

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2498 of 2017

Smt. Kumari Devi W/o Late Shri Dharamdas, Aged About 46 Years R/o S E C L Domnara Colony, Qr. No. M/146, P O Pharakanara, Tahsil Kharsiya, District Raigarh (Chhattisgarh).

---- Petitioner

Versus

1. South Eastern Coalfields Limited, Through Its Chairman-Cum- Managing Director, South Eastern Coalfields Limited, Sipat Road Bilaspur (Chhattisgarh).
2. General Manager (P & A), South Eastern Coalfields Limited, Sipat, Bilaspur (Chhattisgarh).
3. General Manager (Personnel), South Eastern Coalfields Limited, Raigarh Area, Raigarh (Chhattisgarh).
4. Deputy General Manager (Personnel), South Eastern Coalfields Limited, Chhal Sub Area, District Raigarh (Chhattisgarh).
5. Manager (Personnel), South Eastern Coalfields Limited, Sipat, Bilaspur (Chhattisgarh).

---- Respondents

For Petitioners	:	Shri D.R. Patel, Advocate
For Respondents	:	Shri Vinod Deshmukh, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/10/2017

Heard.

1. The question arising for decision in this petition is that as to what is the date from which the petitioner is entitled to monetary compensation.
2. Case of the petitioner is that husband of the petitioner, while working under respondents – SECL, died on 26.2.2013. The petitioner submitted an application for grant of employment on 15.3.2013. However, as there was no male member available for employment at that time, the name of the son of

the petitioner was kept in live roster. Thereafter, the petitioner submitted an application on 17.12.2014 that she may be granted monetary compensation. With effect from 1.1.2015, monetary compensation is being paid to the petitioner on monthly basis.

3. According to learned counsel for the petitioner, grant of employment or monetary compensation in lieu thereof till the employment is not granted is beneficent scheme with an object to provide financial support and aid to the family of deceased employee. Therefore, the provision has been made for grant of compensation or employment. As the employment was not available at that time, the petitioner was entitled to payment of compensation from 1st day of the month following the date on which application was made. Application for employment was made on 15.3.2013. Therefore, from 1st April 2013, the petitioner was entitled to monetary compensation till petitioner's son gets employment upon attaining the age of 18 years.
4. Learned counsel for the respondents, however, submits that the provision requires payment of monetary compensation in case the employment is not provided from the 1st day of the month following the submission of the application for compensation. The petitioner submitted application for compensation on 17.2.2014 and therefore from 1st of January 2015, the monetary compensation is being paid.
5. After hearing learned counsel for the parties, in the opinion of this Court, the claim of the petitioner is liable to be allowed in view of clarification issued by the Coal India Limited vide its memo dated 12/19th December 1994 (Annexure R-2) dealing with the present situation where application for employment is made but employment is not granted and then arises occasion for considering prayer for grant of monetary compensation. The clarification, being relevant, is reproduced hereinbelow:

“Some of the Subsidiary Companies have sought clarification in regard to the date of payment of such cash compensation to the female dependent, other terms & conditions and mode of payment etc. The matter has since been considered by the FDs of CIL in the meeting on 17.11.1994 and the guidelines decided are as under :-

(1) The payment on monthly basis will be made from the first day of the following month from which the application by the widow/female dependent was made for employment or cash compensation.

(2) The payment of pension/cash compensation in lieu of employment will be made till the widow/female dependent reaches 60 years of age or death or remarriage whichever is earlier.

(3) The cash compensation amount will be paid by money order or through a bank draft to the place of settlement of the dependent without deducting charges for money order or bank draft.

(4) Life certificate will be required to be given by all such dependents-

(a) if paid by M.O. - Half- yearly

(b) If payment is made through bank - Yearly

(5) Proper records of acknowledgments to be maintained.

This is for your further necessary action."

6. A perusal of the aforesaid instructions would show that payment on monthly basis will have to be made from 1st day of following month in which application by the widow/female dependent was made for employment or cash compensation. Indisputably, in the present case, application for employment was made on 15.3.2013 vide Annexure P-3.
7. Rationally speaking, upon death of an employee, when an application is made for grant of employment, if employment cannot be granted at that stage for any reason, it has to be treated as an application for grant of monetary compensation. The dependent of the employee cannot be expected to wait till decision of the application for appointment and then move an application for grant of monetary compensation. Under the scheme of NCWA, the widow of the employee is entitled to monetary compensation where employment cannot be granted. Therefore, fair and logical interpretation of the aforesaid provision would lead to irresistible conclusion that date on which the application for employment is made should be treated as date of application

for monetary compensation if the employment cannot be granted for any reason. Applying the said interpretation in the light of clarification given by the respondent vide Annexure R-2, the petitioner was entitled to monetary compensation with effect from 1st April 2013.

8. In the result, the petition is allowed. Monetary benefits shall be payable to the petitioner from 1st April 2013 onwards. It is informed that compensation is actually being paid from 1.1.2015. Therefore, the difference of monetary compensation from 1.4.2013 to 31.12.2014 shall be paid to the petitioner within a period of 3 months.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen