

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)**

W.P.A. 29525 of 2025

**Eastern Coalfields Limited
Vs.
Shiuly Bauri & Ors.**

For the Petitioners : Mr. S.M. Obaidullah, Adv.
Mr. Nikhil Kumar Roy, Adv.

For the Opposite Parties : None.

Judgment reserved on : 08.07.2026

Judgment delivered on : 31.07.2026

SHAMPA DUTT (PAUL), J.:-

1. The writ application has been preferred challenging, an Award dated 19.06.2025, passed by the respondent no.7 being the learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Asansol, in reference case no. 02 of 2020.
2. Vide the impugned award, the learned CGIT granted relief as follows:-

“The widow of the deceased employee is also entitled to monetary compensation under Clause 9.5.0 (iii) of NCWA-VI at the prevailing rate from 10.12.1996 i.e., the date of death of the employee till employment is granted to the daughter. The Industrial Dispute is accordingly allowed in favour of the

dependent daughter and widow of the deceased employee.

Hence,

Ordered

that the Industrial Dispute is allowed on contest against the management of Pandaveswar Area of Eastern Coalfields Limited. The management of ECL is directed to grant compassionate employment to Shiuly Bauri within a period of 3 (three) months from the date of communication of the Award. Smt. Sakuntala Bauri, widow of the Late Khudiram Bauri is entitled to Monthly Monetary Cash Compensation (MMCC) at the prevailing rate from the date of death i.e., 10.12.1996 till compassionate employment/appointment is granted to the daughter. The management of Eastern Coalfields Limited is directed to pay the arrears of the monetary compensation to the widow of the deceased employee within 3 (three) months from the date of communication of the Award. Let an award be drawn up in light of my above findings. Copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification."

3. The petitioner's case herein is that the father of the respondent No. 1 and husband of the respondent No. 2 namely- Khudiram Bauri was posted as a chainman at Pandabeshwar area of Eastern Coalfields Ltd. (hereinafter referred to as "ECL" in short). During his service tenure, the said Khudiram Bauri expired on 10.12.1996. The said

Khudiram Bauri died leaving him surviving his wife and two daughters namely- Shiuli Bauri and Doli Bauri as dependents. After the death of the said Khudiram Bauri, the respondent No. 2, being his wife applied before the management of ECL for her appointment on compassionate grounds. However, the management did not provide any employment to the respondent No. 2, **on the ground that she had crossed the maximum age for employment as per the provisions of National Coal Wage Agreement.** Thereafter, the respondent No. 1, being the daughter of the said Khudiram Bauri submitted an application before the management of ECL for her appointment on compassionate grounds. The said application filed by the respondent No. 1 was processed by the said management and the respondent No. 1 was asked to appear before the Screening Committee of the management of ECL and she was found fit for employment in the Initial Medical Examination (hereinafter referred to as "IME" in short). Thereafter, the area management, forwarded the proposal for employment of the respondent No. 1 to the ECL Headquarters.

4. On 27.02.2007, ECL Headquarters rejected the proposal for employment on the ground that the respondent No. 1 was below the age of 18 years at the time of death of the said deceased employee namely- Khudiram Bauri. It is stated that the respondent No. 1 has applied for compassionate appointment after expiry of 10 years from

the date of death of her father and submitted the said application before the competent authority of ECL on 26.06.2006.

5. It is stated that, in terms of the provisions of National Coal Wage Agreement, if a female dependent is below the age of 18 years at the time of death of the deceased employee, she is not entitled to compassionate appointment.
6. After rejection of the claim for compassionate appointment by the management of ECL, the respondent No. 3, being Koyla Mazdoor Congress raised an industrial dispute before the Labour Commissioner in respect of the employment of the respondent No. 1 namely Shiuli Bauri.
7. The Deputy Director, Ministry of Labour and Employment, Government of India, being the respondent no. 9 herein, by a corrigendum dated 22.06.2023 issued an order of reference in respect of the said industrial dispute and referred the said dispute to the Presiding Officer, Central Government Industrial Tribunal cum Labour Court, Asansol being the respondent no.7 herein.
8. In the said order of reference, the schedule by way of a corrigendum is as follows:-

"Whether the action of the management of Pandabeshwar area office of M/s. ECL over denial of employment to the dependent's daughter Shiuli Bauri and denied of payment of monetary compensation to the wife of the late

Khudiram Bauri, Ex-Chainman are legal and justified? If not, to what relief the dependent's daughter and the wife of the deceased are entitled to".

9. The order of **reference was modified by a corrigendum** dated 22.06.2023 by the Deputy Director, Ministry of Labour and Employment, Government of India, being the respondent no.9 herein.
10. It appears that the sole ground on which the prayer of the respondent no. 1 was rejected was that the said medical board observed that the age of the respondent No. 1 was assessed as 18 years on 03.10.1997. Therefore, her date of birth was taken as 03.10.1979. The management of ECL rejected the claim of the respondent No. 1 on the ground that, **at the time of death of the deceased employee, the respondent No. 1 was only 17 years 2 months 7 days** and, since she was a minor, she was not entitled to employment under the provisions of National Coal Wage Agreement. The said respondent No. 1 never applied for reassessment of her age before the appropriate authority and/or the management of the petitioner.
11. It is the further case of the petitioner that, from perusal of the service records of the deceased employee, the age of the **respondent No.2 was mentioned as 27 years as on 01.04.1987**. Therefore, she would attain 60 years on 01.04.2020. It is thus stated that the respondent No. 2 is not entitled to any monetary compensation since she has completed 60 years on 01.04.2020.

12. It is further stated that under NCWA-VI, a female dependent is entitled to monetary compensation only upto the age of 60 years, and not beyond that age. Admittedly the respondent No. 2 crossed the age of 60 years on 01.04.2020. Therefore, the petitioner states that she is thus not entitled to any monetary compensation from the management of the petitioner.
13. The petitioner is also aggrieved by the fact that the tribunal has granted monetary compensation to the respondent no.2, on the ground that the respondent no.2 has crossed the age of 60 years in the year 2020.
14. Supplementary affidavit has been filed on behalf of the petitioner, annexing a document to show that the management has granted maintenance allowance Rs.2000/- per month in lieu of compassionate appointment since September, 1998 till the age of superannuation or the date of death whichever is earlier.
15. A copy of the nomination form submitted by the deceased, annexed herein shows, that the **respondent no.2 in the nomination form** has been shown to be aged about 27 years as on **01.04.1987** and the respondent no.1 as 9 years.
16. In spite of service none appears for the respondents. Written notes were filed on behalf of the petitioner herein. It appears from the written notes, that the prayer for compassionate appointment of the respondent no.2 was rejected on the ground that she had crossed the

maximum age for employment as per the provision of National Coal Wage Agreement, on the other hand, the respondent no.1 being the daughter was said to be below the age of 18 years at the time of death of the employee.

17. It appears from the copy of the nomination form filed by way of supplementary affidavit that **the respondent no.1 was aged about 9 years as on 01.04.1987.** Admittedly, the employee died on 10.12.1996. Another contention of the petitioner herein is that the respondent no.1 applied for compassionate appointment after expiry of 10 years from the date of death of her father.
18. Neither in the writ application nor in any other document it has been placed before the Court as to when the respondent no.2 had filed her application for compassionate appointment.
19. Admittedly, the said application of the respondent no.2 was rejected on 27.02.2007. The respondent no.1 as per the statement of the petitioner herein filed the application for compassionate appointment on (date not provided by the petitioner herein) but it appears that from the document marked as annexure P1 that the respondent no.1 submitted document in support of her prayer for compassionate appointment before the authority on 26.06.2006.
20. The petitioner rejected the application for compassionate appointment of the respondent no.2 being the mother of the respondent no.1 on 27.02.2007, on the ground of being over age and as such this court

finds no delay in the making of the application by the respondent no. 1 before the authority concerned.

21. The petitioner herein has wrongly taken the plea of delay of 10 years which it appears is only to deprive the respondent no. 1 of her right of compassionate appointment.
22. It further appears that the petitioner has acted on the report of the Medical Board, which assessed the age of the respondent no.1 as 18 years, as on 03.10.1997 and thereby assessed her age as 17 years 2 month 7 days on the date of death of her father i.e. on 10.12.1996. The Board thus held that the respondent no.1 was below 18 years on the date of death of her father. As to how the medical board of the petitioner could come to such decision is assessment best known to them.
23. Admittedly, from the copy of the nomination form which has been placed by the petitioner themselves, it appears that the respondent no.1 was aged about 9 years on 01.04.1987.
24. **The said entry in the nomination form was never disputed by the petitioner and was never challenged.** As such if the age of the respondent no.1 is 9 years on 01.04.1987, her age on the date of death of her father on 10.12.1996, would be 18 years 8 month 9 days. As the said entry in the nomination form has never been challenged by the petitioner, the same cannot be ignored, by placing the respondent no.1 before the Medical Board constituted by the

company, with an intention to deprive the respondent no. 1 of her right to compassionate appointment.

- 25.** The petitioner has enclosed the copies of the NCWA IV in support of his contention. Heard the learned Counsel for the petitioner. On perusal of the materials on record and the impugned award, the relevant findings of the learned tribunal is reproduced herein:-

*“13. The admitted position in this case is that Khudiram Bauri was a permanent employee of ECL and posted at Pandaveswar Area. He died in harness on 10.12.1996, leaving behind Shakuntala Bauri, his widow and dependent daughters namely, Shiuly Bauri and Doli Bauri. On the basis of an application submitted by Shiuly Bauri, claiming employment she was referred for her pre-employment medical examination before the IME Board. The report of the IME dated 25.09.1997 has been placed by the management as Exhibit M-1. It appears from the report that the Board found her fit for job and her age, as per appearance, was recorded as 18 years as on 03.10.1997. It appears from the documents that there is some mismatch between the date on which the report was prepared i.e., 25.09.1997 and the date on which the IME Board assessed her age on the basis of her appearance i.e., on 03.10.1997. The assessment could not have been done after the date of submission of the report. **The criteria considered for recording the age of Shiuly Bauri was on the basis of her statement and the age as recorded in the Service Record of the deceased employee.** As per Service Record Excerpt the age of Shiuly Bauri was 9 years on 01.04.1987. Therefore, if her age*

was 9 years on 01.04.1987 as per the Service Record maintained by the company, Shiuly Bauri **had already attained 18 years on the date of death** of her father and her age should have been 18 years and 8 months. The management of ECL has produced Exhibit M-6 which is a letter dated 11/12.09.1998 addressed to Shiuly Bauri where the Competent Authority approved maintenance allowance at the rate of Rs 2,000/- per month to the daughter of the deceased in lieu of employment in place of her father. There was no clear communication to the dependent daughter of deceased that her prayer for employment was rejected on any ground. It is gathered from Exhibit M-2, a letter dated 22/27.02.2007 issued by Personnel Manager (Empl), ECL Headquarters, addressed to the Personnel Manager (IC), Pandaveswar Area, informing that the age of female dependent was assessed as 18 years as on 03.10.97, hence her date of birth is inferred as 03.10.79. According to the management the concerned female dependent (i.e., daughter) was aged 17 years 2 months 7 days as on date of death of her deceased father and she was below 18 years of age therefore she is not entitled to employment as per provision of NCWA. From this letter dated 22/27.02.2007 the final decision of the Competent Authority, refusing employment to the dependent daughter has come to light, after passage of 11 years from the date of death of Khudiram Bauri.

14. The relevant provision regarding employment to female dependent is provided in Clause 9.5.0 (ii) of NCWA-VI, which either allows employment or monetary compensation to a female dependent in case of death of an

employee while in service. It provides 45 years as the upper age limit for female dependent for exercising their option either for employment or monetary compensation. A female dependent above 45 years of age is vested with the right to receive monetary compensation only and she does not have any right to employment.

15. According to the Service Record Shiuly Bauri completed her 18 years and few months on the death of her father, where it was clearly laid down that her age was 9 years as on 01.04.1987. The Service Record Excerpt of Khudiram Bauri was produced by the union as Exhibit W-2 and the age of Shiuly Bauri, recorded therein, appears as 9 years. From the various documents relating to educational qualification of Shiuly Bauri, it appears that she appeared in Matriculation Examination under Bihar School Examination Board, Patna in the year 2000 (Exhibit W-6) and her Intermediate Examination under Jharkhand Academic Council, Ranchi in the year 2004 (Exhibit W-8) Therefore, there was no occasion for Shiuly Bauri to produce the certificates or admit card of such examinations bearing her date of birth at the time of her appearance before the IME Board **Under such circumstances the IME Board was required to rely upon the age of Shiuly Bauri, as it appeared in the Service Record of the deceased employee** or by holding her Ossification Test. Be that as it may, the provisions of Clause 9.5.0 (ii) of NCWA-VI vests the right to the dependent to exercise her option between employment and monetary compensation to a female dependent below the age of 45 years.

In the case of **Sukumoni Hembram Alias Sukumoni Mejhan vs The Union of India and Others [MAT 27 of 2024]**, the Hon'ble High Court at Calcutta held:

“41. Clause 9.5.0 (ii) vests the right of exercising an option between employment and monetary compensation with a female dependent below 45 years. Once a right stand vested it can be taken away by a process approved by law. In a given case, when the female dependent is below 45 years but above 18 years she can opt for either grant of employment or monetary compensation. If she opts for employment employer has no choice but grant her the employment. However, if such female dependent is a minor on the date of death of the deceased employee, she cannot be denied the right of exercising the option between employment and monetary compensation in terms of clause 9.5.0 (ii) on the plea of the Mines Act, or otherwise Right to employment or monetary compensation stood vested in the female dependant under clause 9.5.0 (ii) notwithstanding she being a minor on the date of death. This vested right can be taken from her only by a process approved by law.”

The Hon'ble High Court further held that:

“44. Clause 9.5.0 (iii) of the NCWA provides for a scenario where there is a minor male dependent in the family of the deceased employee and such family seeks to preserve the right of such male dependent to receive employment on his attaining the age of an adult. Clause 9.5.0 (iii) does not govern the right of a

female dependent, in a family of the deceased employee, where there is no male dependent, to receive employment or monetary compensation."

*The Hon'ble High Court further noted that Clauses 9.3.0 to 9.5.0 of the NCWA does not specify financial solvency or delay to be disqualifications for receipt of compassionate appointment or monetary compensation. The Hon'ble High Court allowed the appeal and directed the respondent authorities to grant compassionate appointment to the appellant as expeditiously as possible, and preferably within a period of 4 weeks from date, upon compliance with necessary formalities. **A Special Leave to Appeal was preferred before the Hon'ble Supreme Court of India against the judgment and order passed by the Division Bench of the High Court, which was dismissed, finding no reason or ground to interfere with the same.***

In the instant case the dependent daughter submitted her application claiming compassionate employment in place of her dead father within a period of less than 1 (one) year from the date of death of her father. At the time of her application, she had already attained the age of majority. The dependent daughter is therefore entitled to get compassionate employment as per provisions of Clause 9.5.0 (ii) of NCWA-VI. The management by denying employment to her acted in arbitrary and illegal manner, bypassing the provisions of settlement which is binding upon them under Section 18(3) of the Industrial Disputes Act, 1947. The management has no occasion to deny such employment to the dependent daughter of the deceased employee on the ground of delay

or that the family of the deceased has been able to wade over financial hardship, which arose immediately after the death of the employee. In the instant case the delay in disposing the matter is attributable to the management of ECL.

The widow of the deceased employee is also entitled to monetary compensation under Clause 9.5.0 (iii) of NCWA-VI at the prevailing rate from 10.12 1996 i.e., the date of death of the employee till employment is granted to the daughter. The Industrial Dispute is accordingly allowed in favour of the dependent daughter and widow of the deceased employee.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Pandaveswar Area of Eastern Coalfields Limited. The management of ECL is directed to grant compassionate employment to Shiuly Bauri within a period of 3 (three) months from the date of communication of the Award. Smt. Sakuntala Bauri, widow of the Late Khudiram Bauri is entitled to Monthly Monetary Cash Compensation (MMCC) at the prevailing rate from the date of death i.e., 10.12.1996 till compassionate employment / appointment is granted to the daughter. The management of Eastern Coalfields Limited is directed to pay the arrears of the monetary compensation to the widow of the deceased employee within 3 (three) months from the date of communication of the Award. Let an award be drawn up in light of my above findings. Copies of the Award in

duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.”

- 26.** It further appears that in the nomination form the respondent no.2 was aged about 27 years as on 01.04.1987. **The said declaration was also not disputed by the petitioner herein** and as such the age of the respondent no.2 as on 10.12.1996 is a little above 36 years and as such she had not crossed 45 years of age and thus the conduct of the petitioner rejecting her application stating that she was over age, was malafide and thus also wrong, prima facie to deprive the respondent no. 2 of her legitimate right, which is a clear abuse of process of law and has also caused severe prejudice to both the respondent no. 1 and 2, as their applications have been rejected in a total biased/unjust manner only to deprive the respondent no. 1 and 2 of their lawful right.
- 27.** Thus from the said facts and evidence as discussed above, it appears that both the respondents being 1 and 2, daughter and wife of the deceased workman have been deprived of their lawful entitlement, by **disregarding the age of the respondents as provided in the nomination form, which was never challenged.**
- 28.** As to the basis of ascertain their age, it appears that the sole intention was only to deprive the respondents no. 1 and 2, **unjustly, which is clear abuse of process of law.**

- 29.** Considering the said facts, the impugned award dated 19.06.2025, in reference case no. 02 of 2020, passed by the Central Government Industrial Tribunal, requires no interference and the writ application is accordingly dismissed.
- 30. WPA 29525 of 2025 is thus disposed of.**
- 31.** Applications, if any, connected thereto stand disposed of consequently.
- 32.** Interim order, if any, stands vacated.
- 33.** Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)