

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 8726 OF 2018

**SOUTH EASTERN COALFIELD
LTD. & OTHERS**

....APPELLANT(S)

VERSUS

GULSHAN PRAKASH

....RESPONDENT(S)

ORDER

1. The present appeal is directed against the interim order passed by the Division Bench of the High Court impugned dated 24th August, 2016, while declining to grant interim relief in the pending writ appeal, appellants were directed to ensure compliance of the order impugned passed by the learned Single Judge dated 21st December, 2015 which was a subject matter of challenge in the writ appeal before the Division Bench of the High Court.

2. While issuing notice by this Court dated 30th January 2017, the operation and effect of the interim order dated 24th August, 2016 was stayed by this Court. The order dated 30th January, 2017 is reproduced hereunder:-

“Delay condoned.

Issue notice.

In the meanwhile, there shall be a stay of operation of the impugned judgment and order dated 24.08.2016 passed by the High Court of Chattisgarh, Bilaspur.

Liberty to file additional documents.”

3. The matter pertains to compassionate appointment of the respondent on account of death of his father while he was in service in the year 2007. One of the dependents submitted an application seeking compassionate appointment under the scheme, i.e., National Coal Wage Agreement(NCWA), a settlement within the meaning of Section 2(p) of the Industrial Disputes Act, 1947 which is binding under Section 18(3) of the Act. When the application filed by one of the dependents of the respondent came to be rejected by the appellant-employer on the premise that his mother was in employment and was capable to maintain her family, came to be assailed by the respondent(dependent) by filing of a writ petition before the Learned Single Judge of High Court of Chattisgarh, Bilaspur.

4. Learned Single Judge, after examining the effect of the settlement agreement (NCWA) which is binding on the parties and

the material on record allowed the writ petition with a direction to consider the candidature of the respondent(dependent) for compassionate appointment in terms of the settlement agreement(NCWA) under its judgment dated 21st December, 2015 that became the subject matter of challenge at the instance of the present appellants by filing of a writ appeal before the Division Bench of the High Court.

5. It reveals from the record that at the motion stage, the Division Bench, after hearing the parties while admitting the appeal, declined to grant interim relief prayed for by the appellants. At the same time, directed the appellants to ensure compliance of the Order which was impugned before the Division Bench in writ appeal. The order passed by the Division Bench of the High Court in writ appeal dated 24th August, 2016 came to be challenged in appeal before us.

6. The stay is operating in the instant appeal since 30th January, 2017. At one stage, we were of the view to decide the appeal on merits rather to relegate the parties to get the writ appeal examined on merits by the High Court but after we have looked into the

records, we are of the view that it may be advisable and in the interest of justice that the writ appeal pending before the High Court may be heard on merits.

7. We make it clear that we have not expressed any opinion on merits of the case.

8. The appeal is accordingly disposed of with a request to the High Court to dispose of the writ appeal on its own merits as expeditiously as possible.

9. The interim Order passed by this Court dated 30th January, 2017 shall continue until disposal of the writ appeal pending before the High Court.

10. Pending application(s), if any, shall stand disposed of.

.....**J.**
(AJAY RASTOGI)

.....**J.**
(BELA M. TRIVEDI)

NEW DELHI;
FEBRUARY 20, 2023.

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 8728 OF 2018

**SOUTH EASTERN COALFIELD
LTD. & OTHERS**

....APPELLANT(S)

VERSUS

AVINASH SOLOMAN

....RESPONDENT(S)

ORDER

1. The present appeal is directed against the interim order passed by the Division Bench of the High Court impugned dated 24th August, 2016, while declining to grant interim relief in the pending writ appeal, appellants were directed to ensure compliance of the order impugned passed by the learned Single Judge dated 30th November, 2015 which was a subject matter of challenge in the writ appeal before the Division Bench of the High Court.

2. While issuing notice by this Court dated 8th May 2017, the operation and effect of the interim order dated 24th August, 2016 was stayed by this Court. The order dated 8th May, 2017 is reproduced hereunder:-

“Delay condoned.

Issue notice.

In the meanwhile, there shall be a stay of operation of the impugned judgment and order dated 24.08.2016 passed by the High Court of Chattisgarh, Bilaspur.

Tag with SLP(C) No. 3847/2017.”

3. The matter pertains to compassionate appointment of the respondent on account of death of his father while he was in service in the year 2007. One of the dependents submitted an application seeking compassionate appointment under the scheme, i.e., National Coal Wage Agreement(NCWA), a settlement within the meaning of Section 2(p) of the Industrial Disputes Act, 1947 which is binding under Section 18(3) of the Act. When the application filed by one of the dependents of the respondent came to be rejected by the appellant-employer on the premise that his mother was in employment and was capable to maintain her family, came to be assailed by the respondent(dependent) by filing of a writ petition before the Learned Single Judge of High Court of Chattisgarh, Bilaspur.

4. Learned Single Judge, after examining the effect of the settlement agreement (NCWA) which is binding on the parties and

the material on record allowed the writ petition with a direction to consider the candidature of the respondent(dependent) for compassionate appointment in terms of the settlement agreement(NCWA) under its judgment dated 30th November, 2015 that became the subject matter of challenge at the instance of the present appellants by filing of a writ appeal before the Division Bench of the High Court.

5. It reveals from the record that at the motion stage, the Division Bench, after hearing the parties while admitting the appeal, declined to grant interim relief prayed for by the appellants. At the same time, directed the appellants to ensure compliance of the Order which was impugned before the Division Bench in writ appeal. The order passed by the Division Bench of the High Court in writ appeal dated 24th August, 2016 came to be challenged in appeal before us.

6. The stay is operating in the instant appeal since 8th May, 2017. At one stage, we were of the view to decide the appeal on merits rather to relegate the parties to get the writ appeal examined on merits by the High Court but after we have looked into the

records, we are of the view that it may be advisable and in the interest of justice that the writ appeal pending before the High Court may be heard on merits.

7. We make it clear that we have not expressed any opinion on merits of the case.

8. The appeal is accordingly disposed of with a request to the High Court to dispose of the writ appeal on its own merits as expeditiously as possible.

9. The interim Order passed by this Court dated 8th May, 2017 shall continue until disposal of the writ appeal pending before the High Court.

10. Pending application(s), if any, shall stand disposed of.

.....**J.**
(AJAY RASTOGI)

.....**J.**
(BELA M. TRIVEDI)

NEW DELHI;
FEBRUARY 20, 2023.