

103.
19.9.2023
S.D.

W.P.A. 4931 of 2023

**Behula Kora & Anr.
Vs.
Eastern Coal Fields Limited & Ors.**

Mr. Nirmalendu Ganguly
..For the Petitioner

Mr. Kallol Guha Thakurata
Md. Wasim Rahaman
Mr. Debdip Mondal
...For the Respondent No. 4

Mr. Syed Nurul Arefin
Mr. Moyeenul Arefin
..For the ECL Authorities

This is an application for compassionate appointment of the son-in-law of the deceased employee. The employee died-in-harness on March 20, 2011. The petitioner no. 1 is the daughter of the deceased employee who worked with the Eastern Coal Fields Limited (ECL). The petitioner no. 2 is the son-in-law of the deceased employee.

An application was made for appointment on compassionate ground of the petitioner no. 2 sometime in 2012.

The respondent/ECL sought for certain clarifications by their letter dated August 1/2, 2012. Such discrepancies which

were sought to be ANSWEREDd by the petitioners by a letter in 2013 was replied to by the Assistant Manager (Personnel) by a letter dated July 19, 2013. The petitioner no. 2 was informed that the old Ration Card sought to be submitted by him seems to be tampered in the place of date of preparation. Therefore, the duplicate copy of such Ration Card was required to be submitted. Furthermore, the Epic Card of the claimant was also required to be submitted along with an affidavit affirmed by the parent/guardian of the bride.

By an order dated April 10, 2023, this Court permitted the learned counsel appearing on behalf of the petitioners to file a Supplementary Affidavit bringing on records the documents to show the steps taken by the petitioners between August 2012 and January 2023 for pursuing the claim for compassionate appointment. Supplementary Affidavit was affirmed on June 6, 2023. It was stated in the said Supplementary Affidavit that all the documents were submitted in 2013. Therefore, nothing further remained to be submitted thereafter. How the discrepancies raised by the letter dated July 19, 2013 issued by the Assistant Manager (Personnel) wERE sought to be clarified was not brought on record in the said Supplementary Affidavit. Furthermore, the steps taken by the petitioner from 2012/2013 till 2023 have also

not been explained in the affidavit, apart from stating that the petitioners cried almost daily for compassionate appointment. Since the status list of the ECL for employment under National Coal Wage Agreement (NCWA) for April 20, 2023 showed “pending”, the petitioners did not make any further written correspondence.

Mr. Thakurata, learned counsel appearing on behalf of the respondent no. 4/CMPFO submits that the order dated August 3, 2023 should be recalled. However, this Court finds no application for recalling on record as on date.

By the order dated August 3, 2023, this Court specifically directed that the matter will appear for consideration of the issues of compassionate appointment and the question of inordinate delay on the adjourned date of hearing.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that under the applicable Scheme/Modalities for processing employment to a dependent under NCWA, in case, the dependent was (son-in-law/brother/widowed daughter/widowed daughter-in-law), a Relationship Certificate has to be issued by the authorities concerned. The said Relationship Certificate has to clearly indicate that the dependent has been *residing* with the ex-

employee (indicating his name, designation and name of the colliery). Furthermore, it has to be revealed that the dependent was almost wholly dependent on the earnings of the ex-employee during his service period. This Court does not find any such statement on record. Furthermore, this Court finds that the addresses of the petitioners as evident from the Epic Card as well as the Aadhaar Card are different from the address of the deceased employee as recorded in the Service Book. In the Service Book, it is recorded that the deceased employee is a resident of Puresamla (Basbagan), P.O. Natundanga, P.S. Faridpur, District – Burdwan. The said address has also been recorded in the purported Relationship Certificate annexed at page 10 of the Supplementary Affidavit. However, the same does not tally with the addresses recorded in the Epic Card as well as the Aadhaar Card.

In such view of the matter, this Court is of the opinion that the modalities as required by the ECL were not completed by the petitioner no. 2. Furthermore, the petitioner no. 2 has not been able to show any communication between 2012/13 and 2023. Therefore, this Court is not inclined to consider the prayer for compassionate appointment relying on the Apex Court's judgment reported in 2023 SCC Online SC 219 (**State**

of West Bengal vs. Debabrata Tiwari & Ors.) due to inordinate delay in pursuing such prayer.

With the directions aforesaid, **W.P.A. 4931 of 2023** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)