

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6536 of 2021

Smt. Kajol Badyakar
Vs.
M/s. Eastern Coal Fields Limited & Ors.

Mr. Partha Ghosh
Mr. Amal Kumar Datta
... For the petitioner

Mr. Bijoy Kumar
... For the respondents

The petitioner is the wife of a former employee of C.L. Jambad Colliery of the Eastern Coalfields Limited (in short "ECL"). The petitioner's husband Sanatan Badyakar died-in-harness on 26th November, 2005. After the death of Sanatan Badyakar, his brother, being the brother-in-law of the petitioner, sought for compassionate appointment. No compassionate appointment has, however, been given to the petitioner's brother-in-law or any of the legal heirs of Sanatan Badyakar. The petitioner says that under the prevailing policy of Eastern Coalfields Limited, the respondent no.1, either compassionate appointment or monetary compensation in lieu thereof on the date of death is required to be paid.

The respondents submit that as far back as in 2006, the petitioner was offered monetary compensation in lieu of compassionate appointment for the death-in-harness of the petitioner's husband. The petitioner,

however, did not accept the same. The respondents pray for filing of an affidavit to bring these facts on record.

Responding to this submission of the respondents, it is submitted on behalf of the petitioner that after filing of the writ petition, the respondents have sought for documents and particulars from the petitioner to consider her case for monetary compensation.

The supplementary affidavit affirmed by the petitioner on 11th August, 2021 is taken on record. It appears from the said supplementary affidavit that on 18th February, 2021, the Assistant Manager (P), Siduli Group of Mines, by a memo bearing reference no.CLJ/Agent/MMCC/2021/1015 pointed out certain shortcomings in the application made by the petitioner for Monthly Monetary Cash Compensation (in short "MMCC"). On 8th April, 2021 the petitioner had submitted the document in terms of the memo dated 18th February, 2021. The application of the petitioner for MMCC appears to have been further processed. Thereafter by a memo dated 10th June, 2021 bearing reference no.Sid/Agent/PNL/MMCC/2021/1320, the MMCC proposal was forwarded by the Chief Manager (M) Agent, Siduli Group of Mines to the Chief Manager (Pers), Kenda Area. It is apparent that the application for grant of MMCC of the petitioner is in the final stage.

The respondents have expressed their willingness to pay MMCC in lieu of the employment and, as such, the

issue raised by the respondents that in the year 2005-2006 the petitioner was offered monthly compensation but she did not accept or that an initial medical examination was conducted in respect of the petitioner and that the petitioner did not join the services of the respondents despite being declared physically fit are inconsequential at this stage. No affidavit is also called for to bring on record these facts which are no more germane for the adjudication of the issue involved in this writ petition in the light of subsequent events. Moreover, neither the petitioner nor her brother-in-law availed compassionate appointment which debars the petitioner from claiming MMCC. The petitioner's cause is a continuing cause of action inasmuch as the respondents being obliged to give either appointment on compassionate ground or monetary compensation has given neither of this to the petitioner. That apart, under clause 9.5.0(ii) of the National Coal Wages Agreement VI, the petitioner being the female dependent of a deceased employee and above 45 years of age (58 years as per supplementary affidavit) is only entitled to MMCC.

The respondents are directed to finally process the MMCC application for the petitioner and disburse the monthly amount to the petitioner for the month of October, 2021 by 10th November, 2021 and continue to pay the monthly amounts by 10th of each succeeding month by month. So far as the amount falling due from the date of

death of the petitioner's husband till 30th September, 2021 shall be paid directly to the petitioner on or before 15th October, 2021.

The petitioner was initially pursuing for compassionate appointment since 2005 and the writ petition has been filed only on 5th February, 2021. The application for MMCC was made only on 8th December, 2020.

In view of that, the petitioner shall be entitled to a notional interest on the amounts that fell due till 31st August, 2021. The respondents while disbursing the amount for the period between the date of death of the petitioner's husband and 30th September, 2021 which, in terms of this order is payable on 15th October, 2021 shall pay a sum of Rs.25,000/- only towards interest.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)