

11.07.2024
Sl. No.76
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10873 of 2024

Ananda Majhi

Vs.

Coal India Limited & Ors.

Mr. Abhinaba Dan,
Mr. Nitish Samanta

....for the petitioner.

Mr. Krishnendu Bhattacharya,
Mr. Priyankar Ganguly,
Ms. Shalini Bairagi,
Ms. Neelanjana Ghorui

....for the respondent nos.2 to 5.

The petitioner is the son of Somai Majhi, an employee of Eastern Coalfields Limited (in short, ECL), who died-in-harness on 15th March, 2015. The petitioner's mother made an application on 24th December, 2015 nominating the petitioner for seeking appointment on compassionate ground.

By a letter dated 30th June, 2016, the petitioner was called on for a screening test by ECL on 4th July, 2016.

The screening test is conducted after processing the application.

The petitioner participated in the screening test. The petitioner says that ECL by a letter dated 15th December, 2016 only pointed out a purported discrepancy in the date of birth of the petitioner as per the Aadhaar Card and as per the application. As

per the Aadhaar Card which is annexed at page 30 of the writ petition, it appears that the petitioner's date of birth is 14th May, 1990. The petitioner was called for medical test for the second time on 18th July, 2017 and found to be physically fit. The petitioner by a letter dated 25th June, 2019, submitted the attested photocopy of ECL Card/Aadhaar Card of sureties that were required to be submitted. A legible photocopy of P.S. 3 & 4 Form duly attested was also submitted. Despite such documents being submitted and the petitioner was found fit, ECL has not communicated anything. ECL authority had also sent the petitioner's documents to the Deputy Commissioner of Police, Special Branch, Asansol Durgapur Police Commissionerate to ascertain whether the petitioner (Ananda Majhi and Sunil Majhi) whose name figures in the family declaration submitted by the employee during his life time to be one and the same person. The said Commissioner obtained an enquiry report from the ASI of Police, Special Branch, Asansol Durgapur. The said document is annexed at page 35 of the writ petition. It will appear from such report that Ananda Majhi and Sunil Majhi is the same and one identical person. On the basis of such enquiry report, the Deputy Commissioner of Police, Special Branch, Asansol Durgapur Police Commissionerate

issued a certificate on 22nd October, 2018 clarifying that Ananda Majhi and Sunil Majhi is the same and one identical person.

Despite such certificate, ECL issued a letter dated 1st April, 2024 informing the petitioner that his file has been returned for required legal heir certificate from the District Magistrate. The same issue of discrepancy in age has been also pointed out. The petitioner was, therefor, directed to submit the document as mentioned in the said letter.

Even in the service records produced by ECL, there is no mention of Ananda Majhi, but the name of Sunil Majhi is recorded. Thus, there is also no declaration from the side of the employee concerned that Sunil Majhi and Ananda Majhi are different persons as otherwise the two names would have been recorded separately in the service book. The discrepancy in age as alleged by ECL is also not fatal in this case. The age according to ECL of Sunil Majhi in the service record does not tally with the age of Sunil Majhi in another document submitted by the employee for Leave Travel Concession (in short LTC) when the petitioner has been certified to be the same as Sunil Majhi and when petitioner has produced the Aadhaar Card and a school certificate in support of his age. There is as such no further need of the

matter being referred to the District Magistrate for further verification of petitioner's record. An Aadhaar Card is a document within the meaning of Section 77 of the Bhartiya Sakshya Adhiniyam, 2023 and should be presumed to be genuine unless challenged.

In the aforesaid background, after hearing the parties and considering the materials on record, I do not find any further clarification is necessary for ECL to consider the petitioner's case finally for compassionate appointment as about 8 to 9 years have surpassed from the application for compassionate appointment having been made.

The whole purpose of compassionate appointment is to assist the bereaved family to tide over the sudden financial hardship arising out of the death of the sole bread earner. Compassionate appointment is also not a matter of right but a departure from the regular service in order to get over the sudden financial hardship. The whole object of granting compassionate appointment is likely to get frustrated with the passage of time.

The Deputy Commissioner of Police, Special Branch, Asansol Durgapur Police Commissionerate has already certified that Ananda Majhi and Sunil Majhi are the one and the same person. So, this

dispute, if any, as projected by ECL does not subsist any more.

This is further corroborated by the declaration in the service book where the name of Ananda Majhi is not recorded. None of the other heirs named in the declaration given by the employee has come forward to challenge the petitioner's application even after expiry of nine years from the date of application but, the name of Sunil Majhi is recorded. Thus, it should be presumed that Sunil Majhi and Ananda Majhi is one and the same person.

Now coming to the discrepancy in age as alleged by the petitioner, it will appear from the documents submitted by his father and not by him. The Aadhaar Card was obtained when the petitioner reached the age of 18 years. The declaration given in the Aadhaar Card, therefor, binds the petitioner. The discrepancy in age as pointed by ECL on the basis of two documents even if are taken note of the same is not more than 4 years. If ECL is not willing to accept the Aadhaar Card which is a record maintained by the Government, then ECL has to go for an ossification test of the petitioner.

ECL, therefor, is directed to proceed with the petitioner's application to grant him compassionate appointment provided the petitioner satisfies the

requirement for the same without harping on the identity of Sunil Majhi and Ananda Majhi and the age discrepancy. ECL can also obtain an ossification report to ascertain the age of the petitioner, if necessary to put in the date of birth of the petitioner in the service record, if the petitioner is ultimately provided compassionate appointment. The entire exercise should be completed within a period of 4 months from date.

Since the order is passed in the presence of ECL, no further communication is necessary. However, by way of abundant caution, the petitioner shall serve the respondents with a server copy of this order and the respondents shall act on the basis of the server copy of the order without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)