

Geeta Devi @ Geeta Gajanand Vs Central Coalfields Ltd. and Others

Court: Jharkhand High Court

Date of Decision: Aug. 19, 2008

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Prayer in this writ application has been made for quashing the letter dated 07.05.2007 (Annexure-5) issued by the respondent No. 6 whereby the petitioner's prayer for her compassionate appointment was rejected.

2. The petitioner's husband was employed under the C.C.L. and was posted at Religarha Colliery. He died in harness on 05.10.2005. The

petitioner filed her representation on 16.01.2006 with a prayer for her compassionate appointment in terms of Clause 9.3.2 of the National Coal

Wage Agreement (NCWA).

The contention of the petitioner is that the application filed by the petitioner was accompanied by all the relevant and requisite documents including

the school certificate in confirmation of the age of the petitioner. The further contention of the petitioner is that she had studied up to Class 2 and

her School Leaving Certificate, which was obtained in the year 1973, confirms that the petitioner's date of birth is 13th July, 1965.

3. The petitioner's application was, however, rejected by the impugned order on the ground that the service record of the deceased employee

shows that the petitioner's age was above 45 years on the date of application and since no appointment, even on compassionate ground can be

given as per the National Coal Wage Agreement (NCWA) to persons who have crossed the age of 45 years, the petitioner is not entitled for her

claim for compassionate appointment.

4. Inviting attention to the impugned order, which is annexure-5, learned Counsel for the petitioner submits that impugned order does not assign

any basis as to why the petitioner's certificate concerning the date of birth has not been considered at all. Learned Counsel explains further that the

plea of the respondents that the service records of the deceased do not specify the actual date of birth and on the other hand the date of birth

mentioned in the several forms filled up by the deceased himself contradicts the claim of the petitioner regarding her age, is totally misleading. It is

further explained by the learned Counsel that under Clause 9.3.0 of the National Coal Wage Agreement (NCWA), it is incumbent upon the

respondent authorities to verify the age of the applicant by referring to the School Leaving Certificate regarding the age of the applicant if the

applicant had studied in any school and otherwise to assess the age on medical examination by the medical board but none of these have been

done by the respondents.

5. A counter affidavit has been filed on behalf of the respondents wherein it has been sought to be explained that in the service record of the

deceased, the name of the petitioner does find as the dependent wife of the deceased and in the column of age, though specific date of birth has

not been mentioned, but the age as declared by the deceased and recorded therein, certainly indicates that the petitioner, on the date of her

application for compassionate appointment, had crossed the age of 45 years.

6. From the impugned order (Annexure-5), it appears that the prayer of the petitioner for her compassionate appointment has been rejected only

on the ground that the service records of the deceased indicate that the petitioner has just crossed the age of 45 years. The impugned order does

not however, indicate as to whether the School Leaving Certificate furnished by the petitioner, has been considered at all and rejected. Though in

the writ application, the petitioner's specific assertion is that she had filed the School Leaving Certificate along with her application and had also

adverted to the School Leaving Certificate in her subsequent application by way of an appeal, it is apparent that the respondents have failed to

take notice or even to consider the School Leaving Certificate, filed by the petitioner. The above stand of the petitioner has been sought to be

refuted by the respondents by stating that such School Leaving Certificate was not produced before the authorities by the deceased during his life

time.

7. It is apparent that the School Leaving Certificate which ought to have been considered by the respondents and a decision on the same ought to

have been taken by them with reference to the petitioner's claim for compassionate appointment, has not been done. Under such circumstances,

the petitioner's claim that he has been denied adequate opportunity to explain the matter appears to be justified.

8. Under the circumstances, the impugned order (Annexure-5) is hereby quashed. The petitioner is directed to file a fresh representation along with

all relevant documents in support of her claim as also with a copy of this order and within four weeks from the date of receipt of her representation,

the concerned respondents shall dispose of the same by a speaking and reasoned order and communicate the same to the petitioner.

9. With these observations, this writ application is disposed of.