

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

**WPA 735 of 2026
Eastern Coalfields Ltd. & Anr.**

**Vs.
Union of India & Ors.**

For the Petitioners : **Mr. Savosij Dasgupta,
Ms. Arunima Lala,
Mr. Pradipta Basu,
Ms. Madhumanti Chakraborty,
Mr. Nilankan Banerjee.**

For the Union of India : **Mr. Bhudeb Chatterjee,
Mr. Sachit Talukdar.**

Judgment reserved on : **07.04.2026**

Judgment delivered on : **30.04.2026**

SHAMPA DUTT (PAUL), J. :

- 1.** The writ application has been preferred challenging an award dated 28th May, 2025 passed by the Learned Central Government Industrial Cum- Labour Court, Asansol in Reference Case No. 44 of 2022 (Bhadu Bouri & Anr. -Vs- Management of Lachipur Colliery, Eastern Coalfields Limited).
- 2.** Vide the impugned award passed in reference Case No. 44 of 2022, the learned Tribunal held as follows:-

“ORDERED

“that the Industrial Dispute is allowed on contest against the management of Eastern Coalfields Limited. Management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited is directed to provide employment to Manoj Bouri, son of Late Ganesh Bouri, the ex-employee of Eastern Coalfields Limited on completing all procedures within three (3) months from the date of communication of the Award. Management shall also pay monetary compensation to Bhadu Bouri, the wife of the deceased employee according to the prevailing rate from 24.12.2000, till employment is provided to Manoj Bouri or she attained 60 years of age, whichever is earlier. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.”

3. The petitioner Eastern Coalfields Limited case in short is that the petitioner no. 1 is a company within the meaning and scope of the Companies Act, 2013. The petitioner no. 2 is working as Chairman Cum Managing Director in the petitioner company.

4. One Ganesh Bouri being the husband and father respectively of the Respondent Nos. 6 and 7 was working as a permanent employee of the Lachipur Colliery bearing U Man

No. 58887 having designation of UG Loader and died in harness on December 24, 2000.

5. Upon the death of the said employee, his widow being the respondent No. 6 applied for compassionate appointment on 25th May, 2001. Thereafter unit level screening of the Respondent No. 6 was held and screening committee forwarded the case for further examination at Area Level. But the **Respondent No. 6** failed and/or neglected to submit the relevant documents and **the application for compassionate appointment remained pending.**

6. After 11 years, the respondent No. 6 withdrawing her application for such appointment, requested compassionate appointment for her son being the Respondent No. 7 herein. Thereafter vide a letter bearing No. ECL/CMD/C-6B/EMPL/ED-2875/18/641 dated December, 2018, the petitioner company rejected the claim of the Respondent No. 6.

7. The respondent Nos. 6 and 7 then referred the matter under relevant provisions of the Industrial Tribunal Act, 1947 before the Learned Central Government Industrial Tribunal cum Labour Court, Asansol. Both parties filed their respective Written Statement when upon causing enquiry and taking oral evidence, the Learned Labour Court passed the impugned

Award directing the petitioner to grant compassionate appointment and other reliefs.

8. Hence, the writ application. Parties have filed their respective written notes and have argued in support of their case by relying upon judgments in their favour.

9. The petitioners herein have argued that the employee in the present case died in harness on 24.12.2000 and the respondent no. 6 applied for employment on compassionate ground on 25.11.2001.

10. It is the case of the petitioner that that unit level screening of the respondent no. 6 was held on 2nd June, 2001 and the screening committee had forwarded her case for further examination at Area Level as per the prevailing norms. However, the respondent no. 6 failed and/or neglected to provide all the relevant documents required for fulfillment of the formalities in order to process her application despite reminders. **As a result thereof, her application for employment remained pending.**

11. It is stated by the petitioner that on 29th November, 2011 that is after 11 years, the respondent no. 6 issued a letter withdrawing her prayer for appointment on compassionate ground and requested employment for her son being the respondent no. 7.

12. The petitioner further states that police under such circumstances, screening committee, verification for determining the relationship of the application with that of the deceased and the medical examination, were conducted by the petitioner company in the usual course of processing the said application.

13. The petitioner then constituted a screening committee and on 10th December, 2018, a letter bearing no. ECL/CMD/C-6B/EMPL/ED-2875/18/641 was issued by the Competent Authority stating that the appointment on compassionate ground as sought for by the respondent no. 7 is **rejected having been claimed after a long passage of time.**

14. Hence, the reference. Admittedly the competent authority rejected the prayer of respondent no. 7, after 7 long years.

15. The petitioner has relied upon the following judgments in support of their case:-

(i) (2025) 5 Supreme Court Cases 712, State of West Bengal Versus Debabrata Tiwari & Ors.

(ii) 2025 SCC Online SC 290, Canara Bank Versus Ajithkumar G.K.

16. The respondent no. 1/Union of India has filed written notes and argued that as the petitioner did not process the application of respondent no. 6. The respondent no. 6 having

waited for a considerable period withdrew her prayer and prayed for compassionate appointment of her son the respondent no. 7.

17. Admittedly, the respondent no. 6 application was kept pending and was not rejected. It is the case of the Union of India that since the management of ECL did not finalize her prayer for employment and Manoj Bouri, the minor son of the deceased employee attained majority in the meantime and a separate application was filed by Manoj Bouri on 29.11.2011 praying for his employment.

18. It is further stated that screening test of Manoj Bouri was held on 12.01.2013 (Exhibit M-6) where the other dependents of the deceased employee also appeared and expressed that they have no objection, if employment is provided to Manoj Bouri. Pre-employment medical examination of the dependent son was held on 23.08.2013 and the IME report (Exhibit M-5) reveals that the candidate was found fit for job. The IME Board assessed the age of the son as 25 years to 30 years, which implies that at the time of his father's death on 24.12.2000 the age of the son was between 13 to 14 years. At the relevant time NCWA-VI was applicable and it provided that if a dependent son was above 12 years, his name would be maintained in the

Live Roster of the company for his employment on attaining majority.

19. It appears that the management in the internal letter dated 10.12.2018 recorded the proposal for employment of respondent no. 7 on the ground that X employee expired on 24.12.2000 and his service book is not available.

20. The Union of India further argues that that the cause of action of the Industrial Dispute arose only after such confidential letter dated 10.12.2018 was issued to the Sr. Manager (Personnel), Kajora Area. It is further argued that the management has deliberately delayed in finalizing the proposal for employment though they have found Manoj Bouri fit for employment in course of pre-employment medical examination.

21. Learned counsel for the Union of India finally argues that **Sub Clause 3 of clause 9.5.0 of NCWA VI** notes that if no employment is offered in case of death whether by way of mine accident or otherwise or medical unfitness and the male dependant of the concerned worker is 12 years and above, he would be kept in live roster and would be provided employment commensurate with his skill and qualification when he attains majority. **It also states that during the period the male dependant is on live roster, the female dependent will be provided with monetary compensation.** It would be pertinent

to mention that none of the clauses provide any time limit for applying or prescribe financial solvency of the family as a disqualification.

22. The Union of India has relied upon the following judgment reported in **2024 SCC Online Cal 7361 Sukumoni Hembram versus Union of India & Ors. in the High Court of Calcutta.**

23. An SLP against the said judgment was dismissed vide an order dated 14th October, 2024, **2024 SCC OnLine SC 5711, Eastern Coalfield Limited and Ors. Vs Sukumoni Hembram alias Sukumoni Mejhan and Anr.**

24. Learned counsel for the petitioner has relied upon the National Coal Wage Agreement (vi) wherein Clause 9.5.0 provides for employment/monetary compensation to female dependant. Clause 9.3.0 provides for employment to dependants.

25. It is the contention of the petitioner that Clause 9.3.2 and Clause 9.5.0 provides for either employment or monetary compensation to female dependant as the said Clause notes as follows:-

“9.3.2. Employment to one dependant of the worker who dies while in service

In so far as female dependants are concerned, their employment/payment of monetary compensation would be governed by para 9.5.0.

9.5.0. Employment/Monetary compensation to female dependant

Provision of employment/monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

*(i) In case of death due to mine accident, **the female dependant would have the option to either accept the monetary compensation of Rs. 4,000/- per month** or employment irrespective of her age.*

*(ii) In case of death/total permanent disablement due to cause other than mine accident. and medical unfitness under Clause 9.4.0., **if the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs. 3,000/- per month or employment.***

In case the female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.

(iii) *In case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0, if no employment has been offered and the male dependant of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. **During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as per rates at paras (i) & (ii) above. This will be effective from 1.1.2000.***

(iv) *Monetary compensation wherever applicable, would be paid till the female dependant attains the age of 60 years.”*

26. It is thus the contention of the petitioner that the female dependant of the deceased workman in the present case is only entitled to either employment or monetary compensation and the tribunal was wrong in allowing monetary compensation for the female dependant and employment on compassionate ground.

27. The learned tribunal taking all these into consideration, passed the impugned award on the following findings:-

(i) The management was fully aware about the death of their employee and as per the provision of Clause 9.3.2 of NCWA-VI management was duty bound to provide employment to one dependent of the worker, who died while in service and also provide monetary compensation to the female dependent of the deceased employee as per provision of Clause 9.5.0.

(ii) In the paragraph no. 3 of Employment Screening Report, it is stated that the name of Manoj Bouri was not recorded as the dependent son of Ganesh Bouri in the Service Record Excerpt and **they did not find any Service Record Excerpt of Ganesh Bouri, as such police verification was made only where relationship was confirmed as genuine.** From Exhibit M-6, Screening Report it is revealed that the management did not maintain the Service Record of the employee for the purpose of Screening, as such considerable delay was caused in finding genuineness of relationship between the claimant and the deceased employee for which the dependents are not liable.

(iii) The report of Pre-employment Medical Examination disclosed that the age of the candidate was between 25 to 30 years on the date of examination and he was found fit

for examination. The report dated 23.08.2013 has been produced as Exhibit M-5. **The management thereafter remained silent for five years after finding Manoj Bouri fit for employment** and issued an internal letter on 10.12.2018, regretting the prayer for employment on the ground that the application for employment was submitted after 11 years from the date of death of his father.

28. The Tribunal further held:-

“In my view the delay in processing the claim for employment of the widow and thereafter the son can be attributed to the negligence of management company for not maintaining the Service Record of the deceased employee, not disposing the prayer for employment of the wife of the deceased employee within reasonable time and not informing the right of the minor son under NCWA who is entitled to employment on attaining majority.”

29. Finally relying upon the following judgments, the Tribunal held as follows:-

(i) Smt. Putul Rabidas Versus Eastern Coalfields Limited and Ors. [2017 Volume 6 West Bengal Law Reporter (Cal) 255].

(ii) Sukumoni Hembram alias Sukumoni Mejhan Versus The Union of India & Ors. [MAT 27 of 2024].

(iii) Eastern Coalfields Limited Versus anil Badyakar and Ors. [Civil Appeal No. 3597 of 2009].

“15. In the instant case I find and hold that Manoj Bouri was around 25 years and 10 months of age at the time of submitting his application for employment in the year 2011 and he was well within the stipulated age for being considered for employment. The management appears to have acted in an arbitrary and illegal manner by not granting employment to the dependent son. Evidently, the delay has been caused due to the latches on the part of the management for not acting promptly on the claim for employment by Bhadu Bouri, widow of Late Ganesh Bouri. As the application of the dependent son was admitted and processed by holding screening and medical test, the management is estopped from questioning delayed submission of the claim for employment of the dependent son.

16. In the instant case Manoj Bouri, the dependent son of Late Ganesh Bouri is entitled to be considered for employment as per provisions of NCWA, which is strictly applicable to parties. Management is therefore directed to provide employment to Manoj Bouri by completing necessary procedures within 3 (three) months from the date of communication of the Award. Bhadu Bouri, the wife of the deceased employee shall be entitled to monetary compensation as per Clause 9.5.0 of NCWA-VI from the date of death of her

husband Ganesh Bouri i.e., 24.12.2000 till employment is provided to her son or her attaining the age of 60 years, whichever is earlier.”

30. Thus, considering the materials on record including the evidence and the impugned award, this Court finds in view of Clause 9.3.0 and 9.5 the NCWA (vi) **the female dependant is entitled to benefit of either employment or monetary compensation.**

31. In the present case, admittedly, the employment of the female dependant was kept pending for many years without considering the same and as such the female dependant withdrew her claim for employment and prayed for monetary compensation and instead of her, her son the respondent no. 7 prayed for employment on compassionate ground as per Clause 9 of the NCWA (vi) **wherein a dependant member is entitled to employment other than a female dependant who has opted for monetary compensation.**

32. The respondent no. 7 has been found to be eligible for compassionate appointment in all respect, but after 7 long years, the petitioners have rejected his prayer, in spite of the respondent no. 7 meeting all requirements and or qualifying in all respect, more so, when the management themselves have been extremely negligent in their conduct, considering that, they have misplaced the service book of the deceased employee.

33. Considering all these facts this Court finds no reason to interfere with the impugned order, the same being in accordance with law.

34. The Writ application being WPA 735 of 2026 is thus dismissed.

35. The petitioner herein is directed to comply with the directions in the impugned award within one month from the date of this order.

36. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul), J.]