

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15187 of 2021

Smt. Ambabati Mahali
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 Rajesh Mahali was an employee of Bhanora West Block Colliery of Eastern Coalfields Limited (in short "ECL") who died-in-harness on 21st April, 2002. It is submitted by the petitioner that consequent upon the death of her husband, she has received Provident Fund and is also receiving the monthly pension. The petitioner initially applied for compassionate employment in favour of her brother-in-law, i.e., husband's brother. However, the said application for employment on compassionate ground was not provided. The petitioner, therefor, made an application for her own employment on 22nd September, 2011 under the provisions of Chapter IX of the National Coal Wage Agreement (in short "NCWA"). The petitioner thereafter made two reminders for compassionate employment – one on 23rd July, 2012 and the other on 12th September, 2020. Since 2011 the

application of the petitioner for compassionate employment was kept pending on one pretext or the other. The employer ECL by a letter dated 27th July, 2012 offered Monthly Monetary Cash Compensation (in short “MMCC”) in lieu of compassionate employment. 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”).

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 initially made on behalf of petitioner’s brother-in-law. If ECL had promptly processed such application, then the petitioner could have come to know about the fate of the same. Petitioner could have applied immediately if ECL had rejected the application for the brother-in-law instead of waiting till 22nd September, 2011. Between 2002 and 2021, compassionate

employment was not granted to either the petitioner's brother-in-law or the petitioner.

ECL now comes up and says that it is willing to grant compassionate employment. It is, however, too late in the day for ECL to say that it is willing to give compassionate employment or the offer for MMCC in lieu of compassionate employment was only offered on 27th July, 2012, i.e., after ten years from the date of death of the employee. Since no compassionate employment was given within a reasonable period of time from the date of the initial application as also from the date of the petitioner's application, i.e., on 22nd September, 2012, ECL has become liable to pay MMCC.

The petitioner's age as per self-declaration is about 45 years. In 2011 when the petitioner applied for compassionate employment, her age was about 34 years as per her declaration. At this age instead of giving compassionate employment, I think MMCC will be a better option.

Considering that the petitioner had applied on 22nd September, 2011 when the petitioner was much below the age of 45 years and at the present is about 45 years and that compassionate employment was not given within a reasonable period from the date of the application, 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 22nd April, 2002 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 application for compassionate appointment was made by the petitioner at a belated stage after pursuing compassionate employment for her brother-in-law and as MMCC was offered in 2012, I am granting interest at this reduced rate.

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.)