on the basis of the number of workers, that are supposed to be engaged.

It is only when such worker is made the member of the fund, that a meaningful contribution can be made. If deduction is made, without the worker being the member of the fund, it amounts to an illegal collection, if not undue enrichment on the part of the respondents. The Act does not contemplate the deductions being made, even where, neither account numbers are assigned, nor membership cards are issued to the employees. As and when a responsible officer undertakes such an exercise, the question, as to whether the activity being undertaken amounts to that of a coal mine; can also be examined. It would be premature for this Court to make any pronouncement on such questions.

5.1. In view of the aforesaid deliberation, the following directions came to be issued by the learned Single Judge while disposing of W.P.No.11107 of 2009 (**M/s.Mallikarjuna Transport v. Singareni Collieries Company Limited**) and batch.

Hence, the writ petitions are disposed of, directing that,

- a) the Regional Commissioner or any Officer authorized by him shall first issue a notice to the petitioners to decide whether the activity undertaken by the petitioners comes within the definition of Coal Mine. It shall be open to the petitioners to submit explanation;
- b) in the event of the activity being declared as the one in coal mine, the employees shall be enrolled as members, subject to their fulfilment of the prescribed conditions, the respondents shall assign account numbers and issue cards; and the deductions shall be made with reference to the account numbers and cards so issued, periodically;
- c) till such time, no deductions shall be made, but if it is held that the petitioners are liable, at a later point of time, they shall be under obligation to pay the arrears also;
- d) the amount deducted from the petitioners, so far, shall be kept in FDRs and the manner in which it shall be utilized shall be decided, depending upon the outcome of the exercise undertaken above; and
- e) the authority of the coal mines provident fund shall ensure that it does not deduct any amount, without reference to a particular employee, who is admitted to the provident fund.”

6. Learned referral Judge noted that in a subsequent writ petition being W.P.No.29331 of 2013 (**K.Venkateswarlu v. Coal Mines Provident Fund Organisation**) challenge was made by the petitioner to an order dated 01.08.2013 passed by the Coal Mines Provident Fund Organisation

whereby it was held that the driver employed by the petitioner (coal transporter) is covered by the provisions of the Act. Facts as noted by the learned Single Judge were that petitioner in that case had given his four wheeler jeep on hire to the company for being used for carrying its officers in connection with their employment. When a demand was made by the company for payment of provident fund, petitioner filed W.P.No.4235 of 2012, which was disposed of by this Court by order dated 29.03.2012 directing the Coal Mines Provident Fund Organisation to consider whether the contract entered into by the petitioner would be governed by the provisions of the Act? After due enquiry, Coal Mines Provident Fund Organisation passed the order dated 01.08.2013 holding that the driver employed by the petitioner would be covered by the provisions of the Act. While upholding the order dated 01.08.2013 learned Single Judge held as follows:

A perusal of the impugned order passed by respondent No.1 shows that it has considered the definition of 'coal mine' under Section 2(b)(xiii) and that of 'employee' under Section 2(d) of the Act. The word 'coal mine' is defined

under Section 2(b)(xiii) of the Act as any premises in or adjacent to and belonging to a coal mine, on which any plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of coal mine is being carried. Under Section 2(d) of the Act, the word 'employee' is defined as any person who is employed by or through a contractor or in connection with a coal mine employed for wages in any kind of work, manual or otherwise or in connection with a coal mine and who gets his wages directly or indirectly from the employer and includes (1) any person employed by or through a contractor or in connection with a coal mine. Based on these definitions, respondent No.1 has found that as the vehicle given on hire by the petitioner to respondent No.2 is in connection with coal mine and the driver of the vehicle is employed through the petitioner who is a contractor of respondent No.2, the driver is covered by the Act.

On a careful consideration of the reasoning of respondent No.1, I do not find any reason to interfere with the same. The language of Section 2(d) of the Act is widely worded as to take within its sweep the driver of a jeep engaged in connection with coal mine. As the jeep was admittedly hired to respondent No.2 for an activity connected with coal mine, the driver of the jeep certainly falls within the said definition. The Act being a piece of beneficial legislation, its provisions need to be liberally construed. Viewed from this angle, I do not find any error in the order of respondent No.1.

Sri Peri Prabhakar, learned counsel for the petitioner, submitted that no provision is made under the contract between the petitioner and respondent No.2 for payment of provident fund by the petitioner. In my view, the absence of the provision under the contract will not absolve the petitioner from his statutory liability. If the petitioner feels

that respondent No.2 being the principal employer is liable to pay the provident fund, he is entitled to avail appropriate remedy for recovery of the provident fund contribution from respondent No.2.

6.1. Accordingly the aforesaid writ petition was dismissed.

7. Learned referral Judge vide the order dated 23.03.2016 observed that having regard to the wide language used in Section 2(d) of the Act and the definition of the term 'coal mine' under Section 2(d)(xiii) of the Act, there is possibility that the activity being undertaken by the petitioner may have to be construed as an activity in connection with coal mine and the employee/driver of the petitioner may be covered under the definition of Section 2(d) of the Act. However, in view of the conflicting opinions rendered in the two decisions mentioned supra, learned Single Judge was of the view that the issue is required to be considered by a Division Bench of this Court for an authoritative conclusion. Accordingly the reference was made. Relevant portion of the referral order is as under:

8. Having regard to the wide language used in Section 2(d) of the Act and the definition of the term "*coal mine*" under

Section 2(d)(xiii) of the Act, I am of the opinion that there is possibility that activity being undertaken by petitioner might have to be construed as an activity in connection with the coal mine and the employee/driver of the petitioner might probably be covered under the definition under Section 2(d) of the Act.

9. However, in view of the conflicting opinions rendered in the decision dt.30-03-2011 in W.P.No.11107 of 2009 and batch and the decision dt.09-10-2013 in W.P.No.29331 of 2013, I am of the opinion that the issue needs to be considered by the Division bench of this Court authoritatively.

10. Although counsel for the petitioner also relied upon the interim order dt.15.03.2016 granted by another learned single Judge in W.P.M.P.No.10517 of 2016 in W.P.No.8292 of 2016, a reading of the said interim order does not disclose that the above two decisions were brought to the notice of the learned single Judge in that case. Therefore, I do not deem it appropriate to express any opinion on the matter.

11. For the above reasons, I am of the opinion that the issue *“whether a driver employed by transport Contractor engaged by the Singareni Collieries Company Limited for transportation of coal would fall within the definition of the term “employee” under Section 2(d) of the Act or not”?* should be resolved by a Division Bench.

8. Before we dwell on the referral order, it would be apposite to mention that on similar orders being passed by this Court as the order dated 30.03.2011 referred to above remanding the matter back to the Coal Mines Provident Fund Organisation to take a decision as to

whether the activity undertaken by the petitioner would come within the definition of 'coal mine' as contemplated under the Act, a number of orders came to be passed by the Regional Commissioner of Coal Mines Provident Fund Organisation, Kothagudem, which is the authority under the Coal Mines Provident Fund Scheme. One such order is dated 22.02.2016, relevant portion of which is extracted as under:

M/s. Singareni Collieries Company Ltd., engaged Sri Ch.N.Malleswara Rao, the transport contractor for transportation of coal from GK.OCP to Rudrampur CHP (RCHP) bunkers & PVK RCHP bunkers against the work order No.7600005958 dated 01.06.2015, incorporating therein that the contractor has to comply labour legislation including the coverage of their employees under Coal Mines Provident Fund Scheme if they have not been covered under the Employees Provident Fund Scheme (under clause 6 of the Work Order). The contractor filed a writ petition No.23933 of 2015 before Hon'ble High Court for the State of Telangana and the State of Andhra Pradesh, Hyderabad challenging the deduction of amounts from their bills towards Coal Mines Provident Fund Scheme in the respect of the workmen engaged by them by M/s. Singareni Collieries Company Ltd., on the ground that contract labour are not governed by the Coal Mines Provident Fund Scheme.

The Hon'ble High Court for the State of Telangana and the State of Andhra Pradesh disposed W.P.No.23933 of 2015, directing the undersigned to decide whether the activity undertaken by the petitioner contractors comes

within the definition of “Coal Mine” if so, whether they are entitled for coverage under provisions of Coal Mines Provident Fund and Miscellaneous Provisions Act 1948, after issuance of notice by giving an opportunity to represent their case and considering the representation submitted by them, if any vide order dated 31.07.2015.

Accordingly a notice dated 03.11.2015 was issued to the petitioner by giving an opportunity to furnish all relevant details and information as to the deployment of their labour in the coal mines in order to fulfil their contractual obligations and submit their representation, in order to decide the matter as per the provisions of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.

The contractor (petitioner in the above W.P) has not submitted any relevant information as to particulars of their labour deployed by them in the mines as per the terms of the contract with M/s. Singareni Collieries Company Ltd.

The Contractor has not remitted any amount towards Provident Fund directly to the CMPF Organisation. The petitioner has also not furnished any information whether their employees are covered as per the provisions of EPF Act or not. Further the contractor has not furnished any details as to recovery of the amounts from their bills made by the principal employer viz. The S.C.Co.Ltd and the details of remittances made thereon.

In the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, it is defined in Section 2(b)(xiii) ‘Coal Mine’ means ‘any premises in or adjacent to and belonging to a coal mine, on which plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of coal mine is being carried’.

In Section 2(d), employee, means any person who is employed or through a contractor in or in connection with a coal mine employed for wages in any kind of work, manual or otherwise in or in connection with a coal mine employed for wages in any kind of work, manual or otherwise in or connection with a coal mine and who get his wages directly or indirectly from the employer and includes any person employed by or through a contractor or in connection with a coal mine.

The job nomenclature, and the works carried out by the contract labour has also been enquired with the Management of M/s.Singareni Collieries Company Ltd., whose unit was covered under provisions of Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 and a code number was allotted. It is found that the works carried by the employees of the principal employer who are covered under the National Coal Wage Agreement and the labour deployed by the contractor is similar in nature.

Under Para 2(g)(iii) of the CMPF Scheme, the contract workers engaged in the activity of coal transport are not excluded and hence they should be covered under the CMPF scheme.

After careful consideration of all the facts in details, it is considered and decided that the activity undertaken by the contractor (petitioner) do fall within the definition of 'Coal Mine' and their employees are entitled for the benefits under the provisions of CMPF Scheme. Therefore, the contractor is liable to pay the contributions towards Coal Mines Provident Fund in respect of their employees.

The principal employer i.e., M/s. Singareni Collieries Company Ltd., is directed to furnish the details of contributions paid by them under Section 10 of Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948,

along with the statutory returns and declarations forms in respect of the contract labour to record and allot membership number within 2 months from date of receipt of this order in order to avoid further proceedings.

9. Subsequently, similar orders came to be passed by the Provident Fund Inspector on 06.11.2019, relevant portion of which reads as under:

M/s Singareni Collieries Company Ltd., engaged M/s Sri G. Veeraiah for transportation of coal against the work order No.7600007394 dated 03.07.2018, incorporating therein that the contractor has to comply labour legislation including the coverage of their employees under Coal Mines Provident Fund Scheme if they have not been covered under the Employees Provident Fund Scheme. The contractor filed a writ petition No.27465 of 2018 before Hon'ble High Court for the State of Telangana, Hyderabad challenging the deduction of amounts from their bills towards Coal Mines Provident Fund Scheme in the respect of the workmen engaged by them by M/s Singareni Collieries Company Ltd on the ground that contract labour engaged in coal transport are not governed by the Coal Mines Provident Fund Scheme.

The Hon'ble High Court for the State of Telangana disposed of W.P.No 27465 of 2018, directing the Regional Commissioner or any officer authorized by him to decide whether the activity undertaken by the petitioner comes within the definition of "Coal Mine" (if so, whether they are entitled for coverage under provisions of Coal Mines Provident Fund and Miscellaneous Act 1948, after issuance of notice by giving an opportunity to represent their case and considering the representation submitted by them, if any vide order dated 29.04.2019.

Accordingly a notice dated 03.07.2019 was issued to the petitioner by giving an opportunity to furnish all relevant details and information as to the deployment of their labour in the coal mines in order to fulfill their contractual obligations and submit their representation, in order to decide the matter as per the provisions of the Coal Mines Provident Fund and Miscellaneous Act, 1948.

The contractor (petitioner in the above W.P) has not submitted any relevant information as to particulars of their labour deployed by them in the mines as per the terms of the contract with M/s. Singareni Collieries Company Ltd.

Further the Contractor has not remitted any amount towards Provident Fund directly to the CMPF Organization. The petitioner has also not furnished any information to prove/show whether their employees are covered as per the provisions of EPF Act or not.

In the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, it is defined in section 2(b)(Xiii) 'Coal Mine' means 'any premises in or adjacent to and belonging to a coal mine on which plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of coal mine is being carried'.

In section 2(d), employee, means any person who is employed by or through a contractor in or in connection with a coal mine employed for wages in any kind of work, manual or otherwise in or connection with a coal mine and who get his wages directly or indirectly from the employer and includes any person employed by or through a contractor or in connection with a coal mine.

Under Para 2(g)(iii) of the CMPF Scheme, the contract workers engaged in the activity of coal transport are not

excluded and hence they should be covered under the CMPF scheme.

After careful consideration of all the facts in detail, it is considered and decided that the activity undertaken by the contractor (petitioner) do fall within the definition of 'Coal Mine' and their employees are entitled for the benefits under the provisions of CMPF Scheme. Therefore, the contractor is liable to pay the contributions towards Coal Mines Provident Fund in respect of their employees.

Accordingly, the contractor (petitioner) is directed to cover his employees under CMPF Scheme, 1948 & CMPS 1998 immediately. The contractor workers cannot be deprived from the benefits of CMPF scheme and pension scheme.

Hence M/s SCCL, represented by 1, 2 & 3 is also directed to ensure compliance of the same and if the contractor fails, M/s SCCL as a Principal Employer must ensure coverage of the contractor workers engaged through M/s Sri G. Veeraiah, S/o Rangaiah (petitioner), under CMPF Scheme under para 28 & 29 of CMPF scheme extract enclosed).

The Principal Employer i.e M/s Singareni Collieries Company Ltd., is directed to furnish the details of contributions paid by them along with the statutory returns and declarations forms in respect of the contract labour to record and allot membership number within 2 weeks from date of receipt of this order in order to avoid further proceedings.

10. From the above, it is discernible that the considered stand of the Coal Mines Provident Fund is that the activity

undertaken by the contractor (petitioner) falls within the definition of 'coal mine' and their employees are entitled to the benefit under the provisions of the Coal Mines Provident Fund Scheme. Therefore, the contractor is liable to pay contribution towards Coal Mines Provident Fund in respect of the employees. Accordingly, the contractor (petitioner) was directed to get his employees covered under the Scheme taking the view that contractor's workers cannot be deprived from the benefits of the Coal Mines Provident Fund Scheme and Pension Scheme. Directions have also been issued to the company, being the principal employer, to ensure coverage of the contractor's workers.

11. Let us now examine relevant provisions of the Act and the Scheme.

12. The Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (already referred to as 'the Act' hereinbefore) has been enacted to make provisions for the framing of a Provident Fund Scheme, a Pension Scheme, a Deposit Linked Insurance Scheme and a Bonus Scheme

for persons employed in Coal Mines. 'Coal Mine' is defined in Section 2(b) of the Act. Section 2(b) of the Act is as under:

(b) "Coal mine" means any excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, and includes-

- (i) all borings and bore holes;
- (ii) all shafts, in or adjacent to and belonging to a coal mine, whether in the course of being sunk or not;
- (iii) all levels and inclined places in the course of being driven;
- (iv) any open cast working or quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;
- (v) all conveyors or aerial rope-ways provided for the bringing into or removal from a coal mine of coal or other articles or for the removal of refuse therefrom;
- (vi) all adits, levels, planes, machinery, works, railways, tramways and sidings, in or adjacent to and belonging to a coal mine;
- (vii) all workshops situated within the precincts of a coal mine and under the same management and used for purposes connected with that coal mine or a number of coal mines under the same management;
- (viii) any office of a coal mine;
- (ix) all power stations for supplying electricity for the purpose of working the coal mine or a number of coal mines under the same management;
- (x) any premises for the time being used for depositing refuse from a coal mine, or in which any operation in connection with such refuse is being carried on,

- being premises exclusively occupied by the employer of the coal mine;
- (xi) all hospitals and canteens maintained for the benefit of the employees of a coal mine or a number of coal mines under the same management;
- (xii) any coke oven or plant;
- (xiii) any premises in or adjacent to and belonging to a coal mine, on which any plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of a coal mine is being carried on.

12.1. Thus, from the above it is seen that definition of 'coal mine' is a broad based one. It means any excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on and includes all borings, bore holes etc. It is an inclusive definition which includes all workshops situated within the precincts of a coal mine and under the same management and used for purposes connected with that coal mine or a number of coal mines under the same management; any office of a coal mine; all power stations for supplying electricity for the purpose of working the coal mine or a number of coal mines under the same management; any premises for the time being used for depositing refuse from a coal mine or any operation in

connection with such refuse is being carried on, being premises exclusively occupied by the employer of the coal mine; all hospitals and canteens maintained for the benefit of the employees of a coal mine or a number of coal mines under the same management; any coke oven or plant etc.

13. Learned Single Judge in **K.Venkateswarlu** (supra) observed that the expression 'coal mine' is defined as any premises in or adjacent to and belonging to a coal mine, on which any plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of coal mine is being carried. Even the authority while passing consequential order has taken or given a broad interpretation to the expression 'coal mine'.

14. Section 2(d) of the Act defines the word 'employee' as under:

(d) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with a coal mine, and who gets his wages directly or indirectly from the employer, and includes-

(1) any person employed by or through a contractor or in connection with a coal mine, and

(2) for the purposes of the Coal Mines Provident Fund Scheme, also

- (i) any other person who is employed as a sanitary worker, mali, teacher or domestic servant in or in connection with a coal mine and who receives wages directly from the employer, and
- (ii) any apprentice or trainee who receives stipend or other remuneration from the employer.

14.1. Thus, 'employee' has been defined to mean any person who is employed for wages in any kind of work, manual or otherwise, in a coal mine or in connection with a coal mine and who gets his wages directly or indirectly from the employer and includes (1) any person employed by or through a contractor in or in connection with a coal mine and (2) for the purposes of the Coal Mines Provident Fund Scheme (i) any person who is employed as a sanitary worker, mali, teacher or domestic servant in a coal mine or in connection with a coal mine and who receives wages directly from the employer; and (ii) any apprentice or trainee who receives stipend or other remuneration from the employer. Again here also, the word 'employee' has been given a broad meaning which includes any person

who is employed directly or through a contractor in a coal mine or in connection with a coal mine and includes persons engaged as sanitary worker, mali, teacher or domestic servant etc. It also includes any apprentice or trainee who receives stipend or other remuneration from the employer.

15. This brings us to the definition of ‘employer’.

‘Employer’ is defined in Section 2(e) of the Act as under:

(e) “employer’, when used in relation to a coal mine, means any person who is the immediate proprietor or lessee or occupier of the coal mine or of any part thereof and in the case of a coal mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver and in the case of a coal mine owned by a company the business whereof is being carried on by a managing agent, such managing agent; but does not include a person who merely receives a royalty, rent or fine from the coal mine, or is merely the proprietor of the coal mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the coal of the coal mine; but any contractor for the working of a coal mine or any part thereof shall be subject to this Act in like manner as if he were an employer, but not so as to exempt the employer from any liability.

15.1. Thus, the word ‘employer’ when it is used in relation to a coal mine means any person who is the immediate

proprietor or lessee or occupier of the coal mine or any part thereof and includes a contractor for the working of a coal mine or any part thereof and who would be subject to provisions of the Act in a like manner as if he were an employer, but not so as to exempt the employer from any liability.

15.2. Thus, as per the above definition, a contractor working for a coal mine would also be included in the definition of 'employer'.

16. Section 2(f) defines 'fund' to mean the provident fund established under the Coal Mines Provident Fund Scheme.

17. Clause 25A of the Coal Mines Provident Fund Scheme, 1948 explains the class of employees required to join the fund after 31.12.1961. As per sub-clause (1), every employee of a coal mine to which the Scheme applies other than an excluded employee shall be required to join the 'fund' and become a member immediately after the end of the month following any month or quarter as

the case may be in which he completes the days of attendance as mentioned in sub-clause (v) therein.

18. Thus, on a conjoint reading of the definitions of 'coal mine', 'employee' and 'employer', it is evident that the works carried out by a contractor, transporting coal or officials of the coal mine would be covered by the provisions of the Act.

19. It may also be relevant to refer to the contract agreement entered into by and between the contractor and the company. Clause 6 thereof says that the contractor shall follow all statutory rules, regulations, applicable laws etc as well as statutory requirements related to government licences, workmen compensation, coal mines provident fund, working hours of the workmen, insurance etc. Besides the contractor shall make necessary arrangements for enrolling all his workmen and staff as members of the Coal Mines Provident Fund. Thereafter details of Coal Mines Provident Fund contribution have been mentioned. Further, it is mentioned that a certificate shall be issued by the concerned personnel to the effect

that the contractor has deducted the amount of Coal Mines Provident Fund dues and Pension and deposited the same along with the matching share with the concerned Regional Commissioner of Coal Mines Provident Fund. A copy of such certificate shall be attached with the bill of the contractor. Payment to the contractor shall be released against the bill by the Finance Department only after verifying the above documents.

20. Similar is the position in the agreement signed by and between the contractor and the company with identical provision being mentioned in clause 6 of the agreement bond.

21. From a conjoint reading and careful analysis of the above provisions, the irresistible conclusion one can draw is that the Act is a beneficial piece of legislation. It is intended to confer certain benefits on labour working in or in connection with a coal mine. Thus the provisions of the Act are to be construed liberally. In the circumstances, in view of the order passed by the learned Single Judge in **K.Venkateswarlu** (supra) and decisions rendered by the Coal

Mines Provident Fund Organisation holding that activity undertaken by the contractor falls within the ambit of the definition 'coal mine', the employees engaged by the contractor would be entitled to the benefits under the Act as well as under the provisions of the Coal Mines Provident Fund Scheme. The doubts expressed by the learned Single Judge in the previous round of litigation i.e., in **Mallikarjuna Transport** (supra) does not appear to be justified and the same has been proved by the consequential orders passed by the Coal Mines Provident Fund Organisation.

22. Thus upon thorough consideration of all aspects of the matter, we have no hesitation in holding that a driver employed by a transport contractor engaged by the company for transportation of coal would come within the definition of the term 'employee' under Section 2(b) of the Act. Therefore, such a driver or employee would be entitled to the benefits of the Act and the Coal Mines Provident Fund Scheme.

23. The referred question is answered accordingly.

24. In view of the decision rendered above, all the writ petitions would naturally have to fail and accordingly those are dismissed. However, there shall be no order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

UJJAL BHUYAN, CJ

SUREPALLI NANDA, J

26.07.2022
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