

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 8325 of 2024

Eastern Coalfields Limited

Vs

Union of India and Ors.

For the Petitioner : Mr. Manik Das.

**For the Respondent No.1/
U.O.I.** : Mr. Nandlal Singhania,
Ms. Sumedha Banerjee.

For the Respondent No.4 & 5 : Ms. Monika Kalra,
Mr. Shantam Gulati.

Judgment reserved on : 27.01.2026

Judgment delivered on : 17.02.2026

SHAMPA DUTT (PAUL), J. :

1. The writ application has been preferred challenging an impugned award dated 9th June, 2023 passed by the Central Government Industrial Tribunal cum Labour Court, Asansol in Reference No.08 of 2006.
2. Vide the impugned award, the Learned Tribunal held as follows:-

*“Ranjit Mahali's year of birth appears to be 1975 and **he was found medically fit and eligible for performing any job in the mines.** Valuable time in the life of the dependant son has been wasted due to the failure on the part of the Management of ECL to arrive at a collective decision on this issue in **30 years**, oblivious of the essence of time in a person's life. **The Management of ECL is duty bound to honour it's own decision reflected in various clauses of NCWA.** According to para 9.4.0 of NCWA IV, the employer company is bound to provide employment to one of the dependants of the worker who died in course of employment and the dependant to be considered for employment should be physically fit, suitable for employment and not more than 35 years at the time of death of the workman. **In the present case, the petitioner Ranjit Mahali was within the stipulated age limit and below 35 years on 21.06.1993.** The Management of ECL has acted in a wrongful and arbitrary manner by not providing suitable employment to Ranjit Mahali after holding IME. Accordingly the Management of Satgram Project, ECL is directed to grant employment to Ranjit Mahali and complete the entire proceeding within two months from the date of notification of this Award. In case any further delay is caused, the ECL company shall be liable to pay damages at the rate of Rs. 10,000/- per month till the dependant of deceased workman is placed in the service roll of the company.*

In the light of my findings, the Industrial Dispute is decided in favour of Ranjit Mahali, dependant of the deceased workman.

Hence,

ORDERED

the Industrial Dispute is decided in favour of Ranjit Mahali, the dependant son of the deceased employee Lachmi Mahali. Let an Award be drawn in favour of dependant petitioner directing the

Management of Satgram Project under Eastern Coalfields Limited for providing suitable employment to Ranjit Mahali within two months from the date of notification. In default, the company (E.C.L.) will be liable to pay damages to Ranjit Mahali at the rate of Rs. 10,000/- per month until the employment proceeding is completed. Let copies of this Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

**Sd/-
Presiding Officer,
C.G.I.T.-cum-L.C.,
Asansol”**

3. The petitioners case in the writ application is that Lachmi Mahali, the mother of the respondent No. 5, who was employed with Eastern Coalfields Limited as 'Wagon Loader', **died on 21.06.1993**, while in service.
4. Respondent No. 5 filed an **application** on 11.09.1993 (**within 3 months**) claiming compassionate employment, as the son of Late Lachmi Mahali and also her nominee.
5. It is stated by the petitioner that as the respondent No. 5 could not establish that he is the son of Late Lachmi Mahali, the employment file of the respondent No. 5 could not be processed any further and no employment was provided to the respondent No. 5.
6. It is further stated that the respondent No. 5, six years after the initial medical examination was done and 9 years from the date of death of his mother, raised a purported industrial dispute through the respondent No. 4 in or about 2002 before the conciliatory machinery of

the Government of India, Ministry of Labour, as regards his compassionate employment.

7. Respondent No. 5 raised an industrial dispute in 2002 through the respondent No. 4 whereupon conciliation proceedings were initiated.
8. Reference, dated 24.05.2006 under section 10 of the Industrial Disputes Act, 1947 was made to the Central Government Industrial cum Labour Court, Asansol (hereinafter referred to as the "CGIT") and such reference was numbered as **Reference Case No. 08 of 2006.**

The issue for reference was as follows:-

"THE SCHEDULE

"Whether the action of the Management of Satgram Project under Satgram Area of M/s. ECL in denying employment to Shri Ranjit Mahali, dependant son of Late Lachmi Mahali, Ex- Wagon Loader is legal and justified? If not, to what relief the dependant son is entitled?"

9. **The learned CGIT passed an Award on 09.06.2023**, inter alia, directing the petitioner to provide employment to the respondent No. 5 within two months from the date of notification of the Award in default to pay damages to the respondent No. 5 at the rate of Rs. 10,000/-per month until employment is provided.
10. Hence, the writ application, on the award being notified. **The impugned award is challenged mainly on two grounds –(1) Delay and (2) No employment under the National Coal Wage Agreement can be provided after the male dependant crossed the age of 35 years.**

11. Letter for **Initial Medical Examination** of the respondent No. 5 was issued by the petitioner **on 21.09.1996 (after 3 years of application)** as nominee and dependant of the deceased Lachmi Mahali under Para 9:4:2 (death case).
12. It appears from the record that after **keeping the matter pending for 28 long years**, a letter was issued on 21/22.05.2021 by the area level to the colliery level seeking explanation for the delay.
13. It is stated by the petitioner that though the said points were raised before the Tribunal, the Learned Tribunal did not take into consideration, the delay in approaching the Court which is vital and as such the petitioner is not entitled to any relief as granted by the Tribunal.
14. It is further stated that the respondent no.5 is now over age, as such no compassionate employment can be provided. The respondent no.5 is now 48 years of age.
15. The petitioner has relied upon the judgment in ***M/S Rourkela Steel Plant Vs. Union of India & Anr., in Civil Appeal Nos. 2352-2353 of 2025 (arising out of SLP (C) Nos. 13116-13117 of 2021), decided on February 12, 2025, (Para 8, 9 & 10)*** wherein the Court has held:-

“8) In the facts of the present case, after rejection of for the request compassionate appointment though litigation was raised before the High Court, it was later withdrawn after 15 years. It was only thereafter that a

claim for compassionate appointment was raised through an industrial dispute wherein such a direction to grant compassionate appointment to the son of the deceased-employee has been issued. In the meanwhile, the family has availed the benefit of EFBS and have also been granted compensation on account of the death of the deceased-employee during the course of employment.

9) *It is to observe that under the EFBS, the family of the deceased were entitled to basic pay plus DA up to the age the deceased would have continued in employment.*

10) *However, looking to the said facts and circumstances of the case, in our view, taking note of the judgment of this Court in the case of **State of J&K and Ors. v. Sajad Ahmed Mir (2006) 5 SCC 766**, grant of compassionate appointment after such a long period of time is not justified. Therefore, we set aside the order(s) passed by the Labour Court as well as the High Court.”*

16. In the present case, there is no rejection letter by the petitioner till date. As such this judgment is not applicable in the present case.

17. It is the further contention of the petitioner that the Award has been passed by the CGIT on the basis of the provisions contained in Clause 9.4.0 of NCWA-IV which cannot be applied in the present case for the reason - firstly, NCWA IV was not in operation when Lachmi Mahali died and NCWA V was in force at that time, as would be evident from the NCWAV. [Page 53 at 53, 56 (Preamble 0.1) and 61 and secondly, Clause 9.4.0 of NCWA deals with the cases of permanent disablement.

18. It is further by the petitioner stated that the CGIT has failed to consider that under the National Coal Wage Agreement (hereinafter

referred to as the "NCWA"), which constitutes the scheme for compassionate employment in coal mining sectors, no employment can be provided after the male dependant crosses the age of 35 years. Clause 9.3.1 read with Clauses 9.3.2 and 9.3.4 of the NCWA - V (Page 81 at 91 and 92 of the writ petition), being the applicable NCWA, makes it amply clear that the upper age limit for a male dependant except a male spouse for compassionate employment is 35 years.

- 19.** In the written notes filed by the respondent no.4 and 5 , it is stated that respondent no.5, Ranjit Mahali filed an application praying for compassionate appointment on 11th September, 1993, that is within 3(three) months from the date of death of his mother Lachmi Mahali who died on 21.06.1993.
- 20.** It is further stated that by the respondents that at paragraph no.2 at page 3 of the Award Dated 09.06.2023 by the Central Govt. Industrial Tribunal - Cum- Labour Court, Asansol it is stated inter-alia that "It is the case of the union that the Management signed a Tripartite Settlement before the RLC (C) and ALC (C), Asansol on 22.05.2007 and 23.05.2007 in which it was agreed that the cases which were pending prior to 01.07.1996 would be considered and the delay in claiming employment after death of deceased employee would be ignored." (Refer to page no. 45 of the instant petition).
- 21.** Clause 9.5.0 (iii) of The National Coal Wage Agreement -V, states inter-alia " 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 dependent of the concerned worker is 15 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 ...". The respondent no. 5 being the dependent of Lachmi Mahali, employee who died while in service was eligible for employment in her place being 18 years of age as on the date of death of his mother.

- 22. The medical examination** of the respondent no.5 was ordered by the letter dated 21.06.1996 by the petitioner, herein. It appears from the materials on record that the medical examination of the respondent no.5 was positive and the respondent no.5 was found **“fit for any job in mine”** and this appears from the document dated 05.05.2001 at page 29.
- 23. The report dated 05.05.2001 shows that the respondent no.5 had met with all requirements as required by the petitioner/company for appointment (compassionate).**
- 24. Unfortunately, the said report was also filed after almost 4(four) years from the date of medical examination. The petitioner/company in spite of receiving the said report, did not process the case of the respondent no.5 for compassionate appointment.**

25. The deceased employee had also recorded the name of the respondent no.5, her son as nominee, but the petitioner/company sat over the case for 20(twenty) long years, in spite of the respondent no.5 being found to be totally fit and having met all requirements.
26. Admittedly, an industrial dispute was raised in 2006, 5(five) years after the report stating that the respondent no.5 was found fit in all respect for compassionate appointment. The said delay is not an intentional delay, but **was a desperate wait for action on the part of the petitioner. The respondent no. 5 also not being an employee/worker could not approach the tribunal directly and had to raise the dispute through the respondent no. 4 and the delay caused in the process is thus reasonable.**
27. The petitioner's themselves, without disclosing any reasons did not take any final decision in respect of the compassionate appointment in respect of the respondent no.5, even after the successful I.M.E.
28. There has been **no rejection** of the request for compassionate appointment by the petitioner herein and it is a classic case of keeping the hope of a person alive for almost 30 years and as such the case of delay on the part of the respondent no. 5 as made out by the petitioner **has no substance and is without merit.**
29. **The respondent no. 5 has lost 30 years of his working life, for no fault of his, as he had qualified in all respect. The authorities have**

neither provided compassionate appointment nor rejected the respondent no. 5's application for the same.

- 30.** In the judgment of the Supreme Court in ***Canara Bank vs Ajithkumar G.K., in Civil Appeal No. 255 of 2025 (arising out of SLP (Civil) No. 30532/2019), decided on 11th February, 2025, (Para 28)*** is as follows:-

“28. The death of the respondent's father, in this case, occurred in December 2001. Now, we are in 2025. The respondent cannot be blamed for the delay, since he was diligently pursuing his claim before the appellant and thereafter before the High Court. Thus, irrespective of how old the respondent is presently, his age cannot be determinative for foreclosing his claim and bar a consideration of the same on merits.”

- 31.** As such the refusal at this stage by the petitioner on the ground of over age, also has no merit, the total unreasonable delay being solely due to the petitioner herein.
- 32.** Regarding the issue of the respondent “surviving” the long wait for compassionate appointment, is a wait of helplessness, having left with no other option.
- 33.** The deceased employee was a wagon loader and the family herein is “below poverty line” **(Para 29) *Canara Bank (Supra)***, and thus meets all requirement for appointment on compassionate ground.
- 34.** In **Para 26, *Canara Bank (Supra)***, the Supreme Court was of the view that:-

*“26. More often than not, spurned claims for compassionate appointment reach the high courts or even this Court after consuming substantial time. **The ordinary rule of litigation is that right to relief should be decided by reference to the date on which the suitor entered the portals 27 of the court.** The relief that the suitor is entitled in law could still be denied in equity on account of subsequent and intervening events, i.e., events between the date of commencement of the litigation and the date of the decision; however, law is well-settled that such relief may not be denied solely on account of time lost in prosecuting proceedings in judicial or quasi-judicial forum for no fault of the suitor [see : Beg Raj Singh v. State of U.P.50]. **It would, therefore, not be prudent or wise to reject a claim only because of the time taken by the court(s) to decide the issue before it.”***

- 35. In the present case,** there is no delay on the part of the respondent no. 5, who has never been given a letter of rejection of his prayer/claim for compassionate appointment.
- 36.** The delay is wholly on the part of the petitioner herein, whose sole purpose seems to be to delay the appointment and/or not make the said appointment at all.
- 37.** The fact that the respondent was permitted to appear for I.M.E. and was found fit in all respect for the mine, itself proves that there was no doubt about him being the son of the deceased, and had also been nominated by the deceased employee in the office service records. Here again the petitioner made out a case against the respondent no. 5, in spite of there being records in support of the respondent no. 5.

- 38.** That the respondent no. 5, is the nominee and the son of the deceased employee, is also apparent from the letter for medical examination dated 21.06.1996.
- 39.** The petitioner company did not even inform the incumbent after he was found to be medically fit. The “**duty to speak**” was thus not discharged by the company. Having failed to discharge its obligation, an Article 12 authority, being a model employer, cannot take advantage of its own wrong.
- 40.** The socio economic and poor background of the incumbent cannot also be lost sight of. The incumbent had approached the Trade Union (respondent no. 4) which had raised the industrial dispute in the year 2002 and the order of reference was made on 24.05.2006. It is unfortunate that the legal proceeding remained pending for a period of 17 years.
- 41.** The protracted litigation cannot stand against a claim for compassionate employment, since the claimant had been bona fide in perusing the claim and in any event, he cannot be made to suffer for delayed disposal of legal proceeding. The same view finds support from the judgment of the Hon’ble Supreme Court report in **Canara Bank (Supra) (Para 26)**.
- 42.** On perusal of the impugned order, this Court finds that the Learned Tribunal has recorded proper reasons and considered the evidence

adduced and rightly came to the decision leading to the award. But the relief granted in the award requires some clarification/modification.

- 43.** The award is thus upheld only to the extent of modifying the same to the effect that the company should be deemed to have counted the seniority of the applicant as on 24.05.2006, that is on and from the **date of reference (*Canara Bank (Supra) Para 26*)** and all benefit of wages, increments and consequential relief in relation to his entitled post, should be notionally counted with the pay fixation made in terms of applicable NCWA's. All arrears of wages on notional pay fixation shall be given from the date of the award within one month.
- 44. The writ application having no merit stands dismissed.**
- 45.** Connected application, if any, stands disposed of.
- 46.** Interim order, if any, stands vacated.
- 47.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)