# Gugloth Venku vs The Chairman And Managing Director on 19 May, 2020

## Author: P. Naveen Rao

## Bench: P. Naveen Rao

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

Writ Petition Nos.42417, 42418 of 2018; 1734, 8475, 8485, 8491, 8494, 8524, 8732, 8741, 8916, 9106, 9564, 9994, 10300,10679, 10757,10763, 11090, 11213, 11287, 12316, 12755, 13008, 14898, 14914, 14923, 14950, 15238, 15251, 15255, 15271, 15289, 17049, 17245, 17246, 17252, 17525, 17565, 17577, 17594, 17669, 17686, 17689, 17715, 17719, 17751, 17885, 17928, 17930, 17953, 17956, 17963, 17980, 18000, 18118, 18162, 18277, 18278, 18303, 18334, 19244, 19245, 19350, 19919, 20740, 20744, 20745, 20751, 21068, 21222, 21646, 21647, 21678, 21839, 22097, 22347, 22349, 22436, 22618, 22624, 22900, 23486, 23495, 23502, 23512, 23534, 23541, 23542, 23543, 23578, 24326, 24389, 25063, 25064, 25657, 25688, 26407, 27033, 27560, 27563, 28175, 28562 of 2019; 1008, 1118, 1689, 2083, 2610 and 3713 of 2020.

COMMON ORDER:

Petitioners are employed by the Singareni Collieries Company Limited (hereinafter referred to as 'the SCCL'). Claiming that they were not keeping good health, they applied to subject them to medical examination to test their fitness to continue in the employment. Accordingly, petitioners were examined by the Corporate Medical Board (the Board) of the SCCL. The Board found that petitioners are not fit to work in the job held by them, for most of them in the underground mine. However, the Board declared them fit to work on the surface instead of underground/another surface job. Accepting the report of the Board, the petitioners were declared as medically unfit to continue in the job held by them at the time of medical examination and provided alternative job on the surface. Petitioners are not satisfied with the course adopted by the SCCL management and instituted these writ petitions. Petitioner claim that having declared them unfit to hold the present job, they should be retired on medical grounds and their dependent should be provided employment.

2. In this batch of writ petitions, based on the prayers sought, they can be grouped into three categories. For convenience, in each category prayer in one writ petition is extracted, i.e., W.P No. 42417 of 2018 (Category I), W.P No. 10757 of 2019 (Category II) and W.P. No. 17245 of 2019 (Category III).

(i) Category I cases are:-- W.P.No.s 42417/2018, 42418/2018, 11287/2019, 17885/2019, 2083/2020 and 3713/2020.

Prayer in W P No. 42417 of 2018 reads as under:

> .....to issue a Writ Order or Direction more particularly a Writ of Mandamus declaring the action of the 4th respondent in declaring me as medically fit for duties as per the result declared on 18 07 2018 without conducting proper medical examination by the specialist even though the petitioner is not able to perform his duties in view of various ailments and not sending the petitioner to Corporate Medical Board for medical reexamination as per the representation submitted by him on par with other similarly situated employees as illegal arbitrary abuse of process of law violation of principles of natural justice and discrimination and set aside the result of the Corporate Medical Board dated 18 07 2018 in so far as the petitioner is concerned who was shown at Sl No 187 and consequently direct the respondents to conduct medical reexamination on the petitioner as per the directions issued by this Honble Court in Writ Appeal No 1080 of 2017 and batch dated 06 09 2017 and W P No 38451 of 2015 and batch dated 22 06 2016 by considering the representation submitted by him in the interest of justice and pass
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> (ii) Category II cases are:-- W.P.No.s 10757/2019, 10763/2019, 12316/2019, 15238/2019, 15251/2019, 15289/2019, 17049/2019, 21646/2019, 21647/2019, 21678/2019, 21839/2019, 27560/2019, 27563/2019, 2610/2020.

Prayer in W P No. 10757 of 2019 reads as under:

> .....to issue a writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the decision dated 21 05 2019 of the respondents Corporate Medical Board in declaring the petitioner as Medical Unfit for Under Ground and Fit to work as General Mazdoor on surface intended with a view to avoid dependant employment to the family member as per existing scheme which benefit was provided to similar to the petitioner provided dependant employment thereby denying to extend the said benefit to the petitioner as wholly illegal unjust unconstitutional violative of Articles 14 191 g of the Constitution of India contrary to the provisions of Mines Act 1952 and Rules 1955 as well Corporate Medical Rules clarification dated 17 05 2013 Circular dated 09 03 2019 and amounts to forcible continuity in service on surface and consequently direct the respondents to forthwith discharge the petitioner from service and to provide dependant employment to the petitioner family member as per Law and pass
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> (iii) Category III cases are:-- W.P.No.s 17245/2019, 17246/2019, 17252/2019, 17525/2019, 17565/2019, 17577/2019 , 17594/2019, 17669/2019, 17686/2019, 17689/2019, 17715/2019, 17719/2019, 17751/2019,17928/2019, 17930/2019, 17953/2019, 17956/2019, 17963/2019, 17980/2019, 18000/2019, 18118/2019, 18162/2019, 18277/2019, 18278/2019, 18303/2019, 18334/2019, 24326/2019, 26407/2019, 27033/2019, 2083/2020, 3713/2020 and 17885/2019 [W.P Nos.2083/2020, 3713/2020 , 17885/2019 also forming part of category 1].

Prayer in WP 17245 of 2019 reads as under:

> .....to issue writ or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in issuing the letter No ref No CRP/PER/IR/C/081/903 dated 05 06 2019 to the petitioner to work as a General Mazdoor on surface is illegal arbitrary against the mines Act 1952 its rules 1955 against the National Coal Wages Agreement and violative of the Rights Guaranteed by the Constitution of India and consequently declare that the petitioner is medically invalidated as per the Mines Act 1952 Rules 1955 National Coal Wages Agreement and also as per the circular of the Respondents vide Ref CRP/Per/IR/C/081/305 dated 09032018 and further directed the Respondents to provide dependent employment to the petitioners family and to pass.

2.1. Though, there is some variation in the prayers sought in the writ petitions, in substance, petitioners are aggrieved by the decision of the respondent-SCCL in providing them alternative job on the surface instead of retiring them on medical invalidation grounds by extending all other benefits, including provision of dependent employment, having declared as medically unfit to perform the duties and responsibilities hitherto performed by them in the post held by them at the time of medical examination. The orders declaring them as unfit to perform the jobs held by them and orders appointing them to alternative posts on the surface are challenged in these writ petitions. Having regard to the issues involved, all the learned counsel requested to hear these cases together.

3. As the issues for consideration in all these writ petitions are same, they are taken up together, heard learned counsel and decided by this common order.

4. Heard learned counsel for petitioners Sri Ch.Venkat Raman, Sri Srinivas Rao Pothuri and Sri S.Surender Reddy and learned Special Government Pleader, Sri A. Sanjeev Kumar attached to the office of learned Additional Advocate General, for SCCL.

5. Submissions on behalf of petitioners:

(I). Submissions of learned counsel Sri Ch.Venkat Raman:

(1) The employment in SCCL is governed by the Indian Mines Act, 1952 (for brevity, the Act) and the Mines Rules, 1955 (for brevity the Rules) made thereunder and the National Coal Wage Agreements (NCWA). According to Rule 29-M of the Rules, read with paragraph 9.4.0 of National Coal Wage Agreement VI, once an employee is declared as unfit for employment in the mines, such employee has to be retired from service on medical grounds and should be provided with all consequential benefits and the question of offering alternative employment does not arise. He would submit the very action of SCCL in declaring the petitioners as unfit to work underground and

declaring them as fit to work on surface and providing alternative employment on the surface is illegal.

(2) By referring to Circular Ref.No.CRP/PER/IRPM/C/081/218 dated 7.4.2015, he would submit that detailed procedure is laid down in the said circular regarding medical examination of the employees by Corporate Medical Board, but said procedure is not observed and in mechanical manner, the employees are declared as unfit to work underground. If the medical examination is conducted strictly in accordance with the circular instructions, the major grievance of the petitioners would be answered. He would also submit that for many employees the findings of the Corporate Medical Board and reasons to declare them as unfit to work underground and fit to work on the surface were kept in the dark, except making available a tabulated statement of employees declared as 'fit / unfit / fit for surface job'. Unless medical report is furnished to individual employee, he can not work out his remedies and by such actions, grave prejudice is caused to the employees.

(3) He would further submit that as per Circular Ref.No. CRP/PER/IR/C/081/305 dated 9.3.2018, 'medical invalidation' means a person totally incapacitated to work; therefore, dependent employment has to be provided when an employee is declared medically invalidated even to work underground. He would further submit that as per the orders of the Government notified vide Circular Ref.No.CRP/PER/IR/C/081/306 dated 9.3.2018, 16 diseases are covered for assessment of suitability of employee. The list is comprehensive and if Corporate Medical Board examines the fitness of the employees strictly in accordance with parameters laid down in the circular dated 9.3.2018, the petitioners' cannot be declared as medically fit even to do surface job.

(4) He would further submit that the National Coal Wage Agreement (NCWA) is binding on the SCCL. Whereas, the definition of 'medically unfit' in circular dated 9.3.2018 is contrary to the definition provided in NCWA. As per the SCCL, circular only when an employee is totally incapacitated, i.e., unemployable, he would be retired from service extending all benefits. Whereas, terms of NCWA, once an employee is declared as medically unfit, he has to be retired from service by extending all benefits flowing there from, and is not necessary that employee should be totally incapacitated-unemployable.

(5) Further, memorandum of settlement dated 21.2.2000 was arrived under Section 12 (3) of the Industrial Disputes Act, 1947 by the management and workmen. Item 4 of this settlement is exhaustive and covers all cases where employee is declared as unfit to perform duties of the post held by him prior to declaration as unfit, and invariably employee has to retire on medical invalidation grounds and benefits of such retirement should be extended to the employee.

(6) He would submit that issues agitated in these writ petitions were not considered in W.P.(PIL) No.19 of 2017 and there was no discussion on binding nature of National Coal Wage Agreement (NCWA) on SCCL.

(7) He would further submit that employment in SCCL is also governed by Factories Act, 1948, Employees Compensation Act, 1923 and The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 2016. These enactments specify list of injuries sufferance of which are classified as incapable to do any other job. The injuries/ailments suffered by petitioners are covered by the said list.

(8) He would further submit that Rule 82 of the Rules prescribe occupational diseases as provided in Employees Compensation Act, 1923. Rule 82-A deals with disabilities allowance which is again relatable to Schedule-III of Employees Compensation Act, 1923.

Diseases mentioned therein are treated as accidents under the Employees Compensation Act and therefore once a person is declared as suffering with a particular ailment, the question of providing other employment does not arise.

(9) He would further submit that once an employee is declared as medically unfit to hold the job in which he was working at the time of medical examination alternative employment cannot be thrusted on him without his willingness.

(10) He would further submit that by circular dated 29.6.2014, Corporate Medical Board was constituted. However, for no justifiable reason or cause, the remedy of Appeal against decision of Corporate Medical Board is withdrawn. By referring to the procedure adopted by the other companies, he would submit that hierarchy of Assessment Boards are constituted, where an employee can ventilate his grievances on wrong assessment of fitness but no such mechanism is created by the SCCL.

(11) Learned counsel Sri Venkat Raman placed reliance on following decisions:

M/s Bharat Cooking Coal Limited Vs Md. Alam Ansari1, Manager, Burhar Colliery No.3 of South Eastern Coalfields Limited Vs Usant Ram2, Surthi Devi Vs Central Coal Field Limited3, Bhimlal Mahato Vs Eastern Coalfields Limited4, and Girish Deo Majhi Vs M/s Eastern Coalfields Limited5.

(II). Submission of learned counsel Sri Srinivas Rao Putluri:

(1) Learned counsel Sri Srinivasa Rao Putluri, would submit that the entire exercise of medical examination by Corporate Medical Board is farcical. More than 200 employees were asked to appear before the Board on a single day. It would be impossible for the Board to examine and assess the health condition of such large

number of employees on a single day. This would clearly show that medical examination exercise was undertaken mechanically and assessment was made depending on personal preferences and prejudices of the authorities, and medical certificates were issued declaring them as unfit to do underground job as per their whims and choices and do not reflect 2009 SCC Online JHAR 96 2001 SCC Online MP 478 2019 SCC Online JHAR 473 2019 SCC Online CAL 6214 2018 SCC Online CAL 4866 actual medical condition. This is causing lot of heart burn to employees who have genuine claims but their claims are not properly assessed. (III). Submissions of learned counsel Sri Surender Reddy:

He would submit that petitioners are forced to work though medical condition do not permit them to work. He would submit that to overcome the obligation to provide dependent employment, SCCL is resorting to declaring employees as fit to alternative job, even though respondent company is aware that they cannot work in alternative job also. He would further submit that there is total lack of transparency in assessment of health by respondent company and arbitrary decisions are made as per the whims and fancies of the Corporate Medical Board and competent authority.

(IV) All the learned counsels have submitted that though Rule 29-J vests right in an aggrieved employee to prefer appeal, the same is deprived to petitioners.

6. Submissions of learned Special Government Pleader representing learned Additional Advocate General, on behalf of SCCL:

(1) He submitted that SCCL issued circular on 20.12.2016 introducing a scheme known as 'Voluntary Retirement Scheme on Health Reasons'. The scheme envisaged provision of employment to the dependant if an employee seeks retirement on health grounds. Validity of the said scheme was challenged before this Court in WP (PIL) No.19 of 2017. Division Bench of this Court by order dated 16.3.2017 declared the scheme as unconstitutional. Following the judgment of this Court, the scheme was amended. The relevant amendment would prescribe that to provide dependant employment, person has to be declared totally incapacitated on medical grounds i.e., unemployable, thereby becoming a burden on the family. Only on such declaration, dependent of that employee would be granted employment. Whenever medical condition of an employee makes him unemployable, and dependent has to be provided employment, the dependent employment is provided to the post of Badli Worker (underground) if dependant is male and Badli Worker (Surface) if dependant is female.

(2) Further, another significant aspect brought out by this circular is, if an employee is declared unfit to work underground, he would be provided employment in the post of Badli Worker on surface.

However, he would be granted pay protection of the post held by him at the time of medical examination. By referring to the post held by petitioner in WP No. 9994 of 2019, he would submit that petitioner was working as 'support-man', carries higher emoluments compared to Badli Worker. After he was declared unfit to work underground, said petitioner was given employment as Badli Worker on the surface and the pay and emoluments drawn by him in the earlier post are protected. Thus, insofar as employee is concerned, no inconvenience is caused to him with reference to emoluments and other allowances payable to him.

(3) According to learned Special Government Pleader, Rule 29-B of the Rules deal with medical examination. According to sub rule (a), initial medical examination has to be conducted before the employee joins service and as per sub Rule (b) periodical medical examination has to be conducted on every worker, employed in the mine, at an interval of five years. He would further submit that though there was no requirement to subject employees for medical examination in between two periodical medical examinations, the management has taken decision to accept the request of an employee for medical examination even before expiry of five years and was subjected to medical examination to assess his fitness. If he is declared fit, he would be continued to do the same work. On the contrary, if he is declared unfit to do a particular job, his fitness to do alternative job would be assessed and if the Board declares him fit to do another job, it would be provided. He would submit that transparent assessment system is evolved to assess the suitability of employee to a job on medical grounds.

(4) On the issue of remedy of appeal on assessment of health condition of an employee, learned Special Government Pleader would submit that the appeal remedy provided by Rule 29-J is available only in cases where contingency provided in Rule 29-B -(b) is attracted. Rule 29-B (b) envisages periodical assessment of health condition of an employee and such assessment is to be undertaken at an interval of five years. During such periodical medical examination, if the employee is not satisfied with the assessment of his health condition, he can avail remedy of appeal envisaged by Rule 29-J. In the cases on hand, this Rule is not attracted as the assessment of fitness of the employee is not as contemplated by Rule 29-B (b). The requests of individual employees are entertained as and when made in between periodical assessments and this is in addition to the statutory assessment required as envisaged by Rule 29-B(b). Thus, in the cases on hand, the availment of remedy of appeal before the Appellate Medical Board under Rule 29-J does not arise. Further, as noted above, according to learned Special Government Pleader, within SCCL at various levels assessment of health of the individual is made and said assessment takes place objectively.

(5) According to learned Special Government Pleader, Rule 29-M(1) is exhaustive and deals with all contingencies of fitness of employees. According to this Rule, if an employee is declared as unfit to work in a particular assignment, he can be allowed to perform any other assignment. It only prohibits further employment of unfit persons. According to learned Special Government Pleader, the scheme formulated by respondent company to adjust the employee declared as unfit to work underground, but declared as fit in alternative post on the surface is in tune with the scheme of Rules 1955.

(6) Learned Special Government Pleader mentioned procedure being followed in assessing the fitness of an employee whenever a request is made. Employee has to make an application for medical examination to the Manager under whom he is working. Manager, in turn, refers to the Medical Officer, Medical Officer is required to make a preliminary assessment of the health condition of the employee. On making such assessment, he would be referred to Area Hospital. The Area Hospital makes an assessment of his fitness. The Area Hospital can declare the employee as fit to continue to work. Against such declaration, the aggrieved employee can avail the remedy of appeal before the Corporate Medical Board. If the Area Hospital finds that health condition of employee needs further assessment, it would refer him to the Main Hospital. The Main Hospital on further assessment would refer it to the Corporate Medical board. The Corporate Medical Board comprises of experts in various branches of medicine. On assessment of the health condition of the employee it would declare the employee as fit /unfit to do underground job / unfit to do any job. Based on the report submitted by the Corporate Medical Board, the competent authority takes further steps. Thus, the assessment of health condition of the employee is made at various levels by experts. On due assessment of the condition of the employee, he would be retired from service or would be provided alternative employment. In this context, he has referred to paragraph-11 of Circular dated 7.4.2015. According to learned Special Government Pleader, Clause 9.4.0 of National Coal Wage Agreement VI is applicable only if the employee is assessed to have permanent disability. The reading of heading itself would make this very clear. Whereas, in these writ petitions, petitioners are found fit for alternative job and, therefore, this Clause is not attracted. According to learned Special Government Pleader, even Rule 29-M contemplates alternative job. Therefore, petitioners cannot say alternative job cannot be offered to them.

(7) Learned Special Government Pleader would submit that in view of the decision of the Division Bench in WP(PIL) No.19 of 2017, the dependent employment can be provided only if employee is assessed as totally incapacitated / unemployable and would become burden to his family. Directions of the Division Bench are based on the principles laid down by Hon'ble Supreme Court in V Siva Murthy Vs State of Andhra Pradesh6. He would further submit that paragraph 9.4.0 of Chapter-IX of National Coal Wage Agreement-VI, only requires to provide dependant employment in case of general physical debility of an employee to perform the duties and responsibilities hitherto assigned to him. This agreement does not prohibit the employer to provide alternative employment if employee is declared as fit to do any other job, as in that case, employee has not acquired unemployable status to become a burden to his family.

(8) Learned Special Government Pleader would submit that office memorandum dated 9.3.2018 does not list out diseases. It only envisages procedure of assessment by Corporate Medical Board. With reference to contention of learned counsel for petitioners that there is a list of diseases and assessment of employee has to be made, by following the said list, he would submit that whenever an employee requests for medical examination, his health condition would be assessed irrespective of disease he is suffering from and his suitability to work in the same post or suitability to work in alternative post would be assessed and SCCL has not confined the health condition only to the diseases specified in the Workmen Compensation Act.

(9) On the aspect of obtaining consent before providing alternative employment, he would submit that obtaining consent for alternative (2008) 13 SCC 730 employment would arise only when the alternative employment is lower in rank and would also result in reduction of wages. SCCL is protecting the wages and emoluments drawn by the employee in his/her earlier post. Therefore, there is no requirement to obtain consent to take the alternative employment. In this contest he also relies on the Memorandum of Settlement arrived under Section 12 (3) of the Industrial Disputes Act.

(10) He would further submit that Item No.4 of the Memorandum of Settlement incorporates the determination of fitness of an employee for alternative job and categorically asserts provision of alternative employment. Paragraph-6 of the Office Memorandum dated 29.5.2000 issued in pursuant to Memorandum of Settlement is also very clear on this aspect. This Office Memorandum is not challenged. Once an employee is declared as unfit to hold present post, his suitability to hold another post has to be assessed by the Medical Board. Without such assessment and clearance by the Medical Board, employee cannot be provided alternative job. Thus, such assessment is mandatory and is part of the process to implement memorandum of settlement. He would further submit that memorandum of settlement, envisaged provision of employment as General Mazdoor as alternative job, did not envisage wage protection, but the corporation on its own, decided to grant wage protection. On the wage protection he refers to circular dated 20.1.2018.

7. Reply by learned counsel for petitioners:

> (1) Learned counsel for petitioners Sri Venkat Raman would submit that several other companies which are also governed by the National Coal Wage Agreement and which have similar nature of duties and responsibilities have established the hierarchy of assessment authorities to assess the health condition of an employee and have created Appellate Medical Boards, whereas, in SCCL no remedy is provided within the company against the decision of the Corporate Medical Board, causing lot of hardship and suffering to the employees.

He would submit that SCCL is also party to National Coal Wage Agreement and said agreement shall prevail over any settlement arrived at under Section 12(3) of the Industrial Disputes Act. In terms of NCWA, if an employee is declared as medically unfit, such declaration has to be for the employment in the respondent organization but not to a particular job.

(2) He would further submit that the medical reports do not indicate the nature of disability and nature of assessment made by the Corporate Medical Board and the assessment report is not furnished to the employee to workout his remedies. The Corporate Medical Board has to indicate the nature of disability. Nature of disability has relevance, having regard to the provisions of Employees Compensation Act and benefits flowing there from. By not furnishing the assessment made by the Corporate Medical Board and also the nature of disability, grave injustice is caused to the employees.

(3) He would further submit that on assessment of health of petitioners, even though petitioners are declared as incapable to perform the duties and responsibilities of the job in which they were

working, they are not allowed to retire by providing all the benefits flowing out of such retirement and further injustice is caused to them by not assigning work in the alternative employment and they are only made to attend to the office. He would submit that this action of the respondents would amount to arbitrary exercise of power, humiliation, disrespect to honour and dignity, and circumventing the law governing the service conditions of the employees working in coal mines.

(4) Learned counsel for petitioners Sri Srinivas Rao Pothuri submitted that Corporate Medical Board is not a statutory board, therefore, assessment made by the Corporate Medical Board has no legal sanctity. Petitioners have to be subjected to medical examination as required by the Mines Act and Rules made thereunder and National Coal Wage Agreement. He would also emphasize that there is change of attitude of the management since 2018 on account of introduction of dependent employment.

8. I have carefully considered the respective submissions, the relevant provisions of the Mines Act, 1952 (the Act) and the Mines Rules 1955 (the Rules), the NCWAs, Memorandum of Understanding dated 21.02.2000 and the decisions cited at the Bar.

9. Following issues arise for consideration:

i) Whether the Mines Act and the Mines Rules prohibit provision of alternative employment on being declared medically unfit to hold the present post?

ii) When dependent employment can be provided?

iii) Is there a conflict in Memorandum of settlement dated 21.02.2000 arrived under the Industrial Disputes Act and the Clause 9.4.0. of National Coal Wage Agreement-VI ?

iv) If there is a conflict, which shall prevail?

v) Whether petitioners have remedy of appeal against decision of Corporate Medical Board and the same is deprived and denial of remedy of appeal is fatal to entire action of SCCL?

vi) Whether consent of employee is mandatory to provide alternate job?

vii) Whether Rule 82-A of the Rules is violated and if so, such violation vitiates entire action of SCCL?

10. Before considering the issues, it is necessary to clear one aspect.

The SCCL is a company owned by the State and Union Governments. The Telangana State has 51% stake in the company and remaining 49% is held by the Union Government. It is involved in extracting coal. It is bound by the Mines Act, the Mines Rules, the NCWAs, all Welfare Legislations and more particularly, the Industrial Disputes Act, 1947. 1st Issue:

> 11. In substance, it is the assertion of petitioners that once an employee is declared as unfit to hold the present job due to assessment of unfitness on health grounds, employee has to be retired on medical grounds and all benefits flowing there from should be extended including dependant employment and the question of providing alternative employment does not arise.
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> 12. Working in coal mines is hazardous. Mining requires digging of the earth to extract various minerals including coal. To extract coal the company has to dig deep, form deep pits/ tunnels. Working conditions in pits / tunnels is not same as on the surface. There will be less oxygen, no sunlight, the pits / tunnels may generate other gases. Higher standard of health and fitness is required to work in a coal mine.

Further, even if they were healthy when they joined the employment, due to working conditions or age or other factors, their health and fitness be affected/and no longer be desirable to work in the mines. With failing health, working in the mine may be fatal.

13. The Mines Act 1952 (the Act) is enacted with main objective to regulate conditions of employment and safety of the employees working in the Mines. It aims to ensure safe working conditions and welfare of the work force of the mines. By subsequent amendments, the scope of application of the Act is widened and more stringent measures are introduced to ensure safety and welfare of work force working in mines. Thus, the Mines Act and the Mines Rules (the Rules) made thereunder prescribe stringent standards to maintain and operate the mines and to ensure health and welfare of the employees. Having regard to the hazardous working conditions greater thrust is on health and fitness of the employees and the well being of the family.

The relevant provisions of the Act:

14. Chapter-V of the Act deals with health and safety. Chapter-VI deals with hours of work and limitation of employment. Chapter-VII deals with leave with wages.

15. Section 9-A was introduced by Act 42 of 1983. It is part of Chapter-II, which deals with Inspectors and certifying surgeons.

Section 9-A, to the extent relevant, reads as under:

"S. 9-A. Facilities to be provided for occupational health survey.--(1) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery, for the collection of samples and other data pertaining to the survey and for the transport and examination of any person employed in the mine chosen for the survey) to such Inspector or officer.

.....

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:

Provided that where no such alternative employment is immediately available, such person shall be paid by the owner, agent and manager disability allowance determined in accordance with the rates prescribed in this behalf: Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf."

(emphasis supplied)

16. Sub-Section (1) of Section 9-A vests power in the Chief Inspector/ Inspector/ Authorized Officer to undertake safety and occupational health survey. Other Sub Sections deal with medical examination of employees, protection of their wages during the period of such examination and right of employee to undergo medical treatment if found unfit to discharge.

Relevant provisions of the Rules:

17. Section 58 of the Act vests power in the Central Government to formulate rules. In exercise of this power, the Mines Rules 1955, (the Rules) were made. These Rules further the objectives of the Act that is to ensure health and personal safety and well being of the employees. In these cases, elaborate submissions are made by relying on Rules 29-B, 29-J and 29-M. They form part of Chapter IV-A of the Rules. This Chapter deals with 'medical examination of persons employed or to be employed in Mines'. Further, Chapter IV-A envisages medical examination at an interval of five years and steps to be taken by employer on the result of medical examination. To the extent relevant the rules read as under:

"29B. Initial and periodical medical examinations - After such date or dates as the Central Government may by notification in the Official Gazette appoint in this behalf, the owner, agent or manager of every mine shall make arrangements-

(a)(i) for the initial medical examination of every person employed in the mine, within a period of five years of the date so notified and the said examination shall be so arranged over a period of five years that one fifth of the persons employed at the mine undergo the examination every year;

.....

(b) for the periodical medical examination thereafter of every person employed in the mine at intervals of not more than five years.

.....

29J. Appeal for re-examination - (1) Where as a result of an initial medical examination under clause (a), or of periodical medical examination under clause (b) of rule 29B, a person has been declared unfit for employment in mines or in particular category of mines or in any specified operations in mine , he may, within thirty days of the receipt by him of a copy of the Certificate referred to in sub-rule(2) of rule 29F, file an appeal with the manager of the mine against the declaration aforesaid, and request for a medical re- examination by an Appellate Medical Board constituted under rule 29K.

(2)(a)The manager shall arrange to have the appellant medically re- examined by the Appellate Medical Board within thirty days of the receipt of the Appeal, and shall give to the Appellant fifteen days' prior notice of the medical re- examination by the Appellate Medical Board in Form Q.

(b) A person, who for any reasonable cause, fails to submit himself for a medical re-examination in accordance with the notice given to him under clause (a), shall be given another notice in Form R in similar manner.

(c) A person who has, without reasonable cause, fails to submit himself for a medical re-examination in accordance with a notice given to him under clause (b) shall cease to be in employment at the mine or in a particular category of mines or in any specified operations in mine, as the case may be, after the expiry of thirty days from the last date notified for his medical re-examination.

(3) In respect of every medical re-examination by the Appellate Medical Board, the appellant shall pay such fees and the medical examination shall be conducted in such manner as may be determined by the Appellate Medical Board. In case the Appellate Medical Board finds him fit for employment in mines, the fees shall be reimbursed in full to the appellant by the owner of the mine where he is employed.

29M. Unfit persons not to be employed - (1) Where, as a result of an initial medical examination made under clause (a), or of a periodical medical examination under clause (b) of rule 29B a person has been declared unfit for employment in mines or in a particular category of mines or in any specified operations in mine, he shall not be employed or continue to employed in mine or in the category of mines or on the operations specified, after the expiry of thirty days from the date of his medical examination unless he has filed an appeal under sub rule (1) of rule 29J against the declaration.

(2) Where the person concerned has filed an appeal under sub-rule (1) of rule 29J, but has been declared by the Appellate Medical Board, after a medical re- examination, to be unfit for employment in mines or in a particular category of mines or on any specified operations in mines, he shall not be employed or continue to be employed in mine or in the category of mines or on the operations specified, after the expiry of thirty days from the date of his medical re-examination by the Appellate Medical Board:

> Provided that, if the Medical Officer carrying out the initial medical examination under clause (a), or the periodical examination under clause (b) of rule 29B, or the Appellate Medical Board carrying out the medical re- examination of persons already in employment is of the opinion that the disability of the person examined is of such a nature and degree that it will not seriously affect or interfere with the normal discharge of his duties, it may recommend his continuation in employment in the mine for a period not exceeding six months during which such person may get his disability cured or controlled and submit himself for another medical examination and be declared fit."
>
> (emphasis supplied)

18. Rule 29-B requires medical examination before a person is employed in the mines to assess his fitness to work in a mine [Rule 29(B)(a)]; and periodical (every five years) medical examination of an employee to assess his fitness to do the job he is holding [Rule 29 (B)

(b)]. During the course of such periodical medical examination if he is found unfit, he should not be allowed to work.

19. Rule 29-J vests right in the employee to prefer appeal against decision of employer holding him unfit for employment in the mine or in a particular category of mine or in any specified operations in the mine and request for re-examination by Appellate Medical Board. Rule 27-K provides for constitution of Appellate Medical Board.

20. Rule 29-M deals with consequences when a person is declared unfit to hold a post in the Mine or when an employee is declared unfit to hold the post occupied by him at the time of periodical medical examination. It prohibits employment of unfit person in the Mines.

21. Having regard to respective submissions, a closer look at Section 9A of the Act and the Rule 29-M of the Rules is imperative. Sub-section 5 of Section 9A comes into operation if employee does not regain fitness even after treatment and is declared unfit to discharge duty of the post held by him at the time of medical examination and mandates the employer to provide alternative employment. Thus, Act also recognizes providing alternate employment if the employee is declared as unfit to hold the present job due to his health condition and that too, only if the unfitness is directly attributable to the employment. Providing alternative job is again subject to fitness to hold another job. Rule 29-M(1) of the Rules gives effect to this object of the Act. It deals with various contingencies. It envisages declaring an employee unfit to work in a mine/ in a particular category of mines/ in specified operation of a mine. Thus, the Act and the Rules do not prohibit alternative employment and on the contrary positively endorse provision of alternative employment.

22. Incidentally it was contended that denial of retirement on health grounds violates Factories Act, Employees Compensation Act 1923 and the Disabilities Act, 2016. I see no merit in the said contention. These are welfare legislations enacted with avowed object to safeguard the workmen/ employees from exploitation by the employer and to give statutory protection if they suffer any disability during the course of employment. SCCL is equally bound by those enactments. But issues in these writ petitions need not be overshadowed by the objectives of those welfare legislations and to give it a colour not warranted on the issues in these writ petitions. As noticed above, the Act deals with various aspects of employment in a Mine and also assessment of fitness of an employee to work in a Mine or in a particular category of Mine or particular post in a Mine. As noticed above, the Act and the Rules do not prohibit provision of alternate job when an employee is declared medically unfit to hold the present job.

2nd issue:

23. On 20.12.2016 SCCL introduced scheme called as Voluntary Retirement Scheme on Health Reasons giving a new dimension to the scheme of dependant employment. By this scheme, if an employee, who has more than two years left over service, opts to retire on health grounds and on assessment, if he was allowed to retire, a male dependant would be provided employment. The legality and validity of the scheme was assailed in W.P. (PIL) No.19 of 2017. By judgment dated 16.3.2017, the Division Bench declared the impugned scheme as violative of Articles 14 and 16 of the Constitution of India.

24. After the judgment of the Division Bench, scheme of compassionate appointment was reviewed and amendments to the scheme were notified vide Circular No. CRP/PER/IR/C/081/305 dated 9.3.2018. On the same day, Office Memorandum was issued. According to the Circular and Office Memorandum, only if an employee is declared as totally incapacitated to work/ unemployable, dependant employment would be offered. In case employee is declared as unfit to the present job but fit for alternate job, alternate job would be provided.

25. Singularly, the emphasis of employees is, the moment an employee is declared medically unfit to continue in the post held by him, he should be retired and there is no question of giving alternative employment and as a corollary his dependant should be provided employment. In other words,

employees seek that though their health condition is not at a stage of 'unemployability', thereby becoming burden on the family and though employer found them fit to do another job with protection of emoluments hitherto drawn, they would go home and do not intend to work and that their dependants be offered employment.

26. An employer can expect better output from his employees only if he looks after their welfare. One stand out feature of public employment is safety of tenure and assured post retirement benefits. Normally, once a person secures public employment, he becomes the sole breadwinner of the family and all other family members depend on his earnings as a public servant. In an unforeseen event when breadwinner meets premature death or becomes seriously ill, the financial arrangement of the family goes haywire. As a responsible, concerned employer, it is his bounden duty to come to the rescue of such employee and/or his family members. Out of the concern/compassion to family of the employee, the concept of dependent employment has emerged. The employer formulates scheme of dependent employment. The primary objective of such scheme is to elevate the suffering of family due to sudden death of employee or due to sickness, becoming unemployable. Under the scheme of dependent employment, employer extends helping hand to the family of deceased employee / employee suffering with serious, life threatening ailment, by providing employment to one of the family members.

27. Though, in a democratic polity there is no room for hereditary succession to any office, including public employment, in a sense, the scheme of dependent employment carves out an exception and provides employment to a family member, loosely called, succession. It is based on nomination and no selection process is involved. It is an exception to normal method of recruitment to public employment.

28. First appointment to public post whether it is in State/Central service or service in the public sector undertakings has to be in accordance with the Rules/Regulations governing the services. Such recruitment should be open to all eligible candidates and selections are to be made in transparent manner and should stand the test of Articles 14 and 16 of the Constitution of India. Certain exemptions are carved out to this constitutional norm to make recruitment and one such exception is "appointment on compassionate grounds/ dependent employment". In Public employment such scheme is prevalent. This scheme of compassionate appointment is in recognition of the employer's commitment to look after the members of the family of the employee who had premature death/forced to retire from service on being declared as medically unfit, much before he/she would attain the age of superannuation leaving the family members in the lurch. The scheme is intended to give a kind of protection to the members of the family due to untimely/ premature loss of breadwinner in the family or premature retirement of bread winner on health grounds upsetting the family financial calculations. As the scheme of dependent employment is an exception to normal method of recruitment to public employment, it receives strict construction. No right is vested in a person to seek dependent employment as a matter of course. A person can seek benefit of the scheme only if conditions of the scheme are fulfilled.

29. In the long line of precedent decisions, issue of dependant employment was considered by the Hon'ble Supreme Court. It is necessary and expedient to consider few of the precedent decisions.

29.1. In Umesh Kumar Nagpal v. State of Haryana7, Supreme Court was highly critical of High Courts giving directions to grant appointment on compassionate grounds without regard to the nature of appointment, (1994) 4 SCC 138 the policy of the employer and the necessity to grant such appointment. Supreme Court held, "2..... The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

29.2. In Director of Education (Secondary) v. Pushpendra Kumar8, Supreme Court held, "8. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread- earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Such a provision makes a departure from the general provisions providing for appointment on the post by following a particular procedure. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an (1998) 5 SCC 192 exception to the general provisions. An exception cannot subsume the main provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision. Care has, therefore, to be taken that a provision for grant of compassionate employment, which is in the nature of an exception to the general provisions, does not unduly interfere with the right of other persons who are eligible for appointment to seek employment against the post which would have been available to them, but for the provision enabling appointment being made on compassionate grounds of the dependant of a deceased employee. In Umesh Kumar Nagpal v. State of Haryana1 this Court has taken note of the object underlying the rules providing for appointment on compassionate grounds and has held that the Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be

offered to the eligible member of the family. In that case the Court was considering the question whether appointment on compassionate grounds could be made against posts higher than posts in Classes III and IV. It was held that such appointment could only be made against the lowest posts in non-manual categories...."

29.3. In Bhawani Prasad Sonkar v. Union of India9, Supreme Court held, "15. Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.

.....

20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

> (i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The (2011) 4 SCC 209 request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.
>
> (ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.
>
> (iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.
>
> (iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts.

29.4. In CCE & Customs v. Prabhat Singh10, Supreme Court held, "15. Had the High Court or the Tribunals applied their mind to the aforesaid precondition for eligibility for appointment on compassionate grounds, none of the directions issued by the High Court or the Tribunals would have been issued. Such directions could have been issued only when the party approaching the Tribunal or the High Court had established a prima facie case, by demonstrating fulfilment of the terms and conditions stipulated in the rules/regulations/policy instructions/office memoranda, relevant for such consideration. Had the aforesaid simple exercise been carried out, it would not have been necessary to examine the matter again and again.

16. In the instant case, on a simple issue of compassionate appointment, there have been repeated rounds of litigation, the first time before CAT, Allahabad Bench, then before CAT, Lucknow Bench, and thereafter, before the High Court. From the High Court the matter has now been carried to this Court. If only the prerequisite eligibility of Prabhat Singh for appointment on compassionate grounds had been examined, it would not have been necessary to examine the matter again, and yet again."

29.5. Broad principles that emerge from the decisions of the Hon'ble Supreme Court, to the extent of issues raised in these writ petitions, are as under:

> 1. As the dependant employment is an exception to the normal recruitment procedure to public posts, it can not subsume the main provision.

(2012) 13 SCC 412

2. The object of granting dependant employment is to relieve the family of financial constraints on account of untimely demise of bread winner/ bread winner developed serious health problem making him unemployable and losing his job and to enable the family to tide over the sudden crisis.

3. Employment under the scheme can be provided only if the employer is satisfied that unless the employment is provided the family will not be able to meet the crisis and only after assessment of financial condition.

30. It is also necessary to note that once an employee becomes seriously ill, he may not be employable further and he would require regular medical attention. In such an eventuality, the family requires huge finances to attend to his/her treatment and to look after him/her, which may prolong. From the stage of bread-winner he/she may end up as a burden on the family. Thus, dependent employment deals with two contingencies, death and sickness and is born out of the concern of the employer to look after the welfare of the employee and his/her family.

31. As noted above, dependent employment is an exception to normal method of recruitment and shall receive narrow/strict interpretation to the clauses of the scheme. It can be extended in the event of death of breadwinner or breadwinner suffering from serious ailment making the employee unemployable. Only in these two contingencies, the family may need the support of the employer. Even in such a case, provision of employment is not automatic. The family has to satisfy the

employer that there is no other breadwinner in the family and that family has no financial means to deal with the contingency.

32. At this stage, it is apt to note the opinion expressed by the Hon'ble Supreme Court in V.Siva Murthy (supra) on scheme of dependent employment when employee retired on medical invalidation grounds. It reads as under:

> "26. As an incidental reason for holding that compassionate appointments are not permissible in cases of medical invalidation, the High Court has observed that death stands on a "higher footing" when compared to sickness. The inference is compassionate appointment in case of medical invalidation cannot be equated with death-in-harness cases, as medical invalidation is not of the same degree of importance or gravity as that of death; and that as medical invalidation is not as serious as death-in-harness, exception can be made only in cases of employees dying-in-harness. But what is lost sight of is the fact that when an employee is totally incapacitated (as for example when he is permanently bedridden due to paralysis or becoming a paraplegic due to an accident or becoming blind) and the services of such an employee is terminated on the ground of medical invalidation, it is not a case of mere sickness. In such cases, the consequences for his family may be much more serious than the consequences of an employee dying-in-harness.
>
> 27 [Ed.: Para 27 corrected vide Official Corrigendum No. F.3/Ed.B.J./70/2008 dated 4-9-2008.] . When an employee dies in harness, his family is thrown into penury and sudden distress on account of stoppage of income. But where a person is permanently incapacitated due to serious illness or accident, and his services are consequently terminated, the family is thrown into greater financial hardship, because not only the income stops, but at the same time there is considerable additional expenditure by way of medical treatment as also the need for an attendant to constantly look after him. Therefore, the consequences in case of an employee being medically invalidated on account of a serious illness/accident, will be no less, in fact far more than the consequences of death-in-harness. Though generally death stands on a higher footing than sickness, it cannot be gainsaid that the misery and hardship can be more in cases of medical invalidation involving total blindness, paraplegia, serious incapacitating illness, etc. .....
>
> 30. There are of course safeguards to be taken to ensure the scheme is not misused. One is to ensure that mere medical unfitness to continue in a post is not treated as medical invalidation for the purposes of compassionate appointment. A government servant should totally cease to be employable and become a burden on his family, to warrant compassionate appointment to a member of his family. Another is barring compassionate appointments to dependants of an employee who seeks voluntary retirement on medical grounds on the verge of superannuation. This Court observed in Ram Kesh Yadav [(2007) 9 SCC 531 : (2007) 2 SCC (L&S) 559] as follows: (SCC p. 535, para 9) "9. ... But for such a condition, there will be a tendency on the part of

> employees nearing the age of superannuation to take advantage of the scheme and seek voluntary retirement at the fag end of their service on medical grounds and thereby virtually creating employment by 'succession'. It is not permissible for the court to relax the said condition relating to age of the employee. Whenever a cut-off date or age is prescribed, it is bound to cause hardship in marginal cases, but that is no ground to hold the provision as directory and not mandatory."

We find that in this case stringent safeguards were in fact built into the scheme on both counts by GMs dated 4-7-1985 and 9-6-1998."

33. In W.P (PIL) No. 19 of 2017, the Division Bench while striking down the scheme dated 20.12.2016, emphasized that unemployability is the primary requirement to retire an employee and to provide dependent employment.

34. The Act, the Rules and the NCWA-VI, all envisage to provide dependent employment only if the employee's health status makes him unemployable and not otherwise. In all these cases petitioners have not reached the stage of unemployability and are fit to do alternate job. Therefore, when petitioners are declared fit to do alternate job, they cannot insist that they should be retired from service and their dependents be provided employment.

3rd and 4th issues are considered together:

35. Employees of SCCL had serious grievance on several issues concerning their employment. As management was not attending to their grievances, they have taken an extreme step to go on strike. The Singareni Collieries Workers Union, which claimed to be the majority union representing the workforce of SCCL, issued strike notice dated 29.12.1999 raising 44 demands and proposed to go on strike from 12.01.2000, if by then demands were not met. The Regional Labour Commissioner (Central) Hyderabad initiated conciliation process. After several rounds of deliberations, finally, in the presence of the Regional Labour Commissioner (Central) Hyderabad, Memorandum of settlement was arrived under the Industrial Disputes Act 1947 and on 21.2.2000 terms of settlement were recorded. Item No.4 of the settlement concerns the issue in these cases. It reads as under:

> "ITEM No.4:-- Providing alternative employment to the workmen declared unfit to their original job due to reasons other than mine accidents (DEMAND No.4 ).
>
> The Union demanded that the workmen declared unfit for their jobs due to reasons 90other than mine accidents should be provided alternative jobs on surface. The management has stated that in the circumstances prevailing in SCCL with surplus manpower, it is the proclaimed policy of the company that the postings, transfers and promotions should be against the identified vacancies. However, in view of the persistent demand of the recognized union, it is hereby agreed as a last time exception that the cases of the workmen declared unfit for their original jobs due to reasons other than mine accidents and seeking alternative employment as on date would be considered by the 'BROAD BASED MEDICAL COMMITTEE' headed by

> Director (P.A. & W) to ascertain their suitability for their own job or alternative jobs in underground or as an exception in surface departments/ open cast projects subject to their fitness for such jobs. The cases of those medical unfit workmen whose terminal benefits have been settled or opted for dependant employment or opted for payment of Monthly Monetary Compensation are not covered under the purview of this item."

36. In substance the SCCL management agreed to provide alternative employment if an employee is declared as unfit to the present job, not attributable to mine accident. Management justifies its decision to provide alternative employment by relying on above clause of the settlement.

37. To overcome this formidable defense of the SCCL in support of its decision to provide alternative employment, it was vehemently contended that the National Coal Wage Agreements (NCWAs) are binding on the management of SCCL and to the extent of inconsistency, the settlement dated 21-02-2000 is not valid and cannot be enforced.

38. If we look into the history of mining of coal, as the world progressed towards industrialization, there was greater demand for coal. Over zealous mine owners exploited the workers to gain more profits. There were poor working conditions and workers were paid very low wages. Many workers developed chronic health problems which were fatal and owners did not take care of sick workers and /or their families. The Mines Act 1952 was enacted to address the problems faced by the workers. After nationalization of coal mining, though working conditions were improved but still a lot was to be done. In the year 1974 system of National Coal Wage Agreement was instituted. It has twin objectives. Firstly, having regard to hazardous conditions of employment to extract coal by coal companies and there are several owners of Coal Mines, to ensure uniform working conditions, proper remuneration, incentives, safety, and security; and secondly, to strengthen the welfare and health of the workers in coal mines and empower them financially. A Joint Bipartite Committee for the coal industry (JBPCCI) was formed to look into wage structure, fitment, dearness allowance, service conditions, which include work norms, fringe benefits etc. The committee comprises of representatives of managements of coal companies and representatives of workmen. The Chairman of Coal India Limited is the Ex-Officio Chairman. Based on the deliberations, the first National Coal Wage Agreement was made. Periodically the JBPCCIs are reconstituted and based on the deliberations from time to time, several NCWAs were notified. NCWA-X is the one in force. As SCCL is part of JBPCCI and is a signatory to NCWAs, the terms of agreements are binding on the SCCL.

39. In NCWA-VI, Chapter IX deals with social security. On the issue, in this batch of writ petitions, the relevant clauses are 9.3.0, 9.3.1 and 9.4.0. All subsequent NCWAs adopted these clauses. They read as under:

> 9.3.0. Provision of employment to dependants:
>
> 9.3.1. Employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service. The provision will be implemented as follows:

.....

9.4.0. Employment to one dependant of a worker who is permanently disabled in his place:

(i) The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the coal company concerned.

(ii) In case of disablement arising out of general physical debility so certified by the Coal Company, the employee concerned will be eligible for the benefit under this clause, if he or she is upto the age of 58 years.

The term 'general physical debility' would mean deficiency of a workman due to any disease or other health reason leading to his or her disablement to perform his or her duties regularly and / or efficiently.

(iii) The dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter/widowed daughter in law or son in law residing with the employee and almost wholly dependant on the earning of the employee may be considered.

In so far as female dependants are concerned, their employment would be governed by the provisions of clause 9.5.0.

(iv) The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment."

40. By relying on clause 9.4.0 (ii) it was contended that once an employee suffers physical debility it would be permanent and he must be retired from service and in his place dependent should be provided employment. Heavy reliance is placed on term, 'general physical debility' to drive home the point. It was vehemently contended that Clause 9.4.0 of NCWA VI prevails over the settlement under Section 12 (3) of Industrial Disputes Act. This contention is to overcome item-4 of the Memorandum of Settlement dated 21.2.2000. As noticed above, Item No.4 of settlement enables the SCCL to offer alternative employment if an employee is declared medically unfit to work in the job held by him.

41. To appreciate this contention, it is necessary to consider two aspects. Firstly, whether there is a conflict between NCWA-VI and settlement dated 21.2.2000 arrived under Section 12 (3) of Industrial Disputes Act; and secondly, assuming there is a conflict, which would prevail.

42. Clause 9.3.1 of NCWA-VI deals with provision of dependent employment in case of death while in service or permanent disability. Clause 9.3.2 therein deals with contingency of death of employee and Clause 9.3.4 therein deals with consequence of permanent disability of employee.

43. Clauses in NCWA have to be seen in the light of Mines Act and Mines Rules and the reasons for envisaging NCWAs perse. As noted earlier, primary concern is health and welfare of employees working in coal mines and in an unfortunate event, to take care of welfare of the family members of the employee. On a cumulative reading of the heading of Clause 9.4.0., Paragraph (i) and (ii) of Clause 9.4.0 of NCWA-VI, it is clear, these clauses deal with situation when the coal company certifies that a worker suffered permanent disability due to injury or disease or for other health reasons resulting in loss of employment and mandates that dependent should be provided employment. On a plain reading, this clause does not deal with contingency where employee is found unfit to do the job held by him but is declared fit to do another job. It envisages dependent employment only if employee is certified to be unfit to continue in employment. Further, the Act and the Rules as noticed in the first issue, do envisage provision of alternative employment after the employee is declared medically unfit to hold the present job but was not declared unemployable.

44. On the contrary, Clause 4 of Settlement dated 21.2.2000 deals with a situation where employee is found unfit to do the job he was holding at the time of medical examination but was found fit to do another job. It mandates SCCL to provide alternate job. Thus, these two provisions deal with two different contingencies, with primary objective of welfare of the employee and his family. Clause 9.4.0 of NCWA-VI deals with situation when health condition of employee becomes unemployable whereas clause 4 of Memorandum of Settlement dated 21.2.2000 deals with situation when employee is found fit for alternate job. I do not see any conflict between Clause 9.4.0 of NCWA-VI and Item No. 4 of Memorandum of Settlement dated 21.2.2000.

45. Even assuming that Clause 9.4.0 of NCWA-VI requires employer to retire the employee once he is declared unfit to do the job held by him at the time of medical examination and to provide dependant employment, Item No.4 of settlement dated 21.2.2000 would prevail. Settlement arrived under Section 12 (3) read with Section 18 of the Industrial Disputes Act, stands on a higher pedestal compared to any other settlement.

46. At this stage, it is necessary to note the principle of law on scope and binding nature of settlement arrived under Section 12(3) read with Section 18 of the Industrial Disputes Act on the management and on all workmen.

47.1. In Barauni Refinery Pragatisheel Shramik Parishad Vs. Indian Oil Corporation Ltd11, Supreme Court dealt with binding nature of settlement under the Industrial Disputes Act. Supreme Court held :

> (1991) 1 SCC 4 "8. Since the High Court has answered the first point in the affirmative i.e. in favour of the workmen, we do not consider it necessary to deal with that aspect of the matter and would confine ourselves to the second aspect which concerns the binding character of the settlement. Section 2(p) of the Industrial Disputes Act, 1947

defines a settlement as a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the officer authorised in this behalf by the appropriate government and the Conciliation Officer. Section 4 provides for the appointment of Conciliation Officers by the appropriate government. Section 12(1) says that where any industrial dispute exists or is apprehended the Conciliation Officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given, shall, hold conciliation proceedings in the prescribed manner. Sub-section (2) of Section 12 casts a duty on the Conciliation Officer to investigate the dispute and all matters connected therewith with a view to inducing the parties to arrive at a fair and amicable settlement of the dispute. If such a settlement is arrived at in the course of conciliation proceedings, sub-section (3) requires the Conciliation Officer to send a report thereof to the appropriate government together with the memorandum of settlement signed by the parties to the dispute. Section 18(1) says that a settlement arrived at by agreement between the employer and the workmen otherwise than in the course of the conciliation proceedings shall be binding on the parties to the agreement. Sub-section (3) of Section 18 next provides as under:

"18.(3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A or award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on--

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part."

It may be seen on a plain reading of sub-sections (1) and (3) of Section 18 that settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings and (ii) those arrived at in the course of conciliation proceedings. A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement but the

settlement belonging to the second category has extended application since it is binding on all parties to the industrial dispute, to all others who were summoned to appear in the conciliation proceedings and to all persons employed in the establishment or part of the establishment, as the case may be, to which the dispute related on the date of the dispute and to all others who joined the establishment thereafter. Therefore, a settlement arrived at in the course of conciliation proceedings with a recognised majority union will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority. The High Court was, therefore, right in coming to the conclusion that the settlement dated August 4, 1983 was binding on all the workmen of the Barauni Refinery including the members of Petroleum and Chemical Mazdoor Union."

(emphasis supplied) 47.2. This view is reiterated in Transmission Corporation Vs. P.Ramachandra Rao12 after referring to precedent decisions on binding nature of settlement arrived under the Industrial Disputes Act, Supreme Court observed as under:

> "17. As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well-settled legal position and principles concerning the binding effect of the settlement and the grounds on which the settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of Section 18, this Court in Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corpn. Ltd. [(1991) 1 SCC 4 : 1991 SCC (L&S) 1] succinctly summarised the position thus: (SCC p. 5) Xxxxxxxx
>
> 18. As observed by this Court in Tata Engg. case [(1981) 4 SCC 627 : 1982 SCC (L&S) 1] a settlement cannot be weighed in any golden scales and the question whether it is just and fair has to be answered on the basis of principles different from those which comes into play when an industrial dispute is under adjudication. If the settlement had been arrived at by a vast majority of workers concerned with their eyes open and was also accepted by them in its totality, it must be presumed to be just and fair and not liable to be ignored while deciding the reference made under the Act merely because a small number of workers were not parties to it or refused to accept it or because the Tribunal was of the opinion that the workers deserved marginally higher emoluments than they themselves thought they did. The decision in Herbertsons Ltd. case [(1976) 4 SCC 736 : 1977 SCC (L&S) 48] was followed.
>
> 19. As noted above there was no challenge to the settlement which was the foundation for the Board's decision. A copy of the memorandum of settlement under Section

> 12(3) of the Act before the Joint Commissioner of Labour and the State Conciliation Officer, Government of Andhra Pradesh, Hyderabad was placed on record. On the basis of the settlement, the Board's decision was taken. Para 2 of the proceedings is very significant and read as follows:
>
> "A Wage Negotiation Committee was therefore constituted by the Board in the BP sixth read above. The Committee held detailed discussions with the representatives of the unions and finally reached a negotiated settlement with the recognised union under the code of discipline on 29-1-1991 before the Joint Commissioner of Labour and the State Conciliation Officer under Section 12(3) of the ID Act."

(2006) 9 SCC 623 47.3. In ITC Ltd. Workers' Welfare Assn. v. ITC Ltd.13, Supreme Court held that settlement arrived under Section 12 (3) must be given due weight and also observed that even if the settlement under Section 12(3) of the Industrial Disputes Act is challenged the scope of judicial review to test its validity is very very limited. Supreme Court held:

> "18. The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of Section 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under Section 12(3).
>
> .....
>
> 23. What follows from a conspectus of these decisions is that a settlement which is a product of collective bargaining is entitled to due weight and consideration, more so when a settlement is arrived at in the course of the conciliation proceedings. The settlement can only be ignored in exceptional circumstances viz. if it is demonstrably unjust, unfair or the result of mala fides such as corrupt motives on the part of those who were instrumental in effecting the settlement. That apart, the settlement has to be judged as a whole, taking an overall view. The various terms and clauses of settlement cannot be examined in piecemeal and in vacuum."

(emphasis supplied)

48. At this stage, it is appropriate to note that the NCWA is equally binding on the Industry and its employees. Thus, there are two binding agreements/settlements. The NCWA is a platform created at all India level and governs owners of all Coal Mines and their employees. It is a comprehensive agreement, generally governing all aspects of employment in a coal mine. On the contrary, Memorandum of Settlement dated 21.02.2000 arises out of conciliation proceedings to resolve the industrial dispute between the workers and SCCL. It is not in dispute that NCWA is binding on

SCCL and is committed to enforce the terms of the agreement. At the same time, there is an obligation on SCCL to ensure industrial peace and for this purpose, SCCL entered into settlement with (2002) 3 SCC 411 its workers under the Industrial Disputes Act and therefore this settlement is also binding on SCCL. NCWA can be termed as general terms of agreement; whereas Memorandum of Settlement dated 21.02.2000 is a special agreement/settlement as distinct from NCWA, dealing with specific aspects of employment in SCCL. This is also binding on employees and SCCL. Thus, even if there is a conflict between NCWA clauses and Memorandum of Settlement dated 21.02.2000, on the issue of providing alternative employment, the Memorandum of Settlement dated 21.02.2000 shall prevail. Further, with eyes wide open, employees having invited a settlement under section 12 (3) of Industrial Disputes Act, which envisages provision of alternate employment in the event an employee is declared unfit to continue in the job held by him, they cannot turn around and contend that it is not binding on them.

49. Thus, if an employee is declared unfit to do job held by him at the time of medical examination but declared as fit to do any other job, SCCL is competent to offer alternate job. An employee can be retired and dependant employment can be provided only if he is declared as unemployable.

5th Issue:

50. The contention is two fold. Remedy of Appeal under Rule 29J of the Rules is denied and appeal to higher authority within SCCL is not provided. Incidentally, it is also contended that opinion of Corporate Medical Board was not furnished to petitioners depriving the opportunity to effectively make an appeal. This contention looks attractive at the first blush but on a closer scrutiny on the issues in the writ petitions and the relevant provisions and the averments in the writ petitions, the same has no merit.

(i) Remedy of Appeal under the Mines Rules:

51. Rule 29-B (b) contemplates periodical medical examination at a fixed interval of at least five years. Rule 29-J creates a forum to challenge the result of medical examination as per Rule 29-B (b). This Rule also prescribes procedure to be followed, if an appeal is preferred. Rule 29-K deals with constitution and composition of Appellate Medical Board.

52. A conjoint reading of Rules 29-B (b) and 29-J would make it clear that if an employee is aggrieved by assessment of fitness made by the medical authority of the employer as part of periodical medical assessment, he can prefer appeal. Thus, remedy of appeal is available only when periodical assessment of fitness is made as required by Rule 29-B(b). As asserted by learned Special Government Pleader, the decisions impugned herein were not as a result of periodical assessment of fitness under Rule 29-B(b), but on a request made by individual employees even before periodical medical assessment was due. This assertion is not controverted. Thus, strictly going by the scheme of the Act and Chapter IV A of the Rules, the action taken by SCCL to conduct medical examination of employees who made an application even before periodical medical assessment was due, is not envisaged therein. It is a decision taken by the SCCL on a favorable consideration of the request by employees to subject them for medical examination de-horse the scheme of Chapter IV-A of the

Rules, as employer but not only as an owner of a mine. Present exercise resulting in this litigation is not envisaged by Rules 29B(b) & 29J of the rules.

53. Even, assuming that remedy of appeal is available, on a close look at the scheme of the Rules, it is apparent that consent of employer to avail the remedy of appeal is not envisaged. It is for the concerned employee to go in appeal, if he is not satisfied with the assessment of Medical Authority on his fitness. Nothing prevented employees from availing such remedy. Without availing the remedy of appeal, if any, on their own volition petitioners have opted to institute these writ petitions under Article 226 of the Constitution of India raising several pleas on various aspects of the assessment of their fitness. Further not furnishing the report of assessment by Corporate Medical Board is not a ground against not availing the remedy of appeal, if any, as this can also be urged in support of the appeal.

(ii) Remedy of Appeal within SCCL:

54. It was also contended that earlier SCCL provided Appellate Medical Board vide Office Memorandum dated 29.6.2014 but later these orders are withdrawn. Before appreciating this contention, it is necessary to note that medical examination exercise pursuant to which the impugned decisions are taken, is in addition to the periodical medical examination envisaged in Rule 29-B (b) and even before periodical medical examination was due. Office Memorandum dated 29.6.2014 was superseded by Circular dated 7.4.2015. By this circular Appellate Medical Board is dispensed with and a broad based Corporate Medical Board is constituted. In the earlier composition of Corporate Medical Board and Appellate Medical Board, there was only one Medical Officer. In the reconstituted Corporate Medical Board, there are two or three medical professionals. After the Division Bench judgment in W.P. (PIL) No.19 of 2017, revised order was issued in Office Memorandum dated 9.3.2018. The Corporate Medical Board is reconstituted. All non- medical officials are excluded and now the board comprises only medical professionals. The Chief Medical Officer of SCCL is Chairman and 2 or 3 specialists are nominated by the Government. Thus, it is ensured that objective and professional assessment of fitness can be made as all the members of the Board are professionals and except the Chairman other members are outsiders. Further, it is seen from Office Memorandum dated 29.6.2014 that even when Appellate Medical Board was functioning, the remedy of appeal was confined to cases of employees who are declared as fit for same job. In none of these cases employees are declared as fit for the same job.

55. On 29.5.2000 Office Memorandum was issued constituting Corporate Medical Board. On the same day detailed circular instructions were notified bearing No.P40/5911/IR/1206, which contain procedure to examine and also specified relevant forms. A reading of annexure appended to the circular would show that all the details of employee including past medical record, result of earlier medical examination, etc. have to be furnished when employee applies for medical examination. More comprehensive Circular No.CRP/PER/IRPM/C/081/1218 was issued on 7.4.2015. The proformas enclosed to this circular also require furnishing past medical history and previous assessment by medical authority, if any made. The Board has the previous medical history and with experts on Board, it can make assessment of fitness of the employee presented before the Board. The Medical Board is also required to assess the fitness of the employee to hold the present post and his

suitability to hold alternative post. Further, before issue reaches to the Corporate Medical Board, there would be scrutiny of the claim and health condition of the employee at various levels. It is thus seen that a robust procedure was put in place to assess the fitness of the employee who applies for medical examination. No mala fides are attributed to medical professionals forming part of Corporate Medical Board. In the absence of attributing clear mala fides, it cannot be assumed that the Corporate Medical Board made wrong assessment of health of petitioners. Having regard to the scheme of the Rules, claim of petitioners and detailed mechanism evolved by SCCL, it cannot be said that not providing further appeal within the SCCL has greatly prejudiced petitioners.

56. Further, their entitlement for periodical medical examination under Rule 29 B (b) and remedy of appeal under Rule 29-J of the Rules is preserved. I therefore see no merit on the submissions of learned counsel for petitioners. Further, extensive submissions were made touching upon various aspects of the core issue, i.e., findings of Corporate Medical Board and the consequential decisions of the SCCL. All those submissions are comprehensively considered in this order. 6th Issue :

57. It is further contended that without the consent of employee, he should not be given another job. It is to be noted at this stage, that none of the Circulars/Office Memorandums which provide for alternative employment are under challenge. Further, Item No.4 of Memorandum of Settlement dated 21.2.2000 requires SCCL to provide alternative employment. This is agreed by the majority union and is binding on all employees. In terms thereof no prior consent of employee is required to offer alternate job.

58. Even otherwise, it is the prerogative of the employer to use the services of employee in whatever manner he requires in the larger interests of the company. Employee cannot dictate terms to the employer as to how his services can be utilized. Two basic aspects of employment in a public sector company are: (1) employee's conditions of service should not be affected to his disadvantage; (2) his pay and allowances should not be lowered at any stage of service except by way of punishment, as a result of disciplinary action. In the cases on hand, employees have applied for medical examination. On such examination they were found unfit to do present job but found fit to do other job. Item No.4 of Memorandum of Settlement dated 21.2.2000 envisages provision of alternative job. Therefore, it is not the case of unilateral alteration of status of employee. It is in compliance with the terms of the Memorandum of Settlement. Once an employee is declared unfit to do present job, in normal circumstances, he is liable for termination. Instead of terminating him from service, he is provided alternate job with protection of emoluments previously drawn. SCCL has provided alternative job, instead of termination and is protecting the pay and other allowances hitherto drawn by him. Thus, it cannot be said that his conditions of service are affected to his disadvantage. Thus, two primary conditions of employment are not affected.

59. It is appropriate to note that there is no compulsion on employee to accept the alternative job and he can seek voluntary retirement/ premature retirement/ retirement from service.

7th Issue:

60. Lastly, it was contended that SCCL violated Rule 82(A) of the Rules. As per this Rule, petitioners are entitled to retire; entitled to get disability allowance; and compensation for occupational disease as they were declared unfit to hold their substantive post.

61. As per first proviso to Section 9 (A) (5) where an employee was declared unfit to do job held by him at the time of reporting for medical examination but alternative job is not readily available to him, he should be paid disability allowance. Rule 82 -A (1) deals with such contingency and specifies disability allowance payable. In these cases, SCCL has provided alternative employment; many of the petitioners have joined. Therefore, what is envisaged by first proviso to Section 9-A (5) and Rule 82-A (1) is not attracted. Second proviso to Section 9-A (5) and Rule 82-A (2) is also not attracted, as these employees have not opted to leave the employment. Thus, Rule 82-A of the Rules is not violated by the SCCL. Petitioners desire to be declared as unfit for employment and to grant all benefits, particularly dependant employment.

62. In the above analysis of facts and the law, all the issues are held against petitioners. I hold as under:

> (1). If an employee is declared unfit to do the job held by him at the time of medical examination but declared as fit to do any other job, SCCL is competent to offer alternate job.
>
> (2). An employee can be retired and dependant employment can be provided only if in the medical examination, he is declared as unemployable.
>
> (3). Unless the illness of the employee makes him unemployable, such employee cannot claim dependant employment.
>
> (4). The decisions of SCCL declaring the petitioners as unfit to work in the jobs held by them at the time of their medical examination, declaring fit to work in the alternative jobs and providing alternate jobs with protection of pay and emoluments drawn in the posts held by them earlier are legal and within the competence of the SCCL, and do not call for interference.

63. The Writ Petitions fail and are accordingly dismissed. Pending miscellaneous petitions shall stand closed.

_____ JUSTICE P.NAVEEN RAO DATE: 19-05-2020 Tvk/kkm Note: LR Copy to be marked: YES THE HON'BLE SRI JUSTICE P. NAVEEN RAO Writ Petition Nos.42417, 42418 of 2018; 1734, 8475, 8485, 8491, 8494, 8524, 8732, 8741, 8916, 9106, 9564, 9994, 10300,10679, 10757,10763, 11090, 11213, 11287, 12316, 12755, 13008, 14898, 14914, 14923, 14950, 15238, 15251, 15255, 15271, 15289, 17049, 17245, 17246, 17252, 17525, 17565, 17577, 17594, 17669, 17686, 17689, 17715, 17719, 17751, 17885, 17928, 17930, 17953, 17956, 17963, 17980, 18000, 18118, 18162, 18277, 18278, 18303, 18334, 19244, 19245, 19350, 19919, 20740, 20744, 20745, 20751, 21068, 21222, 21646, 21647, 21678, 21839, 22097, 22347, 22349, 22436, 22618, 22624, 22900,

23486, 23495, 23502, 23512, 23534, 23541, 23542, 23543, 23578, 24326, 24389, 25063, 25064, 25657, 25688, 26407, 27033, 27560, 27563, 28175, 28562 of 2019; 1008, 1118, 1689, 2083, 2610 and 3713 of 2020.

Date : 19.5.2020