

13.03.2024
Item No.08
RP
Ct. No.8

MAT 703 of 2022
With
IA No.CAN 1 of 2022

Eastern Coalfield Ltd. Sanctoria
Vs.
Basanti Nayak & Ors.

Mr. Bijoy Kumar
.....for Appellant
Mr. Partha Ghosh
Mr. Amal Kumar Datta
Ms. Simran Sureka
Mr. Debashis Das
.....for Respondents

In view of the order passed on 4th July, 2022 the grievance of the writ petitioner has been substantially addressed and remedied. However, in view of the submission made by Mr. Kumar as recorded in the order dated 4th July, 2022 that the dispute is only in respect of age of the petitioner as on 2012 and that the respondent/writ petitioner is only entitled to MMCC upto the age of 60 years and as per the documents submitted by the respondent/writ petitioner which are on record the petitioner completed the age of 60 years in 2012, no further relief can be granted to the writ petitioner. The issue now left to be decided is whether the respondent/writ petitioner would be entitled to the benefits under MMCC beyond 2012. It largely depends on the determination of age of the

respondent/writ petitioner as on 2012. Mr. Kumar submits that the appellant is in possession of documents which would show that the husband of the writ petitioner as well as the writ petitioner have declared her age which would show that the respondent/writ petitioner has completed the age of 60 years in 2012. We find that the writ petition is pending as regards interest. We feel that the appellant is required to be heard as to the entitlement of the respondent/writ petitioner upto the period till she attains the age of 60 years and consequent thereupon the claim towards interest.

Learned advocate for the respondent/writ petitioner has submitted that the age of the writ petitioner may be determined by an independent medical board to obviate all controversy. The petitioner shall be entitled to renew such prayer in the pending writ petition in the event any dispute arises with regard to her entitlement on completion of 60 years in the year 2012 as claimed by the appellant. The controversy with regard to payment of interest for which the matter was deferred shall be considered after the aforesaid issue is decided in the pending proceeding.

The appellant shall file affidavit in the pending proceeding to disclose all documents to show that the writ petitioner is not entitled to MMCC after 2012

as she has attained the age of 60 years as on 2012 within two weeks from date upon prior service to the learned advocate of the writ petitioner. Reply, if any, be filed within two weeks thereafter. Liberty to mention before the learned Single Judge upon completion of affidavits.

We, however, record that the order passed by the learned coordinate Bench on 4th July, 2022 has been accepted as all admissible dues have been made to the writ petitioner till 2012 from the date of death of the husband of the writ petitioner under MMCC.

With the aforesaid direction, the appeal and the connected application are disposed.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(Uday Kumar J.)

(Soumen Sen J.)