

11.01.2023
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RP Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16072 of 2022

Sabana Khatoon
Vs.
Eastern Coalfields Limited & Ors.

Mr. Saunak Bhattacharya
Mr. Saunak Mandal
Mr. Abhirup Halder

... For Petitioner

Mr. Manik Das

... For ECL

The petitioner prays for compassionate appointment since her husband died on October 31, 2020, being an employee of Eastern Coalfields Limited (in short “ECL”). The petitioner had initially filed an application under Section 12(1) of Protection of Women from Domestic Violence Act, 2005. By a judgment and order dated May 24, 2017 the Judicial Magistrate, 4th Court, Sadar Purulia passed several directions for protection of maintenance of the petitioner against her husband.

The petitioner’s husband tendered his resignation to the company/ECL on April 25, 2017. Furthermore, on July 16, 2017 he reiterated his stand for not being able to resume his duties since he was physically not fit.

Thereafter, the petitioner’s husband died on 2020. The petitioner has been receiving family pension after her

husband's death. The petitioner made an application for compassionate appointment on August 3, 2021.

The said prayer for compassionate appointment was not considered by the respondent authorities. Hence, the petitioner has filed the instant writ petition.

Mr. Bhattacharya, learned counsel appearing on behalf of the petitioner submits that since her husband was unfit for employment, she should be considered for compassionate appointment under National Coal Wage Agreement-VI (NCWA-VI).

Mr. Das, learned counsel appearing on behalf of the respondents/ECL submits that there is no scheme for providing any employment to the incumbents placed similarly as that of the petitioner. Neither the petitioner's husband died in harness nor was he declared unfit for service prior to his resignation as per the procedure/rules laid down by the ECL. Therefore, the petitioner's claim for compassionate appointment is not maintainable.

After considering the rival submissions of the parties and materials placed on record, this Court is of the view that the petitioner's husband resigned from his service in 2017. The petitioner's husband did not apply for voluntary retirement in the category of being permanently unfit. No medical test was conducted by ECL for declaring the petitioner's husband to be permanently unfit. It was a self-declaration by the petitioner's husband that he was unfit and therefore wants to resign.

In the light of the discussions above, this Court holds that the petitioner is not entitled for compassionate appointment under any scheme including NCWA-VI or any other applicable NCWA.

In the circumstances, **WPA 16072 of 2022** is dismissed.

Since no affidavits have been directed to be filed in the present writ petition, the allegations contained therein are deemed not to have been admitted by the parties.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Hon'ble Court.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of usual formalities.

(Lapita Banerji, J.)