

03
24.04.2025
Ct. No. 11
Jayanta

MAT 1872 of 2024
with
IA No. CAN 2 of 2024

Sriram Majhi
Vs.
Union of India & Ors.

Mr. Swarup Banerejee
Mr. Sajal Kumar Ghosh
Mr. Subham Biswas

.... For the Appellant.

Mr. Manik Das

.... For the Respondent Nos. 5 to 7.

By reason of a typographical error in the earlier order, the date of the order was incorporated as '20.03.2025' in place and stead of '21.03.2025'.

Office is directed to effect necessary correction.

The present appeal has been preferred challenging an order dated 15th July, 2024 passed by the learned Single Judge in a writ petition being WPA 1484 of 2024.

By the said order the learned Single Judge dismissed the writ petition observing *inter alia* that '*the petitioner has not produced any document either before this Court in the previous two rounds of litigation or before the ELC authorities to demonstrate his dependency on his mother-in-law, the deceased employee of ECL. The Court further observed that 'the petitioner also could not produce any document as recorded in the order dated 4th December, 2020 passed by the competent authority of ECL such as PAN card, EPIC Card, Aadhaar Card or any other*

document to establish his relationship with the deceased employee and that he was ordinarily residing with the deceased employee and was dependent on her.'

Drawing our attention to a death certificate and an Aadhar Card, annexed at pages 74 and 75 of the supplementary affidavit filed in connection with the application for appropriate authority being CAN 2 of 2024, Mr. Banerjee, learned advocate appearing for the writ petitioner/appellant submits that the learned Single Judge passed the impugned order without considering the said documents as produced by him to establish that he is the son-in-law of the deceased employee.

He argues that the issue as regards his dependency upon the deceased employee was also not considered following the provisions of the National Coal Wage Agreement (hereinafter referred to as NCWA).

He contends that admittedly the retrieval benefits of the deceased employee have been illegally withheld though the materials on record would reveal that the appellant is the sole claimant. The authorities have thus failed to discharge their statutory obligations. Such arguments, as advanced, before the learned Single Judge were glossed over and no finding was returned on the same.

Mr. Das, learned advocate appearing for the respondents denies and disputes the contention of the appellant and submits that the appellant approached this Court twice earlier and neither before the respondents

nor before this Court he could produce documents to establish that he is the son-in-law of the deceased employee. The appellant's claim for compassionate appointment had already been rejected in the earlier round of litigation and question of grant of such appointment does not occasion since he is aged about 74 years.

He further submits that the appellant earlier preferred a writ petition being WPA 13604 (W) of 2017 which was disposed of by an order dated 08th August, 2017 directing the authorities to decide '*the entitlement of the petitioner to the service benefits of the deceased employee*'. Pursuant to such direction the appellant was granted opportunity of hearing and final order was passed on 4th December, 2020.

He submits that the provisions of NCWA upon which reliance have been placed by Mr. Banerjee are not at all applicable. Inasmuch as such provisions is regards employment to a dependent worker is permanently dependent.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

An appellate power interferes not when the order under challenge is not right but only when it is shown to be clearly wrong.

Records reveal that considering documents produced by the appellant to establish that his wife has passed away on 4th September 2017 in the earlier writ petition, the Court in the order dated 15th June, 2023 observed *inter alia* that *'the genuinity/authenticity of such document is in dispute. Assuming that the petitioner's wife passed away in September, 2017, but not bringing the same to the notice of the authorities in 2019 during the course of personal hearing when repeated opportunities were given to him to attend the hearing with his wife raises doubt as to the genuinity of the claim of the petitioner'*.

The Court further observed that *'the conduct of the petitioner is not at all appreciated by this Court. This Court is not willing to go into the disputed questions of fact as to whether or not the petitioner is the son-in-law of the deceased employee. Furthermore, this Court finds that the respondent authorities have conducted the proceeding with fairness and have given several opportunities of hearing to the petitioner even though steps were not taken within the stipulated time'*.

Indisputably, the said order dated 15th June, 2023 was not challenged by the appellant. However, he made a further representation to the authorities after consideration of his claim. In response to which the appellant was reminded about the earlier order passed by the competent authority on 4th December, 2020. Since

the appellant did not challenge the said order dated 15th June, 2023 passed in the earlier writ petition being WPA 4438 of 2023, he cannot reargue the self-same issues. He cannot reinvigorate a class of claims which have been shut out permanently. No legal right of the appellant was infringed and as such the learned Single Judge refused to interfere giving reasons and we do not find any infirmity in the order impugned.

In view thereof, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)