

OD 4

WPO 686 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUSHAMA PAHAN
VERSUS
EASTERN COALFIELDS LIMITED AND OTHERS

BEFORE:
The Hon'ble JUSTICE SUVRA GHOSH
Date: 23rd September, 2021.

APPEARANCE:
Mr. Arnab Sardar, Adv.

Mr. Manik Das, Adv.

The Court:- The writ petitioner is the widow of one Babu Pahan who was employed with the Eastern Coalfields Limited and died in harness on 6th January, 2009. The petitioner applied for employment before the respondent authorities but was allowed monthly monetary cash compensation in lieu of employment. Several communications were entered into by and between the petitioner and the authority as the petitioner initially refused to take the monetary compensation but finally agreed upon the same. But the authority, by a letter dated 15th June, 2018 informed the petitioner that her prayer for monetary compensation was rejected "on the ground of falsification and presenting false and contradiction statement in different occasion to the company." The petitioner's prayer in the writ petition is as follows:

- a. A writ and/or order and/or direction in the nature of Mandamus do issue commanding the respondent authorities and/or their men, servants, agents and subordinates and each of them to immediately make payment of the monthly monetary cash compensation to the petitioner with effect from 6th January 2009 that is the date of death of the husband of the petitioner, namely, Babu Pahan, along with interest at the rate of 18% per annum on the arrears of the monthly monetary cash compensation from 6th January 2009 till the same is actually paid and to make payment of the monthly monetary cash compensation thereafter month to month;
- b. A writ and/or order and/or direction in the nature of Mandamus do issue commanding the respondent authorities and/or their men, servants, agents and subordinates and each of them to forthwith cancel/rescind/withdraw/quash/revoke/set aside the impugned letter bearing Ref. No. Shyam/Agent/PD/2018/1468 dated 15th June 2018, being Annexure 'P-16' herein, issued by the Agent, Shyamsundarpur Colliery, Eastern Coalfields Limited, pursuant to the letter no. ECL/CMD/C-6B/GM (P & IR)/18/1491 dated 09-06-2018 issued by the General Manager (P & IR), Eastern Coalfields Limited, and letter no. BA/PD/CL/18/1150 dated 13-06-2018 issued by the General Manager, Bankola Area, Eastern Coalfields Limited;
- c. A writ and/or order and/or direction in the nature of Mandamus do issue commanding the respondent authorities and/or their men,

servants, agents and subordinates and each of them to consider and dispose of the representation dated 6th August 2021, being annexure P-17 herein in accordance with law.

Clause 9.5.0 of the National Coal Wage Agreement VI which regulates employment/monetary compensation to female dependants of workmen who die while in service reads as follows:

ii. In case of death/total permanent disablement due to causes other than mine accident and medical unfitness under Clause 9.4.0 if the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs 3,000/- per month or employment.

In case the female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.

The petitioner was admittedly below 45 years of age when she applied for employment. However, the petitioner is agreeable to accept the monetary compensation along with interest thereon from the authority.

In terms of clause (ii) of the said provision, the petitioner being the female dependant is entitled to the monetary compensation as per the prevailing rate.

Learned Counsel for the respondents submits that there was discrepancy in the indemnity bonds submitted by the petitioner before the authority – one of the bonds expressing that the petitioner is the sole legal heir and the other bond depicting that she had children. This, according to learned Counsel for the respondents, was the sole ground for rejection of the petitioner's prayer.

It is not in dispute that the petitioner is the widow of the employee, Babu Pahan (since deceased). In view of the provision laid down under clause 9.5.0 (II) of the agreement, the petitioner is entitled to the monthly monetary compensation as claimed by her.

The proposition of law as laid down in M/s. Eastern Coalfields Ltd. versus Dewanti Kumari & Ors. Reported in (2016) 3 WBLR (Cal) 464 entitles the petitioner to receive the compensation from the date of death of the employee.

Having considered the submissions made by learned Counsels for the parties and material on record, the prayer of the petitioner is allowed by directing the respondents to consider the claim of the petitioner for monthly monetary compensation at such rates as were applicable during the relevant period and grant the said compensation in her favour from the date of death of the deceased employee. The arrear amount shall carry an interest at the rate of 6 per cent per annum from the date on which it fell due till the date of payment of the same. The current amount for each month shall be payable from October, 2021 and the arrear amount along with interest should be liquidated within a period of two months from the date of order.

With the above observations and directions, the writ petition, being WPO No. 686 of 2021 is disposed of.

There will be no order as to costs.

Since no affidavits are called for, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(SUVRA GHOSH, J.)