

1. Bharat Coking Coal Ltd. through its Chairman cum Managing Directed, Koyla Bhawan, PO Koylanagar, PS Saraidhela, Distt. Dhanbad
2. Director (Personnel), Bharat Coking Coal Ltd., Koyla Bhawan, PO Koylanagar, PS Saraidhela, Distt. Dhanbad
3. Chief General Manager, Bharat Coking Coal Ltd., Ropeways, B.B.Camp, PO & PS Patherdih, Distt. Dhanbad
4. Chief General Manager, Bharat Coking Coal Ltd., E.J.Area Bhowra, PO & PS Bhowra, Distt. Dhanbad
5. Project Officer, Bharat Coking Coal Ltd., E.J.Area Bhowra, PO & PS Bhowra, Distt. Dhanbad

... Appellants

1. Suraj Kumar Mahato s/o Late Bharat Mahato, resident of Coal Board Colony, Kandra, PO Moti Nagar, PS Sindri Goushalla, District Dhanbad
2. Bhabhi Devi wife of Late Bharat Mahato, resident of Board Colony, Kandra, PO Moti Nagar, PS Sindri, Goushalla, District Dhanbad

... ... Respondents

**CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

For the Appellants : Mr. Anoop Kumar Mehta, Advocate
Mr. Manish Kumar, Advocate
For the Respondents : None

11/30.10.2025 Heard Mr. Anoop Kumar Mehta, learned counsel for the appellants. None appears on behalf of the respondents despite valid service of notice.

2. This appeal is directed against the order dated 10.05.2024 passed by the learned Single Judge in W.P.(S) No. 811 of 2018 whereby and whereunder the writ application preferred by the respondents herein has been allowed and the appellants have been directed to extend employment to the respondent no. 1 and monetary compensation to the respondent no. 2.

3. The factual matrix in brief is that Bharat Mahato was working as a Tyndal in the Ropeways Division of M/s. BCCL who died

in harness on 27.01.2007. The said Bharat Mahato had two wives – the first wife being Bhabhi Devi (respondent no. 2 herein) and the second wife being Kalyani Devi. A son was also born to Bharat Mahato from his second wife namely, Suraj Kumar Mahato (respondent no. 1 in this appeal). After the death of Bharat Mahato, both his wives applied for compassionate appointment, but the plea for compassionate appointment of Kalyani Devi was rejected since she was not the legally married wife of late Bharat Mahato. So far as the Bhabhi Devi is concerned, she was requested to apply for monetary compensation as per NCWA as she had attained the age of 45 years. The respondent no. 2 vide letter dated 05.06.2008 has requested the authorities of CCL to keep the name of the respondent no. 1 in the live roster and to provide him with employment. Since the monetary compensation to respondent no. 2 and compassionate appointment to respondent no. 1 were not being provided by the authorities, they had preferred a writ application being W.P.(S) No. 811 of 2018 which was allowed by the learned Single Judge on 10.05.2024 and which is the order impugned to the present appeal.

4. Mr. Anoop Kumar Mehta, learned counsel for the appellants has submitted that there is no provision for providing compassionate appointment as well as the monetary compensation and only in case a dependant is kept on a live roster, the female dependant is entitled to monetary compensation till the male dependant attains the age of 18 years. Allowing both the prayers in the writ application is contrary to the provisions of NCWA. Mr. Mehta has submitted that the writ application was preferred after 11 years of the death of the deceased employee and such delay is contrary to the object of compassionate appointment.

5. Clause 9.3.0 of NCWA VIII contains the provisions of employment to dependant and Clause 9.3.1 states that employment would be provided to one dependent of workers who are disabled permanently and also those who die in service. As per clause 9.3.2, the employment/payment of monetary compensation would be governed by para 9.5.0. Clause 9.5.0 deals with employment/monetary compensation to female dependant and the same reads as follows:

“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 causes other than mine accident and medical unfitness under Clauses 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 01.01.2000.*
- (iv) Monetary compensation wherever applicable, would be paid till the female dependant attains the age of 60 years.*
- (v) The existing rate of monetary compensation will continue. The matter will be further discussed in the Standardisation Committee & finalized.”*

This clause enumerates certain conditions governing the eligibility for monetary compensation and there is an age bar of 45 years relating to entitlement of monetary compensation. The male dependant will be kept on a live roster and will be provided with employment, once he attains the age of 18 years and monetary compensation shall be extended to the female dependant during the period, the male dependant is kept on a live roster. An exception has been carved out in Clause 9.5.0 (i) and which is restricted to a case of mines accident when a female dependant has a prerogative of either accepting the monetary compensation or employment and no age bar has been provided in such a situation. The provision therefore impliedly rules out claiming monetary compensation

as well as compassionate appointment by the dependants of a deceased employee.

6. The deceased employee had two wives and both had applied for compassionate appointment. The claim for compassionate appointment of Kalyani Devi was rejected since the legally married wife of Bharat Mahato, the deceased employee was alive. So far as the grant of compassionate appointment to first wife - Bhabhi Devi is concerned, the same was declined by the authorities concerned as would be evident from the letter dated 04.07.2007 on the ground that she has attained the age of 45 years. This disentitlement was on the basis of Clause 9.5.0 of NCWA VIII. However, in the said communication Bhabhi Devi was requested to apply for monetary compensation. The said Bhabhi Devi has subsequently changed her stance wherein she expressed her desire not to claim compassionate appointment, but instead requested the authorities to grant compassionate appointment to Suraj Kumar Mahato (respondent no. 1 in this appeal) who is the son of Kalyani Devi, the second wife of late Bharat Mahato. Suraj Kumar Mahato was admittedly 11 years of age at the time of death of his father as his date of birth is 12.11.1994. It is the stand of the authorities that the name of Suraj Kumar Mahato never figured in the service excerpts which was an impediment in keeping him on live roster. The learned Single Judge has relied upon the case of *"Mohan Mahto Vs. CCL and others"* reported in (2007) 8 SCC 549 in which it has been held that *"even if the claimant is under age it is obligatory on the part of the respondent to keep his name on the live roster"*. The fact of the present case is different and distinguishable from that of the case relied upon by the learned Single Judge. Immediately, after the death of Bharat Mahato both his wives claimed compassionate appointment and on being denied so, compassionate appointment was sought for on behalf of Suraj Kumar Mahato. This was prayed for by Bhabhi Devi, the 1st wife of Bharat Mahato, after she was assured of being entitled to monetary compensation. There was a period of hibernation which was considerable after which the writ application was preferred in the year 2018. The respondent no. 1 had already attained the age of majority on 12.11.2012 and even from such date also there has

been an inordinate delay in approaching this court seeking compassionate appointment. In the context of delay in seeking compassionate appointment and the object behind such beneficial provisions we may refer to the case of *“Central Coalfields Ltd. through its Chairman and Managing Director & others Vs. Parden Oraon”* reported in 2021 SCC Online SC 299, wherein it has been held as follows:

“8. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that the job is offered to the eligible member of the family [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] . It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.”

7. What would transpire from the factual aspects of the case juxtaposed with the provisions of NCWA VIII which has a statutory force is that there cannot be any doubt that the respondent no. 2 in this appeal (petitioner no. 2 in W.P.(S) No. 811 of 2018) is entitled for monetary compensation as she fulfills the eligibility criteria and which claim has even been accepted by the respondent authorities which can be gathered from the contents of letter dated 04.07.2007. However so far as the claim for compassionate appointment to the respondent no. 1 in this appeal (petitioner no. 1 in W.P.(S) No. 811 of 2018) is concerned, the same cannot be acceded to on the ground of beyond the scope and ambit of NCWA VIII apart from inordinate delay in making such claim. The learned Single Judge has rightly held *“same principle cannot be adopted keeping in view the fact that a beneficial legislation is made out under a settlement and the State is expected to act reasonably”*, but has not considered

the absence of any provisions by which the appointment as well as the monetary compensation can be provided to the dependants of deceased employee.

8. We therefore on the basis of discussions made hereinabove, decline to interfere with the directions given so far as the payment of monetary compensation to the respondent no. 2 (petitioner no. 2 in the writ application) is concerned. However, the order directing grant of compassionate appointment to the respondent no. 1 (petitioner no. 1 in the writ application) is not sustainable in the eyes of law and the said part of the order dated 10.05.2024 passed by the learned Single Judge in W.P.(S) No. 811 of 2018 is hereby quashed and set aside.

9. This appeal is partly allowed.

10. Pending I.A., if any stands closed.

(Rongon Mukhopadhyay, J)

(Pradeep Kumar Srivastava, J.)