

(2011) 06 JH CK 0043**Jharkhand High Court****Case No:** Writ Petition (S) No. 4075 of 2010

Somar Mahto

APPELLANT

Vs

Central Coalfield Ltd., Ranchi and
Others

RESPONDENT

Date of Decision: June 21, 2011**Citation:** (2011) 3 JCR 482**Hon'ble Judges:** Narendra Nath Tiwari, J**Bench:** Single Bench**Judgement**

@JUDGMENTTAG-ORDER

N.N. Tiwari, J.

In this writ petition, the petitioner has prayed for a direction on the respondents for payment of death-cum-retiral benefits of his father under the head of C.M.P.F. with other legally payable dues and also to consider his claim for employment on compassionate ground under Clause 9.3.2 of National Coal Wage Agreement-VI (N.C.W.A-VI). It has been stated that the petitioner's father Late Akloo Mahto was an employee of the respondents. His father had furnished the name of his wife, son and daughter as his dependants, which was also mentioned in the service excerpts issued to the petitioner's father. In the said service excerpts the petitioner's name was also included as the son of Akloo Mahto. However, subsequently some interpolation was made in the record by inserting the name of one Smt. Tokani Devi. The petitioner's father died in harness on 17.5.2002. After the death of the petitioner's father, the petitioner made an application before the respondent No. 6 for his employment on compassionate ground. Subsequently, the petitioner's mother Saraswati Devi died on 31.5.2003. In the meanwhile, an objection was filed by one Sainku Mahto claiming himself to be the son of Late Akloo Mahto through Tokani Devi. The matter was referred to the Assistant Labour Commissioner, (Central), Hazaribagh. However, the A.L.C. (C) had erroneously passed an order allocating a sum of Rs. 16,362/- in the name of Shankar Mahto. On the said order, a

cheque was also wrongly prepared in the wrong name, which is still lying in the office of the Labour Commissioner. So far as the petitioner's claim of employment on compassionate ground is concerned, the respondents did not take any decision. Aggrieved by the same, the petitioner has filed this writ petition.

2. Counter-affidavit has been filed by the respondents contesting the petitioner's claim. It has been stated, *inter alia*, that after filing application for compassionate appointment by the petitioner, an objection was raised by Smt. Tokani Devi. It has been stated that the deceased had one son by his first wife, namely, Shankar Mahto and he had no son namely, Somar Mahto. His son Sainku Mahto also submitted an application claiming for compassionate appointment. However, it has been submitted in Paragraph 15 that the name of Somar Mahto appears in the service excerpts as the son of the deceased employee. Subsequently, Tokani Devi and Sainku Mahto also filed affidavits dated 19.9.2002 and 30.10.2002 respectively stating therein that they have no objection in giving employment to the petitioner. But again it was informed that the name of the son of Late Akloo Mahto by his first wife is Shankar Mahto and not Somar Mahto. In view of the said objection, no order could be passed for compassionate appointment of the petitioner (Somar Mahto).

3. Mr. A.K. Sahani, learned counsel appearing on behalf of the petitioner, submitted that the application for compassionate appointment of the petitioner is pending since 2002. No reason was ever assigned for keeping the petitioner's application pending for such a long time. Even after filing of the writ petition, no such order has been passed by the respondents. They have stated the fact regarding objection by Tukani Devi and Shainku Mahto for the first time in the counter-affidavit filed in this case. Learned counsel further submitted that the petitioner's name appears in the service excerpts as the son of the deceased employee and no such objection was at all entertainable in view of the said entry in the service record. The respondents have taken frivolous plea only in order to deprive the petitioner of his right and without any reason they have kept the matter pending for such a long time.

4. Learned counsel appearing on behalf of the respondents opposed the said contentions of learned counsel for the petitioner, but has admitted that no order has been passed by the concerned authority on the petitioner's application for compassionate appointment which was filed in the year 2002.

5. Considering the facts and circumstances of the case and the submissions of learned counsel, this writ petition is disposed of directing the Project Officer, Central Coalfields Limited, Argadda Area, Ramgarh (respondent No. 5) to consider the petitioner's claim and pass appropriate final order within a period of six weeks from the date of receipt/production of a copy of this order.