

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (L) No. 5146 of 2004

M/s Central Coalfields Limited, Charhi Area, through its
 General Manager, Niranjana Das, son of Sri Ramnath Das, At
 and P.O.-Charhi, P.S.-Mandu, Dist.-Hazaribagh

.... Petitioner

Versus

1. Commissioner, Workmen's Compensation, Hazaribagh
2. Ganesh Mahto, son of late Khedan Mahto, resident of
 Village-Bahari, P.O.-Hazaribagh, P.S.-Muffasil, Dist.-
 Hazaribagh

.... Respondents

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

	
For the Petitioner	:	Mr. Anoop Kr. Mehta, Advocate
For the Respondents	:	Mr. Manish Kumar, Amicus Curiae
	:

By the Court:-

1. Heard the parties.
2. This Writ Petition has been filed under Article 226 of the
 Constitution of India with the prayer to set aside the order dated
 15.03.2004 passed by the learned Commissioner, Workmen's
 Compensation, Hazaribagh in Misc. Case No.4 of 2003 whereby
 and where under, the learned Commissioner, Workmen's
 Compensation, Hazaribagh has condoned the delay in filing the
 claim application by the son of the deceased-workman and has
 admitted his application under the Workman Compensation Act,
 1923 which has been renamed as Employees Compensation Act,

1923 and directed the writ petitioner which was the opposite party before the learned Commissioner, Workmen's Compensation, Hazaribagh; to file its written statement.

3. It is submitted by the learned counsel for the petitioner that the deceased died on 06.08.1979 and the application for compensation was filed on 25.06.2003 after a delay of 24 years; although the period of limitation is two years. It is then submitted that the applicant failed to show any document to the effect that his father was an employee of CCL and has not explained how his father died. It is next submitted by the learned counsel for the petitioner that the respondent no.1 without assigning any reason has condoned the delay. Hence, it is submitted that the prayer as made in this writ petition be allowed.
4. Learned Amicus Curiae appearing in this case relying upon the judgment of Hon'ble Supreme Court of India in the case of **Manoharan v. Sivarajan & Others** reported in (2014) 4 SCC 163, paragraph no.12 of which reads as under:-

"12. Further, Article 39-A of the Constitution of India provides for holistic approach in imparting justice to the litigating parties. It not only includes providing free legal aid via appointment of counsel for the litigants, but also includes ensuring that justice is not denied to litigating parties due to financial difficulties. Therefore, in the light of the legal principle laid down by this Court, the appellant deserved waiver of court fee so that he could contest his claim on merit which involved his substantive right. The Court of the Sub-Judge erred in rejecting the case of the appellant due to non-payment of court fee. Hence, we set aside the findings and the decision of the Court of the Sub-Judge and condone the

delay of the appellant in non-payment of court fee which resulted in rejection of his suit."

submits that Article 39-A of the Constitution of India also provides for ensuring that the justice is not denied to the litigant party due to financial difficulty and condoning the delay in appropriate matters.

5. Learned Amicus Curiae next relied upon the judgment of Hon'ble Supreme Court of India in the case of **K.C.P. Employees' Association Madras v. K.C.P. Ltd., Madras & Others** reported in **(1978) 2 SCC 42**, paragraph no.5 of which reads as under:-

"5. In Industrial Law, interpreted and applied in the perspective of Part IV of the Constitution, the benefit of reasonable doubt on law and facts, if there be such doubt, must go to the weaker section, labour. The Tribunal will dispose of the case making this compassionate approach but without overstepping the proved facts, correct the balance sheets and profit and loss accounts of the Central Workshop to the extent justified by the Act and the evidence and finish the lis within three months of receipt of this order. The appeals are dismissed. No costs."

submits that in interpretation of industrial law, the benefit of reasonable doubt on law and facts if there be such a doubt must go to the weaker section, labour.

6. It is next submitted by learned Amicus Curiae that it is undisputed fact that respondent no.2 is a neo literate person which is evident from the fact that he even does not know his own date of birth. Indisputably he is a very poor person who lost both his parents at a quite young age and keeping in view the objective of the welfare legislation like the Workman Compensation Act,

1923 which has been renamed as Employees Compensation Act, 1923, the Commissioner, Workmen's Compensation, Hazaribagh has condoned the delay in the interest of justice and there being no illegality in such order keeping in view the limited scope of interference by a writ court, there is no justification for quashing the order dated 15.03.2004 passed by the learned Commissioner, Workmen's Compensation, Hazaribagh as prayed by the writ petitioner. Hence, it is submitted that this writ petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials available in the record, there is absolutely no doubt that the learned Commissioner, Workmen's Compensation, Hazaribagh has been vested with the power to entertain and decide any claim of compensation in any case notwithstanding that the notice has not been given or the claim has not been preferred in due time of two years from the date of death of the deceased-workman as provided in Section 10 (1) of the Employees Compensation Act, 1923. The fact remains undisputed that the respondent no.2 is a poor person who has lost his parents at the young age and is a neo literate person hence, keeping in view the objective of welfare legislation like the Employees Compensation Act, 1923 and the limited scope of this Court in interfering with the order by issuing a writ of certiorari as has been held by the Hon'ble Supreme Court of India in the case of **Syed Yakoob vs K. S. Radhakrishnan & Others**, reported in **1964 AIR SC 477**, paragraph no.7 of which reads as under:-

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals : these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before SC480 the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive

jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Ahmad Ishaque, 1955-1 SCR 1104: ((S) AIR 1955 SC 233); Nagendra Nath v. Commr. of Hills Division, 1958 SCR 1240: (AIR 1958 SC 398) and Kaushalya Devi v. Bachittar Singh, AIR 1960 SC 1168."

8. This Court is of the considered view that there being no perversity in the order dated 15.03.2004 passed by the learned Commissioner, Workmen's Compensation, Hazaribagh in Misc. Case No.4 of 2003, this writ petition being without any merit is dismissed.
9. Let a copy of this Judgment along with the Lower Court Records be sent back to the Commissioner, Workmen's Compensation, concerned forthwith.

(Anil Kumar Choudhary, J.)