

WPA 18957 of 2023

Asha Badyakar & Ors.
Vs.
M/s. Eastern Coalfields Limited & Ors.

Mr. Partha Ghosh
Mr. Amal Kumar Datta
Ms. Simran Swreka
Mr. Debashis Das
Mr. Rahul Agarwala

...for the petitioners

Mr. Suman Ghosh
Mr. Dipjyoti Chakraborty

...for the State-respondents

Mr. Manik Das

...for the respondent Nos. 1 to 7

Mr. Subhajit Mukherjee
Mr. Swakshar kumar Mondal

...for the Private respondent

Mr. Ghosh, learned counsel appearing on behalf of the State-respondent handed over written instructions in Court today. Such written instructions are retained with the records.

The petitioner No.2's father died-in-harness on June 24, 2019. He was an employee of Eastern Coalfields Limited (ECL). The petitioner No. 1 is the wife of the deceased employee. The petitioner Nos. 2 to 5 and respondent No. 10 are the children of the deceased employee. The private respondent No. 11 is the wife of the private respondent No. 10.

Mr. Ghosh, learned counsel appearing on behalf of the petitioners submits that despite the

claim being processed in favour of the petitioner No. 2, since the petitioner No. 2 has not been able to produce '*no objection*' certificate before the ECL as the private respondent No. 10 is not cooperating, the petitioner No. 2 has not yet been able to get an appointment on compassionate ground.

He submits that it is a well settled proposition of law that, even without a '*no objection*' certificate, the respondent-ECL is bound to provide employment to the petitioner.

He relies on a judgment passed by a Division Bench of this Hon'ble Court in FMA 4401 of 2016 (**Putul Rabidas vs. Easterncoalfields Ltd. & Ors.**) in support of his contention that the ECL cannot insist upon production of '*no objection*' certificate. He relies on Clause 9.3 of the National Coal Wage Agreement (NCWA) for the aforesaid purpose.

The private respondents are represented today. It is submitted on behalf of private respondents that a Civil suit is pending before the Learned Civil Judge (Senior Division) at Asansol.

Mr. Das, learned counsel appears on behalf of ECL submit that till such time the private dispute between the petitioners and the respondent No. 10 are brought to a logical conclusion, no

appointment on compassionate ground can be granted in favour of the petitioner No. 2.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the case of **Putul Rabidas** (*supra*) is not applicable to support the contention that ‘*no objection*’ certificate is not required to be produced for the purpose of compassionate appointment. To the mind of this Court a ‘*no objection*’ is required to be produced since all the heirs of a deceased employee have to give up their rights in favour of one person making him *eligible* to pray for the same. Only when the other heirs/dependants give up their rights voluntarily in favour of the petitioner No. 2, will he be *eligible* for compassionate appointment.

This Court is also of the view that the subject matter of the present writ petition is in the nature of a private dispute between the petitioners and the respondent Nos. 10 and 11. Therefore, the present writ petition being WPA 18957 of 2023 is not maintainable. Accordingly, **WPA 18957 of 2023** is **dismissed**.

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

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

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)