

OD-5

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE

APOT/16/2021
WITH
WPO/126/2019
IA NO: GA/2/2021

THE SENIOR MANAGER(PERSONNEL) EASTERN COALFIELDS LIMITED

VERSUS

BABAN BANERJEE AND ORS.

BEFORE:
The Hon'ble JUSTICE SUBRATA TALUKDAR
AND
The Hon'ble JUSTICE KRISHNA RAO
Date : 09th February, 2022.

Appearance:
Mr. Shiv Shankar Banerjee , Adv.
Ms. Sanchita Barman Roy, Adv.
... for the ECL.

Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
... for the respondents.

The Court: This appeal arises out of an order of the Hon'ble Single Bench dated 20th September, 2019. The appellant herein is the Eastern Coalfields Limited(ECL) and others. The first respondent to this appeal is the writ petitioner before the Hon'ble Single Bench.

By order impugned the Hon'ble Single Bench directed the appellant/ECL to grant compassionate appointment to the first respondent. The Hon'ble Single Bench was pleased to consider the fact

that the respondent nos.2 and 3 to this appeal respectively claiming to be the alleged second wife of the deceased father of the first respondent and the son out of the alleged second marriage, were only entitled to apportionment of the debts and securities left behind by the deceased father of the writ petitioner/the first respondent.

In connection with the above the Hon'ble Single Bench noticed that the respondent nos. 2 and 3 to this appeal, that is, the alleged second wife and the son out of the alleged second marriage, had filed Title Suit no.156 of 2016 before the learned 1st Civil Court(Junior Division) at Durgapur. By order no.2 dated 6th September, 2016, the learned Court was pleased to restrain the defendant nos. 2 and 3 to the suit, that is ECL and its officers from disbursing the entire debts and securities of the late father of the first respondent in favour of either of the parties claiming to be the successors of the deceased.

The Hon'ble Single Bench was further pleased to notice the solemn order dated 4th December, 2018 in the first writ petition filed by the first respondent being WP 21806(W) of 2018 whereby the Hon'ble Single Bench was pleased, inter alia, to direct ECL to process the claim of compassionate appointment of the first respondent subject to the result of the title suit filed by the second respondent being Title Suit no.156 of 2016. Mr. Banerjee, learned Counsel appearing for the ECL/appellants, submits that with the Courts taking judicial notice of the pendency of Title Suit no. 156 of 2016 pertaining to the apportionment of the debts

and securities of the deceased employee, the first respondent is under an obligation to obtain a No Objection Certificate(NOC) from any other dependent heir of the deceased prior to consideration of his case for compassionate appointment in favour of the first respondent. It is also a duty incumbent upon the ECL to disburse the service benefits upon the death of the deceased employee in a manner so as to mitigate the family financial hardship.

Mr. Partha Ghosh, learned Counsel appearing for the first respondent, submits that the name of the first respondent along with the deceased wife of the deceased employee and as well as their other children appears in the service record of the ECL. There is no whisper in the service record of the alleged second wife and the son out of the alleged second marriage, respectively the respondent nos. 2 and 3 to this appeal.

In such view of the matter it is submitted that the claim to compassionate appointment rests alone with the first respondent.

Having heard the parties and considering the materials placed, this Court finds that the Hon'ble Single Bench committed no error in distinguishing the relevant claim in the Title Suit filed by the second respondent being Title Suit no. 156 of 2016 from the claim to compassionate appointment of the first respondent. From the Order No. 2 dated 6th September, 2016 it is abundantly clear that the learned Civil Court restrained ECL from disbursing the debts and securities of the

deceased father of the first respondent without touching upon the issue of compassionate appointment at all.

This Court also finds that by back-to-back orders of the Hon'ble Single Benches in the two writ petitions successively filed by the first respondent respectively dated 4th December, 2018 and 20th September, 2019, the Hon'ble Single Benches have taken pains to distinguish between the reliefs claimed in the Title Suit by the second respondent, the alleged second wife for apportionment of debts and securities and the solitary claim to compassionate appointment made by the first respondent. Nothing also appears on record that apart from the first respondent any other alleged successor-in-interest/ heir of the deceased has placed a claim to compassionate appointment with the ECL. This Court cannot be also oblivious to the fact that compassionate appointment of the first respondent has been underscored by both the Hon'ble Single Benches as a matter of right under the National Coal Wage Agreement(NCWA).

For the above reasons this appeal requires no intervention. The order of the Hon'ble Single Bench as impugned dated 20th September, 2019 stands affirmed.

APOT/16/2021 with **WPO/126/2019** and **GA/2/2021** stand thus **dismissed**.

Affidavits are not invited since the discussion has turned on pure points of law and admitted facts. Other allegations are therefore deemed to be denied.

All parties to act on a server copy of this order.

All parties to act on a signed xerox copy of this order.

(KRISHNA RAO, J.)

(SUBRATA TALUKDAR, J.)

mg