

WPO/915/2024

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MANGALI @ MANGALA BOURI
VERSUS
M/S. EASTERN COALFIELDS LIMITED & ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 26th November, 2024.

Appearance:
Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
Mr. Bratin Guin, Adv.
For the petitioner.

Mr. Manik Das, Adv.
For the respondents.

The Court :- The petitioner is the widowed daughter of Tulshi Bouri an employee of Eastern Coalfields Limited (in Short ECL) who died in harness on 26th November, 2000. The petitioner was married to Niren Bouri who died on 10th October, 2000.

It is the case of the petitioner after the death of her husband she was dependant on her mother Tulshi Bouri who also passed away within a short while therefrom.

The petitioner further says that Tulshi Bouri was survived by the petitioner as the only daughter and heiress. The petitioner after the death of

her mother applied for appointment on compassionate ground on 14th December, 2000.

Record reveals that after exchange of letters from the side of ECL and the petitioner, the petitioner's claim for compassionate appointment was kept pending even in October, 2022. It is now well-settled that compassionate appointment is not a matter of right, but is dependent on the prevalent scheme, if any, in the employer organization for providing financial assistance to the bereaved family on the loss of the sole bread-earner. The whole basis of appointment under compassionate ground gets frustrated with the passage of time.

In the instant case, ECL, a subsidiary of Coal India Limited (in short CIL), is a Government Undertaking. Its role, therefore, has to be like a model employer and not like private individual governed by their own vested interest. It is difficult to conceive that an application for compassionate appointment after having been processed in all respects is kept pending for 22 years. The compassionate appointment in ECL is governed by the provisions of National Coal Wages Agreement (in short NCWA). The prevalent NCWA, at the time of the death of the employee or at the time of making the application for compassionate appointment, clearly stated that in case of female dependent of an employee, compassionate appointment is to be provided, if she is otherwise fit for the same or in lieu thereof Monthly Monetary Compensation (in short "MMCC") is to be provided. The age cap for providing compassionate

appointment in case of female dependent under NCWA for is 45 years while that for MMCC is up to 60 years for the female dependent.

In the instant case, by the passage of time the petitioner who was below 45 has now surpassed such age cap and is, according to the affidavit appended to the writ petition, aged about 52 years. The petitioner, therefore, cannot now avail compassionate appointment even if ECL intends to offer the same due to her present age even if she was eligible for the same at the time of her application. The other alternative which remains in terms of the provisions of NCWA is to provide MMCC. The petitioner is claiming MMCC for death of her mother being the employee of ECL.

On behalf of ECL it is submitted that to be considered for compassionate appointment as also for MMCC the person claiming has to established that she was dependent on the employee concerned at the time of his/her death. The dependency of the petitioner is not proved in the instant case according to ECL and as such the claim for MMCC is required to be enquired upon before the same can be granted particularly in view of the fact that the petitioner did not reside with the deceased employee at the time of her death as evident from her Aadhaar Card.

The argument advanced by ECL is self-defeating. The parameter of considering the petitioner as a dependent on her mother for grant of compassionate appointment as also for MMCC is the same. ECL processed the application for compassionate appointment and displayed the name of the petitioner in the list of pending cases for granting compassionate appointment

only after finding her to be dependent. ECL in last 20-24 years did not for once even contend that the petitioner was not dependent on her mother for which she is not entitled to compassionate appointment.

It is not in dispute that the petitioner's father died on 23rd August, 1995, much prior to the death of the petitioner's mother. So, the family to which the petitioner belonged prior to her marriage was one dependent on the income of the petitioner's mother after 1995.

It is also not in dispute that the petitioner's husband died prior to the death of the petitioner's mother. The petitioner in absence of any contrary version is to be considered to be the dependent on her mother which is also apparent from the conduct of ECL. The contrary version that the petitioner is not dependent on her mother after the death of her husband has not seen the light of the day for last 24 years. ECL, therefor, cannot be permitted to say that to grant MMCC the petitioner's dependency on her mother being the discussed employee is required to be ascertained.

In the aforesaid facts and circumstances, I do not find any substance in the objections raised by ECL. The petitioner, therefore, is entitled to MMCC. The date from which the petitioner is entitled to MMCC is also well-settled in view of the decision of the Hon'ble Supreme Court reported in **2024 SCC Online SC 1535 (Central Coalfields Limited-Versus-Bipin Murmu & Ors.)**. The petitioner, therefore, is entitled to MMCC from the date immediately succeeding the date of death of her mother i.e. 27th November, 2000. The petitioner shall be provided with the current MMCC from December, 2024

which will fall due in January, 2025 and shall be paid the same month by month till the petitioner reaches the age of 60 years. So far as the arrears of MMCC between 27th November, 2000 and 30th November, 2024 is concerned, the same shall be liquidated with 6% interest on or before 31st March, 2025. The disbursement of the current MMCC as also the arrears shall be made upon due and proper verification of the petitioner's identity and the bank account details.

Nothing further remains to be adjudicated.

The writ petition is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)

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