

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Partha Pratim Roy

M.A.T. 1025 of 2026

With

I.A. No.: CAN 1 of 2026

I.A. No.: CAN 2 of 2026

***Chairman-cum-Managing Director,
Eastern Coalfields Limited***

Vs.

Goutam Hari & Ors.

For the Appellant : Mr. Manik Das.

For the Respondent No. 1 : Mr. Abhinaba Dan.

Heard on : 19.08.2026

Judgment on : 20.08.2026

Madhuresh Prasad, J.:

1. The present appellant was the respondent before the writ Court wherein an issue substantially relating to the writ petitioner's claim for a compassionate appointment was considered. Father of the writ petitioner was serving as a "safai karmachari" in Kalla Central Hospital of the appellant organization where he died in-harness on 14.01.2021. The writ petitioner, son of the deceased employee, claimed a compassionate appointment. The writ petitioner declared himself to be 33 years of age. He was issued a provisional appointment letter w.e.f. 15.01.2021.

2. In the process of document verification, petitioner's medical examination was conducted on 25.05.2021. The Medical Board constituted for age assessment opined the petitioner's age to be between 35 to 40 years.
3. The benefit of compassionate appointment was claimed under the provisions of the National Coal Wages Agreement (NCWA). The same prescribed an upper age limit of 35 years for claiming the benefit of compassionate appointment. Petitioner, therefore, was declared unfit due to over age and also because of some deficiency in vision. His provisional employment was, therefore, terminated on 10.07.2021.
4. The petitioner was aggrieved by the age assessment, and, therefore, approached the Apex Medical Board for Age Assessment in the ECL, where the age was assessed again on 19.11.2021. The assessment of the Apex Medical Board was in concurrence with assessment done by the Medical Board. The Apex Medical Board also found the writ petitioner to be between 35 to 40 years old. The writ petitioner assailed the order terminating him from his provisional compassionate appointment.
5. The writ Court being faced with a dispute regarding the petitioner's claimed age; and its assessment by a Medical Board and Apex Medical Board of his employer, deemed it appropriate to direct an assessment by a Board for age assessment by an ossification test. The learned Single Judge accordingly issued direction dated 01.03.2023 upon Superintendent of a premier hospital of the State namely SSKM

Hospital and IPGMER, to constitute a Board for assessment of the petitioner's age by way of an ossification test. The direction was unsuccessfully assailed earlier by the present appellant in MAT 1434 of 2023. The Division Bench did not interfere with the order, and directed the authorities to comply with the order dated 01.03.2023 passed in the writ proceeding.

6. Accordingly, the Medical Board was constituted by the IPGMER - SSKM Hospital, Kolkata on 12.04.2024, when a detailed physical examination of the writ petitioner was conducted by a process involving four doctors ossification test was also conducted. The petitioner's age was assessed to be between 30 to 40 years on date of radiological examination (12.04.2024).
7. In case of such an assessment there is no dispute between the parties that the mean of the range is to be taken as the age of the person for all purposes. The mean of 30-40 years, is 35 years. The learned Single Judge took into consideration the fact that the provisional compassionate appointment was granted in the year 2021. The ossification test was done in the year 2024. The mean age assessed in 2024, therefore, would correspondingly get reduced if assessed w.e.f. 15.01.2021, i.e. the date on which he was given the provisional compassionate appointment. On such analogy the learned Single Judge found that the petitioner was under 35 years of age on 15.01.2021.
8. The learned Single Judge thus directed the appellant/ECL to reinstate the petitioner on the post of Safai Karmachari where he was appointed

on provisional compassionate appointment.

9. The judgment of the learned Single Judge dated 02.04.2026 is put to challenge in the present Intra Court Appeal. The learned Advocate for the appellant/ ECL submitted that the assessment of petitioner's age done by the Medical Board and Apex Medical Board of the organization did not require any interference in exercise of writ jurisdiction. He further submitted that the assessment done by the IPGMER - SSKM Hospital is at variance with assessment done by the Medical Board and Apex Medical Board of the appellant organization. He thus submits that the Court should direct assessment by another/independent Board/ Hospital, preferably AIIMS Kalyani, so that the issue of age of the petitioner may be put to rest. He submitted that the age assessment done by the IPGMER - SSKM Hospital is on a 10-year range leaving more scope for error. To bring some accuracy on the assessment, it is desirable that an assessment be done by the AIIMS, Kalyani.
10. The learned Advocate for the writ petitioner/respondent on the other hand, submits that the appellants have not made out a case with reference to any material whatsoever, so as to cast an iota of doubt on the age assessment done by IPGMER - SSKM Hospital. Under the circumstances a direction for reassessment of the age by AIIMS, Kalyani, is merely to satisfy the ego of the appellate authorities, and is unwarranted. A scientific assessment was done by a Board of Doctors. The appellants were represented in the process which is apparent from their signatures appearing in the attendance sheet dated 12.04.2024

during the assessment. Thus, there is no scope for seeking another assessment as regards the writ petitioner's Age Assessment.

11. We have considered the rival submissions. We find that the writ petitioner's age assessment was done by IPGMER - SSKM Hospital under an interim order dated 01.03.2023 passed in the writ proceeding. The interim order was complied by the authorities after it was affirmed by the Division Bench by its order dated 30.01.2024 passed in MAT 1434 of 2023. The appellant ECL chose not to assail the order dated 30.01.2024 of the Division Bench before a higher forum. Rather they complied with the learned Single Judge order dated 01.03.2023, and participated in age assessment done by the IPGMER - SSKM Hospital.
12. The learned Single Judge relying upon the Age Assessment by the IPGMER - SSKM Hospital proceeded to dispose of the writ petition by judgment dated 02.04.2026. The learned Single Judge set aside the order terminating petitioner's provisional appointment and issued consequential directions to reinstate the petitioner in service.
13. We find that as per the order dated 01.03.2023 passed in the writ proceeding and order dated 30.01.2024 passed in MAT 1434 of 2023 the Age Assessment of the petitioner was required to be done by the IPGMER - SSKM Hospital. The issue of Age Assessment thus, attained finality under order of the writ court dated 01.03.2023 as affirmed by the order dated 30.01.2024 passed in MAT 1434 of 2023 by the Co-ordinate Bench. Therefore, the appellant cannot be permitted to resort to the present intra court appeal with the oblique motive of

substantially interfering with; or passing an order at variance with the order passed by the Co-ordinate Bench in MAT 1434 of 2023.

14. Under the circumstance there is no scope for the appellants to raise a grievance in this regard.
15. We also find that the prayer made by the learned Advocate for the ECL appellant that Age Assessment should now be directed to be carried out by the AIIMS, Kalyani is not founded on any reason whatsoever to discredit the age assessment done by IPGMER - SSKM Hospital. A direction is sought in this regard on *non est* reasons. The assessment done by IPGMER is through a scientific process/ ossification test. The same is by a Board of Medical experts. The authorities/ appellant was witness to such age assessment and did not raise any objection either during the age assessment, or thereafter as regards any procedural irregularity, which may justify interfering with the age assessment in exercise of judicial review under Article 226 of the Constitution of India. The issue therefore, attained finality between the parties by virtue of the order passed by the Division Bench in MAT 1434 of 2023.
16. Under the circumstances we find that no case is made out for doubting the Age Assessment done by IPGMER - SSKM Hospital.
17. In view of our above consideration, we find that no case is made out for interference with the judgment of the learned Single Judge.
18. Taking into consideration the pendency of the present appeal, we

modify the order of the learned Single Judge limited to the time specified therein for the writ petitioner's reinstatement, to four weeks from the date of communication of the present order. The petitioner will also be entitled to count this period from the date of termination 10.07.2021 till reinstatement all notional benefits.

19. The appeal is accordingly disposed of.

20. Urgent certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Partha Pratim Roy, J.)