

OD-15

ORDER SHEET

WPO/882/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SABRA KHATUN AND ANR.
VS
M/S. EASTERN COAL FIELDS LTD. AND ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date : September 15, 2023.

Appearance:

Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Dutta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
... for the petitioners

Mr. Syed Nurul Arefin, Adv.
Mr. Syed M. Arefin, Adv.
... for the E.C.L. Authorities

The Court: The father of the petitioner no.2 died in harness on June 14, 2021, being an employee of Eastern Coal fields Limited (E.C.L.). The petitioner no.2 is a divorced daughter of the deceased employee. She claims for compassionate appointment in place and stead of her father being a female dependant of the deceased employee.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner places reliance on a Judgment passed by the Hon'ble Division Bench in F.M.A. 4401 of 2016 (**Putul Rabidas vs. Eastern Coalfields Ltd. & Ors.**) reported in (2018) 2 CLJ 1 and also a Judgment passed by this Court on February 2, 2023 in W.P.A. 5984 of 2022 (**Sangita Mukherjee vs. M/s. Eastern Coal Fields Limited & Ors.**). He contends that there is no

difference between a '*divorced daughter*' and an '*unmarried daughter*' as long as the said daughter is a dependant on the deceased employee.

Mr. Arefin, learned counsel appearing on behalf of E.C.L. submits that the petitioner has suppressed material facts before this Court. Fully knowing that she is a "*divorced daughter*" she has made an application for compassionate appointment holding herself out to be an "*unmarried daughter*". Therefore, the petitioner is not entitled to any discretionary relief under Article 226 of the Constitution of India. He draws the attention of this Court to a complaint made by the deceased employee's brother before the Chief Vigilance Officer on September 7, 2021.

Considering the rival submission of the parties and the materials placed on record, this Court finds that there is no material difference between the eligibility of an '*unmarried daughter*' and a '*divorcee daughter*' after the Division Bench's Judgment in **Putul Rabidas** (Supra). The *divorcee/unmarried daughter* only has to satisfy that she was a dependant of the deceased employee.

Every non-disclosure of fact cannot be held to be material suppression by the Court. The Court also cannot be unmindful to the fact that the petitioner may not have been able to appreciate the difference between being a '*divorcee*' and residing with her parents *vis-a-vis* being '*unmarried*' and residing with her parents and being dependent on the deceased employee.

In such view of the matter, this Court permits the petitioner to make an application in proper format for compassionate appointment within four weeks from the date of this order. In the event such application is made, the

respondent/E.C.L. shall consider the same in accordance with law without taking the point of belated submission of such application. For the purpose of assessment of the eligibility of the petitioner no.2 for compassionate appointment, the new application, if made, has to be deemed to be made on July 19, 2021 when the previous application was made by her.

In the event the petitioner approaches the authorities concerned of the E.C.L., the necessary application form for compassionate appointment, shall be supplied by the E.C.L. to the petitioner.

With the directions aforesaid, **W.P.O. No. 882 of 2023** 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.)