

Jharkhand High Court

Sumitra Devi & Anr. vs Central Coalfields Ltd. & Ors on 31 July, 2009

IN THE HIGH COURT OF JHARKHAND AT RANCHI.

W.P. (S) No. 6954 of 2007

...

1. Sumitra Devi

2. Ram Anuj Tiwary

... Petitioners

-V e r s u s-

Central Coalfields Limited and Others ...

Respondents

...

CORAM: - HON'BLE MR. JUSTICE D.G.R. PATNAIK.

...

For the Petitioners

: - Mr. Ravi Kumar Singh, Advocate

For the Respondents

:- Mrs. Banani Verma, Advocate

...

4 / 31.07.2009

Heard Sri Ravi Kumar Singh, learned counsel for the petitioners and Mrs. Banani Verma, learned counsel for the respondent C.C.L.

2. The petitioners in this writ application have prayed for quashing the letter dated 15.06.2004 (Annexure-6) by which the claim of the petitioner No. 2 for compassionate appointment, has been rejected. A further prayer has been made for directing the respondents to pay monetary compensation to the petitioner No. 1 with arrears along with interest @ 15 % per annum with effect from 15.05.2003, till the date of actual payment, as per the provisions of the National Coal Wage Agreement.

3. The husband of the petitioner No. 1 was under the service of the respondent C.C.L. as a Security Guard. He died in harness on 15.05.2003.

Within three months thereafter, the petitioner No. 2, being the son of the deceased employee, filed application before the respondents requesting for his compassionate appointment.

The petitioner No. 1, being the widow of the deceased employee, filed an affidavit in support of the claim of the petitioner No. 2 before the concerned authorities.

While the claim for compassionate appointment was in the process of being considered, another application was received in the office of the respondents which was submitted by another person claiming himself to be the elder son of the deceased employee. On account of such dispute, the respondents had informed the petitioner by Annexure-6 that the claim of petitioner No. 2 for compassionate appointment has been kept in abeyance, pending resolution of the dispute between the sons of the deceased employee.

Almost a year after the receipt of the impugned letter (Annexure-6), the petitioner No. 1 filed a fresh application claiming monetary compensation.

4. Learned counsel for the petitioners would submit that under the terms and conditions of service under the N.C.W. Agreement, the widow of the deceased employee was entitled to payment of compensation as long as either she or her dependents are not given compassionate appointment and therefore since the matter concerning the compassionate appointment has been kept in abeyance, the widow of the deceased employee is entitled to compensation as long as decision on the issue of compassionate appointment is not finally taken.

5. Mrs. Banani Verma, learned counsel for the respondents, on the other hand, would deny and dispute the claim of the petitioners. Learned counsel submits that as per the terms and conditions of the N.C.W. Agreement, though the dependents of the deceased employees are entitled either to compensation or compassionate appointment, but the dependents cannot claim both at the same time. Referring to the terms and conditions of the N.C.W. Agreement, learned counsel explains that on the death of the employee, the widow has the option to elect either compassionate appointment for herself or for her dependent children or compensation. Both the petitioners had initially opted for compassionate appointment and never opted for compensation. The prayer for compassionate appointment was in the process of being considered but a dispute arose between the survivors of the deceased employee over claim for compassionate appointment. Since, as explained by the learned counsel for the petitioner, the present claim being the latest and the final claim made by the widow of the deceased for compensation, it will be deemed that the petitioners do not demand for compassionate appointment any further and accordingly, the respondents would consider the demand for monetary compensation payable to the widow of the deceased employee.

6. Considering the above facts and circumstances and in the light of the present option of the petitioner No. 1 for payment of monetary compensation, the respondents are directed to pay the petitioner No. 1 monetary compensation treating the same to be her final option. Such monetary compensation shall be payable to the petitioner No. 1 from the date of death of her deceased husband, within two months from the date of receipt/production of a copy of this order.

With these observations, this writ application is disposed of. Let a copy of this order be given to the learned counsel for the respondent C.C.L.

(D.G.R. Patnaik, J.) Birendra/