

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1338 of 2017**

- Smt. Meena W/o Lalman, Aged About 37 Years R/o Village Sarola, Tahsil Manendragarh, P. S. Pondi, District Koriya Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through Chairman-Cum- Managing Director, South Eastern Coalfields Limited, Bhatgaon Colliery, District Surguja Chhattisgarh
2. Director Personnel, South Eastern Coalfields Limited, Bhatgaon Colliery, District Surguja Chhattisgarh
3. Sub Area Manager, South Eastern Coalfields Limited, Bhatgaon North Chirmiri-Domanhil Group, P. O. Sonawani Colliery, District Koriya Chhattisgarh

---- Respondents

For Petitioner : Shri Pawan Kesharwani, Advocate

For Respondents : Shri Abhishek Sinha, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****05/10/2020**

1. Heard.
2. The instant petition is against the order dated 02.09.2016 whereby the claim of the petitioner for compassionate appointment was rejected on the ground that it is 5 years old.
3. Learned counsel for the petitioner would submit that the father of the petitioner, who was in the roll of SECL, died on 21.08.2010, thereafter, on 30.05.2011

petitioner and her mother made an application for compassionate appointment. He would further submit that in response to it, the petitioner was directed to submit certain documents on 23.06.2011, however, the documents could not be submitted and subsequently a afresh application was filed on 08.01.2016 and necessary documents were placed. He would further submit that despite that the claim of the petitioner for compassionate appointment was rejected on the ground of delay on 02.09.2016. He would further submit that since the rejection of the application for compassionate appointment is not on the merits, therefore, the respondents be directed to consider the case of the petitioner sympathetically on the merits by condoning the delay.

4. The reply of the respondents would show that the father of the petitioner was working as Cat. II Mazdoor at CHP Korea Colliery of Chirmiri Area, who expired on 21.08.2010. Thereafter, the petitioner along with her mother Smt. Munni Bai submitted an application on 30.05.2011 to get an employment for the petitioner, who is the daughter of the deceased employee but no documents were submitted along with the application which were required to consider the claim of the dependent family member. Thereafter, after one month certain documents were submitted before the authority on 23.06.2011, which were not enough to consider the claim of the petitioner for employment. Therefore, they instructed again to provide remaining documents to consider the case of the petitioner so that the documents in turn can be placed before the screening committee. It is further contended that after nearly six years of the death of the father of the petitioner and five years from the date of first application again afresh application was filed on 08.01.2016 to provide the dependent employment to the petitioner in place of her father, but again the documents

were not supplied. Therefore, under the circumstances, the respondents wrote a letter to the petitioner on 20.03.2016 asking for the requisite documents and on 28.03.2016 for the first time the requisite documents were filed, however, the same has been rejected as there had been exorbitant delay.

5. It is not in dispute that the father of the petitioner namely Lalan Singh died while was working with the respondents. Perusal of Annexure P-2, which is the particular of family filed with employer, would show that in the particulars of the family, name of Munni Bai is shown as the wife and Meena i.e. the petitioner herein is shown as daughter. The father of the petitioner died on 21.08.2010, thereafter, the application was filed by the mother of the petitioner for the compassionate appointment for the petitioner on 30.05.2011. Thereafter, vide Annexure P-4 certain documents were supplied on 23.06.2011 but nothing transpired as the reply would show that the petitioner was orally instructed to provide the documents but eventually the record shows that on 20.03.2016 (Annexure P-6) the petitioner was asked to submit certain documents. According to the reply of the respondents, afresh application was filed on 8.01.2016 and in response thereto certain documents were asked for. The documents further show that on 28.03.2016 documents were supplied, however, the application was rejected on the ground of delay.
6. Over all fact would reveal that initially the mother of the petitioner made the application on 30.05.2011 and certain documents were subsequently filed on 23.06.2011. The reply of the respondents would show that thereafter eventually by Annexure P-6 dated 20.03.2016 the documents were sought for. Since on 20.03.2016, the petitioner was again asked to submit the documents, it gives an

inference that in the year 2016 the case of the petitioner was still under consideration for dependent employment, therefore relevant documents were asked for. The further document would show that on 28.03.2016 the documents were supplied, therefore, when the letter dated 20.03.2016 (Annexure P-6) was issued to provide dependent employment was under consideration of the respondents for want of documents. Therefore, the rejection order of the application dated 02.09.2016 on the ground of delay do not appear to be justified and appears to have that the demand of documents by respondent were shelved.

7. In any case, once the petitioner was asked to submit the relevant documents, she deserves consideration afresh on the application for the dependent employment on merits. In the like nature of cases, hyper technical approach cannot be adopted as the employments of this nature need different criteria of consideration specially when the respondents themselves asked for relevant document. The documents having been supplied the rejection of application for appointment only on the ground of delay would be against the principles of estoppel & *acquiescence*. Under these circumstances, the order dated 02.09.2016 is set aside. The respondents are directed to consider the case of the petitioner afresh on its own merits within an outer limit of 4 months from the date of receipt of copy of this order.
8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge