

22.09.2022
Court No.21
Item No.4
AP

WPA 3409 of 2022

**Smt. Panwa Bhuia
Vs.
M/s. Eastern Coal Fields Limited and Ors.**

Mr. Partha Ghosh
Mr. Amal Kumar Datta
Ms. Ria Paul
Mr. Debashis Das
Ms. Simran Sureka
Mr. Rahul Agarwala

... For the Petitioner.

Ms. Priti Banerjee

... For the ECL.

The petitioner claims Monthly Monetary Cash Compensation (in short 'MMCC') from respondent/Eastern Coalfields Limited (in short 'ECL') on the ground that her husband died-in-harness on May 27, 2012. Initially, in 2013 she prayed for appointment on compassionate grounds and the same was rejected by the respondent/ECL in 2017.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner refers to a letter dated February 22/25, 2018 issued by the Deputy Manager (Pers) to the Area Department Personnel recommending approval from the competent authority for 'MMCC' being granted to the writ petitioner.

Furthermore, he refers to the document dated October 21, 2019 issued by the Deputy Commissioner of Police to the District Magistrate, Paschim Bardhaman stating that the writ petitioner was the wife

of the ex-employee, Rajendra Bhuia, since deceased. It was also stated in the report that nothing adverse could be found against her in the available records.

Despite the said police verification report and the recommendation issued by the Deputy Manager, ECL, 'MMCC' of the petitioner was not released. Therefore, the writ petitioner was constrained to file the instant writ application being WPA 3409 of 2022.

Ms. Priti Banerjee, appearing for the respondent authorities, submits that there was no intentional delay in disbursing 'MMCC' by the ECL and the delay, if any, was caused due to the failure on the part of the petitioner to produce necessary documents.

Before this Court a dispute was raised with regard to the age of the petitioner since in an affidavit affirmed by her on March 7, 2013 she declared her age to be 35 years whereas in an indemnity bond filed by her she declared her age to be about 42 years. In another affidavit filed by her on January 12, 2021 she declared her age to be 46 years. Equally inconsistent was the finding of ECL. In the examination conducted by them on June 13, 2013 the petitioner's age was assessed to be between 41-46 years and as per the report of the Apex Medical Board her age was found to be between 45 to 50 years on July 10, 2019.

Given the inconsistency in respect of the age of the petitioner a Coordinate Bench of this Hon'ble Court directed the age of the petitioner to be assessed by a

Board constituted by the Medical Superintendent, Purba Bardhaman Medical College. Upon the same being done, a report was forwarded to this Hon'ble Court by way of a sealed cover. The said report has been retained with the records.

From such medical examination it appears that the age of the petitioner was 48 years as on the date of the examination held on July 13, 2022. There is no reason for this Court to dispute the said document.

In an exception to the Medical Report taken by the ECL it was urged that the identity of the writ petitioner was not confirmed by a representative of the ECL.

Taking the dispute into account, this Court directed learned advocate appearing on behalf of the petitioner to affirm an affidavit to evidence the fact that the identity of the petitioner was confirmed by her before the Medical Examination Board. Such affidavit was filed by the learned advocate, Ms. Ria Paul, in Court today and is retained with the records.

After considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the writ petitioner is entitled to 'MMCC' as per the provisions of the National Coal Wage Agreement (a bipartite agreement between the workers union and the employer/ECL)

In the circumstances, the petitioner will be entitled to 'MMCC' till the age of 60.

The petitioner will be entitled to arrears on account of MMCC from the date succeeding the death of her husband i.e. from May 28, 2012 till September 30, 2022. Thereafter, the petitioner will be entitled to regular monthly payment within 10th of each succeeding month from October 2022.

Needless to mention that the MMCC will be paid to the writ petitioner taking into account that she is aged 48 years in July 2022.

With the direction aforesaid, the writ petition, being **WPA 3409 of 2022**, is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)