

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4294 of 2018

Smt. Amaresh Rajwade D/o Late Ramprasad, W/o Shri Vijay Kumar Sahu, aged about 33 years, R/o- Karanjwar, Police Station And Tahsil Pratappur, District-Surajpur, Chhattisgarh.

---Petitioner

Versus

1. South Eastern Coalfields Limited, Through-Its Chairman-Cum-Managing Director, Headquarter, Seepat Road, Bilaspur, Chhattisgarh.
2. The General Manager, Vishrampur Area, SECL, Vishrampur, District-Surajpur, Chhattisgarh.
3. The Assistant Manager (Personnel), Rehar Land Mines, Vishrampur Area, District- Surajpur, Chhattisgarh.
4. The Mining Manager, Rehar Land Mines, Vishrampur Area, District-Surajpur, Chhattisgarh.

---Respondents

For petitioner : Shri D.N.Prajapati, Advocate.

For State : Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/07/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 11/13-12-2017 whereby the claim of the petitioner for dependent employment has been refused for consideration by the respondents.
2. Perusal of record would show that, the claim for dependent employment was against the death of one Late Ramprasad – the father of the petitioner who died in harness on 24/09/2012. At the time of death of the father of the petitioner, his mother was alive and she at that point of time also did not claim for compassionate appointment as long as she was alive till

07/01/2014. That after the death of the mother of the petitioner on 07/01/2014, the petitioner for the first time claimed compassionate appointment on 01/04/2017 and her claim application was subsequently refused vide the impugned order – Annexure-P/1.

3. The counsel for the petitioner banked upon the judgment of this Court wherein it has been held that, the married daughters have also been held eligible for compassionate appointment both in the State Government as well as in the employment of SECL and therefore the respondents could not have refused to consider the claim of the petitioner.

4. However, perusal of record would show that, in the instant case, the petitioner at the first instance had not moved for compassionate appointment. After the death of the deceased employee, the wife of the deceased i.e. the mother of the petitioner was alive for about 2 years period and even then she did not claimed for compassionate appointment.

5. Further, from the pleadings and the documents enclosed with the Writ Petition, it is not pleaded or reflected or established by any document that the petitioner was totally dependent upon the deceased employee on account of which she was claiming the dependent employment. It is settled position of law that the compassionate appointment can only be claimed by a person who was dependent upon the deceased employee.

6. In the instant case, since the dependency part has not been pleaded or established, merely because the petitioner happens to be the married daughter of the deceased by itself would not entitle her for claiming of compassionate appointment.

7. Thus, this Court does not find any strong case made out by the counsel for the petitioner calling for an interference with the decision taken by the respondents.

8. However, it cannot be lost sight of the fact that the respondents in their impugned order have stated that after the death of the deceased employee, his family members were entitled for monetary compensation.

9. In the instant case, according to the counsel for the petitioner, the family members of the deceased employee were not paid monetary compensation even to the widow of the deceased employee.

10. Considering this contention made by the counsel for the petitioner, this Court gives liberty to the petitioner to raise a detailed representation to the respondent No.2 within a period of 30 days from today so far as the monetary compensation is concerned, if the same could be payable to the petitioner.

11. On such representation being made, the respondent No.2 may take a decision in accordance with law within a period of 90 days from the date of receipt of representation. If the monetary compensation is payable to the petitioner, the same shall be paid from the date of death of the deceased employee till the date of death of the mother of the petitioner.

12. The Writ Petition thus stands allowed in part and disposed off.

Sd/-
(P. Sam Koshy)
JUDGE