

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 65 OF 2005**

**PARTIES:** Meherun Nisha,  
(wife of Late Nizam Mian)

**Vs.**

Management of Jambad Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress

For the Management of ECL: Mr. P. K. Das, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 31/12/2024

**A W A R D**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/339/2004-IR(CM-II)** dated 18/07/2005 has been pleased to refer the following dispute between the employer, that is the Management of Jambad Colliery, Kajora Area of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

**THE SCHEDULE**

*“Whether the action of the management of Jambad Colliery under Kajora Area of M/s Eastern Coalfields Limited in denying employment under NCWA IV to the dependant of Late Nizam Mian, Fitter Helper is legal and justified? If not, to what relief the family of deceased workman is entitled to?”*

1. On receiving Order **No. L-22012/339/2004-IR(CM-II)** dated 18/07/2005 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 65 of 2005** was registered and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar, General Secretary of Koyala Mazdoor Congress filed written

statement on behalf of the dependent of Late Niam Mian, ex-employee of Jambad colliery, Kajora Area of ECL. In a nutshell, fact of the case disclosed in written statement of the union is that the workman was posted as Fitter Helper at Jambad colliery and he died in harness on 14/06/1987. It is claimed that according to the provision of NCWA-IV one dependent of the deceased employee is entitled to employment in his place. Meherun Nisha, wife of the deceased workman submitted an application praying for providing employment to her and for payment of legal dues. Employment proposal was processed and forwarded to ECL Head Quarters in the year 1996 but the management did not provide her with any employment. It is further stated that son of Nizam Mian was a minor at the time of his death. With the passage of time the son has attained majority and employment may be provided to him. It is inter alia stated that Meherun Nisha does not have any source of income for maintaining her livelihood and the employer company should provide her employment at the earliest. Union contended that management deliberately delayed the matter by not providing employment to the wife of Late Nizam Mian, violating the terms and conditions of NCWA-IV.

**3.** Management contested the Industrial Dispute by filing written statement on 21/01/2015. According to the management, after death of Nizam Mian on 14/06/1987, Meherun Nisha claimed for employment for herself as wife of the deceased, but Death Registration Certificate was not produced. Claim for employment was forwarded to ECL Head Quarters. Subsequently a letter was received from HQ (Employment) dated 02/12/2001 disclosing discrepancies in the application of the claimant that no Service Record Excerpt/Service Book of the deceased was found in the case file, Post Mortem report and Attestation form were not in order and name of the dependent wife did not appear in the company's record. On 11/11/2012 relevant documents were received by a

three men committee which were sent to Sr. Manager (P), Kajora Area. Management contended that dependent of the deceased is not entitled to get employment on compassionate ground and action of the management in not providing employment to the claimant is justified.

4. Moot point for consideration before this Tribunal is “Whether the action of the management of Jambad Colliery under Kajora Area of M/s Eastern Coalfields Limited in denying employment under NCWA IV to the dependant of Late Nizam Mian, Fitter Helper is legal and justified? If not, to what relief the family of deceased workman is entitled to?”

5. In order to substantiate the case of dependent of the workman, union has examined Meherun Nisha, wife of Nizam Mian as WW-I. She claimed to have submitted an application for her employment after death of her husband. She stated that management called her for screening and Medical Examination but no employment was offered to her. In cross-examination witness denied suggestion of the management that she did not file documents to show that she was the wife of Late Nizam Mian. On 30/03/2015, at the time of adducing evidence, her age was forty five years. Witness was re-examined on recall on 16/05/2023 where she produced the following documents-

(1) Copy of Death Registration Certificate of Nizam Mian as Exhibit W-1.

(2) A copy of letter dated 11/06/1988 issued by the Agent, Jambad colliery which described Meherun Nisha as wife of Late Nizam Mian in LTC/LLTC claim form has been produced as Exhibit W-2.

(3) A copy of letter dated 11/01/1989 issued by the Agent, Jambad Colliery asking to produce a No Objection from the second wife of Late Nizam Mian has been produced as

Exhibit W-3.

(4) A copy of letter dated 13/06/1996 for her appearance before the Screening Committee has been produced as Exhibit W-4.

(5) A copy of letter dated 25/03/2009 for Initial Medical Examination of Meherun Nisha has been produced as Exhibit W-5.

(6) A copy of letter dated 26/12/2009 asking Meherun Nisha to produce some documents before the company has been produced as Exhibit W-6.

(7) Reply dated 11/10/2012 submitted by Meherun Nisha has been produced as Exhibit W-7.

(8) A copy of letter dated 11/11/2012 whereby documents were forwarded to Senior Manager (Personnel), Kajora Area for employment has been produced as Exhibit W-8.

(9) A copy of letter dated 12/04/2013 issued by Senior Manager (Personnel), Jambad Colliery informing that reference case No. 65 of 2005 is pending before CGIT, Asansol is produced as Exhibit W-9.

(10) A copy of fresh Attestation Form is marked as Exhibit W-10.

Witness deposed that management did not communicate to her about final result of her application praying for employment and that no Monetary Compensation in lieu of employment has been paid to her. In course of cross-examination witness stated that she submitted her application in the year 1987 but failed to produce copy of her application. Meherun Nisha admitted that Mst. Nazma Khatun is the second wife of Late Nizam Mian and a legal dispute cropped up between her and Nazma Khatun regarding claim for employment. She deposed that subsequently a compromise took place between her and the second wife of Late Nizam Mian and she undertook to file the copy of document

relating to settlement.

6. Mr. Ramjee Tripathi, Management Representative has been examined as MW-I. He filed an affidavit-in-chief on behalf of the management wherein he has categorically stated that claim for employment was preferred after a lapse of nine years from the death of the concerned employee and due to inordinate delay in preferring claim, proposal for employment was not considered by the Competent Authority and it was duly communicated to her by the Dy. Chief Personnel Manager (ECL/ Head Quarters) vide letter dated 11/03/1997. Witness produced the following documents in course of evidence:-

- (1) Copy of application of Meherun Nisha dated 23/01/1996 seeking employment is produced as Exhibit M-1.
- (2) Copy of Death Registration Certificate of the employee is produced as Exhibit M-2.
- (3) Copy of letter regretting proposal for employment is produced as Exhibit M-3.

MW-I in cross-examination admitted that on 11/01/1989 (Exhibit W-3), Dy. CME/Agent, Jambad colliery issued a letter to Meherun Nisha asking her to submit a No Objection Certificate from the second wife of Nizam Mian in respect of her claim for employment. Meherun Nisha also appeared before the screening committee and for her Initial Medical Examination which were held in course of time. Witness admitted that on 04/03/1996, Dy. Personnel Manager, Jambad colliery initiated a Note sheet proposing Meherun Nisha would be provided employment and Nazma Khatun would receive death benefits and other legal dues. Copy of Note sheet is identified as Exhibit W-11. Witness identified letter dated 17/28.12.2009 issued to the Superintendent of Police, Deoghar (Jharkhand) seeking verification regarding genuinity of relationship of Nizam Mian with Meherun Nisha as

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Exhibit W-12 and reply submitted by Madhupur Police Station confirming that Meherun Nisha was the wife of Nizam Mian is admitted as Exhibit W-13. Witness stated in the cross-examination that after holding medical examination, no proposal was forwarded to Head Quarters and no decision was taken. Witness further stated that Head Quarters did not decide finally and no monetary compensation was paid to Meherun Nisha after death of her husband.

7. Mr. Rakesh Kumar, union representative arguing the case on behalf of the dependents of the deceased employee submitted that Meherun Nisha is the first wife of the deceased and the same finds corroboration from Exhibit W-2, a letter dated 11/06/1988. Wife of the deceased submitted the application within time for getting employment in place of her deceased husband on compassionate ground and she is entitled to get employment. Referring to Exhibit W-12, a letter issued by Dy. CME/Agent, Jambad colliery dated 17/28.12.2009 for verification of relationship of Nizam Mian with Meherun Nisha, it is argued that after verification a report was submitted by the police on 25/08/2012 which has been admitted in evidence as Exhibit W-13. It is clear from the report that Meherun Nisha is the wife of deceased employee and she also underwent screening and Medical Examination (Exhibits W-4 and W-5 respectively). It is urged on behalf of the dependent that management has deliberately delayed the process causing immense suffering to the family of deceased. Mr. Kumar claimed that under provision of clause 9.5.0 of NCWA, wife of the deceased is also entitled to get monetary compensation.

8. In reply Mr. P. K. Das, learned advocate for the management argued that death of Nizam Mian took place on 14/06/1987 but no application was submitted before the

management of ECL until 23/01/1996 (Exhibit M-1). Learned advocate submitted that Nizam Mian left behind two wives namely Meherun Nisha and Nazma Khatun and there was a dispute between the two wives regarding claim for employment. Only at a later stage Meherun Nisha submitted a document of settlement between her and Nazma Khatun. It is therefore claimed that management did not commit illegality in not providing employment to the first wife due to delay. Learned advocate relied upon Exhibit M-3, an internal letter of the management whereby it was communicated that proposal for employment in favour of Meherun Nisha, wife of Late Nizam Mian could not be considered after ten years from death of employee. It is argued that the Industrial Dispute has no merit and is liable to be dismissed.

9. I have considered rival contentions of parties. Concerned union representing the case of Meherun Nisha seeking employment on death of Nizam Mian has failed to establish that any application was filed by Meherun Nisha claiming employment within a reasonable time from death of her husband. It transpires from Exhibit W-6, a letter dated 16/26.12.2009 issued by Dy. CME/Agent, Jambad colliery that on examination of her case file, certain relevant documents like Death Registration Certificate of Nizam Mian and Service Record Excerpt/Service Book of deceased were not found. Post-Mortem report of the deceased was not attested by any official and Attestation form was not in order. She was also asked to explain the delay in raising claim. It further transpires from Exhibit W-4 that for the first time Meherun Nisha was asked to appear before the screening committee on 21/06/1996 and for her IME on 27/03/2009 (Exhibit W-5). Admittedly, deceased employee left behind two wives and they had some legal dispute. Management of the company therefore cannot be held responsible for committing delay. Time is the essence in cases of providing employment. Dependent of the deceased employee cannot lay such claim at any time. From evidence on record I find that in the year 2015, Meherun Nisha at



the time of adducing evidence stated her age as forty years. In her cross-examination she deposed that her age was forty five years. After passage of time the wife of the deceased employee is nearly sixty years of age. Therefore, she cannot be entitled to any employment on compassionate ground in place of her deceased husband after such long lapse of time, specially when delay is attributed to her family dispute.

**10.** Mr. Rakesh Kumar, while advancing argument fairly admitted that wife of the deceased employee is old and there has been delay in making her claim for employment. He prayed for the alternative relief for providing monetary compensation to the wife of the deceased. According to clause 9.5.0 of NCWA, relating to payment of monetary compensation to female dependent it has been laid down that in case of death or total permanent disablement due to cause other than mine accident and medical unfitness under clause 9.4.0 if the female dependent is below age of forty five years, she will have the option either to accept monetary compensation of Rs. 3,000/- per month or employment. In case of female dependent above forty five years of age she will be entitled only to monetary compensation and not to employment. In the instant case the wife of the deceased employee having delayed in submitting her "No Objection Certificate" from the second wife regarding claim for employment, she is not entitled to any employment as dependent of the deceased employee. Under clause 9.5.0 (ii) of NCWA, Meherun Nisha is however entitled to receive monetary compensation at the prescribed rate from the date of death of her husband till she attains sixty years of age. Management of Jambad colliery, Kajora Area, ECL is directed to disburse monetary compensation to the wife of the deceased employee within three months from date of communication of the Award.

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Hence,

**ORDERED**

that Industrial Dispute is allowed in part on contest against the management of Jambad colliery, ECL. Meherun Nisha, wife of the deceased workman is entitled to get monetary compensation in the capacity of female dependent according to clauses 9.5.0 (ii) and (iv) from the date of death of her husband (14/06/1987) till she attains sixty years of age. Management of Jambad colliery is directed to disburse monetary compensation to the wife of deceased workman within three months from date of communication of Award. Let copies of Award be communicated to the Ministry for information and Notification.

sd/-

**(Ananda Kumar Mukherjee)**

Presiding Officer

CGIT-cum-LC, Asansol