

Form No. J(2)
Item No. DL/3
ARPAN – A.R. (CT)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. NO. 9189 OF 2025

DEBU GOPE

Vs.

EASTERN COALFIELDS LIMITED & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner	: Mr. Supratim Dhar, Sr. Adv. Mr. Kunal Ganguly, Adv. Mr. Kaustav Banerjee, Adv.
For the Eastern Coalfields Limited	: Mr. Shiv Sankar Banerjee, Adv. Mr. S.M. Obaidullah, Adv. Mr. Nikhil Kumar Roy, Adv. Mr. Abhisek Chakraborti, Adv. Mr. Siddharth Chamria, Adv.
Hearing concluded on	: 28.01.2026
Judgment On	: 28.01.2026

SAUGATA BHATTACHARYYA, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.

2. Matter is heard extensively in presence of the learned advocates representing the petitioner and the Eastern Coalfields Limited (hereinafter referred to as 'ECL').
3. In terms of the order dated 19th January, 2026, petitioner was medically examined by a Medical Board constituted by the concerned authority of All India Institute of Medical Sciences (AIIMS) Kalyani on 24th January, 2026, which is few days prior to retirement of the petitioner, *i.e.*, on 26th January, 2026/ 31st January, 2026. Medical Board was constituted *vide* office order dated 21st January, 2026 issued by Deputy Medical Superintendent, AIIMS Kalyani. Findings of the Medical Board run *infra*:

“Findings:

Visual Acuity in both eyes = no perception of light

Intra ocular pressure in both eyes = non recordable

Fundii in both eyes = could not be visualized

Diagnosis = Pthisis bulbi in both eyes”

4. Medical report dated 24th January, 2026 along with other documents dated 24th January, 2026 and 21st January, 2026 are placed before this Court in a sealed envelope and same are taken on record.
5. Copies of medical report dated 24th January, 2026 along with other documents dated 24th January, 2026 and 21st January, 2026 are made over to the learned advocates representing the petitioner and ECL.

6. On perusal of the findings as quoted above, it appears that petitioner has lost eyesight in his both eyes and is a blind person.
7. Petitioner has approached this Court with the present writ petition for issuance of direction upon the concerned authority of ECL to constitute Apex Medical Board for ascertaining health condition of the petitioner and if petitioner is found to be medically incapacitated, in that event, compassionate appointment is to be given to his son.
8. Petitioner after losing his eyesight sent a letter dated 16th December, 2019 to the Director (Personnel), ECL, Headquarter, Sanctoria expressing willingness for voluntary retirement under Clause 9.4.0 of National Coal Wage Agreement (for short, 'NCWA') as petitioner was suffering from loss of vision. Petitioner disclosed in the said letter dated 16th December, 2019 that as he had no perception of light in both of his eyes, necessary steps are required to be taken in terms of the relevant provision of NCWA for providing compassionate appointment to his son.
9. Instead of constituting Apex Medical Board to ascertain health condition of the petitioner, a charge-sheet was issued by the concerned authority of ECL on 24th May, 2021 against the petitioner alleging gross negligence and unauthorized absence from duty beyond one month. Disciplinary proceedings initiated against the petitioner culminated into report of the Enquiry Officer dated 2nd May, 2023 wherein it was recorded that charges levelled against the petitioner were not found to be proved and it was also stated therein that as per preliminary medical

examination conducted on 27th March, 2019, petitioner was found to be blind in both eyes.

10. In spite of preferring letter dated 16th December, 2019 and failure on the part of ECL to conclude disciplinary proceedings due to report of the Enquiry Officer dated 2nd May, 2023, which is not adverse to the interest of the petitioner, health condition of the petitioner was not ascertained by the concerned authority of ECL from 2019 till filing of the present writ petition on 23rd April, 2025 by constituting Apex Medical Board as a result whereof petitioner's prayer for considering appointment of his dependant son on compassionate ground by declaring petitioner as physically incapacitated was in limbo for indefinite period. Petitioner was also not paid salary and other service benefits during this period.
11. Matter was heard by this Court on several occasions and on finding that petitioner was going to retire at the end of January, 2026 on attaining age of 58 years, Court provided option to the learned Advocate representing ECL to constitute Apex Medical Board to medically examine health condition of the petitioner but same was not acceded to. Finding no other option this Court had to pass order on 19th January, 2026 directing AIIMS Kalyani to medically examine the petitioner and furnish a report before 26th January, 2026 as it was submitted on behalf of the petitioner that petitioner was going to retire on 26th January, 2026 on attaining age of 58 years.

12. However, today Mr. Shiv Shankar Banerjee, learned advocate representing ECL has submitted that date of retirement of the petitioner is 31st January, 2026, not 26th January, 2026.
13. Failure on the part of ECL to constitute Apex Medical Board for medical examination of the petitioner was the reason for passing order on 19th January, 2026 directing AIIMS Kalyani to medically examine the petitioner and submit a report prior to attaining age of 58 years so far petitioner is concerned.
14. Learned advocate representing ECL has opposed this writ petition by making submission that petitioner is a habitual absentee and for such absenteeism disciplinary proceeding had to be initiated against the petitioner. However, same could not be brought to logical conclusion in view of report of Enquiry Officer dated 2nd May, 2023 wherein it was recorded that charges levelled against the petitioner were not proved and petitioner was found to be a blind person.
15. Another limb of submission which is advanced on behalf of ECL is Clause 9.4.0 of NCWA-VI dated 23rd December, 2000 may not be applicable in case of the petitioner. Therefore, petitioner is not entitled to get relief as sought for in this writ petition. It is also contended in reference to Clause 9.4.0 of NCWA-VI that in the event it is found that said Clause 9.4.0 is applicable, petitioner is not entitled to get the benefit of compassionate appointment of his dependant family member

on being declared physically incapacitated considering the facts of this case.

16. On behalf of the petitioner provisions of National Coal Wage Agreements for providing appointment on compassionate ground of dependant family member *i.e.*, from NCWA-II dated 11th August, 1979 till NCWA-XI dated 20th May, 2023 are placed before this Court and same are taken on record.
17. As per 10th Wage Agreement for CIL and SCCL dated 10th October, 2017 it was provided in relation to Clauses 9.3.0, 9.4.0 and 9.5.0 that a committee would be constituted under the chairmanship of Director (P&IR), CIL consisting of representatives of Trade Unions and Management to finalize the scheme for employment or financial benefits to the dependent and aforesaid committee shall submit the scheme tentatively by 31st May, 2018; till then *status quo* shall be maintained in respect of these provisions.
18. Similarly in NCWA-XI dated 20th May, 2023 in reference to Clause 9.3.0 it was provided that employment to one dependent of an employee dying while in service, as being implemented in 10th Wage Agreement for CIL and SCCL shall continue on basic wage of category-I as trainee for six (6) months. However, other issues of dependant employment including qualification on appointment shall be deliberated in Standardization Committee of JBCCI-XI.

19. As per Clause 9.4.0 of NCWA-XI a sub-committee shall be constituted which shall submit its report to the Standardization Committee of JBCCI-XI; till then *status quo* shall be maintained.
20. On conjoint reading of Clauses 9.3.0, 9.4.0 and 9.5.0 as contained in 10th Wage Agreement for CIL and SCCL dated 10th October, 2017 as well as NCWA-XI dated 20th May, 2023, it appears policy relating to appointment on compassionate ground for dependent apart from *died-in-harness* category was not finalized as a result whereof it was further provided therein till finalization of policy, *status quo* shall be maintained.
21. Court finds it apt to consider Clauses 9.3.0, 9.4.0 and 9.5.0 of NCWA-IX dated 31st January, 2012 *qua* Clause 9.4.0 of NCWA-VI dated 23rd December, 2000. As per Clauses 9.3.0, 9.4.0 and 9.5.0 of NCWA-IX, NCWA-VI will be operative in NCWA-IX till a revised scheme is jointly prepared keeping in view the various verdicts of the Hon'ble Supreme Court at the earliest.
22. It is also provided under sub-clause (iv) of Clauses 9.3.0, 9.4.0 and 9.5.0 of NCWA-IX dated 31st January, 2012 that monthly monetary compensation available to the female dependant in case of death either in mine accident or for other reasons or medical unfitness of the employee shall be ₹6,000/- with effect for 1st May, 2008.

23. In view of provisions as contained in Clauses 9.3.0, 9.4.0 and 9.5.0 of NCWA-IX, Court finds it apt to quote Clause 9.4.0 of NCWA-VI dated 23rd December, 2000 below:

“9.4.0 Employment to one dependant of a worker who is permanently disabled in his place

- (i) *The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.*
- (ii) *In case of disablement arising out of general physical debility so certified by the Coal Company, the employee concerned will be eligible for the benefit under this clause if he/she is upto the age of 58 years.*

The term ‘general physical debility’ would mean deficiency of a workman due to any disease or other health reason leading to his/her disablement to perform his/her duties regularly and/or efficiently.

- (iii) *The dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the employee and almost wholly dependent on the earning of the employee may be considered.*

In so far as female dependants are concerned, their employment would be governed by the provisions of clause 9.5.0.

- (iv) *The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.”*

24. It further appears on consideration of provisions of NCWA-IX dated 31st January, 2012 till NCWA-XI dated 20th May, 2023, new policy relating to appointment on compassionate ground for dependant is yet to be formulated on declaring employee concerned medically incapacitated as a result whereof it was provided in 10th Wage Agreement for CIL and SCCL as well as NCWA-XI that *status quo* would continue.
25. By virtue of Clauses 9.3.0, 9.4.0 and 9.5.0 of NCWA-IX, Clause 9.4.0 of NCWA-VI dated 23rd December, 2000 applies in case of the petitioner in deciding whether a dependant family member of the petitioner is entitled to be appointed on compassionate ground or not.
26. It is already settled in view of report of the AIIMS Kalyani that petitioner lost his eyesight in both eyes and is a blind person. Therefore, right of the petitioner further crystallizes in reference to the date of preferring of letter on 16th December, 2019 to the concerned authority of ECL.

27. Hence, Chairman-cum-Managing Director, ECL being respondent no.2 is directed to take decision on appointment of one of the dependant family members of the petitioner on compassionate ground in terms of Clause 9.4.0 of NCWA-VI dated 23rd December, 2000 by four (4) weeks from the date of communication of this order. Decision to be taken by the respondent no.2 shall be communicated to the petitioner by ten (10) days thereafter.
28. Respondent no.2 shall be at liberty to call petitioner before taking such decision for completing necessary formalities.
29. With the aforesaid observations and directions writ petition stands disposed of.
30. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)