

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Acting Chief Justice Sujoy Paul

And

The Hon'ble Justice Partha Sarathi Sen

WPCT 347 of 2024

Steel Authority of India Limited and others

-Vs-

Tanushree Dey and another

For the respondent Petitioners : Mr. Arjun Roy Chowdhury
Mr. Bandhu Brata Bhura

For the Respondents : Mr. Shyamal Kumar Das
Ms. Smita Pal
Mr. Ksishra Yadav
Ms. Bushra Neshat

Heard on : 13.11.2025

Judgment on : 13.11.2025

SUJOY PAUL, A.C.J. : –

1. Heard Mr. Arjun Roy Chowdhury, learned counsel for the petitioners and Mr. Shyamal Kumar Das, learned counsel for the respondents on admission.
2. This is second visit of the petitioners/Steel Authority of India Limited (SAIL) to this court about the claim of compassionate appointment by dependents upon death of Shri Nirmal Chandra Dey, an employee of SAIL, who died in harness on 25.01.2016.
3. Draped in brevity, the admitted facts between the parties are that Shri Nirmal Chandra Dey was an employee of SAIL, who fell down

during duty hours in the industry and was taken to hospital run by SAIL. On 25th January, 2016, he fell down at around 12:15 p.m. and when he was taken to hospital, after getting treatment, he expired at around 2:20 p.m.

4. This is also admitted fact that for the purpose of grant of compassionate benefit, circular dated 14th December, 2010 holds the field. Since the claim of the dependants for compassionate appointment could not fetch any favourable result, first O.A. No.350/1742/2016 was filed by the widow and the son of the deceased employee before the Central Administrative Tribunal, Kolkata Bench. The Tribunal after hearing the parties, allowed the said application which became subject matter of challenge in WPCT 119 of 2022 before this court. The SAIL in the said petition urged that the governing circular/guideline is the guideline dated 14th December, 2010 and reliance on a different circular by the Tribunal is bad in law. Secondly, it is submitted that although the post-mortem report of Shri Nirmal Chandra Dey was prepared which suggests that reason of death is “head injury ante-mortem in nature”. Fact remains that the SAIL constituted a committee of 3 members which considered the same aspect and came to hold that the death of the deceased employee was “a natural death due to cardiac failure”.

Contention of SAIL:

5. Learned counsel for the petitioner submits that this court, in no uncertain terms, made it clear that the guideline dated 14th

December, 2010 will govern the question of grant of compassionate benefits. The employer offered the benefits arising out of Clause 5.1.1 to the family members, but they refused to take the same. They are not covered under Clause 3.1.A and 5.2.1. To elaborate, it is submitted that this court by judgment dated 01.08.2023 in aforesaid matter observed that the committee so constituted was competent to ascertain the attending facts and circumstances regarding the death of the person. In view of the observation of this court, it was open to the SAIL to consider the report dated 06.04.2016 prepared by 3 member committee formed by the SAIL.

6. The SAIL by order dated 16.09.2023 rejected the claim of the dependants by holding that the 3 member committee's report makes it clear that employee died a natural death due to cardiac failure on 25.01.2016 and the case does not qualify for compassionate appointment. The Tribunal by impugned dated 20.09.2024 set aside the said rejection order and came to hold that in view of the findings given by the High Court in the previous round of litigation, it was no more open to the employer to discard the post-mortem report and rely on 3 members' committee report.
7. The bone of contention of learned counsel for the SAIL is based on the observation of this court mentioned in paragraph 13 of the judgment dated 01.08.2023, wherein this court observed that the members of the committee were "executives" of the petitioners and it would not be sufficient to ascertain the medical grounds for his death, *excepting ascertaining the attending facts and circumstances*

regarding the death of the person. This highlighted portion is the foundation of bone of contention of the learned counsel for the petitioner. The argument is founded upon this highlighted observation and it is strenuously contended that in the light of this observation, no fault can be found in the rejection order dated 16.09.2023, wherein reliance is placed on the report of 3 members committee.

8. Learned counsel for the petitioner also placed reliance on the judgment of Supreme Court in the case of ***Steel Authority of India Limited vs. Madhusudan Das and others*** reported in ***(2008) 15 SCC 560***. It is highlighted that the word “accident” has a definite meaning which has been considered by Supreme Court. Apart from this, pleadings of the claimants regarding the existence of accident and whether the death is during the course and arising out of employment are also of sufficient relevance. Thus, interference in the order of the Tribunal is prayed for.

The contention of claimants:

9. Learned counsel for the claimants supported the impugned order of learned Tribunal and urged that when Shri Nirmal Chandra Dey expired on 25.01.2016, certificate was issued by the employer, which reads thus:

TO WHOM IT MAY CONCERN

*On 25.01.2016 Shri Nirmal Chandra Dey, Ex P. No. 04607, who **was working in General Shift in Town Service Department fell down at Boiler – Booster Pump House** Office at around 12-30 pm and expired in Burnpur Hospital at around 02-15 pm.*

Employment will be provided as per rules of the company only when Enquiry Report and Post Mortem report establish death due to injury.

(Emphasis added)

10. It is submitted that this certificate shows that he fell down at boiler during course of his employment. This is arising out of employment as well. In view of categorical finding of this court in the previous round, post-mortem report cannot be ignored and that was the only “cogent evidence” which should have been considered.

Analysis:

11. We have heard the parties at length and perused the record. This is not in dispute that the governing circular/guideline is dated 14th December, 2010. This court in the previous round, framed the question whether SAIL was justified in regretting the case for compassionate appointment by order dated July 18, 2016. The rejection letter (Annexure A-7) shows that it is founded upon the same finding of three member committee that Shri Nirmal Chandra Dey died because of natural death due to cardiac arrest.
12. Pertinently, this court considered the said report of 3 members committee dated 06.04.2016 as well as the post-mortem report. After considering the same, this court gave its finding in para 13, relevant portion of which reads thus:

“13. So far as the second point is concerned, this Court finds that the said employee was indisposed on floor, while on duty. He was immediately removed to the company’s hospital. The incident happened at 12:15 p.m. and the person ultimately died at about 2:00 p.m. on the same date in the Company’s hospital. On the subsequent date, that is,

January 26, 2016, post-mortem was held the report reveals, as stated earlier, that the immediate cause of death was “head injury described ante-mortem in nature”. The post-mortem report as above is a public document of unimpeachable nature. **The reason of death as enumerated therein would not be naturally shaken by subsequent finding of any enquiry committee.** It is pertinent to note that neither of the members of the enquiry committee, so formed by the petitioner, to ascertain the reason for death of the said employee was a qualified medical practitioner. Therefore the report by the committee of members who are the “executives” of the petitioners would not be sufficient to ascertain the medical grounds for his death, excepting ascertaining the attending facts and circumstances regarding the death of the person. **Therefore in our considered opinion, before the petitioners there is no other cogent material excepting the post-mortem report, to be relied on, to consider prayer of the respondents, for employment on compassionate ground.”**

(Emphasis Supplied)

13. As noticed above, the above contention of SAIL is founded upon a singular observation that the executive of SAIL would not be sufficient to ascertain the medical grounds for the death, excepting ascertaining the attending facts and circumstances regarding the death of the person. In our considered opinion, this sentence cannot be read in isolation and divorced from the other findings given by this court in the previous round.
14. A careful reading of the findings in para 13, makes it clear that this court totally disapproved the report of the said committee by holding that the committee was not consisting of qualified medical practitioner. The conclusions are drawn in specific words by holding that “the reason of death as enumerated therein would not be naturally shaken by subsequent finding of any enquiry committee” it was further held that “in our considered opinion, before the petitioners

there is no other cogent material excepting the post-mortem report, to be relied on, to consider prayer of the respondents, for employment on compassionate ground.” Thus, by way of this finding, curtains are drawn by this court as to which material should be treated as cogent material and on which material, decision for grant of compassionate appointment needs to be taken. There is no doubt that said cogent material was held to be a public document, the post-mortem report and nothing except it.

15. We find substance in the finding of the learned Tribunal that once this judgment of this court dated 1st August, 2023 has attained finality in absence of any challenge to it, it was no more open to the SAIL to travel beyond or behind this judgment. The singular line of previous judgment highlighted above cannot be read in the manner suggested by learned counsel for the SAIL. It is relevant to mention that in the previous rejection order dated July 18, 2016 which became the subject matter of challenge in the first round before the Tribunal, the department relied on the same Administrative committee report and cause of death by treating as “cardiac arrest/normal death”. Despite that, this court did not agree with the same and directed reconsideration on the basis of post-mortem report. After this finding, there was no question to consider the 3 members committee report dated 06.04.2016 and take a different view.

16. In our considered opinion, the Tribunal has passed a correct judgment by rightly interpreting the judgment of this court and the view so taken by Tribunal is a plausible view.
17. We are constrained to hold that this petition is an avoidable piece of litigation. After getting a specific finding in the previous round that only 'cogent material' is the post-mortem report and consideration should be confined to the said report, the respondents have calculatedly ignored the categorical findings of this court and unnecessarily compelled the claimants to fight another round of litigation. For this reason, we deem it proper to impose cost on the employer.
18. So far the judgment in ***Madhusudan Das (supra)*** is concerned on which reliance is placed, suffice it to say that once the judgment passed by this court in first round has attained finality, no different view can be taken in this round which is arising out of same incident. Apart from this, the accident in the manner it is defined by Supreme Court brings the present case within its four corners. The word "accident" is defined by Supreme Court in the said case as under:

"7. The expression "accident" means an untoward mishap which is not expected or designed. "Injury" means physiological injury. In Fenton v. Thorley & Co. Ltd. it was observed that the expression "accident" is used in the popular and ordinary sense of the word as denoting an unlooked for mishap or an untoward event which is not expected or designed. The above view of Lord Macnaghten was qualified by the speech of Lord Haldane, LC in Trim Joint District School Board of Management v. Kelly as follows: (AC p. 676)

“... I think that the context shews that in using the word ‘designed’ Lord Macnaghten was referring to designed by the sufferer.”

(Emphasis Supplied)

19. Thus, it is clear that the incident was an ‘accident’ and it was even admitted by employer in the certificate that Shri Nirmal Chandra Dey while working in general shift fell down at round 12.30 pm and expired on the same day. This incident, in view of aforesaid judgment of Supreme Court, falls within the expression of ‘accident’. Apart from this, there is no iota of material before us to establish that deceased employee because of his negligence invited the said accident.
20. In view of foregoing analysis, no case is made out for interference. For filing this avoidable piece of litigation for no valid reasons, we deem it proper to impose a cost of Rs.25000/- on the employer which shall be paid to the claimants within 30 days from the date of production of the copy of this order.
21. It is ordered that the employer shall consider the case of the claimants for compassionate appointment afresh in the light of the post mortem report and take a decision within 30 working days from the date of production of the copy of this judgment.
22. Urgent Photostat certified copy of this judgment, if applied for, be given the parties upon compliance of all necessary formalities.

(Sujoy Paul, A.C.J.)

I agree.

(Partha Sarathi Sen, J.)