

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1445/2023
KUMARI BULI BOURI
VS
M/S. EASTERN COALFIELDS LTD AND ORS.

BEFORE :-
THE HON'BLE JUSTICE RAJASEKHAR MANTHA
DATED : 13TH FEBRUARY, 2024.

Appearance :
Mr. Partha Ghosh, Adv.
Mr. Amal Kr. Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
...for petitioner
Mr. Manik Das, Adv.
...for respondents

The Court :- 1. Lengthy arguments have been heard from counsel on both sides.

2. The petitioner's father died on 14th December, 2006. The respondent authority in the year 2009 considered the petitioner's application for employment as an unmarried daughter and sought a certificate in that regard. Medical screening was done in 2012. Police verification was sought for in January 2014 and on 20th June, 2015. Noticing certain deficiencies in her employment filed in 2014, the petitioner was asked to appear before the apex Medical Board for assessment of her age in the year 2016. The recommendation of the Medical

Board came on 20th June, 2016, when the petitioner was found unfit for job.

3. From 11th August, 2017 till the year 2018 several documents as regards her marital status were sought by the respondent and submitted by the petitioner. The petitioner was requested to rectify various documents, even after filing of the writ petition on 26th June, 2023. As on 12th October, 2022 and on 15th June, 2023 the respondents continued to ask for documents with regard to the petitioner's marital status, indemnity bond, Epic and Aadhar Identification. The writ petition was filed in July 2023.
4. In the backdrop of the facts and circumstances of the case this Court is of the view that there may have been delay on the part of the petitioner to approach the Court for relief and remedy but she was continuously pursuing the respondents for relief under the NCWA for compassionate employment. The respondents, in tandem with the petitioner's request, after the year 2023 were seeking documents from her in aid of her application for compassionate employment. This Court notices with pain and anguish that the petitioner was neither given any monthly monetary compensation since 2006 nor has been offered compassionate employment. As on 2006 the petitioner was about 20 years old.

5. This Court is of the view that in terms of the NCWA there was an obligation on the part of the management to offered the petitioner or her mother monthly monetary compensation (MMC) immediately.
6. This Court bears in mind the provisions of the NCWA which make it obligatory for the ECL in the case of a male dependent of a deceased employee to provide MMC until one of the family members becomes eligible for employment, since after the grant of employment MMC is immediately stopped.
7. To accept the argument of the learned Counsel for ECL that petitioner could wait for 20 odd years without employment and MMC there must be a presumption that the petitioner and her mother were financially comfortable, would be rather unfair. Accepting such an argument would, tantamount to turning a blind eye to the realities of the society as they stand. The family of a workman who dies is literally left on the streets. The methods and means that a young woman at the age of 20 years and her mother had to adopt to earn two square meals a day and also to provide a shelter for themselves and some basic education, can be painful to imagine.
8. In the backdrop of the above, this Court is of the view that the petitioner shall be given MMC from 2006 till January 2024 and to continue till the age of 60 years. The petitioner shall take care of her family.

9. For the delay in payment of compensation, the arrears shall be paid to her at the rate at which the MMC is paid from time to time. Such arrears shall be calculated within a period of two months from date with interest @ 7% per annum.
10. The MMC for the current period shall be paid by the first week of March. The petitioner shall immediately supply her bank particulars to the respondents through her learned Advocate.
11. The petition is disposed of.

(RAJASEKHAR MANTHA, J.)

pkd/GH.