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31.07.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15051 of 2023

Mira Mahato & Anr.
Vs.
Coal India Limited & Ors.

Mr. Gobinda Kar
...for the petitioners

Ms. Tanushree Dasgupta
...for the ECL

The grievance of the petitioners is directed against the refusal of the respondent authorities to grant compassionate employment to the petitioner no. 2.

Briefly, the petitioner no. 1 is the wife of a deceased employee who was working with the Eastern Coalfields Limited.

The petitioner no. 2 is the son of the petitioner no. 1.

The husband of the petitioner no. 1 had died on July 17, 2017 due to an accident when he was serving as an employee of the respondent no. 2. The husband of the petitioner no. 1 left behind his widow, i.e., the petitioner no. 1, three daughters and two sons. It is submitted that the petitioner no. 2, Goutam Mahato, is the eldest son of the petitioner no. 1 and prays for employment under

the died-in-harness category after the demise of his father.

The grievance of the petitioners is directed against a communication dated August 09, 2018, whereby the respondent authorities have rejected the claim of the petitioner no. 2 on the ground that the petitioner no. 2 is more than 35 years old. As such, there is no question of granting any employment to the petitioner no. 2.

The respondent authorities have also filed a Report whereby it is contended that the Medical Board had found the petitioner no. 2 to be above the age of 35 years. It is also alleged on behalf of the respondents that there are several discrepancies in the service records furnished by the petitioners and the petitioners are not entitled to any relief.

On behalf of the petitioners it is alleged that, the Medical Board constituted by the respondent Authorities has acted without any notice to the petitioners and the entire finding of the Medical Board is erroneous. It is further alleged that the marriage of the petitioner no. 1 and her deceased husband took place sometime in the year 1980 and, as such, it is impossible that the petitioner no. 2 is above 35 years.

It is further alleged on behalf of the petitioners that the petitioners are entitled to pensionary and

other benefits, which have not been paid by the respondent Authorities.

On behalf of the respondent Authorities it is submitted that the finding of the Medical Board is conclusive and the petitioners are not entitled to any relief and insofar as the prayer for pensionary benefit is concerned. There is no application nor request made to the respondent Authorities nor has any document been furnished for receipt of such benefits.

Upon consideration of the facts of the case, it is evident that the disputes as raised by the petitioners cannot be adjudicated in a writ petition. The question of fact involved insofar as the marriage of the petitioner no. 1 and the age of the petitioner no.2 and the deceased husband of the petitioner no. 1 is concerned, cannot be adjudicated in a summary proceeding of this nature. The Medical Board after an examination has conclusively come to a finding that the petitioner no. 2 is more than 35 years old. This is the clear intent of Clause 9.3.4 of the National Coal Wage Agreement VI. This finding cannot be controverted upon in this proceeding. (*Amit Juneja & Anr. Vs. State of Goa and Ors.*, 2017 SCC OnLine Bom 7455, *Romina Sardar vs. State of West Bengal*, 2015 SCC OnLine Cal 6408, *Dinesh Kumar & Anr. Vs. The Registrar of Societies & Ors.* 2011 SCC OnLine Del

2814). The allegations insofar as discrepancies in the service records of the deceased employees also remains unanswered.

In such view of the matter, there is no infirmity nor illegality in the impugned communication. The writ petition, being W.P.A. No. 15051 of 2023, is dismissed on merits.

Insofar as the claim for Monthly Monetary Cash Compensation (MMCC) is concerned, in view of the fact that there is no prayer made in this petitioner and no claim has been made with the respondent authorities, any such claim is beyond the scope of the writ petition and stands rejected. Liberty is granted to the petitioners to make a formal application claiming any such compensation in accordance with law. If any such proposed application is made, the respondent authorities are directed to consider the same expeditiously and preferably within four weeks from the receipt of such application in accordance with law.

There shall be no order as to costs.

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

(Ravi Krishan Kapur, J.)