

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE**

WPO No.33 of 2025

**MAYA BOURI
Versus
M/s. EASTERN COALFIELDS LIMITED & ORS.**

Present :
The Hon'ble Justice Aniruddha Roy

For the Petitioner : *Mr. Subhrangsu Panda, Adv.*
Ms. Bratati Pramanik, Adv.
Ms. H. Roy, Adv.
Mr. Ratul Ghosal, Adv.

For the Respondent : *Mr. Anup Kanti Poddar, Adv..*
Ms. Khusboo Ruia, Adv.
Ms. Anjali Shaw, Adv.

HEARD ON : 20.05.2025
DELIVERED ON : 20.05.2025

ANIRUDDHA ROY, J.:-

1. On the prayer of the learned Counsel for the Coal Company, time to file report stands extended till today. Report filed in Court today in the form of an affidavit is taken on record. Copy has already been served upon the petitioner.
2. Mr. Panda, learned Counsel appearing for the petitioner, on instruction, submits that the petitioner shall not use any exception to the said report and shall proceed on the basis of the existing records.

FACTS :

3. The petitioner is the widow of one Bodi Bouri, since deceased, who was an employee of the respondent no. 1 (for short the Coal Company). The deceased employee had suffered an untimely death during his employment tenure on **July 7, 2002**. The death certificate is **Annexure P-1** at **page 31** to the writ petition. After the death of the employee the petitioner on **December 30, 2002** applied for compassionate appointment for his son-in-law, **Annexure P-3 at page 37** of the writ petition.
4. The record shows that till the time the report has been filed in the form of affidavit on behalf of respondent affirmed on **April 17, 2025**, the fate of the application was neither decided by the coal company far to speak of providing any information to the petitioner with regard thereto. The application was kept pending since 2002 at least till the time the report was affirmed and filed before this Court in this writ petition. The petitioner is now **65 years** old lady as would be evident from the verification of the writ petition. Relying upon **Clause 9.5.0** from the **National Coal Wage Agreement-VI** (for short 'said agreement'), the petitioner now claims **Monetary Compensation** along with interest **only** and not any employment whatsoever.

SUBMISSION:

5. Mr. Subhranbgsu Panda, learned counsel appearing for the petitioner refers to various clauses from the said agreement. Much reliance has

been placed on **Clause 9.5.0**. The relevant clause relied upon on behalf of the petitioner is quoted below:

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.3000/- 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.”

6. Relying upon the said provision from the agreement, Mr. Panda submits that in case of death of the employee other than mine accident, as in the instant case, if the female dependent is below the age of 45 years, she will have an option either to accept monetary compensation or employment. In case the female dependent is above 45 years of age, she will be entitled only to monetary compensation and not employment.
7. Leaned counsel, Mr. Panda, then refers to **clause 9.3.3** from the said agreement and submits that son-in-law residing with the deceased and almost wholly dependent on the earning of the deceased may be considered to be the dependent of the deceased. As in the instant case, the petitioner applied for compassionate employment for her son-in-law

who, at the relevant point of time, was totally dependent of the deceased employee.

8. Learned counsel for the petitioner submits that way back on **December 30, 2002** within even about five months from the date of death of the deceased employee, the application was submitted by the petitioner, as referred to above, at **page 37** of the writ petition and until the affidavit report affirmed on **April 17, 2025** was served on the petitioner, the petitioner was not at all informed as to the fate of her application and the same was kept pending at the end of the coal company/employer. Finding no other alternative, the petitioner ultimately has filed the instant writ petition and claims monetary compensation.
9. Learned counsel for the petitioner then submits that the scheme for compassionate appointment is a benevolent scheme and the same shall have to be construed liberally in favour of the beneficiaries of the scheme. Once the scheme squarely applies on a beneficiary in every respect, the beneficiary will have a right to receive the benefit under the said scheme for compassionate appointment. The self-same scheme being the said agreement has already received judicial attention from time to time by this Court. The consistent judicial view is that when a beneficiary applies or even does not apply to avail of the benefit of the compassionate appointment scheme, if the scheme squarely applies for such beneficiary, the benefit has to be extended to such beneficiary of the scheme. In support, learned counsel has relied upon decisions; one

rendered by the larger Bench and the other by Hon'ble Division Bench of this Court:

i) Putul Rabidas vs. Eastern Coalfields Ltd. & Ors. reported at (2018) 2 Cal LJ 1 : (2019) 2 CHN 662 (LB);

ii) Eastern Coalfields Limited vs. Sumi Kamim & Ors. reported at 2024 SCC Online (Cal)7573;

10. Mr. Anup Kanti Poddar, learned counsel appearing for the respondent coal company refers to the stand taken by the coal company from the report filed in the proceedings and submits that in 2002 when the petitioner applied for compassionate appointment for her son-in-law the petitioner was below 45 years. She did not claim her own appointment or monetary compensation for herself, but claimed for appointment of her son-in-law. At no point of time the petitioner applied for monetary compensation. Consequently, the claim of the petitioner was rejected on the plea which are quoted from the report filed by the Coal Company hereinbelow:

5. I state that the petitioner's husband namely Late Bodi Bouri who was an employee of Eastern Coalfields Limited died in harness on 07.07.2002. The petitioner being the dependant wife of the employee concerned, she was eligible for claiming employment or MMCC as per Clause No. 9.5.0 (ii) of NCWA norms but on the death of the petitioner's husband, she neither claimed employment nor claimed MMCC. Though she was under the age of 45 years, when her husband died. She requested to give employment to her son-in-law

by her letter dated 30.12.2002 and 26.06.2003 as appearing at annexure P-3 at page no. 37 and 38 of the writ petition.

6. In the instant case, the petitioner requested for employment for her son-in-law but as per Clause No. 9.3.3 of NCWA norms “the dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter/ widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependant of the deceased.” But the petitioner did not furnish any tangible document or record by which it can be ascertained that the petitioner’s said son-in-law was wholly dependant on the income of the deceased employee and he was residing with the family of the said employee. Hence, the authority rightly rejected the request to give employment to the petitioner’s son-in-law.

A true photocopy of the relevant portion of NCWA is annexed herewith and marked as Annexure “R-1”.

11. Learned counsel, Mr. Poddar on behalf of coal company then refers to **paragraph 9** from the report and submits that the petitioner only on **December 25, 2024** has applied for monetary compensation with interest.

12. Learned counsel for the respondent submits that the provisions made for compassionate appointment being a benevolent scheme for an immediate survival of the family of the deceased employee, who died in harness. The record shows since after submission of application in 2002, the petitioner did not take any further steps in the matter and only

in December, 2024 she, for the first time, raised her claim for monetary compensation. This clearly shows that the family of the deceased employee could survive for about at least 20 years after his death. In such situation, compassionate appointment is not permitted and the claim of the petitioner was rightly rejected by the authority. Accordingly, he prays for dismissal of the writ petition.

DECISION:

13. After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that the facts are admitted. The employee died on **July 7, 2002**. The application submitted by the widow being the writ petitioner on **December 30, 2002** seeking compassionate appointment for her son-in-law and the record shows that the said application was kept pending at least till the time the report was affirmed and filed in this writ proceeding in the month of **April, 2025**. The record further shows that the petitioner submitted another application on **December 25, 2024** seeking monetary compensation.
14. The law is well-settled. The claim on account of compassionate appointment is not a matter of right. The policy for compassionate appointment is a benevolent policy of the State/employer. If the policy permits a beneficiary of such policy to receive the benefit under such benevolent policy in every respect, then, of course, such benefit has to be extended to the beneficiary in accordance with law.

15. In the facts of the instant case, the record does not show that the petitioner was disqualified for any reason whatsoever to receive the benefit under the said welfare scheme embodied in the said agreement. On **December 30, 2002** when the petitioner first applied seeking a compassionate appointment for her son-in-law, in the eye of law an application was submitted by the petitioner under the said welfare agreement. It was the duty and obligation of the coal company to take a decision on the said application forthwith. The record shows till the time the said report was filed in this proceeding, no decision was taken by the coal company nor was intimated to the petitioner. The writ petition has been filed by the petitioner at her age of 65 years. The law is equally well-settled that by way of compassionate appointment employment cannot be generated or distributed. However, various clauses of the said agreement also demonstrate that even though the petitioner is not entitled to receive any compassionate appointment at this stage, she is eligible to receive monetary compensation strictly in terms of the said agreement.

16. The law is equally well-settled that justice must not only be done but must be seen to have been done. The relevant clause as quoted above from the said agreement would show that the said clause was embodied in the agreement to extend the benefits to the dependent of the deceased employee died in harness for the welfare of the family of the deceased who suffered an untimely death during the employment. A

welfare and benevolent scheme has to be read, construed and understood in a manner as far as liberally, it is possible, in favour of the beneficiary of such welfare scheme. Technicality should not stand in the way to extend the benefit of such welfare scheme in favour of its beneficiary if the beneficiary, is otherwise eligible to receive the benefit under the said benevolent Scheme.

17. When the petitioner applied on **December 30, 2002** and invoked the relevant provisions of the said agreement, it was the duty of the coal company/employer to consider the case of the petitioner in every respect and even at that juncture had the petitioner been found to be eligible to receive the benefits, be it by way of employment or be it by way of monetary compensation, such benefit should have been extended and granted to the petitioner at that juncture. The benefit for compassionate appointment or the related monetary compensation has to be and should have been reckoned from the Date of Death of the employee.

18. Larger Bench In **the matter of : Putul Rabidas (*supra*)** has observed as under:

66. *We do record our approval that Putul should succeed in her challenge entirely. It seems that to anyhow spurn Putul's claim, the General Manager (P & IR) pumped in reasons in his order without even realising whether the same at all could form the foundation therefor. First, he referred to a clause that required reference to a body should there be any dispute arising out of interpretation of the terms of the agreement. Having noticed such term, it baffles us as to how the General Manager (P & IR) himself could unilaterally interpret the words "unmarried daughter" to the prejudice of Putul without*

making any reference. Secondly, the decision in Eastern Coalfields Limited (supra) was distinguished by the General Manager (P & IR) on the ground that the Division Bench was considering the case of a worker who had been rendered medically unfit to continue in service, whereas Geeta had died while in service. The distinction sought to be made cannot be countenanced at all and no long drawn process of reasoning is required to set it at naught. Medical unfitness or death of a worker is not the real point. Whether a divorcee daughter like Putul claiming to be a dependent of Geeta (a deceased worker) could be comprehended within "unmarried daughter for employment/compensation, was the point that had emerged for decision. We are dismayed that Putul's claim was dealt with in such a callous manner. Lastly, reliance was placed of decisions of the Supreme Court without even referring to it. In view of the discussion made in paragraph 30 above regarding the scheme envisaged in para 9.30 it is immaterial that Putul received substantial money on the death of Geeta. Compassionate appointment/monetary compensation in terms of para 9.3.0 as agreed to by the parties to the NCWA-VI has not been made dependent on the need for an immediate employment or monetary compensation. Appointment or compensation by payment of money to a female dependent of a deceased worker is automatic upon death (subject to fulfilment of the conditions in clause 9.3.4 insofar as appointment is concerned). Even no application is required to be made. Irrespective of the quantum of death benefits that might have accrued in favour of a deceased worker, her dependent (as defined in clause 9.3.3) would be entitled to consideration for appointment, if she is of the required age, or monetary compensation. None of the grounds assigned for spurning the claim of Putul being of any worth, we set aside the order dated May 29, 2015 of the General Manager (P & IR).

67. *Having held that Putul was entitled to be considered for compassionate appointment/monetary compensation under para 9.3.0, we now focus our attention on clause 9.3.2 and para 9.5.0.*

68. *Para 9.5.0 (1) provides that 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.*

Since Geeta did not die as a result of a mine accident, sub-para (i) has no application. Sub-para (s) of para 9.5.0 provides as follows

"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. 3000/- 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."

69. *Having sensed that we were not in favour of accepting his arguments, Mr. Sinha submitted that in view of dearth of vacant posts ECL may be permitted to consider the issue of compensating Putul by money in terms of para 9.5.0(ii). Mr. Banerjee, representing Putul, agreed to the suggestion of Mr. Sinha.*

70. *In that view of the matter, the appeal (FMA 4401 of 2016) stands allowed with direction upon ECL to calculate Putul's financial benefits in terms of para 9.5.0(ii) within a period of a month from date and to disburse the arrears in her favour within two months from date of such quantification. The current payment shall be released by the first of each month and continued to be paid to her for life.*

71. *We are, however, unable to grant any relief to Sefali. She was a married lady on the date of death of Manik and, therefore, is not covered in terms of clause 9.3.3. For such reason, dismissal of her writ petition by the learned Judge is upheld and FMA 4403 of 2016 stands dismissed.*

72. *Parties shall bear their own costs.*

73. *Photocopy of this judgment and order, duly countersigned by the Assistant Court Officer, shall be retained with the records of FMA 4403 of 2016.*

Tapabrata Chakraborty J:

74. *I have gone through the well-reasoned judgment of my learned brother and I entirely agree with the same. Expressing my concurrence with the*

reasons given in the said judgment, I may add a few words, mainly by way of emphasis.

75. *It is a well-settled principle of interpretation that a beneficent scheme should be liberally construed. The reason behind this rule of interpretation is that the authorities should not whittle down the object and purpose of the scheme by deciding according to the strict letter of the text. The courts will rather consider its fair meaning and will expound the scheme, in order to preserve the intent..*

76. *Judiciary has a strong sense of justice and it works to maintain social justice and fairness and it is not separated from feelings of righteousness. The object and purpose of the settlement towards compassionate appointment emanates from the dependency factor. The intent being to mitigate the hardships faced by the dependant upon the loss of the sole bread earner.*

77. *Clause 9.3.3 of NCWA-VI runs as follows:*

"The dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependant of the deceased."

78. *A perusal of the said clause reveals that dependency has been made attributable to a class of direct dependants including an unmarried daughter. It has also been stated in the said clause that if no such direct dependant is available for employment then others mentioned in the said clause may be considered to be the dependants of the deceased.*

79. *According to the Webster's Encyclopaedic Unabridged Dictionary the word "such", when used as an adjective, means "of the kind, character, degree, extent of that or those indicated or implied. In view of inclusion of the word "such as an adjective to direct dependant, the class of direct dependants cannot be construed to have been restricted only to the persons mentioned as direct dependants in the said clause.*

80. *The beneficent scheme underlying the settlement would be thrown out of gear in the event, a restrictive meaning is applied and benefits are not extended to a divorcee daughter, who returns back to her father's family after divorce and cessation of her relationship with her husband. Such interpretation cannot be construed to be an instance of misplaced sympathy or to be based upon a pretentious pulpit of morality.*

81. *With these observations in elucidation of the conclusion arrived at by His Lordship, I agree with the directions issued.*

19. The Hon'ble Division Bench In **the matter of : Sumi Kamin & Ors (supra)** had observed as under:

29. *It is evident that the right to employment on compassionate ground or the MMCC germinates on the death of an employee in harness. Such legal position coupled with the provision contained in Clause 9.5.0 (III) of NCWA clearly Indicates that MMCC is liable to be paid from the date immediately following the death of the employee. There is no specific provision in the NCWA which stipulates the mandatory requirement of an application, in order to entitle the female dependant to MMCC. There is also no specific provision authorizing the department to remain sitting tight over the matter unless an application in this regard is made by the concerned dependant. Rather the words "if no employment has been offered" and the words "the female dependant will be paid monetary compensation as per rates at paras (1) and (2) above" clearly imply that the MMCC is to be paid by the employer irrespective of any claim. The employer is under obligation to offer the same. In the case of Kajoli Bouri (Supra), it was observed that,*

"It is evident from the provision that there is a financial security which is afforded to the female dependant of a deceased workman and the right crystallises instantaneously upon the death of the workman. The immediacy has per force to be inferred upon recognising the provision to ensure that the female dependant of the deceased workman or the bereaved family is not washed away by the calamitous loss of the bread-earner. In the event the female dependant opts for employment and it is possible to offer employment, the employment has to be given within reasonable time of the application

being made. If the female dependant entitled to apply for an appointment does not apply for the employment within reasonable time after the death of the workman, she would be deemed to have exercised the option to receive compensation which would be payable from the date of death or the month following the date of death of the workman. The right that inheres in the female dependant of the deceased workman gives rise to a corresponding obligation or duty on the part of the coal company to offer and reach the monthly compensation to the female dependant. The right to the compensation is unconditionally immediate and is not dependant on any application for the purpose. Indeed, given the rationale behind the provision, it is the duty of the concerned coal company to both advise the dependant female member of a deceased workman of her rights and guide her to the appropriate option. A government company as an employer cannot be heard to say that a distressed family would be deprived of the benefit by reason of any belated application therefor. The appointment sought on compassionate grounds may be declined on account of delay or other cogent grounds; but the monthly compensation has to be paid with effect from the date of death of the workman or the month following the death."

30. *Similar principles to the effect that MMCC to the dependant was payable from the date following the date of death of the employee and not from the date of application were also laid down in consideration of the peculiar facts and circumstances of each case in Smt. Pnawa Bhulya (Supra), Smt. Ambabati Mahali (Supra), Smt. Dulali Majhian@ Majhan (Supra), Smt. Chapala Kora (Supra), Kosmi Devi Bhiya (Supra), Dewanti Kumari (Supra), Smt. Kajol Badyakar (Supra), Smt. Shefali Khan (Supra), Premlata Devi (Supra), Smt. Chhaya Singh Sardar (Supra), Bipini Marandi (Supra), Bimali Majhain (Supra), Champa Munda (Supra), Smt. Mina Bouri (Supra), Bipini Murmu (Supra). In some of the aforesaid cases even delay in making applications for MMCC was considered not a sufficient ground to disentitle a claimant or for payment of the same from a later date.*

31. *The Special Bench decision of this court in the case of Putul Rabidas (Supra), which was affirmed up to the Hon'ble Supreme Court, it was noted that,*

"63. We do record our approval. Appointment or compensation by payment of money to a female dependent of a deceased worker is automatic upon death (subject to fulfilment of the conditions in clause 9.3.4 insofar as appointment is concerned). Even no application is required to be made. Irrespective of the quantum of death benefits that might have accrued in favour of a deceased worker, her dependent (as defined in clause 9.3.3) would be entitled to consideration for appointment, if she is of the required age, or monetary compensation. None of the grounds assigned for spurning the claim of Putul being of any worth, we set aside the order dated May 29, 2015 of the General Manager (P & IR)."

20. Now the question comes with regard to the claim on account of interest on compensation.
21. To grant or not to grant interest, unless specifically agreed by and between the parties or provided under the statute or in law, the same is the discretion of the Court. This constitutional Court while exercising its planary power under Article 226 of the Constitution of India also exercises equitable jurisdiction. Grant of interest also depends on equity, considering the facts and circumstances of the case. In the instant case, admittedly since after submission of its application on **December 30, 2002** the petitioner has also not pursued her claim at least till **December 25, 2024**, when the petitioner applied for monetary compensation. In such circumstance this Court thinks it fit and proper not to entertain the claim of the petitioner on account of interest and accordingly, the claim on account of interest stands **rejected**.
22. In view of the foregoing discussions and reasons, the appropriate authority of the respondents shall quantify the monetary compensation

payable to the petitioner strictly in accordance with law and upon compliance of all formalities and legal requirements shall release and pay the monetary compensation to the petitioner positively within a period of **Three Months** from the date of communication of this judgment. The relevant date for the purpose of quantifying compensation should be the Date of Death of the employee i.e., **July 7, 2002**.

23. With the above observations and directions, **WPO/33/2025** stands **allowed** without any order as to costs.

(ANIRUDDHA ROY, J.)