

31.07.2024  
Court No.13  
Item No.1  
AP

**FMA 225 of 2024  
With  
IA NO: CAN 1 of 2023**

**Eastern Coalfields Limited  
Vs.  
Union of India and Ors.**

Mr. Manik Das

... for the Appellant.

Mr. Shiv Chandra Prasad

... for the Union of India.

1. The appeal is directed against an interim order dated 25<sup>th</sup> September, 2023 passed by a Single Bench of this Court in WPA 18962 of 2023 (Eastern Coalfields Limited Vs. Union of India and Ors.).

2. While admitting the writ petition and calling for affidavits, the Single Bench directed stay of the impugned award dated 15<sup>th</sup> October, 2023 on condition that the appellant deposits Rs.5,00,000/- and a sum of Rs.48,775.40/- month by month till the date Subodh Kumar Singh, son of Gita Devi attains the age of superannuation. The appellant is aggrieved by the portion of the order that directs deposits as indicated hereinabove.

3. The brief facts leading to the case are that one Ram Chander Singh, was a 'fitter', working with Eastern Coalfields Limited at the Porascole Colliery

under the Kajora area. The said Ram Chander Singh died-in-harness on 30<sup>th</sup> January, 1992.

4. Within a short period of his death, one Gita Devi, claiming to be the wife of the late Ram Chander Singh, applied for compassionate employment. The said application was rejected by the Eastern Coalfields Limited (hereinafter referred to as “the ECL”) on 11<sup>th</sup> May, 1993 on the ground that Gita Devi was not the lawful wife of the deceased as per the Hindu Marriage Act.

5. The deceased had married her during the subsistence of his marriage with her elder sister Tukubala Devi. Conciliation proceedings were initiated, which failed and the matter was referred for adjudication to the Central Government Industrial Tribunal – cum – Labour Court, Asansol. The terms of reference were as follows:-

*“Whether the action of the Management in denying employment to the dependent wife of late Sh. Late Ramchandra Singh, Ex-Fitter, Parascole Colliery, Distt. Burdwan is just and legal? If not, to what relief is the dependent wife of the deceased employee entitled for?”*

6. The Tribunal after following the procedure went on to hold that indeed Gita Devi, was the second wife of late Ram Chander Singh, who married the deceased during the subsistence of his marriage with

the first wife Tukubala Devi. It was held that Gita Devi's claim for compassionate employment was not tenable.

7. Thereafter, the Tribunal went on to direct the ECL to employ Subodh Kumar Singh son of Gita Devi on compassionate ground and passed an award to this effect on 19<sup>th</sup> December, 2022 in Reference Case No.27 of 1999.

8. It is the propriety and legality of the award that was challenged by the ECL before the Single Bench in the writ petition.

9. The principal ground urged in the writ petition was that the Tribunal had travelled outside the scope of the reference in directing employment for Subodh Kumar Singh after holding that Gita Devi was not entitled to compassionate employment.

10. According to the Ld. Counsel the Tribunal, therefore, committed error in law and acted contrary to the decisions of the Supreme Court in the case of ***Hochtief Gammon Vs. Industrial Tribunal and Ors.*** reported in ***AIR 1964 SC 1746 Para 7 & 8, Delhi Cloth & General Mills Co. Ltd. Vs. Workmen & Ors.*** reported in ***1966 SCC OnLine SC 83 Para 20, 21, 23 & 28*** and an unreported judgment of the High Court of Jharkhand at Ranchi in the case of ***M/s. Bharat Coking Coal Ltd. Vs. Workmen.***

11. Learned Single Judge while admitting the writ petition and calling for affidavits, had directed a sum of Rs.5,00,000/- and the notional monthly salary of Rs.48,775/- payable to Subodh Kumar Singh, to be deposited with this court, month to month until his superannuation. Such deposit was made as a pre-condition for stay of the award of the Tribunal.

12. This Court is of the view that the learned Single Judge has committed error in directing the pre-deposit or deposit of any sums of money in the facts and circumstances of the case. The award in question was not in the nature of any entitlement to any sum of money payment of any claim or damages. The only question was whether the Tribunal could have directed appointment of Subodh Kumar Singh when the same was not the subject matter of the original reference made for adjudication before the Tribunal.

13. Even assuming for the sake of argument and that too hypothetically, that the workman succeeds in the Court below, the Single Bench has all powers to direct any employment to be given to any person with retrospective effect either notionally or full financial benefit. The need to secure any amount that has not accrued in the first place, therefore, does not and cannot arise.

14. In the above circumstances, this Court is inclined to stay the operation of the order that directs one time deposit of a sum of Rs.5,00,000/- and month to month deposit of a sum of Rs.48,775.40/-. The payment, if any to be made to the son of Gita Devi, shall abide by the final result of the writ petition.

15. It is made absolutely clear that this Court has not entered into the merits of the claim of either the ECL or the workman or the Union. The Single Judge shall proceed to decide the matter uninfluenced by any observation made hereinabove after receiving affidavits or after expiry of the time/extended time for filing of such affidavits whichever is earlier.

16. The pendency of the writ petition shall, however, not prevent the ECL from considering payment of MMCC under the National Coal Wage Agreement – V and in terms of the other applicable rules to the lawful person entitled to the same on account of the service of late Ram Chander Singh.

17. Let Tukubala Devi, first wife of late Ram Chander Singh, be added as a party respondent in the writ petition.

18. Registry shall carry out necessary amendment in this regard.

19. The writ petitioner shall effect service on the added respondent and file affidavit of service in the Court below.

20. With the aforesaid direction, FMA 225 of 2024 shall stand disposed of.

21. In view of the disposal of FMA 225 of 2024, all connected pending applications, if any, shall also stand disposed of.

22. There shall be no order as to costs.

23. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Ajay Kumar Gupta, J.)**