

OD-7

ORDER SHEET

WPO/1057/2023

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SMT. MINA BOURI
VS
M/S. EASTERN COAL FIELDS LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date: 18th August, 2023

Appearance:

Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
Mr. Rahul Agarwala, Adv.

Ms. Tanushree Dasgupta, Adv.

The Court: Ms. Dasgupta, learned counsel appearing on behalf of the Eastern Coal Fields Limited, raises a point of maintainability of the writ petition in the Original Side of this Hon'ble Court.

The petitioner's case is that her husband died in harness on August 26, 2006. Prior to that he went missing and a police complaint was lodged at Deoghar Thana. Thereafter, the petitioner's husband's body was identified in the morgue and a copy of the death certificate was issued on March 2, 2013 by the competent authority recording the date of death of the petitioner's husband as August 26, 2006. Thereafter, the

petitioner handed over the death certificate and the post-mortem report of her husband to the management of ECL on February 17, 2014. The petitioner prayed for employment on compassionate ground and such claim for employment was being processed by the respondent ECL. The petitioner was called for Initial Medical Examination. After the petitioner went for the IME nothing further was intimated to the petitioner regarding her employment. The petitioner made several representations and then made an application under the Right to Information Act, 2005. In response to the application made by the petitioner under RTI she was informed that her claim for compassionate appointment could not be considered because of inordinate delay.

Mr. Ghosh, learned counsel appears on behalf of the petitioner and submits that either the petitioner should have been given compassionate appointment under Clause 9.5 of NCWA (National Coal Wage Agreement) or should have been granted Monthly Monetary Cash Compensation (MMCC) from the date of death of her husband.

Ms. Dasgupta appearing on behalf of the ECL opposes such prayer. She submits that the death certificate was only handed over to the ECL on February 17, 2014. Therefore, the company was not aware of such death prior to 2014. Next she submits that an application for payment of MMCC was made in 2023 and MMCC should be directed to be paid from the date of such application.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that the death certificate and the post mortem report was handed over by the petitioner to the ECL on February 17, 2014, eight years after the death of her husband. Therefore, the question of compassionate appointment cannot be considered in favour of the petitioner.

As far as the petitioner's claims for MMCC is concerned, this Court is of the view that such payment should be made from the date on which the petitioner handed over the death certificate and the post mortem report to the ECL. The issue whether MMCC should be paid from the date of the application made for such purpose has been decided in various judgments passed by the Hon'ble Division Bench of this Court. A poor, illiterate widow cannot be deprived of her legitimate benefits/dues by the employer/ECL, by seeking recourse to the argument that without application, MMCC is not payable.

In the light of the discussion above, this Court directs the payment of MMCC month by month starting from September 11, 2023, till such time the petitioner attains the age of 60 years, upon compliance of the necessary formalities.

The arrears of MMCC shall be released within two months from the date of this order. Interest shall be payable at the rate of 6% p.a. from February 17, 2014 till the date of actual disbursal of the entire amount of MMCC.

With the directions aforesaid, **WPO/1057/2023** is **disposed of**.

All parties are to act on a server copy of 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.)

bp.