

04.04.2023
DL-54
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22090 of 2022

Kosmi Devi Bhuia
Vs.
Coal India Limited & Ors.

Mr. Gobinda Kar

....for the petitioner.

Mr. Manik Das

....for ECL.

The petitioner's husband died-in-harness on April 4, 2005. Immediately on the death of her husband, she made an application for appointment on compassionate ground but no steps were taken by the respondent authorities. The grounds for not considering the prayer for compassionate appointment were also not communicated to the petitioner. Thereafter, the petitioner made an application for compassionate appointment of her son on October 19, 2012. The petitioner's son was more than 12 years of age on the date of death of her husband. The prayer of the petitioner's son for compassionate appointment was also not considered by Eastern Coalfields Limited (ECL).

Under National Coal Wage Agreement (NCWA) clause 5, the female dependant of a deceased employee was either *eligible* for compassionate

appointment or *entitled* to Monthly Monetary Cash Compensation (MMCC).

The petitioner who was entitled to MMCC from the time her husband died-in-harness has not been paid anything till date.

On the last occasion, this Court directed the learned counsel appearing for the petitioner to take necessary instructions whether the petitioner is willing to give up her right for being considered for compassionate appointment and was willing to accept 'MMCC' due to the long passage of time since the death of her husband.

Mr. Kar, learned counsel appearing on behalf of the petitioner submits that his client is willing to accept 'MMCC' in lieu of compassionate appointment.

Relying on a judgment passed by the Hon'ble Division Bench of this Court reported in AIR Online 2022 CAL 243 (**Eastern Coalfields Limited vs. Smt. Dulali Majhian @ Majhan & Ors.**) (**MAT 1007 of 2022**), this Court awards arrears of 'MMCC' to the petitioner from April 5, 2005 (the date subsequent to the date of death of the petitioner's husband) till May 9, 2023.

The arrears on account of 'MMCC' will be paid by ECL within three months from the date of the order.

Mr. Das, learned counsel, appearing on behalf of ECL submits that no interest should be granted to the petitioner on arrears of 'MMCC'.

This Court, however, is unable to accept such submission as due to no fault of the petitioner she was forced to suffer severe financial constraints due to the non-disbursal of the 'MMCC' by ECL. The view of this Court finds support in a judgment of the Apex Court reported in AIR 2000 SC 3513(2) (**Vijay L. Mehrotra vs. State of U. P. & Ors.**).

The petitioner will be granted interest @ 6% p.a. from April 5, 2005 till the actual date of payment of arrears of 'MMCC'.

The petitioner will be paid 'MMCC' on and from May 10, 2023 month by month.

With the directions aforesaid, **WPA 22090 of 2022** is **disposed of**.

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.)