

WPO/1452/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

FULWA DEVI
VERSUS
M/S. EASTERN COAL FIELDS LIMITED & ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date: 6th October, 2023.

Appearance:

Mr. Partha Ghosh, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
For the petitioner.

Mr. Syed Nurul Arefin, Adv.
Ms. Rashmi Binayak, Adv.
For the respondents, ECL Authorities.

The Court :- The petitioner's husband died in harness on April 21, 2002. The petitioner made an application for compassionate appointment on behalf of her brother-in-law/brother of her deceased husband. The said application for compassionate appointment was rejected by Eastern Coalfields Limited (ECL) on September 6, 2002 on the ground that the deceased employee had direct dependents. ECL reminded the petitioner by a letter dated February 26, 2003 regarding her claim for monetary compensation in lieu of employment or employment of herself. The documents that were required to submit by the petitioner were also mentioned in the letter dated February 26, 2003. There was

a memorandum of settlement under Section 12(3) of the Industrial Disputes Act, 1947. The management agreed that in case an application was made for employment/monetary compensation the same shall be processed and forwarded to the Headquarters for approval within thirty days of the receipt of the application and connected documents. The Union agreed to such proposal.

From a document dated July 26, 2013 it appears that the petitioner was unable to apply for compassionate appointment/MMCC earlier than that date. The management was required to process and forward the employment claim within thirty days upon receipt of the application with supporting documents.

By a letter dated September 12, 2018 the management official sought to inform the petitioner that the prayer of the petitioner was rejected due to inordinate delay. Whether the rejection was for the prayer of compassionate appointment or the prayer of MMCC has not been clarified in the order dated September 12, 2018. A further prayer was made on September 17, 2018 for compassionate appointment. The said prayer was sought to be processed, however, the same was rejected by an order dated October 17, 2022. It was stated in the said impugned order that neither the prayer for employment nor the prayer for MMCC could be considered due to inordinate delay. The petitioner renewed her prayer for MMCC on September 30, 2021.

Mr. Arefin, learned counsel appearing on behalf of ECL, submits that MMCC may be granted to the petitioner even though there is inordinate delay in

making such prayer. However, the prayer for MMCC can only be considered from the date of making of such application.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner is **entitled** to MMCC from the date subsequent to the date of death of her husband. The petitioner will be **entitled** to MMCC from April 22, 2002. The arrears of MMCC will be paid within three months from the date of receipt of the order. The petitioner will be **entitled** to MMCC on a monthly basis starting from December 10, 2023 till the age of 60 years.

The petitioner prayed for employment pursuant to the terms of settlement before the Assistant Labour Commissioner (Central) on July 26, 2013. The ECL was under an obligation to forward her claim within thirty days of the said prayer. However, no document has been brought on record to show that such claim was forwarded within thirty days from the time such prayer was made. The 2013 prayer was rejected on September 12, 2018. Again such prayer was renewed in 2018. ECL sought to process her claim for compassionate appointment and ultimately the same was rejected on October 17, 2022. Meanwhile, in 2021 the petitioner was sought to claim for MMCC.

In the aforesaid conspectus, this Court directs interest at the rate of 6% per annum to be paid to the petitioner on the arrears of MMCC from August 25, 2013 upon the expiry of thirty days from the undisputed date on which she made a prayer to the authorities concerned of the ECL for grant of employment till the actual date of disbursement of the arrears.

With the directions aforesaid, **WPO No. 1452 of 2023** is disposed of.

Since affidavits have not been invited in the present writ petition, all the allegations contained in the petition are deemed not to have been admitted by the parties.

All parties to act on a server copy of this order downloaded from the official website of this Court.

(LAPITA BANERJI, J.)

snn.