
(2016) 11 JH CK 0115
In the Jharkhand High Court
Case No : W.P. (S) No. 7 of 2016

Tilok Tama Devi @ Tilotoma Devi @ Rita Devi	APPELLANT
Vs	
M/s Bharat Coking Coal Limited	RESPONDENT

Date of Decision : 18-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 AIRJharR 118 : (2017) 2 JBCJ 186

Hon'ble Judges : Mr. Dr. S.N. Pathak, J.

Bench : Single Bench

Advocate : Mr. Kalyan Banerjee , Advocate, for the Petitioner; Mr. R.S. Majumdar, Sr. Advocate, for the Intervenor; Mr. Indrajit Sinha, Advocate, for the BCCL

Final Decision : Disposed Off

Judgement

Mr. Dr. S.N. Pathak, J.— Heard the parties.

2. The petitioner is represented by Mr. Kalyan Banerjee. Mr. R.S. Majumdar, learned senior counsel appears on behalf of intervenor and Mr. Indrajit Sinha makes his appearance on behalf of respondent-BCCL. The petitioner has come out with a prayer to provide employment on compassionate ground in place of her deceased husband who was permanent employee under the respondent-BCCL who died in harness on 19.08.2015. The petitioner has further prayed to make payment of dues of service benefit like provident fund amount, gratuity amount, insurance amount of accident benefit and all other benefits of the deceased husband. The husband of the petitioner late Satyanarayan Bouri was employed on 27.07.1990 as General Mazdoor having CMPF No.D.H.N./28/273 in BCCL and while in service he died on 19.08.2015. After death of her husband, the petitioner made representation for payment of service benefits and also for appointment on compassionate ground on 24.08.2015.

3. Mr. Kalyan Banerjee, learned counsel appearing on behalf of the petitioner

submits that though her representation was filed as long back on 24.08.2015 but till date no order has been passed on the representation and the respondent authorities are disputing the genuineness of his claim as legally wedded wife of the deceased Satyanarayan Bouri. During pendency of this case an interlocutory application was filed bearing I.A. No.4407 of 2016 by one Sudeshna Bauri for her impleadment as party respondent in the instant writ petition bearing W.P. (S) 7 of 2016 which was allowed after hearing counsel for the parties on 11.11.2016.

4. Mr. R.S. Majumdar, learned senior counsel appearing on behalf of the intervenor submitted that everywhere in the service book the name of Sudeshna Bauri finds place as nominee and as such she is only legal heir of late Satyanarayan Bouri and any person can not claim to be legal heir of her deceased husband as by virtue of being the nominee she can only be declared as a legal heir in the eyes of law.

5. Mr. Indrajit Sinha, learned counsel makes his appearance on behalf of BCCL. He fairly submits that it is purely a disputed question of fact and the Hon'ble High Court sitting under Article 226 of the Constitution of India can not enter into disputed question of facts. It is to be settled and decided by a competent court of civil jurisdiction.

6. On the other hand, Mr. Kalyan Banerjee submits that he concedes to the submission of learned counsel for BCCL and he is also of the view that let her declaration come from the competent court of civil jurisdiction as who is the legal heir.

7. Mr. Majumdar, learned senior counsel appearing on behalf of the intervenor has no objection to it.

8. Considering the rival submissions of the parties, this Court is of the considered view that the parties should approach competent court of civil jurisdiction for getting declaration regarding the legal heir and after obtaining the same, they should approach the respondent authorities and the respondent authorities after getting the succession certificate will take a decision on the entitlement of the service benefits and also for compassionate appointment. It is made clear that this Court has not entered into the merits of the case and as such after succession certificate is granted by competent court of civil jurisdiction, it is open to the respondent-BCCL to take a decision preferably within a period of two months. Needless to say that if a decision is taken in favour of either of the parties an appropriate order should be passed in accordance with law within a further period of one month.

9. With the aforesaid observation, this writ petition is disposed of.