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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/50/2024
WITH WPO/1452/2023
IA NO:GA/1/2024, GA/2/2024

M/S. EASTERN COALFIELDS LIMITED AND ANR.
VS
FULWA DEVI AND ORS.

BEFORE :
THE HON'BLE JUSTICE SOUMEN SEN
-A N D-
THE HON'BLE JUSTICE UDAY KUMAR
DATE : 20th February, 2024.

Appearance :
Mr. Debnath Ghosh, Adv.
Mr. Syed Nurul Arefin, Adv.
Mr. Syed Moyeenul Arefin, Adv.
Ms. Rashmi Binayak, Adv.
..for appellants

Mr. Partha Ghosh, Adv.
Mr. A. K. Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
...for respondents.

RE:GA/1/2024

The Court :- This is an application for condonation of delay of 92 days in preferring the appeal.

We are satisfied with the explanation offered for the delay in preferring the appeal within the period of imitation.

Accordingly, the delay of 92 days in preferring the appeal is allowed.

GA/1/2023 is, thus, disposed of.

RE: APOT/50/2024

This appeal arises out of an order passed by the learned single Judge in an application made by the widow for monetary compensation under the National Coal Wage Agreement.

The husband of the private respondent/writ petitioner died on 21st April, 2002. The writ petitioner applied for compassionate appointment on 29th August, 2002. The appellant rejected the said application on the ground that there is no provision under the National Coal Wage Agreement-VI for giving employment to the brother-in-law of the husband as he is not considered to be the direct dependent under the said bipartite settlement. Admittedly, the appellant and his son at the relevant time could have applied for compassionate appointment and the petitioner by a communication dated 26th February, 2003 requested the appellant to decide on the options available to her, namely, monetary compensation in lieu of employment or employment of the widow. The matter lingered for some time and, ultimately, a memorandum of settlement was executed under section 12(3) of the Industrial Disputes Act, 1947 whereby it was agreed by and between the parties that the widow shall make an application for employment/monetary compensation and such application shall be processed and forwarded to the Headquarter for approval within thirty days on receipt of the application and connected documents complete in all respect. Thereafter, on 26th July, 2013 the writ petitioner requested the employer to process her claim for appointment. This was rejected by the ECL in 2018. In such circumstances, ECL could not have denied

payment of monetary compensation at least from 26th July, 2013 when her claim for employment was made. The widow cannot be made to suffer on both counts.

In view of the fact that the brother-in-law cannot be considered for compassionate appointment and immediately thereafter the ECL had asked for options and it was ultimately resolved in a settlement in 2009 and thereafter the option was exercised by the petitioner in July, 2013, we are inclined to grant interest from July, 2013 as her claim for appointment was rejected in 2018.

In the given circumstances, we modify the order of the learned single Judge by directing the payment of monetary compensation from July, 2013 along with interest @ 6% per annum till the date of actual payment. The order stands modified to the aforesaid extent.

The appeal is allowed in part.

Consequently, the stay application, GA/2/2024 stands closed.

(SOUMEN SEN,J.)

(UDAY KUMAR, J.)