



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 6979/2023

1. Shri Ashish s/o Mahadeo Dokrimare,
Aged 33 yrs., R/o. Post Satak,
Tah. Parsheoni, Dist. Nagpur.

...PETITIONER.

VERSUS

1. Union of India, through its Secretary,
Mines and Minerals Department,
New Delhi.
2. MOIL Limited, (Formerly Manganese Ore
India Ltd), through its Chairman-cum-
Director MOIL Limited, Moil Bhavan,
1-A, Katol Road, Nagpur- 440013.
3. MOIL Limited, (Formerly Manganese Ore
India Ltd), through Mine Manger, Beldongri
Mines, Post Satak, Tah. Parsheoni, Dist. Nagpur.
4. Shri Raju s/o Mahadeo Dokrimare,
aged 44 yrs., Occ. Labourer, R/o.
Satak, Post Satak, Tah. Parsheoni,
Dist. Nagpur.

Amended as per
Court's order dated
19.10.2023

...RESPONDENTS.

Mr. P.R. Puri, Advocate for petitioner.
Mr. P. V. Navlani, Advocate for respondent No.1.
Mr. S.S. Ghate, Advocate for respondent Nos. 2 & 3.

**CORAM : VINAY JOSHI AND
SMT. M. S. JAWALKAR, JJ.**

DATE : JULY 05, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The petitioner's father Mahadeo was in the employment of respondent No.2 MOIL Ltd., as Fiedlsman from the year 1979. The petitioner's father put on 37 years of service, however he stood retired on 29.06.2016 on medical ground. The petitioner has applied on 28.07.2016 for grant of compassionate appointment to which rest family members have given no objection. One Indu was the first wife of petitioner's father who had two issues namely Rajesh and Ganpat. The marriage of petitioner's father with Indu was dissolved by way of decree of divorce dated 26.11.2009. Later on, the petitioner's father re-married and from the said wedlock, they have two sons namely Ashish petitioner and Vijay.

3. Since the petitioner's application for grant of compassionate appointment was not processed, he approached to this Court by Writ Petition No. 509/2017. In the said petition, the respondent employer brought to the notice that petitioner's step brother Rajesh (son from Indu) has also stalled a claim for compassionate employment. In the circumstances, this Court has disposed of the petition by expressing that the issue of succession/heirship certificate needs to be resolved by appropriate Court.

4. It is petitioner's contention that his step brother Rajesh though earlier stalled a claim, however by the time, he has given no objection for the compassionate employment to the petitioner. Moreover, it is contended that all family members have no objection to grant compassionate employment to the petitioner. In the changed circumstances, the petitioner has once again applied for grant of compassionate employment. The respondent vide communication dated 15.02.2021 sought certain compliances including no objection certificate of other family members. The petitioner would submit that he has complied the same, however till

date no further action has been taken.

5. The learned counsel appearing for respondent No.2 would submit that as per direction issued in Writ Petition No. 509/2017, the petitioner has not obtained succession certificate. It is submitted that since the issue of succession arose, it is not possible to consider the petitioner's name for compassionate employment in absence of succession/heirship certificate. By virtue of order of this Court, the petitioner's step brother (Rajesh) has been impleaded as a party respondent in this petition. Though the petitioner would submit that Rajesh has no objection, however care has to be taken to obtain consent of all eligible family members so as to consider the petitioner's name. It appears that till date the petitioner's urge has not been rejected, but only compliances have been sought.

6. This Court has earlier expressed to obtain succession/heirship certificate as one of claimant Rajesh has raised objection. It is not requirement of policy to obtain succession/heirship certificate in each case, but if there is a conflict, that would be an appropriate course. However, as the petitioner

submitted that as on today none of the family member has objection, the petitioner can apply fresh in-continuity of his original claim which can be decided without insisting him for succession certificate. Of-course, if any eligible member raises objection then the issue requires to be resolved through succession/heirship certificate..

7. In view of above, by allowing this petition, we direct the petitioner to apply afresh within two weeks which shall be construed as a continuation of his earlier claim. The petitioner shall submit all necessary documents including no objection certificates/consent of other family members. The respondent authority shall consider the petitioner's claim in terms of Compassionate Rules and take appropriate decision within eight weeks.

8. Petition stands disposed of in above terms.

(SMT. M. S. JAWALKAR, J)

(VINAY JOSHI, J.)

Gohane