

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15161 of 2021

Smt. Dulali Majhian @ Majhan
Vs.
M/s. Eastern Coal Fields Limited & Ors.

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

Mr. Bijoy Kumar
... For the respondents/ECL

The petitioner's husband Lakhindar Majhi alias Lakhindra was an employee of Central Kajora Colliery of Eastern Coalfields Limited (in short "ECL") who died-in-harness on 9th June, 2004. It is submitted by the petitioner that consequent upon the death of her husband, she has received Gratuity, Provident Fund and LCS amounts from the respondent authorities. The petitioner made an application for compassionate employment on 1st December, 2004 under the provisions of Chapter IX of the National Coal Wage Agreement (in short "NCWA"). Since 2004 the application of the petitioner for compassionate employment was kept pending on one pretext or the other. Ultimately, by a letter dated 9th September, 2006, the respondent authorities asked some documents with regard to the claim of the petitioner which the petitioner duly

complied with. Nothing further appears to have happened thereafter. The petitioner, in such circumstances, has applied for Monthly Monetary Cash Compensation (in short “MMCC”) under the provisions of clause 9.5.0 of National Coal Wage Agreement (in short “NCWA”) on 16th January, 2021 followed by another dated 25th January, 2021.

The writ petition has been filed only on 21st September, 2021, after lapse of a considerable period of time. Compassionate employment or MMCC in lieu thereof under the provisions of Chapter IX of NCWA is provided to assist the bereaved family to come out of the sudden financial crisis that arises due to the loss of the sole bread-earner. The whole basis of such social security is frustrated if there is enormous delay in either providing compassionate employment or MMCC.

In the instant case, the application for compassionate employment was made on 1st December, 2004, immediately after the death of the employee concerned. Between 2004 and 2021, compassionate employment was not granted to the petitioner.

ECL now comes up and says that it is willing to grant compassionate employment. However, it is too late in the day for ECL to say that it is willing to give compassionate employment. ECL if was not satisfied with the petitioner’s case for compassionate employment could

have offered MMCC in lieu thereof. Having not done so, ECL has rendered the social security provision in NCWA otiose. Since no compassionate employment was given within a reasonable period of time from the date of the application, that is, 1st December, 2004, ECL has become liable to provide MMCC to the petitioner. The petitioner, as per her declaration in the affidavit of the writ petition, is aged about 49 years. At the time when the petitioner applied for compassionate employment, she was as per her self-declared age was about 31 years. Instead of giving compassionate employment at the age of 49 years, MMCC, according to me, is a better option.

Considering that the petitioner had applied on 1st December, 2004 when the petitioner was much below the age of 45 years and at the present is about 49 years, I direct ECL to pay MMCC to the petitioner in stead of compassionate employment.

The current MMCC, i.e., for the month of April, 2022, shall be paid on or before 10th May, 2022. ECL shall continue to pay the MMCC at the applicable rate month by month from the month of May, 2022 onwards by tenth of each successive month for which it falls due.

So far as the arrears are concerned, ECL shall pay MMCC from 10th June, 2004 till 31st March, 2022 at the rate prevailing from time to time with interest at the rate of three per cent per annum by 30th June, 2022. Since the petitioner has applied for MMCC at a belated stage after

pursuing compassionate employment, I am inclined to provide interest on the arrears at the rate of three per cent per annum.

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.)