

04.
04.01.2023.
Ct. No. 11.
F.B.

**MAT 536 of 2022
with
IA No. CAN 2 of 2022**

**M/S Eastern Coalfield Limited
-Vs.-
M/S Kajali Mejhain & Ors.**

**Mr. Bijoy Kumar
..... For the Appellant.**

**Mr. Partha Ghosh,
Mr. Amal Kumar Datta,
Ms. Simran Sureka,
Mr. Debashis Das,
Mr. Rahul Agarwala
..... For the Respondent/
Writ Petitioner.**

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

Under challenge in this appeal is the Judgement
and Order dated 17th of February, 2022 passed in the
writ petition, being WPA 20746 of 2021, by the Hon'ble
Single Bench.

The Hon'ble Single Bench by the said
Judgement and Order impugned directed the present
appellant/the Eastern Coalfields Limited (ECL) to pay
the Monthly Monetary Cash Compensation (for short,

MMCC) in terms of the National Coal Wage Agreement (for short, NCWA) in favour of the writ petitioner.

Mr. Kumar, Learned Counsel appearing in support of the appeal, submits that the Hon'ble Single Bench failed to apply its mind to the fact that the writ petitioner's mother was not a regular employee under the ECL. It is submitted that after the death of the father of the writ petitioner, the mother of the writ petitioner was granted employment on an *ad hoc* basis for a period of 18 months. It is pointed out that after the completion of the period of 18 months, the mother of the writ petitioner did not take any formal steps for regularisation of her service.

It is further submitted that during the period of *ad hoc* employment, the mother of the writ petitioner died and the brother of the writ petitioner who applied for compassionate appointment, also died. Thereafter the writ petitioner applied for payment of MMCC under Clause 9.5.0 of NCWA, being the female dependant of her late mother.

Mr. Kumar takes the stand that since the mother of the writ petitioner was not a regular employee and does not fall within the definition of a *Workman* as provided under Clause 3.1 of the Standing Orders, the MMCC cannot be paid to a female dependant in such a

scenario. It is argued that all steps were taken by ECL in terms of the NCWA to provide employment to the family of the writ petitioner upon the death of her father and again upon acceptance of the claim to compassionate appointment by the brother of the writ petitioner on the death of her mother.

It is pointed out that upon acceptance of such steps, the writ petitioner cannot now claim to be a family dependant qualified to receive MMCC on the death of an *ad hoc* employee.

Per contra, Mr. Ghosh, Learned Counsel appearing for the Respondent No. 1/the Writ Petitioner, submits that the *ad hoc* status of the deceased mother of the writ petitioner was exhausted upon completion of three months of regular service whereupon the deceased mother of the writ petitioner qualified to be treated as permanent *Workman* under Clause 3.5 of the Standing Orders.

Mr. Ghosh submits that the onus lay upon the ECL to take steps to regularise the service of the deceased mother of the writ petitioner upon completion of 18 months of *ad hoc* service. It is pointed out that it is not in dispute that the late mother of the writ petitioner was allowed to continue her service even after completion of 18 months.

It is clarified that the claim of the writ petitioner begins with the death of her late mother as the writ petitioner qualified to be a family dependant under the relevant Clauses of 9.5.0 of the NCWA. It is further clarified that Clause 9.5.0 of the NCWA makes no distinction between an *ad hoc* employee and a regular employee. In the facts of this case there is no reason to interpret that after the exhaustion of a period of three months of regular service as well as being allowed to continue beyond 18 months of her *ad hoc* service, the writ petitioner could not be denied the status of a family dependant of a deceased employee under Clause 9.5.0 of NCWA (*supra*).

Learned Counsel for the respondent no.1/the writ petitioner relies upon judicial authorities to emphasise the point that it is now well recognised in law that the disbursement of MMCC shall commence with the death of the employee. It is submitted that since there are no successor to the dependancy of her late mother, the writ petitioner is qualified to be treated in all respects as a family dependant under Clause 9.5.0 of NCWA (*supra*).

It is submitted that the NCWA is a beneficial policy of ECL and such cannot be construed to the disadvantage of a dependant claimant.

Having heard the parties and considering the materials placed, this Court finds the order of the Hon'ble Single Bench to be detailed.

This Court finds the pronouncement of the Hon'ble Court to the effect that the MMCC is payable from the date of death of the deceased employee to be binding.

This Court further finds that the Hon'ble Single Bench made no mistake in treating the writ petitioner as the family dependant of a deceased employee. The writ petitioner therefore, in lieu of being granted employment by the ECL, was entitled to claim the MMCC from the date of death of her mother, the deceased employee.

On the basis of the above factual scenario and the law laid down, this Court finds that there is no reason to intervene with the Order of the Hon'ble Single Bench.

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stand accordingly **dismissed**.

Since this appeal and the connected application have been decided on the basis of the records present before the Hon'ble Single Bench and on an interpretation of the legal provisions by the parties

based on such records, there arises no requirement to invite affidavits.

Hence, affidavits are not invited and all other allegations to the contrary are deemed to be denied.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

Later:

Mr. Kumar, Learned Counsel, prays for stay of this order.

Mr. Ghosh, Learned Counsel, opposes such prayer.

Prayer for stay is considered and refused.

(Supratim Bhattacharya, J.) (Subrata Talukdar, J.)