

OD-7

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/83/2025
IA NO: GA/1/2025, GA/2/2025

M/S. EASTERN COALFIELDS LIMITED
VS
THAKUR MUNI MAJHAIN AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 20th May, 2025.

Appearance:
Mr. Manik Das, Adv..
...for the appellant.

Mr. Partha Ghosh, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
Mr. Bratin Suin, Adv.
...for the respondents/writ petitioner.

Re.: IA NO: GA/1/2025

The Court : This is an application for condonation of delay of 40 days in filing the instant appeal.

We have heard learned Advocates appearing for the appellant and the learned Advocates appearing for the respondents/writ petitioner.

We are satisfied with the reasons assigned in the affidavit filed in support of the petition. The delay in filing the instant appeal is condoned.

Accordingly, the application being IA No.GA/1/2025 stands disposed of.

Re.: APOT/83/2025

This Intra-Court appeal by the Eastern Coalfields Limited (in short, ECL) is directed against the order dated 14th January, 2025 in WPO No.610 of 2024. The said writ petition was filed by a widow of a former employee of the appellant who died in harness on 3rd August, 2012. The appellant company has framed a scheme for grant of monetary compensation and/or employment to the dependant of the deceased employee. The respondents/writ petitioner filed the writ petition, praying for a direction upon the appellant to provide employment to her son and/or release monetary compensation from the date of death, *that is*, 03.08.2012 of her late husband with 18% interest and release current monetary compensation till she attains the age of 60 years. The writ petitioner also prayed for release of the gratuity amount with 18% payable to the writ petitioner and also sought for compensation/costs to the tune of Rs.5 lakhs for the harassment and the delay caused to the writ petitioner.

It is not in dispute that the gratuity amount along with interest has been paid to the writ petitioner. The learned Single Bench by the impugned order directed monetary compensation to be paid to the writ petitioner, *namely*, the widow of the deceased employee from 10th April, 2013 till 31st December, 2024 and continued to pay the current monetary compensation till the writ petitioner attains the age of 60 years. Further direction has been issued to the appellant to provide employment to the son of the writ petitioner who has by this time become a major after completing necessary formalities. The learned Writ Court had also directed till the time the son of the writ petitioner is

granted appointment. The writ petitioner should be paid the monetary compensation month by month from February, 2025 and the arrears between 4th August, 2012 till December, 2024 shall be paid to the writ petitioner by 31st March, 2025. Furthermore, the arrear amount of the monetary compensation shall be paid from the date of death of the writ petitioner's husband with interest at 6% per annum. The entire exercise for granting compassionate appointment upon completion of necessary formalities shall be completed by 31st March, 2025.

Being aggrieved by such order and direction, the ECL has preferred the appeal.

We have elaborately heard learned Advocates appearing for the appellant and the learned Advocates appearing for the respondents/writ petitioner.

The settled legal position is that compassionate appointment is not a source of appointment but should be governed by the regulations framed by the respective organizations. Therefore, we have to consider as to whether any regulations are in place in the appellant organization with regard to compassionate appointment/monetary compensation or both.

Chapter IX of the National Coal Wage Agreement-VI deals with social security. Clause 9.3.0 deals with provision of employment to dependants. Clause 9.3.1 states employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service and the provision will be implemented by following the guidelines stipulated in Clauses 9.3.2, 9.3.3 and 9.3.4. Clause 9.4.0 deals with employment to one

dependant of a worker who is permanently disabled in his place and conditions have been laid down. Clause 9.5.0 would be relevant for the purpose of this case and the same is quoted hereinbelow:

“9.5.0 Employment/Monetary compensation to female dependant

Provision of employment/ monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

- (i) In case of death due to mine accident, the female dependant would have the option to either accept the monetary compensation of Rs. 4,000/- per month or employment irrespective of her age.*
- (ii) In case of death/total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0, if the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs. 3,000/- per month or employment.*

In case the female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.

- (iii) In case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0, if no employment has been offered and the male dependant of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as per rates at paras (i) & (ii) above. This will be effective from 1.1.2000.*
- (iv) Monetary compensation wherever applicable, would be paid till the female dependant attains the age of 60 years.*

(v) *the existing rate of monetary compensation will continue. The matter will be further discussed in the Standardisation Committee and finalized.*

Note: *In the case of TISCO, the matter would be settled at bipartite level.”*

The writ petitioner addressed the appellant company as early as on 01.01.2013 followed by another representation dated 10.04.2013 requesting that her son may be given compassionate appointment and she waives her right to seek for compassionate appointment. The age of the son on the date of demise of his father was 17 years. The said request made by the writ petitioner was favourably considered and the matter was processed and the records appended to the stay petition in this appeal shows various inter-departmental communications *qua* the consideration of the application for compassionate appointment for the son of the writ petitioner. The said proceedings commenced in the year 2013. No pro-active steps were taken by the appellant company which necessitated the writ petitioner to approach this Court.

It is rather surprising to note that in 2017 for the first time a communication was sent to the writ petitioner dated 09.12.2017 stating that three records have to be produced, *namely*, the company's medical card of all the family members, Form P-3/P-4 and LTC details of the deceased employee and reasons for delay in processing the case date-wise is required. This was followed by reminders dated 10.05.2018 and 23.07.2019. It is to be noted at this juncture that the writ petitioner was directed to appear for screening test by communication dated 20.1.2015 on 22.1.2015 along with all other dependent of the deceased employee and all necessary documents related to

the employment proposal in original. Nothing prevented the appellant from calling for any other documents which would have been required and it is not clear as to why nothing was done till 2016, and, subsequently, the appellant addressed the Superintendent of Police, Bankura on 20.2.2018 requesting to verify the genuineness of the relationship of the writ petitioner with that of the deceased employee. This was followed by reminder dated 24.9.2020. The Superintendent of Police, Bankura certified that there is no adverse report found against the writ petitioner and the other dependent, *namely*, her son. Thereafter, spot verification was done, statements were recorded from third parties, who all certified and even thereafter nothing worthwhile happened which prompted the writ petitioner to submit a representation on 4.6.2022. Once again, by internal communication dated 8.12.2022 the Personnel Executive of Central Kajora Colliery was directed to send the head quarter's letter with documentary evidence for necessary action. Thus, having waited for more than a decade the writ petition was filed. The above dates and events have been set out in the order to show that the writ petitioner was dealt with in a most unreasonable manner by the appellant.

Having held so we have to test the correctness of the direction issued by the learned Single Bench which directed monetary compensation to the writ petitioner and compassionate employment to the son of the writ petitioner and monetary compensation to be paid to the petitioner till employment is offered.

In term of Clause 9.5.0[iii], in case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0, if no employment has

been offered and the male dependant of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as per rates which have been stipulated in Clauses (i) and (ii) of Clause 9.5.0. Further monetary compensation wherever applicable, would be paid till the female dependant attains the age of 60 years. Though it is not in dispute that at the time of death of the employee, his son was only 17 years of age and at the time when his fitness was assessed by the appellant, he was 17 and half years of age and in terms of Clause 9.5.0(iii) his name should have been kept in the live roster. The records filed before this Court would show that the employee's papers were processed by the department but there has been gross administrative delay at every point of time which has convinced us to hold that the writ petitioner and her son were treated in a most unfair manner. Therefore, the peculiar facts and circumstances of the case would warrant a direction which, in our view, has been rightly issued by the learned Single Bench. Had the name of the appellant been given in the live roster and upon attaining the age of 18 years, if he had been given employment, the appellant would be right in contending that they need not pay any monetary compensation to the female dependent upon the male dependant attaining the age of 18 years. In the instant case, the condition having been violated by the appellant Corporation, the direction issued by the learned Single Bench is fully justified.

Therefore, we find no ground to interfere with the impugned order. Accordingly, the appeal being APOT/83/2025 fails and dismissed.

The application being IA No.GA/2/2025 stands closed.

After we have dictated the order, learned advocate for the appellant requested time for compliance of the direction issued by the learned Single Bench. The appellant is directed to comply with all the directions issued by the learned Single Bench not later than 30th June, 2025.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)