

**Dularchand Prasad Mehta Vs. the Central Coal Fields Ltd. and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/514939](http://sooperkanoon.com/514939)

**Court :** Jharkhand

**Decided On :** Jan-17-2008

**Reported in :** [2008(1)JCR443(Jhr)]

**Judge :** R.K. Merathia, J.

**Appellant :** Dularchand Prasad Mehta

**Respondent :** The Central Coal Fields Ltd. and ors.

**Disposition :** Petition dismissed

**Judgement :**

**R.K. Merathia, J.**

1. Heard the parties.

2. In this writ petition, petitioner has challenged the order dated 20.12.2002. whereby his claim for compassionate appointment was rejected by the respondents.

3. According to the petitioner, his father Degan Mahto died in harness on 13.8.2000. His elder brother Kauleshwar Mahto was not interested for appointment. Petitioner being his second son applied for compassionate appointment on 6.11.2000, but his claim was rejected wrongly.

4. The case of the respondents in short is that the name of petitioner did not appear in any service record of the company and therefore his claim was rightly rejected.

5. The original service records of late Degan Mahto were called for. Petitioner's contention is that late Degan Mahto noted his objection on 14.6.1987 in the service excerpt (Form ARG-04) that petitioner was aged about 6 years and his name was left by mistake. But petitioner has not been able to show as to what steps late Degan Mahto took to get petitioner's name included in the service excerpts in the next 13 years till he died on 13.8.2000, if such objection was genuine. Further, according to the petitioner, he was aged 3 years in 1984, and therefore late Degan Mahto did not mention his name in L.T.C. Form in 1984. But it appears that in 1998 also late Degan Mahto did not disclose the name of petitioner as one of his son, though petitioner must be aged 17-18 years in 1998. Regarding Form REF-5 relied on behalf of the petitioner, the stand of the respondents is that the name of petitioner was included on the basis of the declaration made by the wife of late Degan Mahto which has not been denied and disputed by the petitioner. The purported Form PS-3 is dated 4.7.1998, but it was annexed only with the affidavit dated 3.5.2007.

6. In the facts and circumstances, noticed above, it cannot be said that the respondents were not justified in rejecting petitioner's claim for compassionate appointment on the ground that his name did not appear in any service record of the Company. It appears from the records of W.P.(S) No. 6047 of 2003 Jai Prakash Kumar (disposed off on 22.2.2004) relied on behalf of the petitioner, that the name of Jai Prakash Kumar appeared in the service excerpt (ARG-04) itself. Thus naturally his name found place in Form PS-3 also. In that circumstances, this Court found that the respondents did not examine the service record properly while rejecting his case. But in this case, as noticed above, petitioner's name did not find place in the service records of the Company. From the original Form ARG-04 dated 14.6.1987, it appears that the purported endorsement, said to have been made by late Uegan Mahto, to the effect that petitioner's name was left by mistake, have been incorporated subsequently. Moreover on such objection, if any, the name of petitioner was not included in Form ARG-04, as was done in the case of

Jai Prakash Kumar. If such objection of late Degan Mahto was genuine and even then petitioner's name was not included, late Degan Mahto would have taken steps for inclusion of petitioner's name in the service records, but for about 13 years, till he died, no such step was taken. Even in the year 1998 while claiming L.T.C. he did not disclose the name of petitioner as one of his son when petitioner must be aged about 17-18 years. The order of Jai Prakash Kumar is of no help to the petitioner. Further such disputed questions of fact cannot be decided in the writ jurisdiction. In any event, if petitioner has survived for all these 7 years, it will not be proper to direct the respondents to consider his case for appointment on compassionate ground.

7. In the case reported in : [1994]3SCR893 , Umesh Kumar Nagpal v. State of Harayana and Ors. it has been held that consideration for such employment is not a vested right which can be exercised at any time in future and it cannot be claimed and offered whatever the lapse of time and after the crisis is over.

8. In the facts and circumstances, noticed above, no relief can be granted to the petitioner. Accordingly, this writ petition is dismissed. No costs.

9. Let the original record be returned to Mrs. Banani Verma.

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