

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 9156 of 2024

Eastern Coalfields Ltd.

Vs.

Union of India & Ors.

For the Petitioner : Mr. Manik Das.

For the Respondent : Ms. Soma Chakraborty.
Nos. 4 and 5

Hearing concluded on : 13.08.2025

Judgment on : 19.09.2025

Shampa Dutt (Paul), J.:

1. The present writ application has been preferred challenging an award dated 31st August, 2023, passed by the Central Government Industrial Tribunal cum Labour Court, Asansol, in Reference No. 20 of 2021.
2. The petitioner's case is that one Hopna Majhi was employed as 'Surface Trammer' with the petitioner, Eastern Coalfields Limited (hereinafter referred to as the "ECL") at the Chapui Khas Colliery of the Ratibati Group of Mines under the Satgram Area of ECL.

3. The said Hopna Majhi, while in service, died on 1st June, 1997 leaving behind his legal heirs including Rabi Majhi, the respondent No. 5 herein.
4. As per Service records of the said Hopna Majhi, his legal heirs and successors (as declared by the said Hopna Majhi during his lifetime) at the time of his death were the following persons:-

<u>Name</u>	<u>Relation</u>
Budhni Mejhain	Wife
Rabi Majhi	Son
Mongla Majhi	Son
Lakhi Mejhain	Daughter

5. The petitioner states that Budhni Mejhain, the wife of Late Hopna Majhi, applied for compassionate employment in 1998. However, such claim for employment was substituted by the respondent No. 5 as he made an application for employment on 14-12-1998 and as such Budhni Mejhain abandoned her claim for compassionate employment.
6. The petitioner states that upon receiving the application for compassionate employment of the respondent no. 5 on 14.12.1998, the petitioner's area level authority processed the employment file of the respondent No. 5, in regular course and was asked to submit complete claim file with relevant documents.
7. By a letter bearing Ref. No. ECL/RTB/per/2001/2693 dated 30th July, 2001 the employment proposal/claim of the respondent no. 5 was regretted by the petitioner, as the same being found to be a

belated claim in terms of the guidelines circulated vide Office Memorandum No. ECL/D(P)/47/10249 dated 7.6.2001 and re-circulated by the Satgram Area of the petitioner vide No. SAT/Per/empl/2001/3457 dated 15/18-06-2001.

8. The respondent no. 5 did not challenge the aforesaid letter of regret in any judicial forum and neither did he raise any dispute or demur to the same and had allowed years to pass.
9. The management of ECL signed a Memorandum of Settlement before the Regional Labour Commissioner (Central) at Asansol with the operating trade unions on 22.5.2007, **whereunder the management agreed to re-examine and reconsider the old claim file and accordingly the respondent No. 5 was requested to submit his entire employment claim file with all relevant documents**, which the respondent No. 5 submitted in 2008 and the same was forwarded to the Headquarters of the petitioner.
10. After revisiting the employment claim file of the respondent no. 5, he was once again not considered for employment **as several years were lapsed after death of Hopna Majhi**, and as such no employment was provided to the respondent No. 5.
11. The petitioner states the respondent no. 5, keeping mum on the issue for about 10 to 11 years, raised a purported industrial dispute through the respondent No. 4 on 25th June, 2018 before the conciliatory machinery of the Government of India, Ministry of Labour, as regards compassionate employment of the respondent no. 5.

- 12.** The petitioner states that such conciliation having been failed, the Government of India, Ministry of Labour, by the order No. L-22012/49/2021-IR(CM-II) dated 21.10.2021 referred the purported dispute for adjudication by the Central Government Industrial Tribunal cum Labour Court, Asansol (hereinafter referred to as the “CGST”) under Section 10 of the Industrial Disputes Act, 1947 for adjudicating the following issue :-

“Whether the action of the management of Chapuikhas Colliery under the Satgram Area of M/s. Eastern Coalfields Limited in denying employment to Shri Rabi Majhi, the dependent Son of Late Hopna Majhi, Ex SF Trammer, UM No. 396335, Chapuikhas Colliery is just and legal? If not, to what relief Shri Rabi Majhi is entitled?”

- 13.** The CGIT upon receiving the reference as aforesaid, registered the same as Reference No. 20 of 2021.
- 14.** The CGIT disposed of the said proceedings by an Award dated 31st August, 2023 (hereinafter referred to as the “impugned Award”), inter alia, directing the petitioner for providing employment to the respondent no. 5 herein within two months from the date of notification of the Award. The impugned award was notified by the Government of India on September 27, 2023 and was communicated to the petitioner by and under cover of a letter bearing Reference No. 21/2021-21 dated December 26, 2023, which was served upon the petitioner on January 08, 2024.

15. The petitioner has now challenged the award of the Tribunal, on the ground of the delay in applying for the appointment on compassionate ground.
16. It is further contended that the CGIT did not consider the settled proposition of law for employment of compassionate ground and that the claim for compassionate ground has been made after a long delay of 20 years.
17. Vide the award under challenge the learned Tribunal considering the materials on record including the evidence before it held as follows:-

*“18. In the case of **Subimal Sarkar vs State of West Bengal (2012 SCC Online Cal 4257)**, the Hon’ble High Court of Calcutta observed that:-*

“The applicant’s claim for compassionate appointment cannot be denied by the authorities by keeping the application pending for an unreasonably long period of time, only in order to frustrate the purpose of the application. It cannot also be said that the necessity for compassionate appointment has been blown over due to passage of time.”

*19. In my considered view the dependent son of the workman is entitled to be considered for employment according to Clause 9.3.3., 9.3.4 and 9.5.0 (iii) of NCWA-VI. **The delay which has crept in is due to the arbitrary, improper and unjust act of the management of ECL in not following the terms of NCWA for the purpose of providing compassionate appointment.** This is an appropriate case of granting compassionate employment to a dependent where the workman has expired in harness at the age of forty-five*

years. The delay has been caused due to inaction and silence on the part of the management in not communicating their decision after having referred Rabi Majhi to the Medical Board for his examination for the second time. Mr. Kalyan Roy (management witness-1) in his cross-examination has admitted that the management of ECL has committed wrong against Rabi Majhi by not providing him with employment.

20. *In the light of my above discussion, I hold that Rabi Majhi is entitled to compassionate appointment due to death of his father in harness. The Industrial Dispute is accordingly decided in favour of Rabi Majhi on contest against the management of ECL.*

Hence,

ORDERED

An Award be drawn up in favour of Rabi Majhi, the dependent son of Late Hopna Majhi, ex-employee, directing the management of Chapui Khas Colliery under Satgram Area of ECL to consider him for compassionate appointment against the death of his father Hopna Majhi. Management is directed to take appropriate steps and complete the process within two months from the date of Notification of the Award and the final decision be communicated to the dependent son in writing within fifteen days from the date of completion of the procedure. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

**Sd/-
Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.”**

18. From the materials on record, it appears that the delay in considering the claim for compassionate appointment was for the following reasons:-

- i. Hopna Majhi, the employee died on 1st June, 1997.
- ii. Initially his wife, applied for compassionate appointment.
- iii. Their son, respondent no. 5 applied for such employment on 14.12.1998 on his mother, withdrawing her application.
- iv. The petitioner vide a letter dated 30th July, 2001 that is after almost 2 and ½ years, rejected the claim of the respondent no. 5, on stating that the claim was belated.
- v. By virtue of a memorandum of settlement dated 22.05.2007, the management of **the petitioner company reconsidered the old claim files and requested the respondent no. 5 to submit his claim once again** with relevant documents. Which the respondent no. 5 did in the year 2008 (without delay).
- vi. The petitioner once again did not consider the respondent no. 5's claim on the ground that **several years** had lapsed after the death of Hopna Majhi (deceased employee).
- vii.** The petitioner has alleged that the respondent no. 5 kept quiet for 10 to 11 years. The said submission of the petitioner is not correct, as the fresh claim of the respondent no. 5 was initiated by the petitioner themselves on the basis of the memorandum of settlement dated

22.05.2007 and **as such the delay herein, in no way can be attributed to the respondent no. 5.**

19. The petitioner has now challenged the award of the tribunal, wherein the tribunal has answered the reference in favour of respondent no. 5. The tribunal's relevant findings has been reproduced by this Court in paragraph 17 of this judgment.

20. The tribunal rightly held:-

“.....The delay which has crept in is due to the arbitrary, improper and unjust act of the management of ECL in not following the terms of NCWA for the purpose of providing compassionate appointment.....”

21. And as such, on considering the said findings of the tribunal, this court finds that the same being in accordance with law, does not call for any interference by this Court.

22. The writ application is dismissed.

23. The petitioner is directed to comply with the award under challenge within 30 days from the date of this order.

24. Connected application, if any, stands disposed of.

25. Interim order, if any, stands vacated.

26. Urgent Photostat certified copy of this Judgment, if applied for, be given to the learned counsel for the parties on usual undertakings.

(Shampa Dutt (Paul), J.)