

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/61/2023
IA NO: GA/1/2023
WITH WPO/3057/2022
EASTERN COALFIELDS LTD.
VS
CHAMPA MUNDA AND ORS.

BEFORE :
THE HON'BLE JUSTICE SOUMEN SEN
-A N D-
THE HON'BLE JUSTICE UDAY KUMAR
DATE : 19th March, 2024.

Appearance :
Mr. Manik Das, Adv.
....for appellants.
Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Me. Debashis Das, Adv.
...for respondents.

The Court :- The appeal is arising out of an order dated 17th March, 2023, in an application filed by the dependent of the deceased. The husband of the writ petitioner was an employee of Eastern Coalfields Limited (in short E.C.L.). He died in harness on 23.11.2007. the writ petitioner applied for compassionate appointment on 25.02.2008, within one year from the date of death. Subsequent thereto, one Sandu Munda filed an application for compassionate appointment in or about 27.06.2009. Sandu claimed to be the son of Late Chunu Munda through his second wife. However, the said application is beyond the period prescribed under the rules. It appears that the

application of the petitioner was processed and she was informed of certain discrepancies on 7.10.2014 that are required to be removed. In the meantime, the authorities have approached the Superintendent of Police for verification of the death certificate in respect of late Chunu Munda. Sandu, the other rival claimant died on April 2015. By reason of such death, the only application required to be considered for compassionate appointment was that of the writ petitioner. Unfortunately, the respondents did not immediately proceed with the matter and after approximately two and half years again clarification was sought for from the writ petitioner on 9th March, 2017. Another clarification was sought for on February 25, 2019. However, no steps were taken by E.C.L. for grant of compassionate appointment. The Monthly Monetary Cash Compensation (MMCC) that the petitioner was entitled to was not also paid to the petitioner from the death of her husband.

The writ petitioner renewed her prayer for compassionate appointment on September 9, 2022, alternatively she has prayed for release of MMCC from the date of death of her husband. Mr. Manik Das, learned Counsel appearing for the appellant submits that E.C.L. was unable to process the application in view of the rival claims, however, he could not offer any plausible explanation on behalf of the E.C.L. of either not considering the prayer for compassionate appointment or for releasing MMCC immediately thereafter. In fact, the welfare officer ought to have assisted and advised the writ petition of the alternatives available to him soon after the death of her step son. The learned Single Judge relied upon the decision of the Hon'ble Division Bench in M/s. Eastern

Coalfields Ltd. Vs. Dewanti Kumari & Ors., (2016) 3 WBLR 464 (CAL) and a recent judgement of the Division Bench dated 2.9.2022 in MAT 1007 of 2022 (M/s. Eastern Coalfields Limited Vs. Smt. Dulali Majhian @ Majhan & Ors.) in which it was reiterated that a female dependent is entitled to the MMCC from the date of death of the deceased employee allowed the writ petition with the following direction :-

“In the light of the observations above, this Court directs that in the event the compassionate appointment is granted to the petitioner’s son within six weeks from date, then she will refrain from claiming MMCC. However, if such course of action is not followed, the petitioner will be entitled to MMCC from November 23, 2007 being the date of death of her husband. The entire amount of arrears will be paid to the petitioner along with interest at the rate of 5% per annum within three months from the date of the order. Thereafter, petitioner will be paid MMCC from June 19, 2023 on month by month basis till she attains the age of 60 years.”

The learned Single Judge has taken into consideration the financial, social and economic background of the writ petitioner and relied upon the judgement of the Hon’ble Supreme Court in State of Rajasthan & Others Vs. O.P. Gupta, 2022 LiveLaw (SC) 785, in which the Hon’ble Supreme Court has taken note of the educational, social and financial background of the widow in deciding the matter in favour of the widow.

However, in the instant case although the appellants could not have immediately claimed compassionate appointment in view of the claim lodged by her step son, it cannot be denied that her case ought to have been considered immediately upon the death of her step son. In view of the fact, that the writ petitioner is entitled to MMCC from the date of death of her husband which fact was not immediately known to her by the welfare officer or by the employer we feel that she should be entitled to MMCC from 23.11.2007 till date, without interest and on and from May 2015, till date with interest. The entire amount of arrears will be paid to the writ petitioner along with interest for the period mentioned above within two months from the date of the order.

All other directions of the learned Single Judge shall remain unaltered. The application is also stands disposed of.

There will, however, be no order as to costs.

Affidavit-of-service is kept on record.

(SOUMEN SEN,J.)

(UDAY KUMAR, J.)