

(2018) 06 JH CK 0073
In the Jharkhand High Court
Case No : Writ Petition (S) No. 566 of 2018

Jashinta Poonam Ekka,

APPELLANT

Vs

M/s Central Coalfields Limited

RESPONDENT

Date of Decision : 27-06-2018

Acts Referred:

General Clauses Act, 1897 — Section 13
Constitution of India, 1950 — Article 14, 16

Citation : (2018) 06 JH CK 0073

Hon'ble Judges : SHREE CHANDRASHEKHAR, J

Bench : Single Bench

Advocate : Shruti Shrestha, Amit Kumar Sinha

Final Decision : Dismissed

Judgement

1. Prayer in the writ petition is for a direction upon the respondent-M/s CCL to grant compassionate appointment to the petitioner, who is un-married

younger sister of the deceased-employee namely, Ashok Ekka.Â Â Â Â Â Â Â Â Â

For that, the petitioner seeks to challenge order dated 25.07.2016 by which her claim for compassionate appointment has been declined. A further

prayer for declaring that the expression "younger brother" under clause-9.3.3 of the National Coal Wage Agreement(NCWA) would include

younger sister has also been made in the writ petition.Â

2.Â At the outset, Mr. Amit Kumar Sinha, the learned counsel for the respondent-M/s CCL submits that an identical issue has already been

adjudicated by a co-ordinate Bench of this Court in W.P.(S) No.6099 of 2012, holding that the definition of dependant under clause-9.3.3 of NCWA

does not include younger sister as a dependant of the employee and while so, no direction can be issued to the respondent-M/s CCL to grant

compassionate appointment to the applicant. Plea taken by the respondent-M/s CCL is that the tripartite agreement between the Central Government,

Labour Union and the Coal companies commonly known as National Coal Wage Agreement (NCWA) must be construed strictly and the scheme for

compassionate appointment must remain confined to the specific provisions under NCWA.

3. The learned counsel for the petitioner, however, relying on Section 13 of the General Clauses Act, 1897 and a decision of this Court in W.P.(S)

No.6016 of 2016 submits that exclusion of a younger sister in the definition of dependant under clause-9.3.3 is arbitrary and violative of Articles 14

and 16 of the Constitution of India and while so, clause-9.3.3 of NCWA cannot be insisted upon by the respondent-M/s CCL to reject the claim of the

petitioner for compassionate appointment. Plea raised on behalf of the petitioner is that the definition of dependant under clause-9.3.3 is not all

inclusive rather, it is a well-accepted proposition in law that unless specifically excluded, identically situated persons must be extended similar

benefits and, moreover, when it is a beneficial provision such as NCWA, which provides for social security measures for the employees and their

dependants.

4. For the reason that a co-ordinate Bench of this Court has already held that since a younger sister is not included under clause-9.3.3 and, thus, not

entitled for compassionate appointment on death of her brother, and for the reason that the provision under clause-9.3.3 of NCWA is not under

challenge, the writ petition is dismissed.