

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak  
And  
The Hon'ble Justice Partha Sarathi Sen**

**FMA 618 of 2024  
With  
IA NO: CAN 1 of 2023**

**Eastern Coalfields Limited  
VS.  
Sanjukta Nayak alias Sanjukta  
Nahak alias Sanjukta Nahaka & Ors.**

*For the Appellant : Mr. Manik Das, Advocate*

*For the writ petitioner : Mr. Prolay Bhattacharya  
/Private respondent Ms. Tanusree Ghosh, Advocates*

*Heard on & Judgement on: June 20, 2024*

**DEBANGSU BASAK, J.**

- 1.** The appeal is directed against the order dated July 27, 2023 passed in WPA 4008 of 2018 with CAN 1 of 2021 subsequently corrected on August 22, 2023.
- 2.** By the impugned order, the learned single Judge, directed payment of Monthly Monetary Cash Compensation (MMCC) to the writ petitioner/private respondent from November 2, 1994 being the date subsequent to the death

of the father of the writ petitioner/private respondent. Learned single Judge also directed payment to be disbursed within 3 months from the date of the order.

**3.** Learned advocate appearing for the appellant submits that the application for compassionate appointment and alternatively for 'MMCC' benefit was made by the writ petitioner/private respondent only in the year 1998 and, therefore, the direction for payment of 'MMCC' benefits from November 2, 1994 was erroneous. He points out that, although, the application for compassionate appointment and alternatively disbursement of 'MMCC' benefits was made in 1998 was not considered, the writ petitioner/private respondent did not take any steps with regard thereto. However, there was a settlement dated May 22, 2007 between the workers and the management of the Coal Companies whereupon and whereunder it was, *inter alia*, agreed that, applications for compassionate appointment made prior to July 1, 1996 would be disposed of despite delay and that, for deaths post July 1, 1996 applications made within 1 year from the date of death will be considered and decided by the administration. He submits that, although, the application concerned was in respect of death post July 1, 1996 and made more than one year from the date of death, none the less, it was considered by the administration. By a letter dated September 12, 2018, administration required the writ petitioner/private respondent to produce certain documents which were ultimately submitted on August 13, 2014. He submits that, therefore, the right of receipt of 'MMCC' benefits accrued on August 13, 2014 and not any date prior thereto. In support of such contentions, learned advocate appearing for the appellant relies upon an order dated **October 13, 2013** passed in **Civil Appeal No. 6730 of 2023 [M/s. Eastern Coal Fields Ltd. & Ors. vs. Dukhni Bhuiya]** by the Hon'ble Supreme Court where, the directions issued in **Dukhni Bhuiya**

(supra) rendered by a co-ordinate Bench in **MAT 86 of 2022** was modified. He also relies upon an order dated **March 19, 2024** passed by the co-ordinate Bench in **APO 129 of 2023 [Eastern Coalfields Limited vs. Bodi Mejhain & Ors.]** and submits that, 'MMCC' benefit was directed to be granted from the date of application of the same.

**4.** Writ petitioner/private respondent is represented.

**5.** We find from the records that, the date of death of the employee is November 1, 1994. An application for compassionate appointment and alternatively, disbursal of 'MMCC' benefits was made in 1998. Such application was not considered by the administration. Subsequently, the administration considered the same after the settlement between its workers and the administration on May 22, 2007. By a letter dated September 12, 2008, the administration called upon the writ petitioner/private respondent to furnish documents which were relevant for consideration of the claim. Such documents were submitted on August 13, 2014.

**6.** Right to receive 'MMCC' benefits accrues out of the settlement arrived at between the workers and the management of the Coal Companies. Right to 'MMCC' benefits by the writ petitioner/private respondent is not being disputed on behalf of the appellant. What is being disputed is the date of commencement of disbursal of the 'MMCC' benefits to the writ petitioner/private respondent. As noted above, learned single Judge directed disbursal since November 2, 1994, being the date subsequent to the date of death of the deceased employee.

**7.** No doubt, right for compassionate appointment or receipt of 'MMCC' benefits involved herein accrues if there exists a provision for the same in the terms of employment governing the deceased employee. As noted above, the entitlement to receive 'MMCC' benefits is not being disputed.

**8.** Notwithstanding a right to receive compassionate appointment or 'MMCC' benefits accruing in terms of the contract of employment, such right needs to be exercised, that is to say, an application for the same is to be made by the person entitled thereto, before the employer for consideration. On favourable consideration of the same, the right crystallizes. In the facts of the present case, such application was made in 1998.

**9.** The application, however, does not bear the exact date on which it was made. Since it is acknowledged by the appellant that the application was made in 1998, we take December 31, 1998 being the last date of the year as the date of the application for the sake of convenience.

**10.** The private respondent making such application for disbursal of 'MMCC' benefits and ultimately, the appellant agreeing to disburse the same, it would be just and proper that the appellant commences disbursement of 'MMCC' on and from January 1, 1999 being the date next to the date of the application for disbursal of 'MMCC' benefits.

**11.** This method was applied in **Dukhni Bhuiya** (supra) by the Supreme Court and by the co-ordinate Bench in **Bodi Mejhain** (supra).

**12.** In such circumstances, we modify the impugned order under appeal to such extent. We extend the time for disbursal of the 'MMCC' benefits as modified herein by a period of four weeks from date.

**13.** FMA 618 of 2024 along with CAN 1 of 2023 are **disposed of** accordingly.

**(Debangsu Basak, J.)**

**14.** I agree.

**(Partha Sarathi Sen, J.)**