



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6841 OF 2023

1. Smt Indu Tatoba Kale
(Indu Bhagwan Patil,)
Tah. Bhiwapur, Dist. Nagpur
and anr.

... Petitioners

Versus

1. Western Coalfields Limited,
Through its Chairman-cum-
Managing Director Coal Estate
Civil Lines, Nagpur and ors.

... Respondents

Shri A. M. Sudame, Advocate for petitioners.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
A. S. CHANDURKAR, J.**

DATE : 17th OCTOBER, 2023

P. C.

Shri A. M. Ghare, learned counsel puts in appearance and waives service of notice for the respondents on our request.

2. Heard the learned counsel for the parties. The prayer made in this writ petition is that the respondents may declare that the petitioner No.2 is entitled to be appointed on compassionate ground in terms of provisions contained in Clause 9.3.3 of the National Coal Wage Agreement, which provides for such employment to one dependent of the worker who is disabled permanently or one who dies while in service. The son of petitioner No.1 and brother of petitioner No.2 one Dinesh Kale while in employment with the respondents died in harness on 14th August,

2022. The petitioner No.2 put forth her claim for her appointment on compassionate ground in terms of provisions contained in Clause 9.3.3 of the aforementioned agreement.

3. The learned counsel representing the respondents however, points out that one lady named Priya Mogre would also be interested in seeking her appointment on compassionate ground as she is claiming to be the wife of the deceased employee.

4. Having regard to the aforesaid facts and circumstances, we dispose of this writ petition with a direction to the appropriate Authority of the respondents to consider the name of the petitioner No.2 for her appointment on compassionate ground in terms of provisions contained in Clause-9.3.3 of the agreement as aforesaid and also having regard to the judgment of this Court in the case of *Shimla d/o Late Satiram Rajbhar and anr. vs. Western Coalfields Ltd. Saoner and ors.*, reported in **2023(4) Mh.L.J. 39**. While we have been informed that the said judgment of this Court has been assailed by the respondents by filing Special Leave to Appeal (C) No.6766/2023, however no interim order is operating against the judgment passed by this Court.

5. For the said purpose we permit that a fresh application shall be made by the petitioner No.2 for seeking her appointment on compassionate ground and alongwith such application, she shall also enclose the copy of the judgment in the case of *Shimla Rajbhar* (supra). Once any such application is made by the petitioner No.2, the same shall be considered and decided by the concerned Authority in accordance with law and the extant Rules taking into consideration the judgment of this Court in *Shimla*

Rajbhar (supra). We further direct that the Competent Authority of the respondents while considering the claim of the petitioner No.2 for appointment on compassionate ground, shall also consider the case of Ms Priya Mogre who may also be interested in her appointment on compassionate ground by providing her appropriate opportunity of hearing. For the said purpose while making the application seeking appointment, the petitioner No.2 shall also furnish the complete address of Ms Priya Mogre as aforesaid.

7. The decision under this order shall be taken by the Competent Authority within a period of eight weeks from the date a certified copy of this order is produced before it.

8. The Writ Petition thus stands disposed of.

(A. S. CHANDURKAR, J.)

(CHIEF JUSTICE)