

24.07.2023
DL-66
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8466 of 2022

Sk. Safiuddin
Vs.
The Union of India & Ors.

Mr. Sankar Paul
Mr. Imtiaz Ahmed,
Ms. Tapati Sarkar

....for the petitioner.

Ms. Sipra Cnanda

.....for the respondent no.1.

Mr. Bijoy Kumar

....for ECL.

The petitioner's case is that he was aged about 12 years at the time of the death of his father on December 17, 2009, who died-in-harness as an employee of Eastern Coalfields Limited (ECL).

It was submitted on November 17, 2022 by Mr. Paul, learned counsel appearing on behalf of the petitioner that even though the dates of representations made for compassionate appointment are not visible, the docket numbers appearing on the said representations being 552 and 4392 are visible. The said docket numbers are stamped on behalf of the respondent/ECL. It was further submitted that in the event ECL is called upon to file a Report-on-Affidavit, the dates of representations can be clarified.

The only reason for rejection of appointment of the petitioner on compassionate ground was the fact

that the applications were made after 9 years and 6 months from the date of death of the petitioner's father on July 21, 2020. The rejection of ECL will appear from office memo dated March 10, 2021. Report-on-Affidavit was filed on behalf of ECL. Thereafter, original registers of documents relating to docket nos.552 and 4392 were produced before this Court on July 4, 2023 and this Court had the occasion to peruse the same.

Upon perusal of the entries made in the said registers, it transpired that docket no.552 does not relate to any representation regarding compassionate appointment. The subject matter related to Mandarboni Colliery and did not relate to Pandaveswar Area office where petitioner's father worked as an electrician. Docket no.4392 related to an issue regarding electrical motor and the same was entered on May 21, 2012. Docket no.552 was entered on June 29, 2009 prior to the date of death of the petitioner's father. This Court recorded that none of the docket numbers were entered in 2010. Mr. Paul was directed to take necessary instructions in the matter.

Today, he submits that the said representations were handed over to some receiving agent. Furthermore, a lady has been produced before this

Court to contend that the petitioner's grandmother was the one responsible for making such representations and handing them over to ECL.

This Court finds no substance in the argument made on behalf of the petitioner. Seriously disputed questions of fact were raised before the Court.

On perusal of the documents produced by ECL, this Court finds that there is no reason for this Court not to believe the entries made in the registers of ECL. The documents with docket numbers without relevant seal, dates etc. seem to have been manufactured for the purpose of present litigation seeking to overcome the issue of belated applications being made for compassionate appointment.

Therefore, this Court holds that there is no perversity in the decision making process of the authority concerned/ECL.

Appointment on compassionate ground is made to provide immediate succour to the bereaved family members of the deceased employee and save them from financial crisis that may have arisen due to the sudden death of the breadwinner of the family. Since the application for compassionate appointment has been made several years after the death of the employee, such prayer for compassionate appointment can be considered by this Court.

A beneficial reference may be made to the decision of the Apex Court in **State of West Bengal vs. Debabrata Tiwari & Ors.** reported in 2023 SCC Online SC 219.

Accordingly, **WPA 8466 of 2022** is **dismissed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)