

44.
6.6.2023
S.D.

W.P.A. 8818 of 2022

Sudip Banerjee

Vs.

M/s. Eastern Coal Fields Limited & Ors.

Mr. Partha Ghosh
Ms. Simran Sureka
Mr. Debashis Das
Mr. Rahul Agarwala

...For the petitioner.

Mr. Vijay Kumar

... For the E.C.L.

The petitioner has prayed for compassionate appointment in terms of National Coal Wages Agreement (NCWA) IX. The petitioner's father was an employee of Eastern Coalfields Limited (ECL). The Apex Medical Board declared the petitioner's father as "**unfit**" for duty. By an office order dated November 21, 2018 issued by the General Manager (P & IR), the same was notified. The petitioner's father was directed to submit necessary application in respect of his eligible dependent for employment. The petitioner applied for compassionate appointment in 2019. The medical examination of the petitioner was conducted. The Area Personal Manager, Jhanjra area vide his letter dated

September 24, 2019 recommended the name of the petitioner for appointment. Thereafter, the petitioner made several representations, but was not granted the said appointment.

It is the stand of ECL that no appointments have been made by way of compassionate appointment in the category of persons who were declared medically “**unfit**”. NCWA X was to be effected from July 1, 2016 till June 30, 2021. Since there was no consensus between several Unions, the same could not be executed. Therefore, all the appointments in the aforesaid category was withheld.

By an order dated January 10, 2023, this Court had held that NCWA IX was the applicable agreement/scheme in respect of granting appointment to the petitioner since the said NCWA IX was applicable when the petitioner’s father was declared “**unfit**” for employment.

After the petitioner’s father was discharged from service under NCWA IX, the petitioner could not be prevented from getting the employment under the said scheme/agreement.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner submits that NCWA XI has now been executed between the several Trade Unions and the Coal Company. Therefore, there is no legal impediment as such in granting

appointment on compassionate grounds for dependents of employees who were declared medically “**unfit**”.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the name of the petitioner cannot be kept pending indefinitely. The employer/ECL cannot refuse to grant employment under medically “**unfit**” category and the employer is under an obligation to follow the clauses as stipulated in NCWA IX as well as NCWA XI.

It is also submitted on behalf of the petitioner that the name of the petitioner is appearing at the top of the list of the eligible candidates in medically “**unfit**” category.

This Court is of the view that since a long time has elapsed from the time of the application made by the petitioner and the date of this order, the prayer for compassionate appointment should be considered by the respondent/ECL within four months from date upon compliance of all the necessary formalities by the petitioner.

With the directions aforesaid, **W.P.A. 8818 of 2022** is **disposed of**.

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