IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 956 of 2021

Ajay Bhuiyan, aged about 35 years, s/o late Chhedi Bhuiyan, r/v Tulsipur, PO Ghanghri, PS Hunterganj, dist. Chatra …. Petitioner

Versus

1. Central Coalfields Ltd. through its Chairman-cum-Managing Direcotr, having its office at Darbhanga House, Ranchi, PO GPO PS Kotwali, Dis. Ranchi
2. Direcotr (Personnel), having its office at Darbhanga House, Ranchi, PO GPO PS Kotwali, Dis. Ranchi
3. General Manager (P & IR), Darbhanga House, Ranchi, PO GPO PS Kotwali, Dis. Ranchi
4. Project Officer, Sayal 'D' Colliery, Barka Sayal Area, Central Coalfiedls Ltd. having its office at Barka Sayal, PO Sayal 'D' PS Patratu, Dist. Ramgarh
5. Senior Manager (C/MP), Sayal 'D' Colliery, Barka Sayal Area, Central Coalfieds Ltd. having its office Barka Sayal PO Sayal 'D'PS Patratu dist. Ramgarh
6. Assistant Manager (Personnel), Sayal 'D' Colliery, Barka Sayal Area, Central Coalfieds Ltd. having its office Barka Sayal PO Sayal 'D'PS Patratu dist. Ramgarh …. Respondents

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CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

For the Petitioner : Mr. Kumar Harsh, Advocate

For the Respondents : Mr. Amit Kr. Sinha, Advocate

07/ 03.12.2024

Heard the parties.

Learned counsel appearing for the petitioner argues that respondent-CCL has considered the age of the petitioner to be 37 ½ years taking the mid point what has been assessed by the medical board which was 35-40 years and subsequently rejected the claim of the petitioner for compassionate appointment. He heavily relies upon the judgment of Hon'ble Division Bench in the case of ***Sanjay Kumar Vrs. Central Coalfields Ltd. & Ors.*** reported in ***LPA No. 354 of 2023 SCC Online Jharkhand 1636*** and submits that issue has been set at rest and no more res-integra. The Division Bench has held that the lower age of 35 years should be considered, the mid-point cannot be considered by the Management of CCL for frustrating the claim of the employee.

Learned counsel for the CCL submits that since case of the petitioner was referred to Medical Board and Medical Board assessed the age of the petitioner in between 35-40 years rightly the mid-point has been considered which is 37 ½ years and since the petitioner has crossed 35 years rightly he was not considered for appointment on compassionate ground. The consideration of mid-point has

been done in many other cases also and as such taking into the precedence the management of the CCL has adopted the same, yardstick and rightly turned down the case of the petitioner as he has crossed 35 years.

Having hearing the parties at length across the bar, this Court is of the view that the case of the petitioner needs consideration. Admittedly, the date of birth of the petitioner as mentioned in his educational certificates is 10.09.1986. The date of death of the deceased employee was 12.08.2017. On the date of death, the petitioner was admittedly 31 years of age. The application for compassionate appointment was made on 12.2.2018. On the date of application petitioner was also below 35 years. This admitted facts cannot be denied. However, respondents Management of CCL raised a dispute matter was referred to medical board. The medical board came with a finding that the age of the petitioner is between 35-40 years and as such the mid-point has to be considered and taking into the midpoint, petitioner is 37 ½ years which is above 35 years. The minimum age for consideration for compassionate appointment is 35 years and since the petitioner has crossed 35 years, his case was turned down. The plea of the respondents-CCL is not accepted to this Court on the ground that issue has already been set at rest by the Hon'ble Division Bench in the case of ***Sanjay Kumar*** *(Supra)*. Paragraph 8 is quoted herein below:-

> *"In the aforesaid case also, the Central Coalfields Limited, for the purpose of grant of compassionate appointment, took the mid-point of the age bracket and considered the same to be 37.5 years. In that case also the age of the concerned appellant was assessed between 35 to 40 years. The Coordinate Bench, ultimately, held that the lower age of 35 years should be considered and allowed the Letters Patent Appeal."*

Taking into consideration the observation and direction of the Hon'ble Division Bench, this Court takes no other view what has already been taken by the Hon'ble Division, resultantly the writ petition stands ***allowed***.

The Management of CCL is directed to issue appointment letter to the petitioner within a period of 30 days from the date of receipt of copy of this order.

(Dr. S. N. Pathak, J.)

Anjali/