

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO No. 610 of 2024

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

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 14th January, 2025.

Appearance:

Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
For the petitioner.

Mr. Syed Nurul Arefin, Adv.
Ms. Rashmi Binayak, Adv.
For the respondents/ECL Authorities.

The Court :- Exception to the report filed by the learned advocate for the petitioner is taken on record.

The petitioner is the widow of an employee of Eastern Coalfields Limited (in short ECL) who died-in-harness on 3rd August, 2012. The deceased employee, namely Matla Majhi attended his work for the last time on 2nd June, 2012.

The petitioner being the widow of the deceased employee by a letter dated 1st January, 2013 intimated the death of her husband to ECL and further requested to grant appointment on compassionate ground to Aswini Majhi, her son. The petitioner followed up her request by subsequent reminders, one of which is dated 10th April, 2013. These facts are admitted by ECL in their affidavit.

ECL by a letter dated 20th January, 2015 directed the dependant of the deceased employee to appear before the screening committee of ECL. On 20th January, 2016, the Initial Medical Examination (IME) of Aswini Majhi, the son of the deceased employee, in whose favour the petitioner had made a request for grant compassionate appointment was found to be of 18-23 years and was also found fit for duty. ECL, however, says that the age of Aswini Majhi on such basis was 17 years 14 days on the date of the death of his father, the deceased employee of ECL. Aswini Majhi was, therefore, a minor at the time of death of his father. Nothing, however, happened thereafter except exchange of correspondences. ECL did not provide either compassionate appointment or Monthly Monetary Cash Compensation (MMCC) to the petitioner.

The petitioner says that in terms of the provisions of National Coal Wages Agreement (in short NCWA), a male dependant of a deceased employee is only entitled to compassionate appointment while a female dependant is entitled to either employment if she is less than 45 years or MMCC in lieu of appointment, if applied for by the female dependant which will be paid till the female dependant reaches the age of 60 years. The petitioner, therefore, says

that on a conjoint reading of the provisions of NCWA, it is apparent that when the male dependant seeks for job, he is only considered for the same while the female dependant has the option either to seek an employment on compassionate ground upto the age of 45 years or to receive MMCC upto the age of 60 years.

In the instant case, the petitioner (widow of the deceased employee) being a female dependant opted for granting compassionate appointment to his son and as such did not claim for her own appointment. Once the female dependant opts for compassionate appointment to be given to a male dependant foregoing her right to seek compassionate appointment, the female dependant, however, becomes entitled to MMCC till such time the compassionate appointment is not given to the male dependant.

The petitioner's son was as per the own affidavit of ECL aged about 17 years 4 months at the time of death of the employee. It was, therefore, incumbent upon ECL to place the said son in a live roster as has been held by the Hon'ble Supreme Court in a recent judgment reported in **(2018) 11 SCC 201 (Subhadra Vs. Ministry of Coal and Anr)**.

Neither the petitioner's son was treated in the live roster for being offered appointment on attaining the majority when he was otherwise found to be fit for employment nor did ECL pay MMCC to the widow. The petitioner, therefore, has approached this Court by filing this writ petition on 2nd July, 2024. Records also reveal that prior to filing of the writ petition several correspondences were exchanged between the parties which clearly

demonstrate the date of death of the employee, the date on which compassionate appointment was asked for, the result of IME and that there was no embargo in giving appointment to the son on attaining the age of 18 years.

The petitioner, therefore, submits that she should be given MMCC from the date of death of her husband till the date of appointment of her son whose compassionate appointment was applied for but has not been finalised as yet by ECL.

The petitioner has also relied upon another judgment of the Hon'ble Supreme Court reported in **2024 SCC OnLine SC 2 (Vashist Narayan Kumar Vs. State of Bihar and Others)** to submit that if the petitioner's son on being otherwise not disqualified should be given compassionate appointment.

On behalf of ECL it is submitted that the petitioner is only entitled to MMCC and no compassionate appointment shall be granted to the son.

After hearing the parties and considering the materials on record, I find substance in the submission of the petitioner. Clause 9.4.0 of NCWA clearly mandates that if no employment has been offered and the male dependant of the deceased employee is 12 years and above in age, he should be kept in a live roster and would be provided employment commensurate to his skill and qualification when he attains the age of 18 years. In the instant case when the petitioner's son was found to be 17 years and 14 days and otherwise fit to do the duties the said son ought to have been kept on a live roster in terms of the

provisions of Clause 9.5.0 (iii) of NCWA. The ECL did not do so though it is the case of the ECL that the said son of the petitioner was otherwise found fit for duty.

It is also correct that no MMCC was either offered or given to the petitioner prior to filing of this writ petition even though the petitioner had relinquished her right to claim employment on compassionate ground in favour of her son, a male dependant of the deceased employee when the provisions of NCWA mandate the same.

ECL has now offered a sum of Rs. 38,20,181/- on account of MMCC from 10th April, 2013 till 31st December, 2024 and shall continue to pay the current MMCC till the petitioner attains the age of 60 years.

In the aforesaid facts and circumstances, I direct the respondents and each one of them to provide employment to the petitioner's son who has by this time become major after completion of necessary formalities. Till the time the petitioner's son is granted the appointment, the petitioner should be paid MMCC month by month from February 2025 (for the month of January 2025) and the arrears between 4th August, 2012 till December, 2024 shall be paid to the petitioner by 31st March, 2025.

The arrear amount of MMCC from the date of death of the petitioner's husband, that is, 3rd August, 2012 till the MMCC is started shall be paid with interest at the rate of 6 % per annum.

The entire exercise for granting compassionate appointment upon completion of necessary formalities shall be completed by 31st March, 2025.

Nothing further remains to be adjudicated.

The petition is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)

snn/Sb