

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO 189 of 2023
IA GA 1 OF 2023
M/S. EASTERN COAL FIELDS LIMITED
Versus
SMT. MINA BOURI AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK
AND

The Hon'ble JUSTICE PARTHA SARATHI SEN
Date : 20th June, 2024.

Appearance :
Ms. Tanushree Das, Adv.
...for the appellant
Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
...for the Respondents.

The Court: The appeal is at the behest of the Eastern Coal Fields Limited against the order dated August 18, 2023 passed by the learned Single Judge in WPO 1057 of 2023.

By the impugned order, learned Single Judge directed disbursement of arrears of Monthly Monetary Cash Compensation (in short "MMCC") month by month starting from September 11, 2023 till the writ petitioner/private respondent attains the age of 60 years, upon compliance of the necessary formalities. Learned Single Judge also allowed arrears of MMCC to be released within two months from the date of the order and directed payment of interest

at the rate of 6% per annum from February 17, 2014 till the date of actual disbursement.

Learned advocate for the appellant submits that, although, the death certificate was submitted on February 17, 2014, the prayer for compassionate appointment was made in 2018. Moreover, payment of MMCC could not be started since, necessary formalities at the behest of the writ petitioner/private respondent were not completed. Consequently, she submits that, interest component imposed by the order of the learned Single Judge should be set aside.

Writ petitioner/private respondent is represented.

Admittedly, the husband of the writ petitioner/private respondent expired on August 26, 2006. In fact, husband of the writ petitioner/private respondent went missing. A police complaint with regard thereto was lodged with the jurisdictional Police Station. Dead body of the husband of the writ petitioner/private respondent was identified and death certificate with regard thereto was issued on March 2, 2013 by the competent authority recording the date of death of the husband of the writ petitioner/private respondent as August 26, 2006. Writ petitioner thereafter submitted the death certificate and the post-mortem report of the husband of the writ petitioner/private respondent to the appellant herein on February 17, 2014. Prayer for compassionate appointment of the writ petitioner/private respondent was rejected by the Authority. However, MMCC was not allowed to the writ petitioner/private respondent.

There exists a National Coal Wage Agreement between the employees of the appellant and management of the appellant relating to the field of compassionate appointment when an employee of appellant dies in harness. Such compassionate appointment contemplates not only grant of compassionate appointment but also monthly MMCC in the event compassionate appointment is not granted.

It is not in dispute in the facts of the present case that the writ petitioner/private respondent is entitled to MMCC in terms of Clause 9.5 of the National Coal Wage Agreement.

The issue raised is whether, the writ petitioner/private respondent is entitled to interest for the delay in payment of the MMCC.

Clause 9.5 National Coal Wage Agreement requires the appellant to pay MMCC from the date of death month by month. In the facts of the present case, the date of death is August 26, 2006. Death certificate was, however, submitted on February 17, 2014. Therefore, the death of the employee concerned was established on February 17, 2014. On and from that date the administration is liable to pay MMCC to the writ petitioner/private respondent after rejecting the claim of the compassionate appointment made by her.

There is admittedly a delay in disbursement of MMCC to the writ petitioner/private respondent. Learned Single Judge took into consideration such delay in disbursement and directed disbursement of MMCC. Appellant is not aggrieved by the direction for disbursement of MMCC.

Appellant is aggrieved by the interest awarded for the portion of the delay in disbursement of the MMCC. As noted above, the appellant was obliged to disburse MMCC since February 17, 2014 when the death certificate was submitted. Learned Single Judge directed disbursement from such date only. Therefore, since the appellant was denied MMCC and there was delay in payment of MMCC, the writ petitioner/private respondent became entitled to reasonable compensation for the delay in payment. Learned Single Judge awarded interest at the rate of 6% per annum which we find to be reasonable.

In such circumstances, we find no merit in the present appeal.

The appeal being APO 189 of 2023 along with connected application are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

(PARTHA SARATHI SEN, J.)

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