

Most Kanta Devi Vs. Central Coalfields Limited Through Its Chairman Cum Managing Director and Ors

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Court : Jharkhand

Decided On : Aug-10-2015

Appellant : Most Kanta Devi

Respondent : Central Coalfields Limited Through Its Chairman Cum Managing Director and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI L.P.A No. 544 OF2014----
Most.Kanta Devi, wife of late Sanjay Ram resident of village - Sirka, MPI PO Argada PS & District Ramgarh, Jharkhand Appellant Versus 1.Central Coalfields Limited through its Chairman-cum-Managing Director, Darbhanga House, PO & PS Kotwali, District - Ranchi 2.The Director (Personnel), Central Coalfields Limited, Darbhanga House, PO GPO & PS Kotwali, District - Ranchi 3.The General Manager (P & I.R), Central Coalfields Limited at Darbhanga House, PO GPO & PS Kotwali, District - Ranchi 4.The General Manager, Argada Area, Central Coalfields Limited at & PO Argada, P.S & District - Ramgarh, Jharkhand 5.The Project Officer, Sirka Colliery,Central Coalfields Limited at & PO - Sirka, PS & District - Ramgarh, Jharkhand ... Respondents ---- CORAM: HON'BLE MR.JUSTICE VIRENDER SINGH, CHIEF JUSTICE HON'BLE MR.JUSTICE P.P. BHATT ----- For the Appellant/Petitioner : Mr. Praveen Akhari, Advocate For the Respondents : Mr. Rajesh Lala, Advocate Mr. Arpit Kumar, Advocate ----- Dated

10th August, 2015 Per Virender Singh,C.J.(Oral) The instant appeal is at admission stage and with the consent of learned counsel for both the sides, we have taken it on Board for its final consideration.

2. Appellant-writ petitioner (hereinafter referred to as petitioner only) is aggrieved of the impugned judgment of the learned Single Judge, whereby her writ petition being W.P.(S) No. 1345 of 2014 for compassionate appointment with Central Coalfields Limited, respondent herein, (for short C.C.L) stands dismissed.

3. It appears that the claim of the petitioner has been rejected by the learned Writ Court primarily on two grounds that - (i) there is a long delay on the part of the petitioner to knock at the door of the Writ Court and (ii) the service records of the deceased-employee (husband of the petitioner) did not refer the name of the petitioner as his wife.

4. Learned counsel for the petitioner submitted that when Sanjay Ram, the husband of the petitioner, got employment in C.C.L in the year 1992, he was hardly of the age of 22/23 years and at that time, he was unmarried, which fact is evident from the service records and subsequently the deceased got married to the petitioner in the year 1993 and within few years of getting the employment with C.C.L he died in harness on 2nd June, 1997 and that the petitioner applied for compassionate appointment on 18th November, 1998 and that her application was rejected on 13th May, 1999, by the competent authority, which fact, according to learned counsel, was not communicated to the petitioner and ultimately through R.T.I, it revealed that her application was rejected in May, 1999.

5. Learned counsel fairly conceded that undoubtedly there appears to be a considerable delay on the part of the petitioner in knocking the door of the Writ Court for the relief of compassionate appointment, but the grounds spelt out by the respondent-C.C.L, as one finds from the counter filed before the Writ Court, are also without any basis for the reason that the first ground of rejection taken by the C.C.L is delay on the part of the petitioner in moving the application for compassionate appointment, which, according to C.C.L, should have been filed within six months from the date of death of the deceased. Learned counsel submitted that in this regard, C.C.L itself has changed its rules and has now

extended the date beyond six months from the date of death of the deceased upto one and half year from the date of death of the employee and in its letter dated 21st January, 2012 available on page 35 of memo of appeal it has also been made clear that all those cases of compassionate appointment where the 3 employee died on or after 12th December, 1995 and the cases of compassionate appointment of their dependent family members having been rejected on the ground of delay beyond six months from the date of death of the employee shall be considered. According to learned counsel, the ground of delay taken by C.C.L, thus, will not be available to C.C.L in the case of the petitioner for the reason that the application moved by her on 18th November, 1998, was within one and half year of the date of death of the deceased- employee.

6. Learned counsel then submitted that the other ground taken by C.C.L that the service records of the deceased-employee did not refer the name of the petitioner as his wife, therefore she could not ask for compassionate appointment, in the present set of circumstances, is also not available to the C.C.L, as when the husband of the petitioner got employment, he was admittedly unmarried and after getting employment, he married to the petitioner and within 3/4 years, he died in harness. It is quite possible that in the service record of the deceased-employee, name of the petitioner was not reflected, as husband of the petitioner (deceased-employee), during his life time, did not take this aspect seriously, resultantly the service record reflects the names of three younger brothers and one sister of the deceased only, who otherwise cannot be said to be the first dependent, the wife being alive. Learned counsel submitted that had there been any delay from the side of the petitioner in moving an application before the C.C.L after the death of her husband, it could be said that her case was not genuine, but there appears to be no delay on her part and in this eventuality, C.C.L should have at least verified the factum of the marriage of the petitioner with the deceased instead of rejecting her case simply on the ground that her name does not figure in the service records. Learned counsel submitted that in the aforesaid background, C.C.L may be directed to reconsider 4 the case of the petitioner for compassionate appointment, if her case fulfills all the criteria as per the National Coal Wage Agreement (NCWA). Specific stand of the petitioner is that she is still staying with her in-laws.

7. Learned counsel fairly stated that the petitioner earlier also at one stage had filed a writ petition bearing W.P(S) No.3467/2009 for monetary benefit in lieu of compassionate appointment, but the same was dismissed for non-prosecution, vide order dated 22.08.2012. Learned counsel submitted that dismissal of the said writ petition for non-prosecution would not stand in the way of the petitioner for the reason that the fresh writ petition filed by her and now dismissed by the learned Writ Court was based on the fresh circular of C.C.L dated 21st January, 2012 and that the case of the petitioner is squarely covered by clause 1,2 and 3 of the said circular.

8. Prayer is opposed by the learned counsel for the respondent-C.C.L.

9. Keeping in view the totality of the present facts and circumstances, as narrated hereinabove, we are of the considered view that the case of the petitioner requires to be considered afresh on the strength of the C.C.L circular dated 21st January, 2012 so that if the petitioner is found to be entitled to compassionate appointment or any other benefit in terms of the said circular, the relief may flow to her. Needless to say that while reconsidering the case of the petitioner, marital status of the petitioner shall be enquired into, besides the factum of her staying with her in-laws even at this stage. Let this exercise be carried out by the respondent-C.C.L preferably within one month only from the date copy of the order is conveyed to the respondent, which primarily shall be the responsibility of the counsel for the respondents. The petitioner shall also appear before the concerned authority as and when called.

10. The net result is that order of C.C.L. rejecting the claim of the petitioner for compassionate appointment is set aside. In turn, the impugned 5 order of the learned Single Judge upholding the order of C.C.L. is also set aside.

11. The instant appeal stands disposed of accordingly at this stage itself. (Virender Singh, C.J.) (P.P.Bhatt, J.) dey/LAK

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