

**Bimal Kumar Bose Vs. Bharat Coking Coal Limited and ors.**

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**Court :** Jharkhand

**Decided On :** Mar-30-2005

**Reported in :** [2006(1)JCR417(Jhr)]

**Judge :** Altamas Kabir, C.J. and; S.J. Mukhopadhaya, J.

**Acts :** [Constitution of India](#) - Articles 14 and 16

**Appeal No. :** W.P. (S) No. 723 of 2005

**Appellant :** Bimal Kumar Bose

**Respondent :** Bharat Coking Coal Limited and ors.

**Advocate for Def. :** Ananda Sen, Adv.

**Advocate for Pet/Ap. :** R.S. Majumdar and; Indrajit Sinha, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

1. The writ application, which is directed against the decision of the Chairman-cum-Managing Director, Bharat Coking CLimited, as contained in his reasoned order dated 17/24th May, 2003 was referred to a Division Bench by one of us (Justice S.J. Mukhopadhaya) by order dated 23rd February, 2005.

2. In the writ application, the writ petitioner has contended that the reasoning contained in the aforesaid order of the Chairman-cum-Managing Director in rejecting his prayer for providing an appointment to his son-in-law, Sri Ashish Kumar Chowdhary as per National Coal Wage Agreement-V (NCWA) was unlawful and having regard to the specific provisions of paragraph 9.4.0 of the said agreement, such employment ought to have been given to Sri Ashish Kumar Chowdhary.

3. Appearing in support of the writ application, Mr. Majumdar submitted that the provisions of the NCWA-V were in the nature of an agreement between the parties to provide in certain cases social security to the workmen and their families in the case of death or disablement. Mr. Majumdar urged that the employment of a dependent, which included a son-in-law in terms of the agreement, would have to be looked into from a social angle and it should not be equated with an appointment on compassionate ground, which would attract the provisions of Articles 14 and 16 of the [Constitution of India](#). Mr. Majumdar submitted that the entire approach to the problem by the Chairman-cum-Managing Director was wrong and he should not have treated the prayer made by the petitioner to provide employment to the son-in-law to be a matter of appointment on compassionate ground.

4. Opposing the writ application, Mr. Sen contended that from the tenor of the agreement and the provision thereof, it would be evident that the employment contemplated under the NCWA were, in fact, in compassionate circumstances and that provision related not only to an appointment on account of death of a workman, but also on account of disablement which would amount to loss of employment. Mr. Sen also urged that the situation contemplated in the agreement was for the purpose of providing immediate financial assistance to the family of the deceased or the disabled and once it is established that the family of the workman concerned had other means of financial support, the provision for appointment on compassionate ground as envisaged under the agreement would no longer be attracted.

5. Although, Mr. Majumdar has urged that the appointment contemplated under the NCWA is not compassionate in nature the same appears to be in contradiction of the submissions made in CWJC No. 285 of 2001 before the learned Single Judge, who has recorded the submission that merely because one of the family members has been employed, it should not be the reason for depriving the petitioner of a compassionate appointment on account of mere technicalities. One cannot escape the fact that the appointment contemplated under the NCWA would be in deviation from the normal rules of recruitment as understood under Articles 14 and 16 of the Constitution. In such circumstances, we see no reason to interfere with the decision of the Chairman-cum-Managing Director of the Bharat Coking Coal Limited.

The writ petition is dismissed. There will be no order as to costs.

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