

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 17078 of 2021

Sunil Dom Badyakar
Vs.
Eastern Coalfields Limited & Ors.

Mr. Partha Ghosh
Mr. Amal Kumar Datta
Ms. Ria Paul
Ms. Simran Sureka
Mr. Rahul Agarwala
... For the petitioner

Mr. Bijoy Kumar
... For ECL

The petitioner claims to be a male dependent of Samar Dom Badyakar, who died-in-harness on 18th January, 2018 while serving Eastern Coalfields Limited (in short “ECL”).

The National Coal Wage Agreement (in short “NCWA”) which was prevalent at the time of death of the petitioner’s father provides for granting compassionate employment to a male dependent of the deceased employee upto the age of 35 years. There was a dispute regarding the age of the petitioner. As per the documents produced by the petitioner, the petitioner was below 35 years at the time of death of his father, while on the basis of assessment by ECL, the petitioner’s age was above 35 years on the date of death of the petitioner’s father. In order to resolve this issue, an ossification test was directed

to be conducted by IPGME&R-SSKM Hospital, Kolkata. The petitioner's age has been ascertained by IPGME&R-SSKM Hospital after an ossification test in terms of a direction given in this writ petition to be between 40 years and 45 years as on 22nd June, 2022. The petitioner was, therefor, over 35 years on 18th January, 2018 when his father died. The petitioner, therefor, is not entitled to claim compassionate employment due to overage.

The writ petition is, therefore, devoid of merit and is accordingly dismissed.

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

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

(Arindam Mukherjee, J.)