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20.2.2023
S.D.

W.P.A. 22327 of 2022

Priyanka Ghosh
Vs.
South Eastern Coal Fields Limited & Ors.

Mr. Puspall Chakraborty
Ms. Prisanka Ganguly
..For the Petitioner
Mr. Shiv Shankar Banerjee
Ms. Sanchita Barman Roy
..For the Respondents

Report on affidavit as handed over in Court today on behalf of the respondents and the supplementary affidavit handed over in Court on behalf of the petitioner are retained with the records.

The petitioner has prayed for compassionate appointment in place and stead of her mother who died-in-harness on April 19, 2022. The petitioner's mother was an employee of South Eastern Coal Fields Limited. The petitioner has prayed for employment on the ground that she was a dependent of her mother despite being a married daughter. The application of the petitioner was rejected on the ground that the petitioner was not dependent on the deceased employee/the mother on the date of death of the mother. Pursuant to the directions of this Court, a preliminary enquiry

report was arrived at by the employer/SECL. From the said enquiry report, it appears that her husband works in a beverage factory and has an employment provident fund number. The petitioner's father-in-law is also a pension holder. From the bank statement submitted by the petitioner, it appears that her husband earned Rs.28,757/- by way of salary.

The petitioner's mother also filed a self-declaration on October 29, 2015 stating that she would not claim any LTC/LLTC or medical benefits for the petitioner after her marriage since she applied for advance on account of marriage from the Coal Mines Provident Authorities.

Mr. Chakraborty, learned counsel appearing on behalf of the petitioner submits that no investigation is required in case of a direct dependent. A direct dependent should be considered for appointment on compassionate ground even if not wholly dependent on the deceased employee. He relies on a judgment passed by a Coordinate Bench in W.P.(S) No. 6578 of 2021 of the High Court of Chattisgarh at Bilaspur. He submits that in case of a person being a direct dependant of the deceased employee is concerned no enquiry qua dependency would be necessary as per Clause 9.3.3. of NCWA.

Mr. Banerjee, learned counsel appearing on behalf of the SECL submits that during the course of hearing on December 27, 2022, no document was submitted by the petitioner to show that she was a dependant of the deceased employee. To the contrary, from the Aadhar Card, it appears that the residential address of the petitioner is that of her husband and not that of her mother/deceased employee. Furthermore, only one month's bank statement has been handed over by the petitioner to the respondents.

Considering the rival submissions of the parties and the materials on record, this Court finds that no case has been made out by the writ petitioner for appointment on compassionate ground. From the documents, it appears that the petitioner was residing with her husband. The petitioner did not produce any document on the date of hearing given to her by SECL to show that she was completely dependent on her mother on the date of death of her mother. Furthermore, there is a declaration by her mother that no LTC or medical benefit will be claimed on behalf of the petitioner after her marriage. Furthermore, there is no pleading to the effect that the petitioner was of entirely dependent on her mother for her survival.

This Court does not agree with the findings made in W.P.(S) No. 6578 of 2021 with regard to the issue that no investigation is necessary in case of a person being a direct dependant of the deceased employee. In the event such a view is accepted then it will lead to a dangerous situation where the heirs who are direct dependents may be appointed on compassionate ground whether or not the family suffers from immediate financial crisis and the genuine dependents may not be able to secure appointments due to the saturation of the job vacancies/capacity of the employer to give further appointments. The principles applicable for appointment on compassionate ground have to be complied with. Appointment on compassionate ground is given in order to help the dependant of a deceased employee to tide over the immediate financial crisis that the family may face due to the sudden death of the bread winner of the family. For that reason, it has to be first shown that the person making an application for compassionate appointment is a dependant of the deceased employee. Here, the petitioner has failed to show that she is a dependant of the deceased employee whether or not she is a married daughter and the deceased employee is the bread winner of the family.

In the light of the discussions above, **W.P.A. 22327 of 2022** is **dismissed**.

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