

Hemanti Devi Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Nov-30-2016

Appellant : Hemanti Devi

Respondent : The State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 5429 of 2014
Hemanti Devi wife of Sri Jitendra Rajwar and daughter of Sri Khirodhar Rajwar,
resident of Dhawra No.5, P.O-Dhori, P.S. Bermo, District Bokaro. .. Petitioner
Versus 1. Central Coalfields Limited, having its registered office at Darbhanga
House, P.O. G.P.O, P.S-Kotwali, District Ranchi through its Chairman-cum-
Managing Director.

2. The Director (Personnel), Central Coalfields Limited, having its registered office
at Darbhanga House, P.O. G.P.O, P.S-Kotwali, District Ranchi.

3. General Manager (P & IR), Central Coalfields Limited, having its registered
office at Darbhanga House, P.O. G.P.O, P.S-Kotwali, District Ranchi.

4. Manager (Personnel), Dhori Colliery, P.O. Dhori, P.S. Bermo, District- Bokaro.

5. Project Officer, Dhori Colliery, Central Coalfields Limited, P.O. Dhori, P.S.
Bermo, District-Bokaro. .. Respondents ----- CORAM: HONBLE MR. JUSTICE
PRAMATH PATNAIK ----- For the Petitioner : Mr. Nisith Kumar Sahani,
Advocate For the Respondents-C.C.L : Mr. A. K. Das, Advocate. ----- th

9/Dated:30 November, 2016 Per Pramath Patnaik, J.:

1. In the accompanied writ application, the petitioner has inter alia prayed for quashing the order dated 30.11.2011 passed by the respondent no.4, rejecting the appointment of the petitioner on compassionate ground; and for direction to the respondents to consider the appointment of the petitioner on compassionate ground upon death of her mother in harness.

2. Shorn of unnecessary details, the facts as disclosed in the writ application is that the mother of the petitioner was an employee of the respondents posted as T.R at Central Laboratory, Dhori Colliery under the respondents. The mother of the petitioner died in harness on 10.04.2011 and accordingly her name was struck off from the roll of the colliery with effect from 10.04.2011 vide office order dated 05.06.2011 as evident from Annexure-1 to the writ petition. The petitioner is the only daughter of the deceased employee as reflected in the dependency certificate vide Annexure- 2 to the writ petition. It has been averred in the writ application that though the petitioner has been married but husband of the petitioner has no source of income and petitioner is totally dependent on the income of the deceased employee. The father of the petitioner is an old and ailing person and is now dependent upon the petitioner. After the death of the mother of the petitioner the petitioner submitted application before the respondents for appointment on compassionate ground and the same has been rejected vide letter dated 30.11.2011 by the order of the respondent no.4 as evident from Annexure-4 to the writ petition.

3. Learned counsel for the petitioner during course of hearing has submitted that the action on the part of the respondents in rejecting the application of the petitioner for compassionate ground vide Annexure-4 to the writ petition is unlawful and without any authority of law and the same has been passed being violative of Article 14, 16 and 19 (1) (g) of the Constitution of India.

4. During course of hearing, learned counsel for the petitioner referring to the judgments of this Court reported in [2012 (3) JCR367(Jhr.)] (Rekha Kumari vs. Bharat Coking Coal Ltd. & Ors.), [2012 (1) JCR334(Jhr.)] (Jamuni Kumari vs. Central Coalfields Limited & Ors.) and in W.P (S) No.1048 of 2011 (Urmila

Marandi vs. Central Coalfields Limited & Ors.) submitted that in the aforesaid cases, this Court directed the respondents to consider the case of the petitioner in accordance with law. During course of hearing, learned counsel for the petitioner has also referred to the order dated 15.03.2016 passed in W.P.(S) No.4994 of 2015 (Smt. Asha Pandey vs. Coal India Limited & Ors.) wherein, the Honble High Court of Chhattisgarh, Bilaspur by referring various judgments of the Honble Apex Court has been pleased to direct the respondents to consider the claim of the petitioner as per Clause 9.3.3 of NCWA for employment afresh and include the married daughter also as one of the eligible, subject to fulfillment of other conditions.

5. Controverting the averments made in the writ application, a counter affidavit has been filed by the respondents. Learned counsel for the respondents-CCL, at the outset submitted that the impugned order has been passed on 30.11.2011 and the writ application has been filed on 10.10.2014. There has been inordinate delay by the petitioner in approaching this Court and the prayer for compassionate appointment gets frustrated on this score and therefore, the writ petition may not be entertained. Learned counsel for the respondents further submits that the impugned order has been passed on the basis of NCWA, which is a tripartite agreement but not a scheme outlining the guidelines, therefore, rightly the impugned order has been 3 passed by the respondents. Learned counsel for the respondents-CCL has also reiterated the submissions made in the counter affidavit, wherein it has been submitted that there is nothing on record, which could show and suggest that petitioners husband being son-in-law of the deceased employee was residing with the deceased employee and was dependent upon the earnings of the deceased employee. As a matter of fact, the deceased employee when alive never made any declaration to such effect with the respondent.

6. After hearing learned counsel for the respective parties and giving my anxious consideration to the documents on record, I am of the considered view that petitioner has been able to make out a case for interference due to the following facts and reasons: (I) There is no denying of the fact that the mother of the deceased was employee of the C.C.L and she died in harness and the petitioner is

the sole legal heir of the deceased employee. After the death of the mother of the petitioner she submitted application for compassionate appointment which has been rejected vide Annexure-4 to the writ application. The only ground taken in the impugned order is that the petitioner is a married woman and as per the NCW agreement there is no scope for consideration of the married woman, therefore, the same has been rejected by the respondents. Similar matters have engaged the attention of this Court, as stated supra and this Court by referring to various decisions has been pleased to hold that the case of married woman to be considered, otherwise it would be violative of Article 16 of the Constitution of India.

7. In view of the aforesaid decision and considering the plight of the petitioner, the impugned order vide Annexure-4 to the writ petition is quashed and set aside and the respondents are directed to consider and take a fresh decision in the light of the observation made hereinabove within a period of eight weeks from the date of receipt of a copy of the order.

8. With the aforesaid direction, the writ petition stands allowed and disposed of. (Pramath Patnaik, J.) Saket/-

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