

# SUPREME COURT OF INDIA

Central Coalfields Ltd.

Vs.

Union of India (Uoi)

(J Verma and B Kirpal JJ.)

07.11.1996

## ORDER

1. The only point raised for decision in these appeals is whether the prior service of a workman continuing in service after 1-5-1972 under the Coking Coal Mines (Nationalisation) Act, 1972 has to be included in the length of service for determining the amount of gratuity payable to such a workman under the Payment of Gratuity Act, 1972. The High Court, by the impugned judgment, has taken the view that the same has to be included. Hence, these appeals by special leave.

2. Learned counsel for the appellant submitted that the position with regard to such workmen who were employed by one or more contractors prior to the nationalisation, with effect from 1-5-1972, is different from that of the workmen directly employed by the mine owner and, therefore, the workmen employed by the contractor and not directly by the owner would not be entitled to this benefit. Reliance has been placed by learned counsel on Section 9 of the Act to support this submission. In our opinion, Section 9 has to be read along with the other provisions of the enactment including Section 17 thereof. History shows that the originally enacted Section 17 was substituted by Act No. 57 of 1986 retrospectively with effect from 1-5-1972 itself. We do not find anything in Section 9 read with Section 17 to support the appellant's contention.

3. The provision in Section 9 is that the Central Government is not to be liable for the prior liabilities of the owner, agent, Manager or Managing Director of a Coking Coal Mine or Coke Oven Plant in relation to any period prior to the appointed day (1-5-1972) and that such prior liability would be of the earlier owner and shall be enforceable against him. This provision was enacted to indicate clearly that the liabilities already crystallised prior to the appointed day were not passed on to the Central Government or the government company inasmuch as the same had become enforceable prior to the appointed day. The question of payment of gratuity, etc., which becomes due only at the end of the service, in respect of workmen who were continuing in service even after the appointed day, arose subsequent to the appointed day and is, therefore, not a prior liability for which the Central Government or the government company would not be liable because of Section 9 of the Act.

4. We also find that the reasons given by the High Court for rejecting the appellant's contention are justified. These appeals must, therefore, fail.

5. Consequently, the appeals are dismissed with costs. The respondents in all these appeals would be paid one set of costs assessed at Rs. 10,000. By virtue of an interim order made in these appeals, the amount required to be paid to the respondent-workmen has not been paid to them even though the same is said to have been deposited with the appellate authority. The amount would now be paid to the workmen concerned and the appellant would also pay interest on that amount at the rate of 12% per annum to be calculated from 1-1-1995 till the date of payment.