

OD-32

WPO/1446/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GAGANI MEJHAN
Versus
M/S. EASTERN COAL FIELDS LIMITED & ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date : 22nd September, 2023

Appearance :

Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Dutta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debasish Das, Adv.
... for the petitioner

Mr. Syed Nurul Arefin, Adv.
Mr. Syed Moyeenul Arefin, Adv.
Ms. Rashmi Binayak, Adv.
... for ECL authorities

The Court : The petitioner's husband died-in-harness on April 13, 2011, being an employee of Eastern Coalfields Limited (ECL). The petitioner applied for compassionate appointment in place and stead of her husband. The petitioner's case was examined by the respondent authorities. By a letter dated 21/23.9.2013 the petitioner was intimated that her case cannot

be considered for compassionate appointment since she was over-aged. However, she may be granted monthly monetary cash compensation (MMCC) as per the National Coal Wage Agreement (NCWA) and the name of her elder son/Dipak Maiti would be kept on live roster.

The petitioner refused MMCC by a letter dated September 30, 2013 and prayed for processing of her employment.

Thereafter, there was no communication between the parties. On December 26, 2022 the petitioner wrote to the authorities concerned bringing on record the fact that due to lack of knowledge she did not agree to the proposal given by the respondent, ECL. She neither accepted MMCC nor prayed for her son to be kept on live roster.

She then prayed for employment of her son in terms of the provisions of NCWA.

Mr. Ghosh, learned Counsel appearing on behalf of the petitioner submits that the petitioner should be granted MMCC till the attainment of 60 years and also the arrears of MMCC from the date of death of her husband. Furthermore, the employment of her son/Dipak Maiti should be considered by the respondent, ECL.

Mr. Arefin, learned Counsel appearing on behalf of the ECL submits that despite MMCC being offered to be paid to the petitioner, the petitioner did not accept the same. Even though she was over aged, she insisted on

compassionate appointment. The ECL authorities offered to keep her son on live roster but the petitioner did not accede to the same. Therefore, in this matter no fault can be attributed to the ECL.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that the ECL authorities indeed offered to keep the petitioner's son on live roster, which the petitioner did not accept. Furthermore, the ECL authorities tried to convince the petitioner to accept MMCC, which again the petitioner did not accept.

It has been well settled by a Division Bench judgment of this Hon'ble Court in MAT No. 86 of 2022 (**M/s. Eastern Coal Fields Limited & Others vs. Smt. Dukhni Bhuniya**) that the female dependant of the deceased employee is not required to make an application for grant of MMCC as it is her *entitlement* under the NCWA as there was no specific requirement for making such application. The fact that the petitioner is an uneducated poor widow can also not be lost sight of.

Accordingly, this Court directs MMCC to be granted to the petitioner with effect from April 14, 2011 (being the date subsequent to the date of death of her husband).

The arrears of payment received shall be granted to the petitioner within a period of three months from date. This Court has not considered the issue of interest being granted on 'MMCC' as the petitioner herself

refused the offer made by ECL for payment of MMCC. The petitioner shall be given `MMCC' on a month by month basis from January 10, 2024 within the 10th of each succeeding month, till she attains the age of 60 years.

With the aforesaid direction, **WPO/1452/2023** is **disposed of**.

Since no directions for filing of affidavits have been passed, all the allegations are deemed not to have been admitted, by the parties.

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