

OD-3

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/424/2025

SULOCHANA HARI
-VS-
M/S EASTERN COAL FIELDS LIMITED AND ORS

BEFORE:

The Hon'ble JUSTICE REETOBROTO KUMAR MITRA

Date : 10th July, 2026.

Appearance:

Mr. Subhrangsu Panda, Adv.
Ms. Bratati Pramanick, Adv.
Ms. Haritri Roy, Adv.
Mr. Anupam Singha, Adv.
...for the Petitioner

Mr. Anup Kanti Poddar, Adv.
Ms. Anjali Shaw, Adv.
...for Respondents/ECL

1. The petitioner is the widow of one Subodh Hari , who was an employee of the Kalipahari(R) Colliery under Satgram-Sripur area of the Eastern Coalfields Limited, designated as U.G. Loader having U.M. No. 119867, died in harness on 10.06.2010.
2. The petitioner is aggrieved that she has not been given the requisite compensation, payable to her on account of the death of her husband while in harness.
3. The facts are on a rather short conspectus. The petitioner claims to be the duly recorded dependent of the late Subodh Hari as would

appear from the nomination form F which was deposited at the time of the petitioner's husband being employed in the said colliery.

4. The petitioner, upon the death of her husband sometime in 2010, which was duly intimated by her, applied as the dependent by way of a letter dated August 27, 2010 for employment along with all requisite certificates including relationship certificate, certificate of dependency, maintenance affidavit etc.
5. From 2010 till about filing of the writ petition in May 2025, the petitioner had no intimation or any response from the respondent's authority regarding her application. The petitioner, claims to have pursued her request for compassionate appointment through several personal visits to the concerned office of the respondent's authority. None of these efforts from her end yielded any result. It was only thereafter that the petitioner filed the instant writ petition claiming the monetary compensation while exercising her option of the death of her husband. Needless to mention that from 2010 till 2025, not only had the petitioner not been given employment on compassionate ground, there was absolutely no response of any nature whether in acceptance or in denial of the application of the petitioner made by way of a letter dated August 27, 2010.
6. Since the petitioner had not received any response from the respondent's authority, she was constrained to make a second

representation on March 21, 2025, only this time, requesting them to release the monetary compensation in lieu of employment with effect from the date of death of the husband along with requisite interest.

7. It was in that stage that this Hon'ble Court by an order dated June 24, 2025 directed the representation of the petitioner to be considered by the respondent no. 5 in the light of the decision of this Hon'ble Court and particularly in light of the decision in *Eastern Coalfields Limited & Ors. v. Maya Bouri*, rendered in WPO 33 of 2025. The said authorities, in due compliance of the direction of the aforesaid order, have passed a reasoned order on August 4, 2025 which has been brought on record by a supplementary affidavit affirmed by the petitioner on March 20, 2026. It is this reasoned order of August 4, 2025 which has been assailed as well in this writ petition.

8. Mr. Panda, learned advocate appearing for the petitioner, seeks to explain these grounds as most frivolous and really an afterthought in the following manner:-

- i. The parties are guided by the bilateral agreement which clearly records in clause 9.4.0 and subclause thereunder as well clause 9.5.0 and subclause thereunder that a widow of an employee who died in harness is entitled to two options.

First she can accept compensation at a monthly rate as stipulated (Rs. 30,000/-) or opt for compassionate appointment in the place and instead of the employee who died in harness. These options have to be exercised. Once exercised, it is only that option to which the widow/female dependent becomes entitled. Thus, if a person exercises the option for compassionate appointment and is accordingly appointed, she cannot claim the monthly compassionate compensation. On the other hand if she applies for the monthly compensation, she cannot seek appointment on compassionate ground. One is in lieu of the other and not jointly.

- ii. In terms of these options given, the petitioner in the instant case had applied for compassionate appointment in place of her late husband. She also qualifies the only parameter, which is, that the widow has to be below the age of 45 years. This application made on August 27, 2025 by the petitioner had been kept pending and has not been deliberated upon even today.
- iii. The petitioner has not caused any delay in making the application as Subodh Hari expired in 2010 and not in 2004. Thus, there is no gap or broken timelines as sought to be explained by the respondents. Working in a coal mine

which is underground and exhumes a lot of poisonous gases including Methylamine, on account whereof mine workers often fall ill and are subjected to severe treatment which takes substantial time. Subodh Hari was undergoing a similar treatment on account whereof he had not attained mine work from 2004 to 2010 and ultimately expired. However, all his pensionary benefits were calculated till the time of his death.

- iv. Sulochana Hari, the petitioner, had been granted all the benefits of Subodh Hari after his death. This was a clear admission that Sulochana Hari was indeed the wife of Subodh Hari and was accepted as such by the respondent authorities.
- v. Sulochana Hari and Sandhya Hari are one and the same person. Sandhya was merely a pet name of Sulochana Hari and the same has been duly supported by affidavits and also an indemnity bond executed by her.
- vi. The application made by the petitioner on August 27, 2010, when she was entitled to be appointed on compassionate ground was not considered at all. It had indeed, never been rejected nor was the status or locus of the petitioner "Sulochana Hari questioned". If there was indeed a dispute

or doubt regarding the status and locus of Sulochana Hari the authorities were under an obligation to seek a clarification from the petitioner as to her status. No such clarification was ever sought for.

vii. There are documents on record which are with the respondent namely the nomination form submitted for payment of gratuity by Subodh Hari, which clearly mention Sulochana Hari as his wife. If indeed the respondents, were of the opinion that there were discrepancies between the name of the nominated person and the name of the recorded wife in the gratuity form, the same ought to have been clarified by the respondents by seeking appropriate answers from the petitioner. This had never been done. There is thus, no answer to the issue that the application of the petitioner seeking compassionate appointment had ever been considered. Only if it had been considered would these issues arise. These issues have been raised, ostensibly as an afterthought only upon this Hon'ble Court directing the matter to be considered by the appropriate authority (respondent no. 5 herein).

viii. Once the petitioner became disentitled, upon crossing the age of 45 years, she applied afresh in 2025 for monetary compensation.

- ix. Thus, the respondents cannot on the one hand keep the application of the petitioner pending and at the same time permit the timelines to be completely decimated to say that the application for monetary compensation cannot be considered as there was a delay in applying for the same.

- x. These issues of delay and of making an application have been addressed and conclusively decided by several judgments relied upon by the petitioner. The decisions of the Special Bench in *Putul Rabidas v. Eastern Coalfields Ltd. & Ors.*, reported in (2019) 2 CHN 662 (LB), and *Eastern Coalfields Limited v. Sumi Kamin and Ors.*, reported in 2024 SCC OnLine Cal 7573, have in no uncertain terms and with sufficient clarity decided on the issues of entitlements of the female dependent to obtain either compassionate appointment or monetary compensation.

- xi. He has also placed reliance on the decision in *M/s. Eastern Coal Fields Ltd. & Ors. v. Smt. Dukhni Bhuiya* in the case of MAT 86 of 2022 and *Eastern Coalfields Ltd. v. Premlata Singh & Ors.* in the case of FMA 1033 of 2023 to establish his point that delay is not a deciding factor, particularly when such delay is not attributable to the female dependent.

xii. The delay in this case of the 15 years from 2010 to 2025 cannot in any manner be attributed to the petitioner as she was expecting that the respondents would consider and dispose of her case within a reasonable timeline. In fact, she had visited the respondent's concerned offices / officers on several occasions without any result whatsoever.

m. It has also been conclusively decided by the Hon'ble Court in the aforestated decisions that the payment of compensatory allowance will not be from the date of the application but from the date of death as decided.....

xiii. None of these issues were considered by the authority while passing the impugned order dated August 4, 2025.

9. On these aforestated facts, the respondents have held that the petitioner is not entitled to payment of MMCC.

10. The issues raised by Mr. Poddar appearing for the the respondent authorities are set forth as under:

a. The last working date of Subodh Hari was June 30, 2004, while his death certificate records his date of death as June 10, 2010, thereby leaving an gap of six years.

- b. The nomination form contains the name of the spouse of Subodh Hari as Sandhya Hari for employment in case of premature death of Subodh Hari. This petitioner, Sulochana Hari , is not mentioned in the nomination form.
 - c. The application of the petitioner of August 27, 2010, (inadvertently referred to as August 26, 2010 in the impugned order) was not found in the records of the respondent.
 - d. There is also a delay of about 15 years (from 2010 to 2025) by the petitioner in seeking the compensation on account of the death of Subodh Hari.
11. This order disposing of the representation rejected Sulochana's prayer for Monthly Monetary Cash Compensation primarily on the following grounds:
- (a) The delay caused in making the application, since Subodh died in 2010 and the application for Monthly Monetary Cash Compensation was made by Sulochana in 2025;
 - (b) The application by Sulochana cannot be established or rather created a conundrum as to whether Sulochana was not the legally married wife of Subodh. The conundrum arose in view of the fact that in one of the supporting documents submitted by Subodh with the authorities, name of the wife has been shown as 'Sandhya';

- (c) There was also an issue of delay raised since the last working day of Subodh in ECL was sometime in 2004 while he expired in 2010.

12. I have heard the learned advocates appearing for the parties and perused the documents as well as the judgments relied upon by the parties.

Admitted facts of this case are :

- (i) Subodh was an employee of ECL;
- (ii) Subodh expired sometime in 2010;
- (iii) An application for compassionate appointment was indeed made by Sulochana in 2010, 2 months after the death of Subodh;
- (iv) No person by the name of Sandhya or by any other identity has ever approached ECL to stake a claim for compassionate appointment or for any other benefit which accrued to Subodh or his family members after his death;
- (v) The reasoned order of August 4, 2025 does not take into account the documents which have been produced by Sulochana in this writ petition and the supplementary affidavit appended thereto;
- (vi) The authorities have disbursed payment on account of gratuity without any protest or demur in favour of Sulochana;

- (vii) The authorities have idled away a considerable time from 2010 to 2025 whiling a period of 15 years which disentitled Sulochana for compassionate appointment for which she had applied in 2010.

13. The order assailed herein dated August 4, 2025 records the following issues :

- i) There is no claim for employment or MMCC by any of the defendants as mentioned in the service record of Subodh;
- ii) The last working day of Subodh was 30th June, 2004 and the death certificate is of 10th June, 2010;
- iii) The name of Sulochana as wife of Subodh is not found anywhere in the service book of the deceased employee;
- iv) The application of Sulochana dated 26th August, 2010 is not found in the record of the ECL;
- v) Sulochana has not claimed PF refund or pension settlement for the last 15 years.

14. On the basis of these aforesaid factual findings, the authorities proceeded to reject the application of Sulochana.

15. The order is found wanting as the writ petition has disclosed the application of Sulochana for compassionate appointment dated 26th August, 2010, which has not been considered by the authorities. The application appended to the writ petition has, however, not been denied by the authorities passing impugned order. In fact,

there are several other documents including the certificate from the local panchayat authority, the indemnity bond deposited by Sulochana that she is the only legally married wife of Subodh and the affidavit of Sulochana dated 17th October, 2011 has been completely glossed over. The authorities have not taken into account that merely because the application is not available in their records does not lead to the conclusion that the application had not been made. The ground that Sulochana is not mentioned in the documents submitted by Subodh is not considered in light of the fact that the authorities had already paid the gratuity amount accrued to Subodh, to Sulochana. The authorities have proceeded with a closed mind without taking such documents into record and without considering the same.

16. The order of August 4, 2025 proceeds mechanically to reject the claim of Sulochana simply on the ground that there has been a delay in applying for Monthly Monetary Cash Compensation which was made in 2025, since Subodh expired in 2010. This period of 15 years has been construed as a delay and a default ascribable to Sulochana alone. Clearly, the impugned order does not take into consideration the fact that the application of Sulochana for compassionate appointment in 2010 was kept pending without any reason by the authorities till 2025. Sulochana waited under a legitimate expectation that her application would be dealt with in accordance with the prevalent rules. It was only when she attained

the age of 45, thus disentitling her from compassionate appointment that she made an application for Monthly Monetary Cash Compensation and thereafter approached this Hon'ble Court. The delay cannot be ascribed to Sulochana alone. These issues have not been addressed in the order impugned of August 4, 2025.

17. At the same time, as a Court exercising jurisdiction under Article 226 of the Constitution of India in judicial review, this Court has to take a cautious approach. It is not for this Court to determine or embark on an investigation or enquiry as to the identity of Sulochana or even the existence of Sandhya. These are the matters best left to the experts.

18. In view of the afore-stated observation and finding, order dated August 4, 2025 is set aside.

19. The authorities are directed to revisit the issue afresh. However, the authorities will engage a person who will pursue and investigate through local police authorities to determine the identity of Sulochana. Identity of Sulochana should be restricted to the issue as to whether she is the legally married wife of late Subodh Hari, a former employee of ECL.

20. Officer-in-Charge of Raniganj Police Station is directed to cause investigation either by himself or through an authorized officer not

below the rank of a Sub-Inspector of Police and to prepare and file a report with the ECL authorities within a period of 4 weeks from the date of an application being made to him by the authorized Officer on behalf of ECL. This application should be made by July 31, 2026.

21. The respondent no.4 is directed to conduct a hearing upon adequate prior notice to the petitioner who will be represented before the concerned authorities through an authorized representative and will be entitled to present all documents pertaining to her identity as the wife of Subodh Hari at the time of hearing and that Sulochana and Sandhya are one and the same person.
22. Respondent no.4 will conclude the entire process within a period of 4 weeks from the date of receipt of the report from the Officer-in-Charge of the Raniganj Police Station. I also make it clear that the respondent no.4 will proceed strictly on the basis of the prevalent rules and guidelines of ECL and will consider this case in the light of Maya Bouri of this Hon'ble Court in **APOT/205/2025 (E.C.L. Vs. Maya Bouri)** which stipulates that the Monthly Monetary Cash Compensation will be payable to the dependent from the date of death of the former employee on account of whom such claim is made.

23. In the event, the resultant order is in favour of the petitioner, consequently, payments shall be made over to the petitioner within a period of two weeks from date of passing of such order along with interest at a reasonable rate in consonance with the rates given by nationalized bank on fixed deposit.
24. The petitioner is entitled to such interest in view of the fact that the respondent authorities have kept the application of Sulochana pending for 15 years, without deciding the issue.
25. With the afore-stated directions, the writ petition being WPO/424/2025 stands disposed of. There shall be no order as to costs.
26. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(REETOBROTO KUMAR MITRA, J.)