

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 4551 of 2007

Mahabir Bhuiya...

Petitioner.

Versus

1. Bharat Coking Coal Ltd. Through its Chairman cum Managing Director.
2. The Director (Personnel) Koyla Bhawan, Dhanbad.
3. The General Manager, Kusunda Area of BCCL, Dhanbad.
4. Deputy Chief Personnel Manager, Gondudih Colliery of Bharat Coking Coal Ltd. Kusunda Area.
5. The Project Officer, Gondudih Colliery of Bharat Coking Coal Ltd. Kusunda Area. .... ... Respondents.

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CORAM :HON'BLE MR. JUSTICE ANANDA SEN

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For the Petitioner :Mr. Mrinal Kanti Roy, Advocate.

For the Respondents :M/s Anoop Kumar Mehta and Amit Kumar Sinha

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06/23.06.2016: The petitioner is claiming compassionate appointment for himself on death of his father, late Baijnath Bhuiya, who was an employee of Bharat Coking Coal Ltd. Baijnath Bhuiya was a fan operator in Gondudih Colliery of Bharat Coking Coal Limited, who died in harness on 24.12.1986 leaving behind this petitioner as the son and Sanichari Devi as his wife. Sanichari Devi claimed compassionate appointment, but the same was not considered resulting in Reference Case No. 99 of 2001 under the provisions of the Industrial Disputes Act. While reference was pending before the Central Govt. Industrial Tribunal No.2 at Dhanbad, Sanichari Devi was given assurance by the Management that in place of her, the case of her son will be considered. Thereafter, the mother of the petitioner filed an application before the Central Govt. Industrial Tribunal No.2 at Dhanbad to close the reference on the ground that the management has given some assurance to consider the case of this petitioner. The Reference Case was closed on the petition filed by the mother of this petitioner. The closure order dated 11th November, 2003 records the submission made on behalf of the mother of the petitioner that she wants to close the case on the ground taken in the aforementioned petition. Counsel for the B.C.C.L. did not raise any objection on the prayer made by the mother of the petitioner. Thus the reference was closed.

The petitioner now contends that though there was some assurance to consider the case of the petitioner, but the same has not been considered and no appointment has been offered.

Counsel for the B.C.C.L. submits that no assurance was ever given and only on the bald statement made by the mother of the petitioner the order for closure was passed. Thus, the statement made by the mother of the petitioner cannot bind B.C.C.L. Further counsel for the B.C.C.L. submits that this petitioner was just above 15 years of age on the date of death of Baijnath Bhuiya and, as such, his case cannot be considered.

I find no force in the submission made on behalf of the B.C.C.L. The

petition for withdrawal of Reference case filed by the mother of this petitioner clearly mentioned that on the assurance of the B.C.C.L. that in her place the case of her son will be considered, she sought to close the reference case. The Counsel for the B.C.C.L. never objected to such withdrawal on the ground mentioned therein, which clearly suggests the fact that what the mother of this petitioner submitted before the Central Govt. Industrial Tribunal No.2 at Dhanbad, is, *prima facie*, correct. If there would have been no assurance given by B.C.C.L., they should have some objection to the withdrawal of the Reference Case, on the ground mentioned in the withdrawal petition. There, atleast, should have been some rebuttal from B.C.C.L., which is not there.

So far as the minority of the petitioner is concerned, the age of the petitioner was assessed on the death of his father as 15 years and 8 months. As per the provisions of National Coal Wage Agreement a minor , who is more than 15 years, was entitled to be kept on live roster for considering his appointment at a later stage. In that view of the matter, the name of the petitioner should have been kept in the live roster for being appointed at the later stage i.e. on attainment of majority.

It is admitted that no decision has yet been taken in respect of giving compassionate appointment to the petitioner.

In view of the facts of the case, I direct the respondents to consider the case of the petitioner taking into consideration the application filed by the mother of this petitioner and the grounds mentioned therein, whereby the Reference Case No. 99 of 2001 has been closed. The respondents will decide as to whether the petitioner is entitled to be appointed on compassionate ground or not after taking consideration the provisions of the National Coal Wage Agreement and the law. The said decision will be taken within a period of four months from today.

This writ application is, thus, disposed of in terms of the direction and observations made above.

(ANANDA SEN , J)

Sharma/-