

WPA 20882 of 2022

Mithun Bauri
Vs.
Coal India Limited & Ors.

Adv. Gobinda Kar,
Adv. Bijoy Kumar,
...for the petitioner.
...for the ECL.

The petitioner's mother died in-harness on January 30, 2017. She was an employee of Eastern Coalfields Limited (ECL). Initially the petitioner's brother's prayer for compassionate appointment was rejected. On rejection of that prayer, the petitioner prayed for compassionate appointment. The petitioner was sent for medical examination on September 30, 2020. In the Initial Medical Examination (IME), the age of the petitioner was assessed to be between 33 and 38 years on September 30, 2020. Therefore, the age of the petitioner on the date of death of his mother would be 31 years 10 months and 1 day. Despite the report of the Initial Medical Examination (IME) not being under challenge, the petitioner was again sent for medical examination by the Apex Medical Board (APB). Apex Medical Board assessed the age of the petitioner to be between 35 to 40 years on December 17, 2020.

The prayer for compassionate appointment was rejected by the Area Personnel Manager on January 22, 2021 relying on the report of the Apex Medical Board.

Mr. Kar learned counsel appears for the petitioner and submits that since the petitioner was 31 years 10 months on the date of death of his mother and the same was not under challenge there was no necessity of having the age assessed by the Apex Medical Board.

Mr. Kumar learned counsel appears for the ECL and submits that there is discrepancy in age assessment between the report of the IME and the report of by the Apex Medical Board.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the age assessment of IME was not under challenge by the petitioner. Therefore, there was no provision to have the age assessed by the Apex Medical Board.

Furthermore, the discrepancy with regard to the age assessed by the IME and AMB cannot be an issue under consideration by the Area Personnel Manager. The Area Personnel Manager should have taken into consideration the age assessed in the IME since the petitioner did not challenge the same and there was no provision/requirement, at all, to send the petitioner for further age assessment.

Since in the IME the age of the petitioner was assessed to be within the upper age limit of a candidate the same should have been taken into account for consideration of his prayer for compassionate appointment.

In the light of the discussions above, the impugned order dated January 22, 2021 is set aside. The Area Personnel Manager/the respondent no. 8 is directed to consider the prayer of the writ petitioner for compassionate appointment after considering the assessment of the age in the initial medical examination. Such consideration will be done within eight weeks from date upon giving personal hearing to the petitioner. Reasoned order will be communicated within two weeks of passing thereof.

With the directions aforesaid, **WPA 20882 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 formalities.

(Lapita Banerji, J.)