

09.01.2025

Item no.ML/9
Court No. 23

Asraf, A.R.(Ct)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 24137 of 2024

Manorama Bhora *alias* Rama Bhora
Vs.
Coal India Limited & Ors.

Mr. Prolay Bhattacharya
Ms. Tanusree Ghosh

....for the Writ Petitioner

Mrs. Amrita Pandey
Ms. Sneha Singh

....for ECL

The petitioner is the widow of an employee of Eastern Coldfields Limited (in short, "ECL"), namely, Dhoba Bhora who died in harness on 24th January, 1995. It is the case of the petitioner that within a short while from the death of her husband she lodged her claim for being paid the Monthly Monetary Cash Compensation (for short, "MMCC") in terms of the National Coal Wages Agreement (in short, "NCWA") in lieu of appointment. The petitioner says that on 10th January, 1998 she received a letter from the Personal Manager Parasea 6 & 7 Incline requesting her to submit some documents for processing her claim for MMCC. The said letter is annexed at page 23 of the writ petition. The said letter clearly refers to a previous letter from ECL dated 5th April, 1996. It is, therefore, evident that the claim for MMCC had been lodged by the petitioner prior to 5th April, 1996. It further appears from a letter

of ECL dated 25th February, 1998, a photocopy whereof appears at page 24 of the writ petition, that the petitioner was called to meet the screening committee on 28th February, 1998. It further appears from a letter dated 28th February, 1998 issued by ECL, a photocopy whereof is annexed at page 25 of the writ petition, that the petitioner's application for payment of MMCC in lieu of employment was forwarded to the competent authority but had been returned back for certain clarification. It also appears from a letter dated 30th April, 1998 written by the petitioner to the Personal Manager Parasea 6 & 7 Incline, a photocopy whereof appears at page 26 of the writ petition that the petitioner had supplied the requisite particulars for clarification as sought for by ECL vide its letter dated 28th February, 1998. The petitioner's letter dated 30th April, 1998 also bears the seal and signature of ECL authority and as such it cannot be disputed at this stage that the same was not received by ECL.

On behalf of ECL it is submitted that no papers are available with ECL relating to the petitioner's case wherein the petitioner had claimed MMCC as the concerned mines have now been closed down. ECL on advice subsequent to the service of the writ petition has made a General Diary with the concerned police station recording loss of documents. This argument cannot also be accepted as it is apparent from the letters of ECL that

the petitioner's case had been forwarded to the competent authority. Even if the concerned mines were closed, a set of such documents must be available with the higher authorities who have been referred to as competent authority in the letter of ECL.

MMCC in view of the provisions enumerated under NCWA which has a statutory flavour has to be paid to a female dependent in lieu of job. The petitioner had claimed MMCC in lieu of appointment which is borne out from the letters of ECL. The application by the petitioner as I have noted above must have been made prior to 5th April, 1996. It is also difficult to appreciate as to why the issue of MMCC had been kept pending at least from 25th April, 1996. It is also to be noted that the terminal benefits of the deceased employee have been paid. ECL, therefore, had the particulars of the petitioner available with it along with the particulars of the deceased employee otherwise the terminal benefits could not have been disbursed. It is also the responsibility of ECL to offer MMCC to a female dependent when it was known to ECL that the deceased employee is survived by his widow admittedly the female dependent and has not sought for any compassionate appointment. It is also settled position of law that MMCC has to be paid from the date of death of the employee. In the instant case there has been an admission on the part of ECL to have received a claim

for MMCC at least prior to 5th April, 1996. It is therefore, incumbent upon ECL to pay the MMCC after completion of due formalities.

ECL complains that the claim of the petitioner is barred by limitation which is also not acceptable in the facts of the case. The non-payment of MMCC is a continuing wrong which arise month to month for each month on the failure of ECL to pay MMCC. In this context the ratio laid down in the judgment reported in **AIR 1959 SC 798 (Balakrishna Savalram Pujari Waghmare Vs. Shree Dhyaneswar Maharaj Sansthan)** which has been approved in **(2008) 8 SCC 648 (Union of India & Ors. Vs. Tarsem Singh)**. This view has been subsequently followed in the judgment reported in **(2016) 13 SCC 797 (Asger Ibrahim Amin Vs. Life Insurance Corporation of India)** and **(2022) 18 SCC 144 (Rushibhai Jagdishbhai Pathak Vs. Bhavnagar Municipal Corporation)**.

In the light of the ratio laid down in aforesaid judgments the claim of the petitioner cannot be rejected on the ground of inordinate delay or laches or on the ground of limitation. It is also too late in the day for ECL to seek re-verification of the documents which had been submitted 26 or 27 years ago. It is not expected of the petitioner to produce all such documents when ECL itself has lost track of documents including the application of the petitioner.

In the aforesaid facts and circumstances, I direct the respondents and each one of them to take necessary steps to compute the amount of MMCC payable to the petitioner from 24th January, 1995 being the date of death of the employee till the petitioner reached her age of 60 years with accrued interest at the rate of 6% per annum. The entire money on account of MMCC has to be paid to the petitioner with accrued interest by 28th February, 2025.

Nothing further remains to be adjudicated in this writ petition. The writ petition is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

The parties are directed to act upon the server copy of this order without insisting upon production of a certified copy thereof.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)