

OD-1+2

ORDER SHEET
IA NO.GA/1/2024
IA NO.GA/2/2024
IN
WPO/447/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MONI MEJHAN AND ANR
-VS
M/S EASTERN COAL FIELDS LTD AND ANR

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : August 2, 2024.

Appearance:

Mr. Partha Ghosh, Adv. ;Mr. Amal Kumar Dutta, Adv. ;Ms. Simran Sureka,
Adv.;Mr. Debasish Das, Adv.,...for the petitioners.

Mr. Srijib Chakraborty, Adv., for respondents.

1. The Court: GA/1/2024 is an application for condonation of delay in filing GA/2/2024.
2. Sufficient grounds are available explaining the delay.
3. GA/1/2024 is allowed.
4. By GA/2/2024, modification of the order dated May 21, 2024 is sought.
5. It is submitted on behalf of the applicants that the husband of the petitioner no.1 died in November, 2009. She made an application for

MMCC for the first time in 2024. Her son's application for compassionate appointment was made within time and was rejected only in the year 2017.

6. Mr. Chakraborty learned counsel for the applicants, submitted, by referring to a Division Bench judgment of this Court, dated June 20, 2024, rendered in FMA/618/2024(ECL -vs- Sanjukta Nayak), that MMCC and compassionate employment are required to be formally made. Only on favourable consideration of the same, the right crystallizes.
7. Learned counsel for the petitioner, Mr. Ghosh, however, placed a decision of the Supreme Court in ECL -vs- Bipin Murmu, reported in 2024 SCC Online SC 1535, where MMCC under the NCWA was held to be an entitlement of the wife from the date of death of the employee.
8. This court has, in several decisions, pointed out that in terms of the NCWA, the family of the deceased may accept MMCC or compassionate employment. The expression "accept" used in the NCWA presupposes the requirement of an offer to be made by the employer.
9. In that view of the matter GA/2/2024 is rejected.
10. It is expected that the order dated May 21, 2024 is complied with by the respondents within a period of two weeks from date mandatorily and positively.

(RAJASEKHAR MANTHA, J.)