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Court : Jharkhand

Decided On : Oct-07-2015

Appellant : Yugesh Kumar

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

Advocate for Def. : Sri. D.K. Chakraverty

Advocate for Pet/Ap. : Sri. Manish Kumar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (C) No. 905 of 2014
Yugesh Kumar, Son of Late Shiv Dayal Gorh, resident of Qr. No. 507, Sunday Bazar, P.O. & P.S.- Bermo, District - Bokaro. Petitioner -V e r s u s- 1. Central Coalfields Limited represented through its Chairman-cum-Managing Director, Office at Darbhanga House, P.O.-G.P.O., P.S.- Kotwali, District - Ranchi.

2. The General Manager (Personnel & Industrial Relations), Central Coalfields Limited, Office at Darbhanga House, P.O.-G.P.O., P.S.-Kotwali, District - Ranchi.

3. Director (Personnel), Central Coalfields Limited, Office at Darbhanga House, P.O.-G.P.O., P.S.-Kotwali, District - Ranchi.

4. The Project Officer, Bokaro Colliery, Central Coalfields Limited, P.O.- Sunday Bazar, P.S.-Bermo, District - Bokaro.

5. Senior Personnel Manager, Bokaro Colliery, Central Coalfields Limited, P.O.- Sunday Bazar, P.S.-Bermo, District - Bokaro.

6. General Manager, B & K Area, Central Coalfields Limited, P.O.-Sunday Bazar, P.S.-Bermo, District - Bokaro.

7. Commissioner, Coal Mines Provident Fund, Office at Dhanbad, P.O., P.S. & District - Dhanbad. ... Respondents CORAM: HONBLE MR. JUSTICE PRASHANT KUMAR. For the Petitioner : - Mr. Manish Kumar, Advocate. For the Respondent-CCL : - Mr. D.K. Chakraverty, Advocate. For the Respondent-CMPF: - Mr. Prashant Vidyarthi, Advocate. 03/07.10.2015 This application has been filed for quashing the order dated 24.08.2010 (Annexure-6), whereby the application of the petitioner for compassionate appointment has been rejected without assigning any reason. Petitioner further prays for payment of death-cum-retiral benefit admissible to his father i.e. Gratuity with interest, Life Cover Scheme, Benevolent Fund with interest, Provident Fund and arrears of family pension with interest. It appears that petitioner's father namely late Shiv Dayal Gorh was working as a peace rated worker in Bokaro Colliery. It is further stated that while he was working so, he died on 09.12.2004. It is stated that after the death of -2- petitioner's father, petitioner's mother namely Kumari Bai filed an application for compassionate appointment on 28.04.2005. After receiving the application, the respondent - CCL gave an offer to the petitioner's mother that instead of appointing her on any post, the Company wants to give her monetary compensation. However, mother of the petitioner refused to take monetary compensation and informed the respondent in this regard vide letters dated 10.05.2007 and 17.07.2007. It is stated that while the aforesaid matter was pending, unfortunately mother of the petitioner died on 01.11.2007. It is stated that the petitioner vide letter dated 05.11.2007 informed the respondent about the death of his mother. It is stated that on 03.07.2010, petitioner applied for compassionate appointment, as by that time, he attained the age of 18 years. The aforesaid application of the petitioner rejected by the impugned order dated 24.08.2010 (Annexure-6). It is further stated in the writ

application that after death of petitioner's father, the respondent - CCL had not paid death-cum-retiral benefit to the petitioner or his mother. Thus, petitioner filed this writ application for quashing the order dated 24.08.2010 (Annexure-6) and also for a direction commanding the respondents to pay the death-cum-retiral benefits admissible to his father. A counter affidavit filed on behalf of respondent - CCL, wherein the respondent stated that the application filed by the petitioner for appointment is time barred, as the same has been filed after six years of the death of petitioner's father. It is further stated that the respondent has found that the application of the petitioner for appointment on compassionate ground is not maintainable, because on the date of filing of the application, petitioner was minor. It is further submitted that the name of the petitioner is not mentioned in the service book as son of deceased namely Late Shiv Dayal Gorh. Accordingly, the application of the petitioner for appointment has been dismissed. -3- So far non-payment of death-cum-retiral benefits is concerned, it is submitted by the learned counsel for the respondent that the amount of gratuity has been deposited in the account of ALC, Hazaribagh. So far Life Cover Scheme, benevolent fund with interest is concerned, it is stated that the same has not been paid. The respondent further stated that so far Provident Fund and family pension is concerned, respondent has already forwarded the application of the petitioner's mother to the Coal Mines Provident Fund. It reveals from the record that respondent no. 7 (Coal Mines Provident Fund, Dhanbad) has filed separate counter affidavit, wherein it stated that so far application of petitioner's mother namely Kumari Bai and requisition of the CCL for refund of Provident Fund amount to Kumari Bai is concerned, the same had been returned by the Provident Fund Commissioner to the CCL with endorsement that the Kumari Bai is not a nominee as per nomination furnished by the deceased workman namely late Shiv Dayal Gorh. But, the respondent - CCL stated, in its counter affidavit at paragraph no. 34, that it had re-forwarded the application of the petitioner to the Regional Commissioner, Coal Mines Provident Fund, Ranchi for payment of Provident Fund and arrears of pension to the petitioner. It is submitted by Sri Manish Kumar, learned counsel for the petitioner, that the order dated 24.08.2010 contained in Annexure-6 is illegal because the respondent- CCL has not assigned any reason for rejecting the application of the petitioner. He then submits that as per sub-clause-III of Clause

9.5.0 of National Coal Wages Agreement-VI, if the heir of deceased employee was of 12 years and above in age then he will kept in live roaster and would be provided employment commensurate to his skill and qualification when he attains the age of 18 years. It is submitted that the petitioner attained the age of 18 years in the year 2010, therefore he applied for appointment on -4- compassionate ground as per Sub-clause - III of Clause- 9.5.0. of N.C.W.A. For the aforesaid proposition, Sri Manish Kumar relied upon a decision of this Court delivered in Mostt. Kaushlaya Devi Vs. Central Coalfields Limited and others reported in 2005 (1) JCR498(Jhr.). He further submits that from perusal of Annexure-Q to the counter affidavit filed by CCL, it is clear that the application of the petitioner forwarded by the CCL authority to Regional Commissioner, Coal Mines Provident Fund, Ranchi for payment of provident fund amount and family pension admissible to Late Shiv Dayal Gorh. Sri Kumar further submits that it is an admitted position that the gratuity, life cover scheme and benevolent fund has not been paid to the petitioner as yet, which the petitioner being the legal heir of the deceased employee is entitled to receive. On the other hand, Sri D.K. Chakraverty, learned counsel for the respondent-CCL submits that the petitioner's application was not maintainable because he has filed that application after six years from the date of death of his father. He further submits that Sub-clause III of Clause 9.5.0. has no application in the case of petitioner because at the time of death of his father he was about 10 years old, therefore, he could not be kept on the live roaster. So far the payment of gratuity is concerned, it is submitted by Sri Chakraverty that the same has already been deposited in the office of ALC, Hazaribagh, from where petitioner can withdraw the above amount. He further submits that so far life cover scheme and benevolent fund are concerned, the same will be paid to the petitioner. He further submits that the claim of the petitioner for payment of Provident Fund and arrears of family pension has already forwarded to the Regional Commissioner, Coal Mines Provident Fund, Ranchi. Sri Prashant Vidyarthi learned counsel appearing for Regional Commissioner, Coal Mines Provident Fund, Ranchi submits that the C.M.P.F. Office will look into the requisition -5- sent by the respondent - CCL vide Annexure-Q and pass necessary order in accordance with the law. Having heard the submissions, I have gone through the record of the case. From perusal of Annexure-6, the impugned order,

it is clear that the respondent - CCL has rejected the application of the petitioner without assigning any reason. It appears from the record that the petitioner has filed various documents including matriculation certificate along with his application to show that at the time of death of his father he was 12 years old. It also appears from the documents annexed with the writ application that if there is dispute regarding the heirship of the applicant, then the respondent - CCL would constitute a Committee for resolving the said dispute. Annexure-14 to the rejoinder shows that the matter of employment of the petitioner has already been referred to General Manager, (Personnel & Industrial Relations) and the same is still pending. Under the aforesaid circumstance, when the matter concerning the employment of the petitioner on compassionate is pending before the General Manager, (Personnel & Industrial Relations), then, in my view, it is not open for the respondent to reject the application of the petitioner, that too without assigning any reason. A bench of this Court has deprecated aforesaid attitude of CCL in *Mostt. Kausalaya Devi Vs. Central Coalfields Limited* (Supra) and asked the CCL Authority to dispose of the application of compassionate appointment after assigning reason, but in this case, it appears that the respondent - CCL again rejected the application of the petitioner without assigning any reason. Under the aforesaid facts and circumstances, I quash the order dated 24.08.2010 and direct the respondent CCL to reconsider the application of the petitioner in accordance with its own circular and National Coal Wage Agreement-VI within two months from the date of production of this order. -6- So far payment of death-cum-retiral benefits is concerned, I find no reason as to why the CCL authority has deposited the gratuity amount with the ALC Hazaribagh, when the nominee as well as heir of the deceased were already before it. So far life cover scheme and benevolent fund are concerned, the respondent - CCL accepted that the same had not been paid and petitioner is entitled to receive the same. Accordingly, I direct the respondent - CCL to pay the amounts of gratuity, life cover scheme and benevolent fund to the petitioner within two months from the date of production of this order. Regional Commissioner, Provident Fund is directed to process the requisition sent by the CCL as contained in Annexure-Q to the counter affidavit [a copy of which has already been made available to the counsel for the C.M.P.F. (respondent no. 7)] and make payment of provident fund and arrears of family pension to the petitioner

within three months from today in accordance with law. With the aforesaid observation and directions, this application is disposed of. (Prashant Kumar, J.)
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