

29.07.2024
Item No.40
Ct. No.26
CHC
(dismissed)

MAT 1426 of 2024
IA NO: CAN/1/2024
CAN/2/2024

Eastern Coalfields Limited & ors.
Vs.
Kulsum Bibi @ Kulsun, since deceased substituted
by Azma Khatun @ Azmira Bibi & ors.

Ms. Priti Banerjee, Advocate
...for the appellants

Mr. Partha Ghosh, Advocate
Mr. Amal Kumar Datta, Advocate
Ms. Simran Sureka, Advocate
Mr. Debashis Das, Advocate
...for the respondents

In Re: CAN/1/2024

1. Department reports delay of 253 days in preferring the appeal.

2. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient. Delay of 253 days in filing the appeal is condoned.

3. CAN/1/2024 is disposed of accordingly.

In Re: MAT 1426 of 2024

4. By consent of the parties, the appeal is taken up for consideration.

5. Appellants are aggrieved by an order dated September 12, 2023 passed in two writ petitions namely, WPA 5211 of 2022 and WPA 13759 of 2023.

6. In WPA 5211 of 2022, the writ petitioner therein sought benefits under the Monthly Monetary Cash Compensation (MMCC) as envisaged under the National Coal Wage Agreement (NCWA).

7. The other writ petition being WPA 13759 of 2023 was for compassionate appointment.

8. Death of the employee was March 8, 2012. It is contended on behalf of the appellants that, the death certificate was submitted sometime in 2017. Application for compassionate appointment was made in 2021. Considering the delay, compassionate appointment was not allowed. According to the appellants, the date of commencement of the 'MMCC' would be from the date of submission of the death certificate and therefore, it should be taken from 2017 and not from an earlier date. According to the appellants, learned Trial Judge erred in taking the date subsequent to the death of date as period of commencement of the MMCC benefits. Learned Single Judge erred in awarding interest.

9. Private respondents are represented.

10. As noted above, death of date of the deceased employee is March 8, 2012. Right to receive benefits under the MMCC accrues on the death of the deceased employee. MMCC benefits therefore should commence from the day following the date of death. Death certificate is a document which goes to show

the death of the deceased employee. In a given case, the management will be aware of the death of the employee. For example, if the employee died-in-harness while working, the management obviously is aware of the death of such employee.

11. Learned Single Judge took note of a coordinate Bench decision with regard to entitlement of the heirs of the deceased employee to receive MMCC benefits from the day following the date of death as also the fact that, such coordinate Bench took into consideration the orders of the Division Bench passed from time to time which were tested right up to the Supreme Court, in granting MMCC benefits to the private respondents from the day following the death of day. Learned Trial Judge also awarded interest at the rate of 6% from March 9, 2012 till the date of actual payment of such prayer.

12. In the facts and circumstances of the present case, we find no merit in the present appeal.

13. MAT 1426 of 2024 along with connected application are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)