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**(2016) 05 JH CK 0128**  
**In the Jharkhand High Court**  
**Case No : Writ Petition (S) No. 305 of 2016**

Puja Toppo

APPELLANT

Vs

Chairman, Central Mine Planning and Design Institute Limited

RESPONDENT

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**Date of Decision :** 19-05-2016

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2016) 3 JLJR 101

**Hon'ble Judges :** Mr. Ananda Sen, J.

**Bench :** Single Bench

**Advocate :** Mr. Amitabh, Advocate, for the Respondents; Mr. Manoj Prasad, Advocate, for the Petitioner

**Final Decision :** Allowed

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## Judgement

Mr. Ananda Sen, J. - The father of the petitioner died on 27.03.2005 leaving behind this petitioner who was minor, at that point of time, and the other minor brothers. The mother of the petitioner predeceased the father. At the time of death of the father of petitioner, petitioner was only 12 years 1 month of age. The petitioner after attaining majority on 26.04.2011, had applied for compassionate appointment before the authorities of C.M.P.D.I. The said application of compassionate appointment was considered and was dismissed vide communication dated 27.01.2014. The ground for rejecting the claim for compassionate appointment, as set forth in the order impugned is that the petitioner has applied for compassionate appointment after lapse of about 6 years from the death of his father.

2. Learned counsel appearing for the petitioner submits that the impugned order is absolutely bad and cannot be sustained. She further submits that the petitioner was only 12 years one month of age, at that time of death of his father and as such her names should have been kept in live roaster and the respondent should have offered her appointment on attainment of majority. He further submits that this case cannot be termed as a belated one and hence, the

rejection was unwarranted.

3. Learned counsel appearing for the respondents submit that admittedly, the father of the petitioner died on 27.03.2005 and it is also admitted that the claim for compassionate appointment was made on 26.04.2011 and thus, it is apparent that the claim was time barred and thus, the same was rejected.

4. From the rival submissions made by the parties, I find that the father of the petitioner died on 27.03.2005. At the time of death the petitioner was 12 years one month. On attaining majority the petitioner had applied for compassionate appointment on 26.04.2011. The said application was rejected on the ground of delay vide order dated 27.01.2014. At the time of death of father of this petitioner i.e. on 27.03.2005, as per the prevalent National Coal Wages Agreement (NCWA), a dependent of the deceased who is aged more than 12 years should have been kept in the live roaster and on attaining majority was to be offered compassionate appointment.

5. Admittedly, the petitioner was 12 years one month on the date of death of her father, thus should have been kept in the "live roaster" and offer of appointment should have been given to her after attaining majority.

6. The impugned order shows that the case of the petitioner was rejected on the ground of delay. In my opinion there cannot be any delay, so far as making application by the petitioner is concerned. As the offer of appointment was not given to her, she applied afresh on 26.04.2011. The C.M.P.I.D. authorities considered this application and related it with the date of death and came to the conclusions that the case is time barred. This procedure adopted by respondent is absolutely bad. In my opinion, in the fact of this writ application, there cannot be any delay and the case of the petitioner, on the facts of this case could not have been dismissed on the ground as "time barred".

7. In view of the findings and observations made above, the impugned order dated 27.01.2014 is set aside and the matter is remitted back to the General Manager (P&A), C.M.P.D.I, (Respondent No.3) to consider the case of the petitioner on merit treating that there was a provision to keep a dependent above 12 years on live roaster. The respondent will pass a reasoned order on the application of the petitioner within three months from the receipt of the copy of this order. If the respondent finds the petitioner to be entitled to get compassionate appointment, necessary appointment letter will be issued within the month thereafter.

8. This writ application thus stands allowed.