

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 395 of 2012

Smt. Hem Mati, Wd/o Late Bodhan Prasad, aged about 44 years, R/o
Domanhill Colliery, Post- Sonawani, Thana-Chirmiri, Tahsil-Khandganwa,
Distt.- Korea (CG) **---- Petitioner**

Versus

1. South Eastern Coal Fields Limited, Through Chairman Cum Managing
Director, Seepat Road, Bilaspur (CG)
2. Director, Personnel, South Eastern Coal Fields Limited, Seepat Road,
Bilaspur CG
3. Chief General Manager, South Eastern Coal Fields Limited Chirmiri Area,
G.M. Complex Podi, Distt.- Korea CG **---- Respondents**

For Petitioner	:	Mr. Sanjay Patel, Advocate
For Respondent-SECL	:	Mr. Atul Kesharwani, Advocate appears under instructions from Mr. V.R. Tiwari, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10.11.2017

Heard.

1. The petitioner, by this petition, has raised a claim for payment of retiral dues as also for compassionate appointment on the pleadings *inter alia* that the petitioner's husband while in the employment of respondent-SECL working as Mazdoor Category-I died on 31.12.2002. According to the petitioner, where an employee dies while in service, eligible members of his family, widow being one of them, is entitled to compassionate appointment.

2. Return has been filed by the respondents and the respondents have seriously disputed the date and time of death of the petitioner's husband. According to the respondents, the petitioner's husband died in the night intervening 31st of December, 2002 and 1st of January, 2003. According to them, the death having taken place after 12 a.m. in the night, the petitioner's husband having attained superannuation on 31st of December, 2002, it would not be a case of death while in service but on the date, he stood retired and therefore, the policy of compassionate

appointment in such case would not be applicable.

3. According to learned counsel for the petitioner and the document placed by him on record to support his submission, petitioner's case is that her husband died before 12 a.m. in the night of 31st of December, 2002 that means at that time, the employee was in service, therefore, there will be entitlement for compassionate appointment. In support of this submission, the petitioner has placed reliance upon the birth and death certificate and a certificate of death issued by Dr. Ramarao Gajbhiya, the Medical Officer of the Government Hospital at Chirmiri, Dist. Korea (CG).

4. This Court having appreciated the circumstances of the case that the claim for compassionate appointment would essentially depend upon the finding as to the time and date of death of the employee, required production of the original records of the hospital where, according to the petitioner, the employee died in the night of 31st of December, 2002. Pursuant to the notice issued by this Court, Dr. S. Kuzur, Block Medical Officer, Government Hospital, Khadganwa appeared along with the original records of Original Indoor Register and OPD Register of the concerned Hospital. This Court perused the records and the entries made on 31st of December, 2002 and 1st of January, 2003 and could not find the name of deceased employee i.e. Bhodhan Prasad, S/o Thakur Prasad. Therefore, no sanctity can be attached to the two certificates which have been placed before the Court by the petitioner. It would be a case requiring adjudication of a serious issue of fact with regard to the date and time of death of the employee Bodhan Prasad.

5. Learned counsel for the parties jointly submit that as far as the retiral dues are concerned, they have already been paid and the petitioner is getting family pension. Therefore, in these circumstances, this petition is disposed off giving liberty to the petitioner to approach appropriate Forum seeking declaration of her right and enquiry into factual aspect with regard to the time and date of death of late Bodhan Prasad, S/o Thakur Prasad.

6. The original records produced for perusal of the Court are perused and handed over to Shri S. Kuzur, Block Medical Officer, Government Hospital, Khadganwa, in the Court itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge