

ORDER SHEET

OD-7

WPO/582/2024

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

KARTIK MAJHI
VERSUS
COAL INDIA LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 25th March, 2025

Appearance:
Mr. Gobinda Kar, Adv.
For the petitioner.

Mr. Tushar Sinha Mahapatra, Adv.
Mr. Pranab Kumar Das, Adv.
For the respondent/ECL.

Mrs. Sarda Sha, Adv.
For the respondent no.10.

Mr. Pritam Choudhury, Adv.
For the State Respondents.

Mr. Kallol Guha Thakurata, Adv.
Md. Wasim Rahaman, Adv.
For C.M.P.F.O. (respondent no.9).

The Court :- Supplementary affidavit and affidavit of service filed in Court today are taken on record.

The petitioner claims to be the son of Sunil Majhi, an employee of Eastern Coalfields Limited (in short, ECL), who died-in-harness on 5th August,

2011. The petitioner's mother, Mangali Majhi, had pre-deceased her husband and had died on 21st July, 2008.

The petitioner says that in the service book of the petitioner's father the name of Anil Majhi the brother of petitioner's father had been put as the nominee since the petitioner was minor at that point of time and his mother had also expired. The said Anil Majhi died on 16th April, 2012. The petitioner, in the affidavit appended to the writ petition, has declared his age to be about 26 years as on 19th June, 2024. The petitioner, therefore, had attained the age of 18 years sometimes in 2016. The petitioner applied for compassionate appointment in terms of the National Coal Wages Agreement (in short, NCWA) on 31st July, 2023.

The petitioner also says that in 2012 when Anil Majhi died who was the petitioner's guardian after the death of the petitioner's father and mother, since the petitioner was a minor, the petitioner had also made an application for release of the gratuity of his deceased father, pursuant to which the petitioner was asked to appear before the concerned authority by an office order dated 8th September, 2022.

It appears that before ECL as also the Controlling Authority under the Payment of Gratuity Act, 1972 several disputes arose. ECL probably on the basis of the service book of the petitioner's late father considered the petitioner's father to be an unmarried person and declined compassionate appointment to the petitioner. The Controlling Authority under the 1972 Act

had also rejected the petitioner's claim on the ground of insufficient documents.

In this writ petition the petitioner has only prayed for release of the gratuity amount and there is no prayer for compassionate appointment. By an order dated 4th March, 2025 passed in the writ petition, the learned District Magistrate, Paschim Bardhaman (respondent no.12) was directed to enquire and confirm the issue as to whether the petitioner is the son of Sunil Majhi, the deceased employee of ECL, since ECL had raised serious dispute regarding the petitioner to be the son of Sunil Majhi.

Mr. Choudhury representing the State files a report prepared by the District Magistrate, Paschim Bardham on 22nd March, 2025 addressed to the learned Advocate-on-Record, Original Side, High Court, Calcutta for the State. The said report on being placed before the Court along with all annexures thereto is taken on record.

On a perusal of the said report, it is clear that after conducting an enquiry through the Block Development Officer, Jamuria Development Block (respondent no.13), the said District Magistrate has opined that Kartik Majhi, the petitioner is the son of Sunil Majhi.

It will appear from a Memorandum dated 21st May, 2019 issued by the Land & Land Reforms, RR&R Department, Land Policy Branch, Government of West Bengal that a certificate issued by the Collector of the District concerned is to be considered valid document for intestate/testamentary succession. There is no subsequent memorandum by which the authority of the Collector

of the district has been taken away. The District Magistrate, Paschim Bardhaman, is also the Collector of the said district by virtue of his office and as such is entitled to issue a certificate which is to be considered as a valid document for intestate/testamentary succession. The concerned District Magistrate being the respondent no.12 as recorded hereinabove has certified that the petitioner is the son of Sunil Majhi.

In the aforesaid facts and circumstances, I permit the petitioner to make an application before the Controlling Authority under the 1972 Act and Assistant Labour Commissioner (Central), Durgapur (respondent no. 10), for recalling of the order dated 10th February, 2025 by which the petitioner's claim for gratuity received by his father was refused on account of insufficient document and absence of succession/legal heirs certificate.

The petitioner shall within four weeks from date file such application before the Controlling Authority being the respondent no.10 with a copy of the report issued by the District Magistrate, Paschim Bardhaman (respondent no.12) which has been filed in Court and a copy whereof has been made over to the learned Advocate for the petitioner.

The respondent no.10 in this writ petition who is represented through his advocate shall on such application being made recall the order dated 10th February, 2025 and proceed to decide the claim made by the petitioner in accordance with law by giving the petitioner an opportunity of hearing and produce new documents.

ECL is directed to pay all other terminal benefits of Sunil Majhi, if any, as expeditiously as possible to the petitioner, although there is no specific prayer to this extent in this writ petition in order to minimize litigation and that the same relates to the terminal benefits of a deceased employee claimed by the legal heir of the said deceased employee.

I am also inclined to take note of the subsequent event and mould the prayer in the writ petition to do complete justice in the matter so far as the compassionate appointment is concerned following the raid laid down in the judgment of the Hon'ble Supreme Court and reported in 2003 (7) SCC 219 ***Rajesh D. Darbar & Ors. Vs. Narasingro Krishnaji Kulkarni & Ors.*** since an application has been made before the ECL, the petitioner on the strength of the certificate issued by the District Magistrate, Paschim Bardhaman, will be entitled to pursue the same. ECL, is so approached by the petitioner shall take a decision in the matter by giving the petitioner an opportunity of hearing followed by passing of a reasoned order.

Nothing further remains to be adjudicated in this writ petition.

WPO No. 582 of 2024 is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)