

Radhika Devi Vs. Chairman-cum-managing Director, Central Coalfields Ltd. and ors.

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Court : Jharkhand

Decided On : Mar-22-2004

Reported in : [2004(3)JCR120(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : W.P. (S) No. 6700 of 2002

Appellant : Radhika Devi

Respondent : Chairman-cum-managing Director, Central Coalfields Ltd. and ors.

Advocate for Def. : A. Sen, Adv.

Advocate for Pet/Ap. : Amitabh,; Nitu Sinha and; Mamta Sahay, Advs.

Disposition : Petition allowed

Judgement :

ORDER

M.Y. Eqbal, J.

1. Heard learned counsel for the parties.

2. Petitioner who is the widow of Late Sri Rajeshwar Pd. Singh, an employee of the respondent-company, seeks a mandamus directing the respondents to give employment to her son who is dependent according to the provisions of the Clause 9.4.2. of the National Coal Wages Agreement and also for quashing the letter whereby the claim of the petitioner's son Sri Upendra Kumar Singh was rejected.

3. The petitioner's husband while working as a Sr. Security Guard died in harness in 1999. After his death petitioner applied for compassionate appointment to her son Sri Upendra Kr. Singh. She also claimed death-cum-retiral benefits. The Project Officer, Central Coalfields Ltd. Hutar Colliery, Daltonganj, respondent No. 4, sent a detailed note recommending the case of the petitioner as genuine. The Project Officer also forwarded necessary documents executed by the deceased-husband of the petitioner reflecting that Upendra Kr. Singh is the son of the deceased. However, the said application for compassionate appointment was rejected by the respondent holding that the name of Upendra Kr. Singh does not appear from any of the relevant documents relating to service of the deceased-husband of the petitioner.

4. The petitioner disclosed several documents including the affidavit sworn by the petitioner to the effect that Upendra Kumar Singh is the legitimate son of the deceased who died in harness. The L.T.C. form and other documents showing the name of Upendra Kr. Singh as the dependent son have also been annexed with the writ petition. The Project Officer, Hutar Colliery in his report which is annexed as Annexure-9 to the writ petition has reported that after seeing all the papers and the inquiry made from the permanent employees of the same village the claim of the petitioner appears to be genuine and it may be considered sympathetically, In the counter-affidavit filed by the respondents it is stated that the respondent-company did not find his name appearing in any of the authentic records of the company including the service file of the deceased employee.

5. Curiously enough, neither the service file of the deceased employee nor the authentic documents have been annexed with the counter-affidavit to substantiate the averments made in the counter-affidavit. Paragraph-18 of

the counter-affidavit reads as under :

'That is stated that on scrutiny of the claim of the compassionate appointment of the claimant. Shri Upendra Kumar Singh, the respondent-company did not find his name appearing in any of the authentic records of the company including the service file of the deceased employee.'

6. The affidavit has been sworn by S.O. (P & A) of C.C.L. There is no affidavit so far Paragraph-18 is concerned. Rightly he has not competent to say as to whether the statement in paragraph-18 is true to his knowledge or true to his information derived from the record. In this way, by filing a very cryptic and vague affidavit sworn by the incompetent officer the respondent-company tried to deprive the legitimate claim of the petitioner for compassionate appointment. The impugned order rejecting the claim of the petitioner for compassionate appointment is, therefore, illegal, arbitrary and unjustified. The matter needs re-consideration by the respondent-company.

7. This writ petition is allowed. The impugned order passed by the respondent-company is set aside. The matter is remitted back to the concerned respondent for reconsideration and for passing a reasoned order within a period of two months from the date of receipt/ production of a copy of this order.

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