

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 286 of 2019

*(Arising out of order dated 26.04.2019 passed by the Learned Single Judge in
Writ Petition (S) No. 3066 of 2019)*

- Sudhir Kumar S/o Late Fagua Aged About 22 Years, by Caste Oraon, R/o Koriya Colliery Chirmiri, Baikunthpur, District- Koriya, Chhattisgarh.

---- Appellant

Versus

1. South Eastern Coal Field Ltd. Through Its Chairman Cum Managing Director, Seepat Road, Bilaspur, Chhattisgarh.
2. Chief General Manager Chirmiri Area, Chirmiri, Tahsil Manendragarh, District- Koriya, Chhattisgarh.
3. Assistant Manager Regional Workshop Koriya, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Parag Kotech, Advocate.
For Respondent	:	Shri Vivek Ranjan Tiwari, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, J.

09.07.2019

1. The Appellant has challenged the impugned order dated 26.04.2019 passed in W.P.(S) No. 3066 of 2019 by the Writ Court, whereby the writ petition filed by the writ petitioner before the Writ Court seeking relief for a direction for considering his case for grant of compassionate appointment has been dismissed on the ground of delay.
2. Learned counsel for the Appellant submits that the deceased employee, undisputedly, died on 10.02.2000. Thereafter, some family dispute arose between the two wives of the deceased. To settle the dispute, a civil suit was filed before the competent Civil Court.

3. Learned counsel for the Appellant, in view of the aforementioned facts, further submits that the delay was not for the reason in projecting the application but with regard to the family dispute that arose between the parties giving rise to filing of a civil suit in which SECL was also a party. The proceeding of suit ended with a compromise decree between parties in First Appeal. The compromise decree was challenged by respondent department in Second Appeal, which was dismissed. After dismissal of Second Appeal, execution proceedings was initiated and the executing Court terminated the proceedings on 06.04.2018 taking into consideration the observations made by High Court in Second Appeal's order. He submits that immediately after the termination of execution proceedings application for compassionate appointment was filed within short time. He submits that as at last civil Court proceeding came to an end on 06.04.2018 and thus his application filed within two months is in time.
4. The learned counsel appearing for the Respondent / SECL submits that the as the death took place in the year 2000 and the Appellant has approached the authorities by filing an application for compassionate appointment in the year 2018, therefore, the authorities have rightly dismissed the application on the ground of an unexplained delay, hence, the authorities have not committed any error. The learned Writ Court have also considered the date of death as well as the date of filing of the application and dismissed the writ petition holding that the application for compassionate appointment has been filed after lapse of 18 years of the death of deceased employee. He also submitted that

undisputedly, the claim is made through second wife who married with the deceased employee during subsistence of first marriage. Learned counsel for the Respondent further submits that in view of the factual aspects of the case as well as the order passed by the Civil Court, if the Appellant, files an application / representation before the authorities for grant of compassionate appointment, the same can be considered in accordance with relevant Compassionate Appointment Rules.

5. We have heard the learned counsel for the parties and gone through the records of the writ appeal and writ petition as well. Perusal of the record would show that immediately after death of the deceased employee, several disputes arose between the family members and same were settled between legal representatives of deceased employee by way of compromise decree at first appellate stage. The compromise decree was challenged by Respondent-Employer by way of Second Appeal before High Court which came to be dismissed with an observation that by virtue of decree the applicant can only be considered for compassionate appointment in accordance with the rules. Perusal of the Annexure P/3 dated 06.04.2018 filed alongwith writ petition would reveal that in pursuance to the proceeding of the civil suit and after dismissal of the second appeal, execution proceedings was filed by the Appellant which came to be dismissed only on 06.04.2018. The executing Court after considering that decree is only for entitlement of compassionate appointment of plaintiff in accordance with the relevant rules of the SECL and also the objection raised by Respondent-SECL dismissed the execution application filed by mother

of the Appellant. True it is the application for compassionate appointment was made as on 26.05.2018 after 18 years of death of the employee, but at the same time it cannot be lost sight of the fact that immediately after death, mother of the Petitioner was involved in civil litigation for perfecting her civil rights being legal heir of deceased employee. It is not a case that Petitioner was sleeping over his rights, but was minor at that time and his mother was fighting a battle before appropriate forum for perfecting her civil rights which came to an end only on 06.04.2018.

6. Taking into consideration peculiar facts and circumstances of the case and also looking to the submission made by learned counsel for Respondents, we set aside the impugned order passed in WP(S) 3066 of 2019. We direct the Appellant to file a fresh application along with all relevant documents before the competent authority for compassionate appointment within a period of three weeks, to which the competent authority will consider and decide it on merits. within a further period of three months from the date of filing of application/representation in accordance with law.
7. With the aforesaid observation and direction, this appeal stands disposed off.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge