

12.08.2024
M.L.202
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23575 of 2023

Ram Majhi
Vs.
The Coal India Limited & Ors.

Mr. Gobinda Kar
.....for the petitioner.

Ms. Tanushree Das Gupta
.....for ECL.

The petitioner's father was an employee of Eastern Coalfields Limited (in short "ECL"). He died-in-harness on 4th December, 2005. The petitioner had applied for compassionate appointment on 8th June, 2006. It is not in dispute that the said application was not received by the respondents. It is submitted that the petitioner was called for medical examination, but there is no supporting document to establish the said case.

The writ petition has been filed on 27th September, 2023 while the death of the petitioner's father occurred on 4th December, 2005.

The whole object of compassionate appointment is to provide immediate solace to the bereaved family on having lost the sole bread-earner so that the family can live in dignity.

The application made by the petitioner was neither rejected nor allowed for over the years. Ultimately, on 10th November, 2019, a fresh application was made through the online portal of ECL.

It is submitted that the petitioned authorities did not take any further step to dispose of the petitioner's application made in 2006 and thereby has violated the principles laid down by the Hon'ble Supreme Court in 2023 SCCOnLine SC 219 (State of West Bengal vs. Debabrata Tiwari) and 2022 SCCOnLine SC 684 Malaya Nandi Sethy vs. State of Orissa.

The petitioner's obligation was to make an application which stood discharged with the making of the said application. It was for ECL to consider the same in time observing the legal provisions, but the same has not been admittedly done in this manner.

The respondents say there were discrepancies in the application made by the petitioner for compassionate appointment in 2006, and as such, the petitioner was informed to provide the required details for rectifying the application. It is also the case of ECL that the fact of discrepancies in the application was duly communicated to the petitioner, which is, however, disputed by the petitioner. No

document is also produced from the side of ECL to establish such fact.

The petitioner had been writing letters at regular intervals reminding the issue of compassionate appointment, but nothing much has transpired.

It is also submitted on behalf of ECL that the petitioner was a minor at the time when his father died or at the time when the application for compassionate appointment was made.

The fact remains that the obligation of the petitioner was discharged once the application had been made. It was then the call for ECL to decide on the application. If the petitioner was minor then it was for ECL to enquire whether the petitioner was over 12 years or below the same and ought to have placed the petitioner in the live roster for being considered for compassionate appointment once the petitioner attained majority if the petitioner was over 12 years. Nothing has been done or borne out from the records.

ECL is a public sector undertaking and should act fairly and transparent. Its role should be that of a model employer. Instead of opposing the prayer, ECL should have taken necessary steps to deal with such application in a fair and transparent manner.

In the aforesaid facts and circumstances, the point of delay in approaching the Court as urged by ECL is unsustainable in as much as the application was made in 2006.

Compassionate appointment is not available as a matter of right, but as indicated hereinabove to tide over sudden financial crisis arising out of the death of the bread-earner.

ECL, therefor, was obliged to process the application once the same had been made.

At the same time, the petitioner cannot ask for mandatory orders to grant compassionate appointment.

In view of the aforesaid, ECL is directed to decide and bring the petitioner's application for compassionate appointment to a logical conclusion in accordance with the scheme, if any, prevailing at the time of death of the employee concerned.

The Area Personnel Manager, ECL, Kajora Area, being the respondent no.3 is directed to decide on the petitioner's application for compassionate appointment in the light of the law prevailing in this regard by a reasoned order after giving the petitioner a personal hearing. ECL shall also record, if compassionate appointment cannot be provided to

the petitioner, the reasons in detail for rejecting such prayer.

This Court is conscious that successive representations should not be encouraged or by directing the representations to be considered a stale claim is revived. However, in the instant case, since the application had already been made in time, neither the subsequent representations nor the claim amounts to either successive representations or a stale claim being revived by directing the representations to be considered.

The entire exercise should be completed within a period of 4 months from date.

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 all necessary formalities.

(Arindam Mukherjee, J.)