

**(2009) 08 JH CK 0016**  
**In the Jharkhand High Court**  
**Case No : Writ Petition (S) No. 5017 of 2003**

Sakaldeep Munda

APPELLANT

Vs

Central Coalfields Limited, Chairman-cum-Managing Director,  
CCL, Director (Personnel) CCL and Sr. Personnel Officer, Topa  
Colliery

RESPONDENT

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**Date of Decision :** 06-08-2009

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 18(3), 2

**Citation :** (2009) 08 JH CK 0016

**Hon'ble Judges :** Amareshwar Sahay, J

**Bench :** Single Bench

**Advocate :** A.K. Sahani, for the Appellant; A.K. Mehta, for the Respondent

**Final Decision :** Allowed

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## Judgement

Amareshwar Sahay, J.—Heard the learned Counsel for the Parties.

2. The prayer of the petitioner in this writ application is to quash the letter issued under memo No. PO (T)/PD-932/03-2132 dated 7/16-01-2003, contained in Annexure-3, issued by Respondent on. 4 Senior Personnel Officer, Topa Colliery, whereby the petitioner has been informed that his claim for his appointment on compassionate ground has been rejected on the ground that one of his elder brother namely Rajdeep Munda was already employed in the Piperwar area of the Central Coalfields Limited as security guard. The petitioner prays that the respondents be directed to appoint him on compassionate ground.

3. The facts, in short leading to the present writ application, are that the father of the petitioner namely Munshi Munda was a permanent regular employee of the respondent C.C.L. and was posted in Topa Colliery under Kuju area of the C.C.L. The father of the petitioner had two wives. From the first wife his elder stop brother Rajdeep was born. The petitioner's step mother Smt. Saru Bala Devi was herself employed in regular employment of the respondents C.C.L. and on her

death her son, i.e. the step elder brother of the petitioner Rajdeep was given employment on compassionate ground under Clause 9.3.0 of the National Coal Wage Agreement. Subsequently, the father of the petitioner Munshi Munda died on 12/08/1996. After his death, the petitioner applied for appointment on compassionate ground in the prescribed form and in a prescribed manner under the Scheme of National Coal Wage Agreement but the claim of the petitioner has been rejected by issue of Annexure-3 on the ground that his elder brother Rajdeep was already employed under the C.C.L. This rejection of the claim of the petitioner is under challenge in this writ petition.

4. The right to be appointed on compassionate ground to the petitioner flowed from the agreement/settlement arrived at between the employer and the union u/s 18(3) of the Industrial Dispute Act, which is known as National Coal Wage Agreement. Under the said Scheme under different clauses of National Coal Wage Agreement, a dependent of a regular employee of the respondents CCL is entitled to get an appointment on compassionate ground on the basis of settlement/agreement arrived at which is known as National Coal Wage Agreement.

5. The Supreme Court in the case of Mohan Mahto v. Central Coal Field Limited and Ors. reported in 2007 (4) JLJR 144 (SC) has held that the appointment of dependents of the deceased employees under the clause of National Coal Wage Agreement which on settlement of the agreement u/s 18(3) of the Act is binding on the parties and continues to remain in force unless the same is altered, modified or substituted by another settlement. When no period of limitation was provided in the settlement then the circular issued prescribing a period of limitation for filing application for grant of compassionate appointment, has no statutory force. The expanding definition of workman as contained in Section 2(s) of the Act would confer a right upon dependant to obtain appointment on compassionate ground subject to the conditions contained therein.

6. In other words, any circular/order cannot be unilaterally issued by the employer prescribing any period of limitation or putting any condition for obtaining a compassionate appointment by a dependent of regular employee who dies in harness, which is not there in the settlement/agreement, i.e. in the National Coal Wage Agreement.

7. Mr. A.K. Mehta, learned Counsel for the respondent C.C.L. has very fairly submitted that in view of the judgment of the Supreme Court in the case of Mohan Mahto v. Central Coal Field Limited and Ors. (Supra), the impugned order rejecting the claim of the petitioner for his appointment on compassionate ground under Clause 9.3.0 of National Coal Wage Agreement cannot be sustained. The elder step brother of the petitioner Rajdeep was given employment on compassionate ground under the Scheme of National Coal Wage Agreement against the death of his mother Smt. Saru Bala Devi, who herself was a regular employee of CCL, whereas the petitioner applied for appointment on compassionate ground against the death of his father Munshi Munda, who being

a regular employee, died in harness.

8. Therefore, in my view, the ground on which the claim of the petitioner was rejected is absolutely arbitrary and illegal. Accordingly, the order as contained in Annexure-3 is hereby quashed.

9. Accordingly, this writ application is allowed. The order dated 7/16-01-2003 as contained in Annexure- 3 is hereby quashed. The matter is remitted back to the Respondent No. 3 Director (Personnel) CCL, Darbhanga House, Ranchi to pass a fresh order offering appointment to the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.