रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

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सं. 02] नई दिल्ली, जनवरी 19,—जनवरी—25, 2025, शनिवार/ पौष 29—माघ 5, 1946
No. 02] NEW DELHI, JANUARY 19,—JANUARY—25, 2025, SATURDAY/PAUSHA 29–MAGHA 5, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 27 जुलाई, 2021

का.आ. 67.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री तपन कुमार दास, अधिवक्ता को बोंगईंगांव, असम स्थित विचारण न्यायालय में दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थापित केंद्रीय अन्वेषण ब्यूरो मामला आर.सी.-9(एस)/2012/एस.सी.1/नई दिल्ली और आर.सी-10(एस)/2012/एस.सी. 1/नई दिल्ली (कोकराझार, असम के संजातीय हिंसा मामलों) में अभियोजन का संचालन करने हेतु विशेष लोक अभियोजक के रूप में उनकी नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए या मामले के निपटान होने तक, जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/03/2021/-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department Of Personnel And Training)

New Delhi, the 27th July, 2021

S.O. 67.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Tapan Kumar Das, Advocate as Special Public Prosecutor for conducting prosecution of Central Bureau of Investigation cases RC9(S)/2012-SC-I/ND and RC10(S)/2012-SC-I/ND (Ethnic Violence cases of Kokrajhar, Assam) instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) before the trial Court at Bongaingaon, Assam for a period of three years from the date of appointment or till disposal of the cases, whichever is earlier.

[F. No. 225/03/2021-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 16 फरवरी, 2023

का.आ. 68.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री तपन कुमार दास, अधिवक्ता को, असम राज्य के बोंगई गांव में स्थित विशेष न्यायाधीश के न्यायालय के समक्ष दिल्ली विशेष पुलिस स्थापन, (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामला आरसी 11(एस)/2012/सीबीआई/एससी-।/नई दिल्ली (सीबाई बनाम सरतसिंह नरयार्य उर्फ सरत बासूमैत्री और अन्य) में, अभियोजन का संचालन करने के लिए तथा अपील पुनरीक्षण तथा तत्समय प्रवृत्त किसी विधि द्वारा स्थापित किसी अपीलीय या पुनरीक्षण न्यायालय में इस मामले से उत्पन्न होने वाले अन्य मामलों में विशेष अभियोजन के रूप में उनकी नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए या मामले के निपटारा होने तक, जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/27/2022-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 68.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Tapan Kumar Das, Advocate as Special Public Prosecutor for conducting prosecution Case RC 11(S)/2012/CBI/SC-I/New Delhi (CBI Vs Saratsingh Naryary @ Sarat Basumatary and others) instituted by Delhi Special Police Establishment (Central Bureau of Investigation), before the Court of Special Judge, Bongaigaon, in the State of Assam and any appeal, revision and other matters arising out of this case in any appellate or revisional Court established by any law for the time being in force, for a period of three years from the date of assumption of charge or till disposal of the case, whichever is earlier.

[F. No. 225/27/2022-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 15 जनवरी, 2025

का.आ. 69.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अधिवक्तागण श्री भगवान सिंह भाँवरिया, श्री नीरज गुप्ता और श्री कुलदीप वैष्णव को राजस्थान राज्य में जोधपुर स्थित विचारण न्यायालयों में, दिल्ली विशेष पुलिस स्थापन) केन्द्रीय अन्वेषण ब्यूरो (द्वारा संस्थित मामलों के अभियोजन का संचालन और विधि द्वारा स्थापित किसी अपीलीय अथवा पुनरीक्षण न्यायालय में इन मामलों से उत्पन्न अपील, पुनरीक्षण अथवा अन्य मामले का संचालन करने के तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/35/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 15th January, 2025

S.O. 69.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Bhagwan Singh Bhanwariya, Shri Neeraj Gupta and Shri Kuldeep Vaishnav, Advocates as Special Public Prosecutors for conducting prosecution of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) in the State of Rajasthan at Jodhpur in the trial Courts and appeals, revisions or other matters arising out of these cases in appellate or revisional courts established by law for a period of three years or till further orders, whichever is earlier.

[F. No. 225/35/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 15 जनवरी, 2025

का.आ. 70.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री श्रीकोंडा मनोहर और श्री वेन्ना कल्यान चक्रवर्ती, अधिवक्ताओं को, आन्ध्र प्रदेश राज्य के विशाखापट्टनम, विजयवाड़ा और कुरनुल के विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामलों में अभियोजन का संचालन करने के लिए तीन वर्षों की अवधि के लिए या अगला आदेश होने तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/36/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 15th January, 2025

S.O. 70.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Sreekonda Manohar and Shri Venna Kalyan Chakravarthi, Advocates as Special Public Prosecutors for conducting prosecution of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) in the Trial Courts at Visakhapatnam, Vijayawada and Kurnool in the State of Andhra Pradesh for a period of three years or till further orders, whichever is earlier.

[F. No. 225/36/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(दंत चिकित्सा शिक्षा अनुभाग)

नई दिल्ली, 10 जनवरी, 2025

का.आ. 71.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय दंत चिकित्सा परिषद के परामर्श के पश्चात, उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, अर्थात्:-

दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 154 के पश्चात, हिमाचल प्रदेश **राजकीय दंत चिकित्सा महाविद्यालय एवं अस्पताल, शिमला, हिमाचल प्रदेश के** बीडीएस छात्रों के संबंध में अटल **आयुर्विज्ञान एवं अनुसंधान विश्वविद्यालय, मंडी, हिमाचल प्रदेश द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित निम्नलिखित क्रम संख्या और प्रविष्टियों** में निम्नलिखित प्रविष्टियां सम्मिलित की जाएंगी, अर्थात:

155. अटल मेडिकल एवं अनुसंधान विश्वविद्यालय, मंडी, हिमाचल प्रदेश	**हिमाचल प्रदेश राजकीय दंत चिकित्सा महाविद्यालय एवं अस्पताल, शिमला, हिमाचल प्रदेश**	
	डेंटल सर्जरी में स्नातक 24.09.2024 को या उसके बाद यदि अनुमोदन दिया जाता है तो 75 सीटों के साथ)	बीडीएस, **अटल मेडिकल एवं अनुसंधान विश्वविद्यालय, मंडी, हिमाचल प्रदेश**

[फा. सं. वी. 12017/06/2024-डीई(भाग 1)]

अमित कुमार, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Dental Education Section)

New Delhi, the 10th January, 2025

S.O. 71.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act. 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:-

In Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) after the serial No. 154, in the following serial number and entries pertaining to recognition of Dental Degrees awarded by **Atal Medical and Research University, Mandi, Himachal Pradesh** in respect of BDS students of **H.P Government Dental College & Hospital, Shimla, Himachal Pradesh,** the following entries shall be inserted, namely:

155. Atal Medical and Research University, Mandi, Himachal Pradesh	**H.P Government Dental College & Hospital, Shimla, Himachal Pradesh**	
	Bachelor of Dental Surgery (With 75 seats if granted on or after 24.09.2024)	BDS, **Atal Medical and Research University, Mandi, Himachal Pradesh**

[F. No. V. 12017/06/2024-DE(Pt.1)]

AMIT KUMAR, Under Secy.

नई दिल्ली, 10 जनवरी, 2025

का.आ. 72.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय दंत चिकित्सा परिषद के परामर्श के पश्चात, उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, अर्थात्:-

हिमाचल डेंटल कॉलेज, सुंदरनगर, हिमाचल प्रदेश के बीडीएस छात्रों के संबंध में अटल मेडिकल एंड रिसर्च यूनिवर्सिटी, मंडी, हिमाचल प्रदेश द्वारा प्रदान की गई दंत चिकित्सा डिग्री की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 155 के **सामने कॉलम 2 और 3 की मौजूदा** प्रविष्टियों में निम्नलिखित प्रविष्टियां अंत:स्थापित जाएंगी, अर्थात:

हिमाचल डेंटल कॉलेज, सुंदरनगर, हिमाचल प्रदेश	
डेंटल सर्जरी में स्नातक (यदि 24.09.2024 को या उसके बाद अनुमोदन दिया जाता हैं तो 60 सीटों के साथ)	बीडीएस, **अटल मेडिकल एवं अनुसंधान विश्वविद्यालय, मंडी, हिमाचल प्रदेश**

[फा. सं. वी.12017/06/2024-डीई(भाग 1)]

अमित कुमार, अवर सचिव

New Delhi, the 10th January, 2025

S.O. 72.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act. 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:-

In the existing entries of column 2 & 3 against Serial No. 155, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of Dental Degrees awarded by **Atal Medical and Research University, Mandi, Himachal Pradesh** in respect of BDS students of **Himachal Dental College, Sundernagar, Himachal Pradesh,** the following entries shall be inserted, namely:

Himachal Dental College, Sundernagar, Himachal Pradesh	
Bachelor of Dental Surgery (With 60 seats if granted on or after 24.09.2024)	BDS, **Atal Medical and Research University, Mandi, Himachal Pradesh**

[F. No. V.12017/06/2024-DE(Pt.1)]

AMIT KUMAR, Under Secy.

अंतरिक्ष विभाग

बेंगलूरु, 20 जनवरी, 2025

का.आ. 73.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में एतत् द्वारा अंतरिक्ष विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

समानव अंतरिक्ष उड़ान केंद्र (एच.एस.एफ.सी.)

भारतीय अंतरिक्ष अनुसंधान संगठन

अंतरिक्ष विभाग, भारत सरकार

बेंगलूरु, कर्नाटक - 560094

[फा. सं. 8/1/10/2024-हिं.]

राजी आर, अवर सचिव

DEPARTMENT OF SPACE

Bangalore, the 20th January, 2025

S.O. 73.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Office of the Department of Space, whereof more than 80 percent staff have acquired the working knowledge of Hindi.

Human Space Flight Centre (HSFC)

Indian Space Research Organisation

Department of Space**,** Government of India

Bengaluru - 560094

[F. No. 8/1/10/2024-H.]

RAJI R, Under Secy.

सहकारिता मंत्रालय

नई दिल्ली, 15 जनवरी, 2025

का.आ. 74.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में सहकारिता मंत्रालय के अधीन राष्ट्रीय सहकारी प्रशिक्षण परिषद के निम्नलिखित

अधीनस्थ कार्यालय में 80% से अधिक कर्मचारियों को हिंदी का कार्यसाधक ज्ञान प्राप्त होने के फलस्वरूप एतद्वारा अधिसूचित करती है:

क्षेत्रीय सहकारी प्रबंध संस्थान

सेक्टर 32-सी, चंडीगढ़- 160030 (संघ राज्यक्षेत्र)

[फा. सं. ई-14018/1/2024-सहकारिता मंत्रालय]

एस.एम. सादिक, उप निदेशक

MINISTRY OF COOPERATION

New Delhi, the 15th January, 2025

S.O. 74.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976; the Central Government hereby notifies the under mentioned subordinate office of National Council for Cooperative Training under the Ministry of Cooperation wherein more than 80% of the staff have acquired the working knowledge of Hindi:

Regional Institute of Cooperative Management

Sector-32-C, Chandigarh-160030 (UT)

[F. No. E-14018/1/2024-MoC]

S.M. SADIQ, Dy. Director

मत्स्यपालन, पशुपालन और डेयरी मंत्रालय

(पशुपालन और डेयरी विभाग)

नई दिल्ली, 16 जनवरी, 2025

का.आ. 75.—पशुओं के प्रति क्रूरता निवारण अधिनियम, 1960 (1960 का 59) की धारा 15 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत के राजपत्र के भाग II, खण्ड 3, उप-खण्ड (ii) में दिनांक 2 नवंबर, 2021 को प्रकाशित अधिसूचना का.आ. 4595 (अ) का अधिक्रमण करते हुए, ऐसे अधिक्रमण से पूर्व की गइ और किये जाने के लिये लोप की गई संबंधित बातों को छोड़कर, केंद्रीय सरकार, सरकारी गजट में इस अधिसूचना के प्रकाशन की तारीख से, एतद्द्वारा सदस्यों के रूप में निम्नलिखित व्यक्तियों से युक्त एक समिति का पुनर्गठन करती है नामश:

1.	डॉ. अभिजीत मित्रा पशुपालन आयुक्त, पशुपालन एवं डेयरी विभाग, मत्स्यपालन, पशुपालन एवं डेयरी मंत्रालय, नई दिल्ली	अध्यक्ष
2.	प्रतिनिधि, भारतीय पशु कल्याण बोर्ड जो सचिव, पशु कल्याण बोर्ड की पंक्ति से नीचे का न हो;	सदस्य
3.	डॉ. राजेंद्र गुलाबराव बम्बल, सचिव (अतिरिक्त प्रभार), भारतीय पशु चिकित्सा परिषद, नई दिल्ली (*प्रतिनिधि, भारतीय पशु चिकित्सा परिषद, नई दिल्ली*)	सदस्य
4.	डॉ. एस. कविमनी, प्रोफेसर और विभागाध्यक्ष, फार्माकोलॉजी विभाग, मदर टेरेसा पोस्ट ग्रेजुएट एंड रिसर्च, इंस्टीट्यूट ऑफ हेल्थ साइंसेज, पुडुचेरी (*प्रतिनिधि, भारतीय भेषजी परिषद, नई दिल्ली*)	सदस्य

5.	डॉ. ए. विशाला, संयुक्त औषधि नियंत्रक, केंद्रीय औषधि मानक नियंत्रण संगठन, नई दिल्ली (*प्रतिनिधि, केंद्रीय ओषधि मानक नियंत्रण संगठन, नई दिल्ली*)	सदस्य
6.	अध्यक्ष, राष्ट्रीय चिकित्सा आयोग, नई दिल्ली या उनका प्रतिनिधि जो अध्यक्ष, राष्ट्रीय चिकित्सा आयोग की पंक्ति से नीचे का न हो;	सदस्य
7.	प्रो. राणा प्रताप सिंह, स्कूल ऑफ लाइफ साइंस, जवाहरलाल नेहरू विश्वविद्यालय, नई दिल्ली (*प्रतिनिधि, विश्वविद्यालय अनुदान आयोग, नई दिल्ली*)	सदस्य
8.	डॉ. मुकेश कुमार गुप्ता, निदेशक, आईसीएमआर- राष्ट्रीय जैव आयुर्विज्ञान अनुसंधान जंतु संसाधन सुविधा,हैदराबाद, तेलंगाना (*प्रतिनिधि, भारतीय आयुर्विज्ञान अनुसंधान परिषद, नई दिल्ली*)	सदस्य
9.	डॉ. कार्तिकेयन वासुदेवन, मुख्य वैज्ञानिक, लुप्तप्राय प्रजातियों के संरक्षण के लिए प्रयोगशाला (लाकोन्स), कोशिकीय एवं आणविक जीवविज्ञान केंद्र (सीसीएमबी), हैदराबाद, तेलंगाना (*प्रतिनिधि, वैज्ञानिक और औद्योगिक अनुसंधान परिषद, नई दिल्ली*)	सदस्य
10.	डॉ. राघवेंद्र भट्टा, उप महानिदेशक (एएस), भारतीय कृषि अनुसंधान परिषद (आईसीएआर), नई दिल्ली (*प्रतिनिधि, भारतीय कृषि अनुसंधान परिषद, नई दिल्ली*)	सदस्य
11.	डॉ. जी. तरु शर्मा, निदेशक, राष्ट्रीय पशु जैव प्रौद्योगिकी संस्थान, हैदराबाद, तेलंगाना (*प्रतिनिधि, जैव प्रौद्योगिकी विभाग, नई दिल्ली*)	सदस्य
12.	डॉ. अस्मिता गजभिये, प्राध्यापक और डीन, स्कूल ऑफ इंजीनियरिंग एंड टेक्नोलॉजी, डॉ. हरिसिंह गौर विश्वविद्यालय, सागर, मध्य प्रदेश	सदस्य
13.	प्रो. डॉ. अरविंद दशरथ इंगले, वैज्ञानिक अधिकारी 'एच' और प्रभारी अधिकारी, प्रयोगशाला पशु सुविधा एवं ऊतक विकृतिविज्ञान, टाटा स्मारक केंद्र, कैंसर उपचार, अनुसंधान एवं शिक्षा का प्रगत केंद्र, मुंबई, महाराष्ट्र	सदस्य
14.	डॉ. सुबीर एस. मजूमदार, महानिदेशक, गुजरात जैव प्रौद्योगिकी विश्वविद्यालय, गांधीनगर, गुजरात	सदस्य
15.	डॉ. रामचंद्र एस.जी., मुख्य अनुसंधान वैज्ञानिक, केंद्रीय पशु सुविधा, भारतीय विज्ञान संस्थान, बैंगलोर, कर्नाटक	सदस्य
16.	डॉ. सुरेश पोथानी, सेवानिवृत्त प्रभारी निदेशक एवं वैज्ञानिक जी, आईसीएमआर- राष्ट्रीय जैव आयुर्विज्ञान अनुसंधान जंतु संसाधन सुविधा,हैदराबाद, तेलंगाना	सदस्य

17.	डॉ. आर. गोपीनाथ, उप सचिव, अखिल भारतीय आयुर्विज्ञान संस्थान, नई दिल्ली	सदस्य
18.	डॉ. प्रदीप भाटू पाटिल, वैज्ञानिक डी सह उपस्थित पशु चिकित्सक और सहायक प्रोफेसर (एसीएसआईआर), भारतीय चिकित्सा अनुसंधान परिषद-राष्ट्रीय पोषण संस्थान, हैदराबाद, तेलंगाना	सदस्य
19.	डॉ. सुजीत कुमार दत्ता संयुक्त आयुक्त,पशुपालन और डेयरी विभाग, मत्स्यपालन, पशुपालन और डेयरी मंत्रालय, नई दिल्ली	सदस्य सचिव

2. समिति का कार्यकाल, यदि पहले भंग न होतो, इसके गठन की तारीख से तीन वर्ष की अवधि के लिए होगा।

[फा. सं.V-11011(13)/9/2024-सीपीसीएसईए- डीएडीएफ]

डॉ. अभिजीत मित्रा, पशुपालन आयुक्त

टिप्पण: पूर्व समिति का पुनर्गठन भारत के राजपत्र, असाधारण में क्रमांक का.आ. 4595 (अ) तारीख 2 नवंबर, 2021 द्वारा किया गया जिसे अधिसूचना संख्या का.आ. 3502(ई) दिनांक 16 अगस्त, 2024 द्वारा संशोधित किया गया तथा अधिसूचना का.आ. 5469(अ), दिनांक 16 दिसंबर, 2024 द्वारा विस्तारित किया गया था।

MINISTRY OF FISHERIES, ANIMAL HUSBANDRY AND DAIRYING

(Department of Animal Husbandry and Dairying)

New Delhi, the 16th January, 2025

S.O. 75.—In exercise of the powers conferred by Section 15 (1) of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), and in supersession of the notification issued vide S.O.4595 (E) dated 2nd November, 2021published in Part II- Section3- Sub-section (ii) of the Gazette of India, except as respect things done or omitted to be done before such supersession, the Central Government hereby reconstitutes a Committee consisting of the following persons as its Members, with effect from the date of publication of this notification in the Official Gazette, namely:

1	Dr. Abhijit Mitra Animal Husbandry Commissioner (AHC), Department of Animal Husbandry & Dairying, Ministry of Fisheries, Animal Husbandry & Dairying, New Delhi	Chairman
2	Representative, Animal Welfare Board of India not below the rank of Secretary, Animal Welfare Board of India	Member
3	Dr. Rajendra Gulabrao Bambal, Secretary (Addl. Charge), Veterinary Council of India, New Delhi (*Representative, Veterinary Council of India, New Delhi*)	Member
4	Dr. S. Kavimani, Professor& HOD, Department of Pharmacology, Mother Theresa Post Graduate & Research, Institute of Health Sciences, Puducherry (*Representative, Pharmacy Council of India, New Delhi*)	Member
5	Dr. A. Vishala, Joint Drugs Controller, Central Drugs Standards Control Organization, New Delhi (*Representative, Central Drugs Standard Control Organization, New Delhi*)	Member
6	Chairman, National Medical Commission, New Delhi or his Representative not below the rank of President, National Medical Commission	Member

7	Prof. Rana Pratap Singh, School of Life Science, Jawaharlal Nehru University, New Delhi (*Representative, University Grants Commission*)	Member
8	Dr. Mukesh Kumar Gupta, Director, ICMR - National Animal Resource Facility for Biomedical Research, Hyderabad, Telangana (*Representative, Indian Council of Medical Research, New Delhi*)	Member
9	Dr. Karthikeyan Vasudevan, Chief Scientist, Laboratory for the Conservation of Endangered Species (LaCONES), Centre for Cellular and Molecular Biology (CCMB), Hyderabad, Telangana (*Representative, Council of Scientific and Industrial Research, New Delhi*)	Member
10	Dr. Raghavendra Bhatta, Deputy Director General (AS), Indian Council of Agricultural Research (ICAR), New Delhi (*Representative, Indian Council of Agricultural Research, New Delhi*)	Member
11	Dr. G Taru Sharma, Director, National Institute of Animal Biotechnology, Hyderabad, Telangana (*Representative, Department of Biotechnology, New Delhi*)	Member
12	Dr. Asmita Gajbhiye, Professor and Dean, School of Engineering and Technology, Dr. HarisinghGour University, Sagar, Madhya Pradesh	Member
13	Prof. Dr. Arvind Dasharath Ingle, Scientific Officer 'H' and Officer-in-Charge, Laboratory Animal Facility & Histopathology, Tata Memorial Centre, Advanced Centre for Treatment Research & Education in Cancer (ACTREC), Mumbai, Maharashtra	Member
14	Dr. Subeer S. Majumdar, Director General, Gujarat Biotechnology University, Gandhinagar, Gujarat	Member
15	Dr. Ramachandra S.G., Chief Research Scientist, Central Animal Facility, Indian Institute of Science, Bangalore, Karnataka	Member
16	Dr. Suresh Pothani, Retired as Director In-charge & Scientist G, ICMR-National Animal Resource Facility for Biomedical Research, Hyderabad, Telangana	Member
17	Dr. R. Gopinath, Deputy Secretary, All India Institute of Medical Sciences, New Delhi	Member
18	Dr. Pradeep Bhatu Patil, Scientist D cum Attending Veterinarian and Assistant Professor (AcSIR), Indian Council of Medical Research-National Institute of Nutrition, Hyderabad, Telangana	Member
19	Dr. Sujit Kumar Dutta Joint Commissioner, Department of Animal Husbandry & Dairying, Ministry of Fisheries, Animal Husbandry & Dairying, New Delhi	Member Secretary

2. The term of the Committee shall, unless sooner dissolved, be three years from the date of its constitution.

[F. No. V-11011(13)/9/2024-CPCSEA-DADF]

Dr. ABHIJIT MITRA, Animal Husbandry Commissioner

Note: The previous Committee has been reconstituted and published in the Gazette of India, Extraordinary vide S.O 4595 (E) dated 2nd November, 2021 which was amended vide notification number S.O. 3502 (E) dated 16th August, 2024 and extended vide notification number S.O. 5469 (E) dated 16th December, 2024.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 10 जनवरी, 2025

का.आ. 76.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, नागपुर के पंचाट (सीजीआईटी/एनजीपी/01/2020-21) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09@01@2025 को प्राप्त हुआ था।

[सं. .एल- 22012/19/2020-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th January, 2024

S.O. 76.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/01/2020-21)**of the **Central Government Industrial Tribunal-cum-Labour Court,Nagpur** as shown in the Annexure, in the industrial dispute between the Management of **Western Coalfields Ltd.** and their workmen, received by the Central Government on **09*/01/2025*.**

[No. L-22012/19/2020 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE JUSTICE (RETD.) SHRI SHANKAR PRASAD, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No.CGIT/NGP/01/2020-21 **Date: 25.11.2024.**

Party No.1 : The Sub Area Manager,
WCL Saoner Sub-Area,
PO & Tah: Saoner, Distt. Nagpur-441107

Party No.2 : The General Secretary,
Rastriya Koyala Khadan Mazdoor Sangh(INTUC),
Head Office: WCL Head Quarters Complex,
Telankhedi Road, Nagpur-440001

AWARD

(Dated: 25th November, 2024)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman, Shri Chandrakant Krishnarao Sarode, for adjudication, as per letter **No.L-22012/19/2020-IR (CM-II) dated 03.07.2020,** with the following schedule:-

"Whether the action of the management of Western Coalfields Ltd., Saoner Sub-Area in deductiong basic and increment and not receiving payment of Basic and Increment with full arrears to Shri Chandrakant Krishnarao Sarode is just fair & legal? If not, What relief the workman is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement. But neither the workman nor the Respondent/management filed their Statement of claim and Written Statement.

3. When the reference was fixed for filing of Statement of claim by the workman, the Management filed an application with a prayer to close the matter. Management also submitted the copy of Form-H i.e. Settlement copy between the workman Shri Chandrakant Sarode and Management WCL. The workman Shri Chandrakant Sarode also filed an application that he has reached into settlement with the management WCL and he accepts all the terms and conditions of the settlement. The workman made a prayer in his application to close the matter.

4. As the parties have settled the Industrial dispute by amicable settlement, the applications of both the parties are allowed. Accordingly, the reference is to be answered in favour of the workman in terms of the settlement as mentioned in the compromise pursis. Hence, it is ordered:-

ORDER

The reference is answered in favour of the workman in terms of the settlement mentioned in the Management's application. The Form-H Settlement Dt. 25.09.2023 is made part of the award.

Annexure-A

WESTERN COALFIELDS LTD.

Ref. No. Form-H settlement/235 Dt. 25/09/2023

FORM-H

MEMORANDUM OF SETTLEMENT

Memorandum of Settlement arrived at on 25/09/2023 at AHQ, Nagpur Area between the Management and the workman.

Management Representatives

1. G. Sitaraman
   Area personnel Manager, Nagpur Area
2. Sajiv Singh
   Sr. Manager(Personnel), Nagpur Area

Concerned Workman/Union

1. Neeraj Malkhede
   President, INTUC
2. Y. H. Pusadkar
3. Shri Chandrakant Sarode
   Concerned Workman.

Short recital of the case

- Shri Chandrakant Sarode was appointed on 27.12.1990 as Welder Helper Category-II (Trainee) and was regularised as Welder Category-V on 01.08.1993. He had joined Saoner Mine No. 1 in the year 1991 and was subsequently transferred in the year 2002 to Saoner Sub area in Civil Department on his request after raising the issue in IR meetings through RKKMS(INTUC)Union. In pursuance to the said demand of the union, a settlement in Form-H was arrived under ID Act 1947 on 01.09. 2002 which was signed by the SAM & Personnel Manager of Saoner SA and by the President and Secretary of RKKMS, Saoner Sub area and the applicant Shri Chandrakant Sarode himself.
- It was agreed by the parties, that on transfer, the applicant will be posted in Civil Department as Valveman Category-II on the Initial Basic of Category-II. It was also agreed that neither the Union nor the concerned workman shall raise any dispute before any statutory/ non-statutory authority.
- Subsequently, Shri Chandrakant Sarode was promoted as Valveman, Cat-III in the year 2010.
- Shri Chandrakant Sarode filed a W.P. No. 4438 of 2013, challenging the action on the part of Management (respondents) in reducing the salary of the petitioner that he was receiving in Category- V and being placed in Category-II w.e.f. 01.09.2002.The said Writ petition was dismissed vide order dated 09.02.2016 by the Hon'ble High Court with the following observations:
- *"Even otherwise it can be seen that there is a dispute between the parties with regard to the execution of Form-H, while it is asserted on behalf of the respondents that said document was executed by the petitioner as well as the representative of the Union with full understanding, said fact is seriously disputed by the learned Counsel for the petitioner as it is submitted that the said document was signed under the misconception that it was for protecting his pay. It is further urged that the said document is not as contemplated by Rule 58 of Industrial dispute rules. Considering aforesaid disputed facts, we do not feel that the present would be a proper case to*

exercise writ jurisdiction. In case the petitioner desires to avail any legal remedy, if available to him, it is open for him to do so. The points in that regard are kept open. The writ petition is dismissed with no order as to costs."

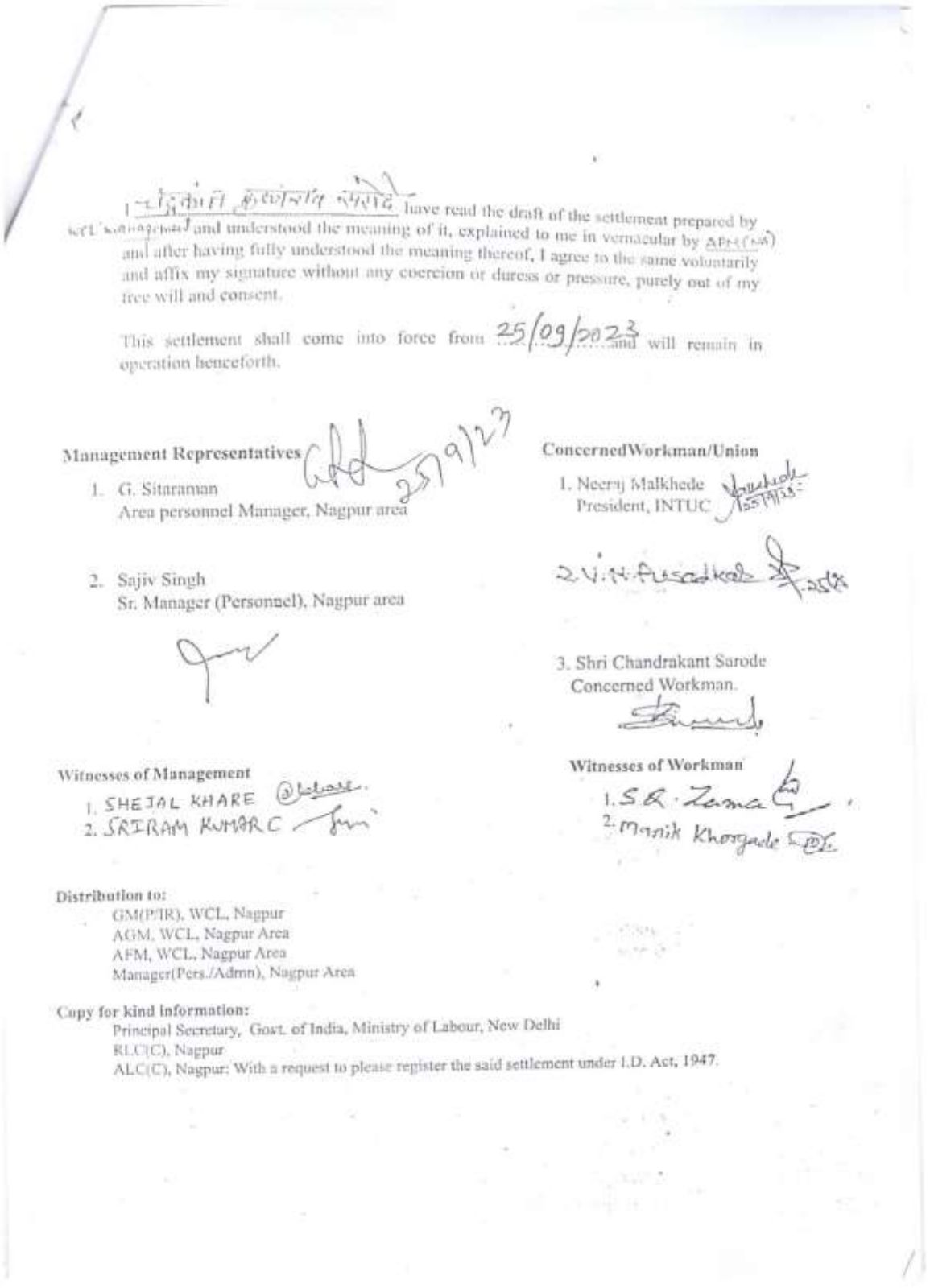
- Thereafter, Shri Chandrakant Sarode raised an industrial dispute under ID Act,1947 on 20.08.2016 over the issue of not receiving the payment of Basic as deducted by the management of Saoner Sub area through Gen. Secretary, RKKMS(INTUC) Union . The matter could not be settled due to divergent views of both the parties and hence ended in failure on 02.07.2019 as informed by ALC, Nagpur tothe Secretary, Govt. of India, Ministry of Labour and employment, New Delhi. The Section Officer, Govt. of India, Ministry of Labour vide order dated 03.07.2020 referred the said dispute for adjudication to the CGIT, Nagpur "Whether the action of management of Western Coalfields Limited Saoner Sub area in deducting Basic and increment and not receiving payment of Basic and increment with full arrears to Shri Chandrakant Kishanarao Sarode is just fair and legal? If not, to what relief the workman is entitled to?"
- The matter is still pending before CGIT, Nagpur.
- Now, RKKMS(INTUC) Union is requesting for resolve/settle the matter amicably by way of restoring the wage cut 'notionally' having no financial impact as per CII, Circular No. 268 dated 14.04.2016, the relevant portion of which is reproduced below:

  "Court Cases:It was decided that since there are court cases pending at various courts incurring huge cost to the company and the individual concerned, the National Litigation Policy should be followed to redress such cases as Alternate Dispute Redressal Mechanism(ADRM). Appeals are to be avoided except in case of Policy matters or matters of principle...."

TERMS OF SETTLEMENT

In view of the above facts and also keeping in mind his retirement due on 30th September 2023,it is proposed for protection of pay of Welder Category-V to Shri Chandrakant Sarode and Notional Fixation of Pay without any financial benefit on the following terms and conditions to be settled before Hon'ble CGIT, Nagpur:

1. The workman concerned will be granted protection of his existing wages from the date it was reduced notionally. According, he will get basic of Rs.4027.38.
2. He will be granted wage fixation from the date of reduction of wages without any arrears arising out of the same.
3. The workman/ Union will not file any claim in future about protection of wages, restoration of any category/grade or any other financial benefits arising out of present dispute.
4. His further Career growth will be as per his present Designation vis-à-vis Cadre Scheme.
5. The workman concerned/union agree to the above terms and conditions and the same to be filed before CGIT, Nagpur.
6. Both the parties have agreed to close the CGIT case number CGIT/NGP/01/2020-21.
7. That this settlement shall not be treated as precedent in any other cases.
8. That a copy of this settlement shall be sent to ALC, Nagpur.



I [illegible] have read the draft of the settlement prepared by WCL Management and understood the meaning of it, explained to me in vernacular by APR(P&A) and after having fully understood the meaning thereof, I agree to the same voluntarily and affix my signature without any coercion or duress or pressure, purely out of my free will and consent.

This settlement shall come into force from 25/09/2023 and will remain in operation henceforth.

Management Representatives

1. G. Sitaraman
Area personnel Manager, Nagpur area

25/9/23

2. Sajiv Singh
Sr. Manager (Personnel), Nagpur area

ConcernedWorkman/Union

1. Neeraj Malkhede
President, INTUC

25/9/23

2.V.N.Pusadkar 25/9/23

3. Shri Chandrakant Sarode
Concerned Workman.

Witnesses of Management

1. SHEJAL KHARE
2. SRIRAM KUMAR C

Witnesses of Workman

1. S.R. Zama
2. Manik Khobragade

Distribution to:
GM(P/IR), WCL, Nagpur
AGM, WCL, Nagpur Area
AFM, WCL, Nagpur Area
Manager(Pers./Admn), Nagpur Area

Copy for kind information:
Principal Secretary, Govt. of India, Ministry of Labour, New Delhi
RLC(C), Nagpur
ALC(C), Nagpur: With a request to please register the said settlement under I.D. Act, 1947.

Justice (retd.) SHIV SHANKAR PRASAD, Presiding Officer

नई दिल्ली, 14 जनवरी, 2025

का.आ. 77.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल कोऑपरेटिव कंज्यूमर फेडरेशन ऑफ इंडिया लिमिटेड, (एनसीसीएफ),के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je

U;k;ky; नं. II, नई दिल्ली के पंचाट (आई डी नम्बर **85/2022)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 12@12@2024 को प्राप्त हुआ था।

[सं. .एल- 20013/01/2025-आई.आर. (सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th January, 2025

S.O. 77.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 85/2022*)*** of the **Central Government Industrial Tribunal-cum-Labour Court N0.II, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **National Cooperative Consumer's Federation of India Ltd,(NCCF),** and their workmen, received by the Central Government on ***12/12/2024.***

[No. L-20013/01/2025 – IR (CM-I)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL-TRIBUNAL CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 85/2022

Sh. Sunil Kumar,

R/o – 150, Pocket-01, Paschim Puri, New Delhi-110063.

Versus

The Managing Director,

National Co-Operative Consumer's

Federation of India Ltd. (NCCF)

3-Siri Institutional Area, NCUI Building Complex,

Hauz Khas, New Delhi-110016.

1. This is an application U/s 2A of the I.D Act (herein after refer as an Act). Claimant in his claim statement had stated that he is an ex-employee of **National Cooperative Consumer's Federation of India Ltd**, [**NCCF**], an autonomous body under the Ministry of Consumer Affairs and Public Distribution, Krishi Bhawan, New Delhi. The NCCF has its own staff Regulations (Service Rules) besides the decisions; instructions and rules of Govt. of India. He has joined as an Accountant on 08.11.1978 and rose to the level of Dy. Manager (A/cs) with sincere, honest hard work during entire period of thirty-seven years. His record are blameless. Though, he was designated as Dy. Manager (A/cs) but, he has been doing same accounting work irrespective of his promotions.

2. It is his case that unfortunately, due to miscarriage of justice, he was convicted by a Trial Court in a personal and non departmental case. After his conviction, he was placed under suspension with effect from 11.07.2012 till further orders, he was given subsistence allowance at the flat rate of 50% from 11.07.2012 to 28.05.2015. After released on bail, he requested the NCCF for reinstatement in service vide application dated 13.04.2015. However, a newly joined Managing Director of the respondent arbitrarily imposed the major penalty on the applicant on account of his conviction and terminated him from the services under Rule-30 (b) (ii) read with Rule-31 of Staff Regulations-2014 vide office order dated 28.05.2015. He submits that the management cannot terminate his service as well as Managing Director has not been empowered for that. He had filed the appeal but, he had withdrawn the appeal. He was due to retire upon superannuation on 31.08.2016 but, his services were terminated on 28.05.2015. The retirement dues was settled after 31.08.2016 in a period of more than four years, as such he had filed the claim stating that respondent be directed to consider enhancement of Subsistence Allowance w.e.f. 11.01.2013 under **Rule 68 (C) (i)** of Staff Regulations and settle the arrears with due interest and his termination dated 28.05.2015 be set aside and he be deemed in continuation of his service.

3. Respondent had filed the counter affidavit. He had taken the number of preliminary objection stating that petition is not maintainable as his services were terminated on 28.05.2015. He attained the age of superannuation on 31.08.2016, after which the retiral benefit have also released to him. After almost four years he has been raising new pleas challenging his termination. Moreover, Sunil Kumar is not a workman as envisaged under the **Industrial Disputes Act, 1947**. He was working on a managerial post. He received a salary in the scale of Rs. 15600- 39100 with the grade pay of Rs. 6600/-. He was suspended w.e.f. 11.07.2012 after he was convicted by the CBI Special

Judge-II, Rohini (Prevention of Corruption, 1988) on a criminal charge under Section 419, 420, 467 and 471 read with Section 120B of the Indian Penal Code for forgery of valuable security. On merit, the management admitted that claimant is his employee. He also admitted that he was kept under the suspension. He also admitted that he was terminated without holding any enquiry, because he had lost the confidence. He had justified the termination order.

After completion of the pleadings following issues have been framed vide order dated 02.03.2023 i.e.-

1. Whether the proceeding is maintainable being barred by limitation?
2. Whether the claimant is a workman as defined U/s 2(s) of the ID Act?
3. Whether the service of the claimant was illegally terminated by the management?
4. To what relief to workman is entitled to, and from which date?

4. Both claimant and the workman have filed their respective affidavit, however, none of the party has chosen to cross-examine their counterpart.

5. Workman counsel had reiterated that the proceeding is maintainable as the Hon'ble Supreme Court held that there is no limitation prescribed under the Industrial Disputes Act for referring the dispute. On the other hand, counsel for the management stated that claim is barred by limitation because Section 2A in which the claim petition has been filed has set out the limitation for three years from the date of dismissal. Here in this case, the petition has been filed on 2022 while his termination was effected on 2015 just after seven year of his termination which is beyond limitation.

6. In the light of above argument my issue-wise finding are as follow-

7. **ISSUE No.-1: Whether the proceeding is maintainable being barred by limitation?**

8. Before we proceed further, it is necessary to produce the text of section 2-A:

"2-A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.- [(1)] where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute not withstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Not withstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this act and all the provisions of this act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

9. A perusal of the aforesaid section would go to show that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman U/s 2-A of the act and it is not necessary that such disputes should be sponsored by the trade union or a substantial number of workmen. However, what is required is that workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2-A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after expiry of 45 days from the date he has made an application to conciliation officer of appropriate government for conciliation of dispute. Sub-section 3 of section 2-A lay down the time limit for making such application to Labour Court or the tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without any effect upon remedy available in section 10 of the act.

10. Ld. AR of workmen has relied upon the judgments **Ajayab Singh** Vs **Sirhind Cooperation** and **Raghubir Singh** Vs **General Manager, Haryana Roadways, Hissar** passed on 08.04.1999 and 03.09.2014 respectively by Hon'ble Supreme Court of India and submitted that limitation act is not applicable in the Industrial Dispute Act. He submitted that in both of the said judgments, it was held as such.

11. On the other hand, Ld. AR for management relied upon the judgments **Balwan Singh andOrs.** Vs. **Sahara India Parivar and Ors., W.P. (C) 4357/2013** and**Sh. Lal Chand** Vs. **Himachal Pradesh State Electricity Board Limited and Ors., CWP No. 3058/2023** and stated that the case is barred by limitation as set out in clause 3 of section 2-A of act.

12. Judgments relied by AR of claimant are not relevant in the present case. The Apex Court in both the judgments passed in 1999 and 2014 had held that the limitation act is not applicable to the references made under Industrial Dispute act, 1947 and those judgments had been delivered in respect of section 10 (1) (C) of the act. Section 10 (1) of the act enables the appropriate government to make reference of an industrial dispute which exists or is apprehended at any time to one of the authorities mentioned in the section. How and in what manner or through what machinery, the government is apprised of the dispute is hardly relevant. The only requirement of taking action U/s 10 (1) is that there must be some material before the government which will enable the appropriate government to form an opinion that an industrial dispute exists or is apprehended. This case in hand is not referred by the appropriate government by making the reference to this tribunal. The case relied by AR of the claimant is not in reference to section 2-A of the act where the limitation is set out for approaching Labour Court or tribunal directly after expiry of 45 days of approaching the conciliation officer in respect of their termination, retrenchment, discharge or dismissal of the services.

13. Reading of section 2-A (3) would lead to an irresistible conclusion that time stipulated for invoking jurisdiction of Labour Court or the tribunal as the case maybe, has to be necessarily before expiry of three years from date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1). It is mandatory, not directory.

14. Here admittedly workman services were terminated in the year 2015 and he has filed the application U/s 2A of the I.D. Act in the year 2022 which is beyond the period of three years set out in the above said section.

15. In view of the above discussion, Issue no.-1 is decided in favour of the management and against the workman.

16. Now, come to the second issue. Again the management had taken the objection that the claimant has not come within the definition of the workman because, admittedly he was working at the time of his termination as Dy. Manager (A/cs) at pay matrix 11 which is the senior position. Even, the documents suggest that he was having control over his subordinate.

17. For countering the averment, claimant had stated that he was deputed as a Dy. Manager (A/cs), however, his job is only for clerical in nature i.e. writing of books of account manually/computerize; other allied accounts work; Audit work; banking work etc.

18. Before proceeding further, it is necessary to go through the definition prescribed under Section 2 (s)-

Section 2 (s) of the Industrial Disputes Act define the workman, it reads as under:

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge, or retrenchment has led to that dispute, but does not include any such person-

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties, attached to the office o by reason of the powers vested in him, functions mainly of a managerial nature.]

19. The document MW1/1 suggest that Sunil Kumar, the claimant was exercising the managerial power as he had given the charge of Pritam Dass, Field Officer, who was transferred to Hari Niwas, Sr. A/cs Clerk. During the course of argument, this tribunal had stated that when he himself had stated that he was got promoted from account clerk to Dy. Manager then, how could he say that he is a workman and having no control. His answer is that he is Dy. Manager, but, it does not mean that he is exercising the control.

20. Moreover, the workman has been admittedly working at the time of his suspension at the post of Dy. Manager (A/cs) and under his subordination many person have been working i.e. Senior Accountant, Accounts Clerk and Assistant Accountant etc. By saying that his task is the same as the as the work of Accounts Clerk does not mean that he has no supervising or managerial function upon his subordinate. If the plea of the workman is taken as true than hierarchy of the officers has no meaning. Each and every person from lower level to top has to work the same function. The difference is only that top has to get work done through subordinate. Herein in this case, the claimant job is how to work get done through other beside the same function he has to perform. All the available evidence herein, it has been safely concluded that claimant does not come within the definition of the workman.

21. In view of the above discussion, issue no.-2 is decided in favour of the management and against the workman.

22. **ISSUE No. 3 & 4**

In view of the discussion on the issues no. 1 & 2 there is no need to decide the issue no. 3 regarding the illegal termination. This tribunal has already held that the claim is time barred being filed after seven years U/s 2A of the I.D Act and it has further been held that the claimant does not come within the definition of Section 2 (s) of the I.D Act, therefore, no relief can be awarded to the workman. Award is accordingly passed. A copy of this order is sent to the appropriate government for notification U/s 17 of the I.D. Act.

ATUL KUMAR GARG, Presiding Officer.

Date 04th, September, 2024

नई दिल्ली, 14 जनवरी, 2025

का.आ. 78.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ज़ेक्सस एयरसर्विसेज प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky; नं. II, नई दिल्ली के पंचाट (आई डी नम्बर 110/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12@12@2024 को प्राप्त हुआ था।

[सं. .एल- 20013/01/2025-आई.आर. (सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th January, 2025

S.O. 78.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 110/2023*)*** of the **Central Government Industrial Tribunal-cum-Labour Court N0.II, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **Zexus AirServices Pvt.Ltd.** and their workmen, received by the Central Government on ***12/12/2024***.

[No. L-20013/01/2025 – IR (CM-I)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 110/2023

Sh. Pawan Kumar, S/o Sh. Ashok Kumar,

R/o- House No. 253, Village-Degh, Ballabgarh,

Faridabad, Haryana-121004.

Through- Indian National Migrant Worker's Union,

1770/8, 03rd Floor, Govind Puri Extn. Main Road Kalkaji,

New Delhi-110019.

Versus

Zexus Air Services Pvt. Ltd.,

Through-Sh. Atul Gambhir (Director),

Corporate Office: 02nd Floor, JMK Tower, NH-08,

Kapashera, New Delhi-110037.

Also At:

Zexus Air Services Pvt. Ltd.,

Through- Sh. Atul Gambhir (Director),

Plot No. 87, 01st Floor, Sector- 16 IDC, Gurgaon-122001.

AWARD

This is an application of **U/S 2A of the Industrial Disputes Act (here in after is referred as an Act)** filed by the claimant for his illegal termination**.** Claimant had stated in his claim statement that he had been working with the respondents since 24.02.2020 at the post Security Executive at the last drawn salary of Rs. 15,000/- Per month. His service record is clean and he has not given any complaint so far. He has not been providing any legal facilities i.e. minimum wages, ESI, PF, salary slip, Leave Book, bonus, overtime, weekly and events holidays etc. When the

workman demanded the same, management had obtained his signature on blank papers and without any rhyme or reason or without issuing any notice he was illegally terminated from his job by the management on 02.12.2022. He has sent the demand letter but he has not been taken on duty. He had sent the complaint to the labour commissioner, but, it has yielded no result. Hence, He has filed the present claim.

Management had not appearing since long. Claimant is asked to prove his case. However, despite providing a number of opportunities, claimant has not turned up to prove his claim. As the claimant has not turned up for proving his case, his claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date 08th, August, 2024

नई दिल्ली, 14 जनवरी, 2025

का.आ. 79.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – sg – Je U;k;ky; nं. II, नई दिल्ली के पंचाट (आई डी नम्बर **177/2023)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 12@12@2024 को प्राप्त हुआ था।

[सं. .एल-20013/01/2025-आई.आर. (सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th January, 2025

S.O. 79.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 177/2023*)*** of the **Central Government Industrial Tribunal-cum-Labour Court N0.II, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporations of India** and their workmen, received by the Central Government on ***12/12/2024.***

[No. L-20013/01/2025– IR (CM-I)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 177/2023

The President,

Food Corporation of India Handling Union,

5166, 02nd Floor, Damodar Das Building, Basant Road,

Near Karnail Singh Stadium, Pharganj, New Delhi-110055.

VERSUS

1. The Chairman cum Managing Director,

Food Corporation of India,

Headquarters, 16-20, Barakhamba Lane,

New Delhi-110001.

Appearance

For claimants: None

For respondent: Sh. Pankaj Yadav, Proxy for the management.

ORDER

The appropriate Government has sent the reference refer dated 08.12.2023 to this tribunal for adjudication in the following words:

1. ***"Whether the action of management of Food Corporation of India the proposed change of condition of service by termination/modification of the settlement dated 03.08.2012 i.e. withdrawing the***

'A'Area minimum wages rate (Uniform rates) to all the Direct Payment System (DPS) workers across the country is legal just and proper? If no, what relief the workmen concerned are entitled to.

2. ***Whether the action of management of Food Corporation of Inida for the proposed change of condition of service of Mandal that Mandal will work as a handling labour but, will be treated as handling labour for the purpose of deciding the per labour output of the gang, in the other words, 12 handling labours and 1 Mandal actually work then the total output of gang will be divided by 13 instead of 12 for deciding per labour output is legal just and proper? If no, what relief the workmen concerned are entitle to.***

3. ***Whether the action of management of Food Corporation of India for the proposed change of condition of service by UNILATERAL modification/termination of the settlement dated 13.03.1999 i.e. exclusion of the HRA component from the wages for the computatation/calculation of incentive and allowance (OTA) qua Department workers and withdrawing the inclusion of incentive in wages for computation of CPF and gratuity qua Departmental Workers is legal just and proper? If not, what relief the workmen concerned are entitled to."***

After receiving the said reference, notices were issued to both the parties. Management has been appearing in each of the hearings. Claimants have not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D Act 1947.

ATUL KUMAR GARG, Presiding Officer

Date: 23.10.2024 .

नई दिल्ली, 14 जनवरी, 2025

का.आ. 80.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बर्ड वर्ल्डवाइड फ्लाइट सर्विसेज (आई) प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky; नं. II, नई दिल्ली के पंचाट (आई डी नम्बर 47/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12@12@2024 को प्राप्त हुआ था।

[सं. एल-11012/36/2017-आई.आर. (सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th January, 2025

S.O. 80.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 47/2018)** of the **Central Government Industrial Tribunal-cum-Labour Court No.II, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **Bird Worldwide Flight Services (I) Pvt.Ltd.**and their workmen, received by the Central Government on ***12/12/2024.***

[No. L-11012/36/2017– IR (CM-I)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID No. 47/2018

Sh. Satbir Singh Vs. B.W.F.S.

Counsels:

For Applicant/ Claimant*:*

Sh. Sunil Kumar, Ld. AR.

For Management/ Respondent*:*

Sh. Kunal Mehta, Ld. AR.

AWARD

Sh. M.K. Singh, Section Officer, Ministry of Labour and Employment, Government of India vide letter dated 19.03.2018 had sent the reference to this tribunal in the following words:

"Whether Sri Satbir Singh, Vigilance Officer is a workman under Section 2(s) of ID act, 1947, if so his termination of services by the management of M/s Bird Worldwide Flight Services(I) Pvt. Ltd. W.e.f. 10.10.2013 is proper, legal and justified? If not, what relief the concerned workman is entitled to and from which date?"

2. After receiving the said reference, notices were sent to both the parties. Both claimant and management had appeared. Claimant in his claim statement stated that he had joined the management/ respondent on 13.05.2013 as a 'Vigilance Officer' at the last drawn salary of Rs. 19,300/-. He was performing his regular duty with utmost satisfaction with the management and he never gave any chance of complaint to the management. On 10.10.2013, he was refused to resume his duty and his services were terminated without assigning any valid reason. Mr. Ashit Mahresh (CGM) and Mr. Sukhdev Singh (DGM) forcefully took resignation from him. Hence, he submits that his termination be declared as illegal and he be reinstated with full back wages.

3. Respondent had appeared and filed his written statement stating that Sh. Satbir singh was employed by him to the post of 'Vigilance Officer' so he cannot be termed as 'workman' as defined in Section 2(s) of the Industrial Disputes Act, 1947. He was initially appointed for a period of six months however he had submitted his resignation on 10.10.2013 within the probation period of his employment. On merit, he submits that his claim is liable to be dismissed.

4. Rejoinder had been filed by the claimant where he denied the averment made by the respondent in its written statement and affirmed the averment made by him in the claim statement.

5. Following issues had been framed vide order dated 27.05.2019:

1. Whether the proceeding is maintainable. Whether the claimant is a workman as defined U/s 2(s) of the ID Act.

2. Whether the service of the workman was terminated illegally.

3. To what relief the workman is entitled to.

6. The claimant had tendered his affidavit in evidence affirming the facts made in his claim statement stating that he was a 'Vigilance Officer'. He was cross-examined where he admitted that he had joined the respondent on 13.05.2013. His service condition was regulated according to the terms mentioned in appointment letter. He admitted that his initial appointment was for a period of six months on probation. He further admitted that before joining the respondent, he was an employee of Delhi Police and had retired on 31.01.2013 from the post of Assistant Sub-inspector. While he was in the service as per his job profile with the management, his duty was to check the misconduct if any by the loaders/workers of the management.

7. This tribunal while going through the testimony of this witness has noticed that the claimant had nowhere mentioned that he was a workman either in his claim statement or in the affidavit of evidence. His counsel Sh. Sunil Kumar had admitted the above said fact. The claimant who was present himself admitted that he was a Vigilance Officer and his job was to detect the misconduct of any loader/worker.

8. To invoke the jurisdiction of this tribunal, first the claimant has to assert that he was a workman within the definition of Section 2(s) of the Industrial Disputes Act, 1947. Section 2(s) is required to be reproduced herein:

2 [(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

9. From the evidence discussed above, it appears that the claimant is not a workman as defined in the Section 2(s) of the Industrial Disputes Act, 1947. Nowhere has he mentioned either in his affidavit or in his claim petition that he had been given designation of Vigilance Officer only by namesake and his work was of a workman or mechanical work. He admitted that his job profile was to detect the misconduct.

In view of the above discussion, Issue no. 1 is decided against the claimant and in favour of management.

In view of the findings in issue no. 1, there is no need to decide issue no. 2 & 3. Claim of the claimant stands dismissed. Award is accordingly passed. Copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Dated 29.08.2024

नई दिल्ली, 14 जनवरी, 2025

का.आ. 81.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स ओएनजीसी लिमिटेड; मेसर्स मारुती ट्रेवल्स** के प्रबंधतंत्र के संबद्ध नियोजकों और **ग्लोरियस पेट्रोलियम मज़दूर संघ** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद, पंचाट (रिफरेन्स न.- 09/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.01.2025 को प्राप्त हुआ था।

[सं. .एल- 30011/02/2023-आई.आर. (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th January, 2025

S.O. 81.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 09/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s ONGC Ltd.; M/s Maruti Travels** and **Glorious Petroleum Mazdoor Sangh** which was received along with soft copy of the award by the Central Government on 14.01.2025.

[No. L-30011/02/2023– IR (M)]

DILIP KUMAR , Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present….

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 20th December, 2024

Reference (CGITA) No. - 09 / 2023

1. The Executive Director – Asset Manager,
   M/s ONGC Ltd.,
   Cambay Asset, Kansari, Cambay, Khambat, Dist. – Anand,
   Anand (Gujarat) – 388630
2. M/s Maruti Travels,
   Kaveri Complex, Subhash Bridge,
   Nr. RTO Circle,
   Ahmedabad (Gujarat) - 380027 ..... First Parties

V/s

The General Secretary,
Glorious Petroleum Mazdoor Sangh,
A/3, Priya Darshini Society, Nr. New Railway Colony,
Sabarmati, Ahmedabad (Gujarat) - 382470 ……Second Party

For the First Party No. 1 : Shri K. V. Gadhia
For the First Party No. 2 : Shri Chintan Gohel
For the Second Party : Shri R. S. Sisodiya

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-30011/02/2023 -IR (M) dated 09.02.2023 for adjudication to this Tribunal.

SCHEDULE

"Whether the claim of Glorious Petroleum Mazdoor Sangh, Ahmedabad that 'Shri Ramesh Bharatsing Solanki and 22 other Drivers (list enclosed) were terminated illegally w.e.f. 22.01.2022 by the contractor, M/s Maruti Travels in the establishment of ONGC Ltd., Cambay' is proper, legal and justified? If yes, what relief these workers are entitled to and what directions, if any, are necessary in the matter?

1. The reference was received in this Tribunal on 08th May, 2023. The case is listed for filing of statement of claim by the second party union.
2. The matter is taken up today. Ld. Counsels for all parties are present. Shri R. S. Sisodiya filed an authority letter at Ex. 13 and withdrawal application at Ex. 14 on behalf of the union. Ld. Counsels for the first parties have no objection on it.
3. The application Ex. 14 is allowed. As the second party has withdrawn his case / claim, it is established that there is no claim pending from the second party against first party managements.
4. It is therefore just & proper to pass an award considering "no claim" filed by the second party.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 14 जनवरी, 2025

का.आ. 82.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मैसूर मिनरल्स लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती तलवार मरक्का** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर, पंचाट (रिफरेन्स न.- 01/2009)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.01.2025 को प्राप्त हुआ था।

[सं. एल- 29012/92/2008-आई.आर. (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th January, 2025

S.O. 82.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 01/2009)** of the **Central Government Industrial Tribunal cum Labour Court, Bangalore** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Mysore Minerals Limited** and **Smt. Talwar Marakka** which was received along with soft copy of the award by the Central Government on 14.01.2025

[No. L-29012/92/2008– IR (M)]
DILIP KUMAR , Under Secy.

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT At HYDERABAD

DATED : 31st DECEMBER 2024

PRESENT : **Smt. K P INDIRA B.A., LLB.**
Presiding Officer

C R No. 01/2009

I Party	**II Party**
Smt. Talwar Muraka	The managing Director
W/o Late Nagappa	Mysore Minerals Limited
Murarapura Turnanagar Post	No. 39 M.G. Road,

Sander Talik, Bellery District BANGALORE-560001

KARNATAKA

Appearances

I Party : **Shri Y S Vedhu Kumar**

Advocate

II Party : **Smt. Monica Patil**

Advocate

1. The Government of India, Ministry of Labour vide Order No. L-29012/92/2008-IR(M) dated 23/24.12.2008 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as "The Act") (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

"Whether the action of M/s. Mysore Minerals Limited, Bangalore, in removal from services w.e.f. 30/6/1998 in respect of Smt. Talwar Marakka W/o Late Ngappa is justified? What relief the workman is entitled to?"

2. After registering the case the date of hearing was fixed as 19.04.2010 and the Claim Statement was filed on 13.12.2010 and Counter Statement of the II Party was filed on 25.04.2011 and Evidence was recorded, arguments were heard on behalf of both the parties and then an Award was passed by this Tribunal vide Award dated 09.01.2015 and then notified vide Gazette Notification dated 20.03.2016.

3. Later on aggrieved by the said Award the Management approached the Hon'ble High Court of Karnataka in WP No. 26335/2015 (L-RES) and the matter was remanded back to this Tribunal for fresh adjudication vide order dated 12.10.2020. After the matter was remanded back to this Tribunal, notices were sent to both the parties and they have entered appearances through their respective counsel and counsel for the I party submitted that I party has expired and he wants to bring the Legal Representatives on record and sought for adjournment on 19.05.2022, thereafter, there is no representation on both sides and a final notice was sent to both parties to appear before this Tribunal on 20.12.2024. Though notice was served on both the sides, it was found that there was no representation on both sides, hence, this Award.

AWARD

Reference is dismissed for non-prosecution. Transmit.

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 31st December 2024)

K P INDIRA, Presiding Officer

नई दिल्ली, 15 जनवरी, 2025

का.आ. 83.—औघोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **पंजाब नेशनल बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके **कर्मकार श्री देव नाथ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट **(63/2022)** प्रकाशित करती है।

[सं.एल-12011/92/2022-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 15th January, 2025

S.O. 83.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 63/2022*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of **Punjab National Bank** and **Sri Dev Nath.**

[No. L-12011/92/2022– IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 63 of 2022

Reference No.L-12011/92/2022-IR (B-II) dated 31/10/2022

BETWEEN

PNB Progressive Employees Association,
E-5/146, Rajajipuram, Lucknow through
its General Secretary in relation to workman
member Sri Dev Nath (PF No.304661), dismissed -----Claimant Union

Vs.

Chairman and Managing Director,
Punjab National Bank having its Head Office
at Plot No.4, Sector-10, Dwarka,
New Delhi 110075 & 3 others ----Respondents

Judgment

By means of order no.L-12011/92/2022-IR(B-II) dated 31/10/2022, the Central Government considered it desirable to refer the dispute for adjudication to the following effect:-

> *"Whether the action of the management of Punjab National Bank in issuance of charge sheet to Shri Dev Nath, Head Cashier for the offence of theft of cash sorting machine in absence of FIR is fair, legal and justified? If not, to what relief the concerned workman is entitled?"*

In pursuance to the said reference on 1.5.2023 the statement of claim was filed before this Tribunal.

The facts in brief as submitted on behalf of claimant in his statement of claim are as under:-

i) Sri Dev Nath having P.F. No.304661 was Head Cashier in the Punjab National Bank and was lastly posted and working as SWO-A in Punjab National Bank, Chauhan Market Branch, District Rae-bareli.

ii) On 12.09.2019 Smt.Ruchi Srivastava the Branch Manager issued a show cause notice to the workman in respect to the alleged incidence of misbehave with her relating to the misconduct happened on 11.9.2019 which was replied by the workman on the same. Thereafter a letter dated 21.9.2019 was written by the Branch Manager informing the misbehave being done by the workman on 21.9.2019 and thereafter the Chief Manager, Circle Office, Allahabad issued a letter dated 3.10.2019 seeking explanations from the workman.

iii) On 22.10.2019 the Branch Manager issued another explanation stating the misbehaved being done by the workman on 26.7.2019. The show cause/explanation letter dated 22.10.2019 was totally malafide, baseless and biased on wrong facts for falsely implicating the complainant.

iv) The real facts are that the LIC building branch had two cash shorting machine which was presumably belong to currency chest branch of Rae-bareli but the same was placed at LIC office by the Bank for convenience for several years but it had been non functional for several years.

v) The workman wrote a letter dated 22.10.2019 to the Branch Manager looking into his future repercussion thereby apologizing her in respect to the incidence. But after the apology written by the workman the Branch Manager reported the alleged incident of missing of cash sorting machine on 26.7.2019 to the Circle office, Allahabad vide letter dated 23.10.2019.

vi) The Branch Manager is the custodian of the assets of the branch and the Branch Manager had even no knowledge of the alleged missing cash sorting machine for more than 2 months and if so, she had been negligent in discharge of her duty prudently and diligently, although Smt. Ruchi Srivastava had full knowledge on 28.7.2019.

vii) The entire contents of letter dated 23.10.2019 was false, baseless and made out with malafide intent to falsely implicate and victimize the workman. Smt. Ruchi Srivastava had been biased and acted in a malafide manner by way of reporting alleged incident in such a manner that would falsely implicate workman in criminal charges.

viii) The aforesaid biased and malafide act begin under incident of taking revenge from the workman only after the misbehave incident of 11.9.2019 & 21.9.2019. The Branch Manager herself negligent in reporting alleged incident on 26.7.2019 so that such incident may be enquired by taking assistance of CCTV footage which was available during July, 2019 and presently not available.

ix) Thereafter the investigating officer submitted its baseless and false report and made several lapses in the investigation report thereby missing out the fact that machine which was allegedly shifted was not belonging to LIC building branch and it had never been mentioned in SSF report of the Branch. The value and the details mentioned in the inquiry report related to cash sorting machine which was available in the branch and belong to branch and never shifted.

x) Without considering the actual status, material on record the circle head/disciplinary authority, Allahabad illegally suspended the workman vide suspension order dated 27.11.2019 (Annexure C-9 to the Statement of Claim). The workman was also transferred to Gauriganj Branch, Amethi and he was also reverted/re-designated as SWO-A (Annexure C-10 to the Statement of Claim).

xi) The Bank never lodged any FIR before police authorities and no police investigation was done in the present incidence of theft. The Bank has no right to investigate any criminal offence and as per charge sheet the Bank had levelled the charges of theft against the workman but no FIR was filed by the Bank authorities.

xii) Thereafter the bank reported the alleged incident to the vigilance department of the bank but the vigilance department specifically stated that the determination of vigilance over note and also a very relevant query was raised by the vigilance department to circle head, Allahabad (Annexure C-11 to the Statement of Claim). Thereafter the bank issued a charge sheet to the workman dated 27.7.2020 (AnnexureC-12 to the Statement of Claim) for alleged incident of 'theft of cash sorting machine and misbehaviour with branch head'. Further the charge sheet dated 27.7.2020 was in total violation of provisions of bipartite settlement from Para-2 to Para-5 and others dated 10.4.2002.

xiii) The workman stated that the charge sheet is itself illegal on the following grounds :-

a) Para-2 of first bipartite settlement dated 10.4.2002 refer the definition of "offence" as under:-

> "By the expression 'offence' shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of law."

b) The Para-5 of bipartite settlement dated 10.4.2002 defines the gross misconduct as under and same has been realigned and included several expression vide para-5 of bipartite settlement dated 10.4.2002 in suppression/ substitution to first bipartite settlement in Para-19. The relevant clause of Para 5(c) and Para-5(d) are reproduced as under:-

> 5(c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank.
>
> 5(d) wilful damage or attempt to cause damage to the property of the bank or any of its customers.

c) The workman took objection regarding jurisdiction issue. However, in the exercise of excessive powers the bank had again issued a charge sheet dated 17.11.2020 through circle office, Rae-bareli which is a cut copy paste of same and similar contents mentioned in the earlier charge sheet dated 27.7.2020. A bare perusal of charge sheets dated 17.11.2020 and 27.7.2020 would show that not even single alphabet or character was changed by the disciplinary authority who had issued charge sheet in violation of the principle of natural justice and against the provisions of law.

d) The circle head, Rae-bareli even failed to consider that the charge sheet ought to have been withdrawn first by passing separate order as no reason or justification or application of mind had been mentioned for withdrawal of charge sheet dated 27.7.2020.

e) Being a model employer the respondents cannot act arbitrarily and withdraw its disciplinary proceedings against the workman without any reason. The disciplinary authority by stroke of pen had withdrawn the charge sheet even without mentioning even reason. The charge sheet dated 17.11.2020 is itself illegal as the charge sheet has been issued during the subsistence of earlier charge sheet dated 27.7.2020.

f) Earlier charge sheet dated 27.7.2020 must have been withdrawn prior to issuance of second charge sheet dated 17.11.2020 (Annexure C-14 to the Statement of Claim). The bank ought to have withdrawn earlier charge sheet dated 27.7.2020 and only thereafter subsequently may issue fresh charge sheet.

xiv) The charge sheet was itself illegal as no relevant document such as investigation report, the copy of written complaint, the name of witness and their statement was provided. The bank issued only two pages charge sheet and sought an explanations without supplying any material and thus clearly violated the terms of settlement and principles of natural justice.

xv) Even without considering the workman reply dated 24.11.2020 the disciplinary authority issued order dated 2.12.2020 for intimation of inquiry proceedings and thereafter inquiry officer Smt. Sambul Fatima initiated inquiry proceedings and fixed the date as 6.1.2021 wherein the workman represented through his representative.

xvi) On behalf of workman it was stated that the enquiry made by him was not related to confirmation of ownership but it was related to misappropriation. It is fundamental law that without proving ownership, no charges of misappropriation or theft are made out. The bank totally failed to establish from any evidence that cash shorting machine was either misused or misappropriated or case of theft is made out. The very crucial aspect of the case would be that before the issuance of charge sheet the cash shorting machine was lying in the branch itself. The mere shifting of any bank article with a bonafide intent and with plausible reasons would not create any offence no bank witness had made any statement regarding intention of the complainant as dishonest.

xvii) The bank had been adamant in illegally dismissing the services of the workman and issued the show cause notice dated 18.11.2021 illegally (Annexure C-17 to the Statement of Claim) which itself is illegal to the extent that the disciplinary authority himself written 'failing which appropriate order confirming the punishment shall be issued without any further reference to the charge sheeted employee'.

xviii) The entire departmental proceedings were conducted by the respondents in total malafide and illegal manner. The respondents passed the illegal punishment order dated 17.9.2022. Moreover no proper opportunity was granted nor proper application of mind was made by the disciplinary authority before passing the impugned dismissal order dated 17.9.2022 (Annexure C-22 to the Statement of Claim).

xix) Thereafter the workman preferred the departmental appeal dated 17.10.2022 before the Appellate Authority but the same was rejected by the authority concerned without compliance of principles of natural justice and without application of mind (Annexure C-23 to the Statement of Claim).

xx) The punishment awarded by the Bank is shockingly disproportionate with the allegation and same is in violation of law laid down by the Hon'ble Supreme Court. Moreover the punishment of dismissal awarded to the workman does not commensurate with the allegations made in the charge sheet and alleged proved in the departmental enquiry proceedings.

On the basis of above said averments and pleadings the workman/claimant prayed the following main reliefs:-

i) To quash/set aside the charge sheet and entire enquiry proceedings which were held under biased and malafidely approach and also being illegal;

ii) To direct the respondents for payment of exemplary damages and compensation in favour of the complainant for Rs.50,00,000/- along with interest @ 18% for committing the gross misuse of procedure provided under Section 33 of Industrial Disputes Act 1947.

On behalf of respondent-employer the written statement iled in which the following preliminary objections, taken:-

i) That the CA under response has lost its efficacy for adjudication by this Tribunal in view of the fact that charge sheet, the probity and persistence of which has been engaged in issue for determination, has now been reached to its obvious destination by way of punishment order dated 17.9.2022. As such, the schedule referred herein, renders infructuous, specifically in view of the fat that final outcome and resultant produce of the disputed instrument in the CA, herein, is not being challenge by the claimant instead of knowledge and excess of the same, neither been scheduled for determination by the above mentioned reference of Government, which means neither the claimant has grievances against the consequential order dated 17.9.2022 nor competent government has found any occasion to dispute legality of the outgrowth of the charge sheet, questioned in the present case.

ii) That the Central Government made reference, aforesaid after conclusion of the departmental proceedings dated 17.9.2022 but did not consider the issue of dismissal of said employee, fit and

suitable for engaging in industrial dispute because of no flaw in procedure, fault in delivery of justice and having complete fidelity of the answering respondents for maintaining fairness, transparency and prudence in whole disciplinary proceedings including passing of order dated 17.9.2022 by the disciplinary authority. As such the question involved in the case in hand has relinquished its relevance and logical legitimacy for further trial, as such, deserves to be dismissed being a gratuitous subject by this Hon'ble Court in the interest of justice.

iii) The claimant itself has filed the claim application on 1.5.2023 vide another ID No.20 of 2023 that is after passing of the consequential order in the departmental proceedings dated 17.9.202 as well as rejection of its appeal against the aforesaid order vide order dated 2.3.2023 and keeping well knowledge, notice excess to the same and having occasion to question it, if it is illegal in any way but claimant has not challenged it instead of plotting the whole scenario in the CA in hand, which have no relevant at all for adjudication of the matter pertains in the case in hand. As such, the question involved in the case in hand became considerable due to non challenge of the final outcome of the charge sheet, exclusive subject of determination in issue, hence, the statement of claim deserves to be rejected out rightly by the Tribunal.

Findings & conclusion:

I have heard the Learned Counsels for the parties and gone through the records.

In order to decide the controversy in question it will be appropriate to consider that the meaning of "charge sheet" in service jurisprudence.

The Charge Sheet: "charge sheet" may be described as "the substance of the imputations of misconduct or misbehaviour" constituting distinct and different articles of charge.

Because an employee is required to maintain a standard of conduct conforming to the statutory provisions contained in statutory rules or regulations. It is considered blameworthy for an employee if he infringes any of these identified codes of conduct. There may also be allegations against him of committing offences that has a criminal content, e.g. embezzlement of public money, having property disproportionate to known source of income, etc. It may become necessary for the competent authority to take corrective actions to reclaim the employee or to meet the gravity of the offences of his misconduct by imposing appropriate penalty, which are graded as minor and major, according to the graveness of the misconduct proved against the employee.

What is misconduct must be known to the employee a priori and not by a post-facto declaration. A conduct which was not a misconduct earlier cannot be transformed into a misconduct at the whims of the administrator. The Constitution provides that before an employee is awarded with a major penalty of dismissal, removal or reduction in rank he shall be given reasonable opportunity for meeting the imputations of misconduct. In other words, any deprival, financial or otherwise, or imposition of any penalty, minor or major, shall conform to the rules of natural justice.

> ***Who can issue a charge sheet*:** A charge sheet may be issued by any superior authority under whose charge, employee has been working for the time being. In the case of ***State of M.P. versus Shardul Singh reported in (1970)1 SCC 108***, it was held by the Hon'ble Supreme Court that even if the charge sheet has not been issued by a competent authority, the defect, if any, is a mere irregularity and if no objection is taken at initial stage, it does not vitiate the proceedings (*see also P.V. Srinivas Shastri v Comptroller & Accountant General, reported in 1993 (1) SCC 419)*

Further in the case of ***Director General ESI versus T. Abdul Razak, reported in (1993) 1 SCC 419***, the Hon'ble Supreme Court held as under:-

> *"....With regard to initiation of disciplinary proceedings by the Regional Director. we find that the legal position is well settled that it is not necessary that the authority competent to impose the penalty must initiate the disciplinary proceedings and that the proceedings can be initiated by any superior authority who can be held to be the controlling authority who may be an officer subordinate to the appointing authority*."

So far as the question of condition precedent for Issue of charge sheet is concerned in service jurisprudence, issue of a charge sheet is a serious matter. It may put a question mark on the very employment under the State, as such, a competent authority may issue a charge sheet only when he has taken into consideration relevant materials which indicate a prima facie case against the delinquent and when he has come to an opinion that it is necessary in public interest to go into the merits of the allegations by issuing a formal charge sheet to the employee.

Further, opinion of the competent authority is based on the existence of a "prima facie" case, which forms the condition precedent requiring formation of the opinion.

In the case of ***Berium Chemicals versus Company Law Board reported in AIR 1967 SC 295***, a Constitution Bench held that the existence of circumstances set out in the rules is a condition precedent to the formation of the opinion, which is subjective. Therefore, the Court is entitled to ascertain whether, in fact, any of those circumstances exists for

formation of the subjective opinion of the disciplinary authority. Their absence will make the opinion of the disciplinary authority perverse and not genuine. It is only after formation of certain opinion by the Board that the stage of exercising the discretion to investigate or not to investigate is caused. The Court further held that the discretion to act, as conferred upon him is administrative and not judicial since its exercise does not affect the right.

The Honble Supreme Court in the case of ***Uttar Pradesh State Road Transport Corporation v. Gajadhar Nath by means of judgment dated 08.12.2021, passed in civil Appeal No. 7536 of 2021*** held that it is not mandatory to lodge an FIR prior to issue of charge sheet. Relevant portion of the judgment passed in the aforesaid case is quoted below:-

> *"Still further non lodging of FIR cannot be the circumstance against the witness examined by the employer. The initiation of criminal proceedings against an employee or not initiating the proceedings has no bearing to prove misconduct in departmental proceedings. Therefore, we find that the order of removal from service cannot be said to be unfair and unjust in any manner which would warrant an interference at the hands of the Tribunal and the High Court."*

In view of the said facts the Reference No.L-12011/92/2022-IR (B-II) dated 31/10/2022 is answered in negative and against the workman that it was not necessary for the management of Punjab National Bank to lodge an FIR and in the absence of FIR no charge sheet can be issued; accordingly, the workman concerned is not entitled for any relief.

Reference under adjudication is answered accordingly.

Justice ANIL KUMAR, Presiding Officer

Lucknow.

22nd August, 2024

नई दिल्ली, 15 जनवरी, 2025

का.आ. 84.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **इंडियन बैंक (पूर्व में इलाहाबाद बैंक के नाम से जाना जाता था); मेसर्स आर.के. एसोसिएट्स** के प्रबंधतत्र, संबद्ध नियोजको और उनके **कर्मकार श्री अमित यादव** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट **(68/2021)** प्रकाशित करती है।

[सं. एल-39025/01/2024-आई.आर. (बी-II)-47]

सलोनी, उप निदेशक

New Delhi, the 15th January, 2025

S.O. 84.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 68/2021*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of **Indian Bank (formerly known as Allahabad Bank); M/s R.K. Associates** and **Shri Amit Yadav.**

[No. L-39025/01/2024– IR (B-II)-47]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I. D. No. 68/2021

Ref. No. K-10/1-3/2021-IR Dated 27.05.2021

BETWEEN

Shri Amit Yadav S/O Shri Nageshwar Yadav, R/O Lachchipur, Bakahua Bazar, Tehsil Mahmudabad, Sitapur-261201

AND

1. The Assistant General Manager, Indian Bank (formerly known as Allahabad Bank) Staff College, Sector 21, Ring Road, Indira Nagar, Lucknow-226016.

2. The Proprietor, M/s R.K.Associates, 631/106, Ajay Nagar, Surendra Nagar, Lucknow- 226028.

AWARD

By order No. K-10/1-3/2021-IR Dated 27.05.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of management of Indian Bank Staff College, Lucknow in terminating the services of Shri Amit Yadav S/O Shri Nageshwar Yadav, Ward Boy w.e.f. 01.07.2020 who was engaged through contractor M/s R.K.Associates, without following the provisions of Section 25 F of I.D. Act, 1947, is Legal and justified? If not, to what relief the workman is entitled to and from which date?"*

Accordingly, an industrial dispute No. 68/2021 has been registered on 02.06.2021.

On17.08.2021 claimant filed claim statement.

Facts stated in the claim petition are in brief that claimant was initially appointed through respondent no. 1 with the respondent no. 2; however without following the provision of retrenchment as provided under section 25 (F) of the Industrial Dispute Act 1947 (hereinafter referred to as the Act) his services were dispensed on 30.06.2020.

On behalf of the respondent statement of defense filed on 28.10.2021 in which preliminary objection also taken by the respondent no. 2. However, no statement of defence has been filed on behalf of respondent no. 1; accordingly, opportunity of respondent no. 1 to file its defence was closed vide order dated 02.12.2022.

After filing of the written statement by respondent no. 2, in spite of opportunities given to workman, he neither filed rejoinder nor evidence in support of his case on affidavit.

Accordingly heard respondent no. 1; and gone through the records.

In view of the above said facts the claimant/workman has not field any rejoinder/evidence in support of his case on affidavit, in spite of several opportunities given to him and taking into consideration the law as laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

Lucknow.

21st June, 2024

नई दिल्ली, 16 जनवरी, 2025

का.आ. 85.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ठेकेदार, पावरफुल सर्विस सिक्योरिटी ,ई -257 ,मालवीय नगर , जयपुर ; प्रबंधक,यू.एम.डी .एस, चेनपुरा जहाजपुर ,भीलवाड़ा ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री** dkyjke] **कामगार,** }kjk&in'k mik/;{k] Hkkjrh; etnj l?k] Hkikyxat]HkhyokMk] के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय-भीलवाड़ा पंचाट (संदर्भ संख्या 55/2017 एल.सी.आर) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2024 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-27-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th January, 2025

S.O. 85.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2017 L.C.R) of the **Industrial Tribunal and Labor Court-Bhilwara,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Contractor, Powerful Service Security, E-257, Malviya Nagar, Jaipur; The Manager, U.M.D.S, Chainpura, Jahazpur, Bhilwara, and Shri Kaluram, through-Vice President, Bharatiya Mazdoor Sangh Bhupalganj, Bhilwara,** which was received along with soft copy of the award by the Central Government on 16.01.2024.

[No. L-42025-07-2025-27– IR (DU)]

DILIP KUMAR , Under Secy.

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पीठासीन अधिकारीः Jh l|'khy dekj 'kekZ](जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 55/2017 एल.सी.आर

श्री कालूराम पुत्र श्री देवीलाल, निवासी–भैरूखेडा,पो0–आमलदा,तह0–जहाजपुर,जिला–भीलवाडा। द्वारा–श्री प्रभाष चौधरी, प्रदेश उपाध्यक्ष,भारतीय मजदूर संघ,.11/97,नई शाम की सब्जी मंडी, भूपालगंज, भीलवाडा।.

.. प्रार्थी

% cuke %

1.ठेकेदार पावरफूल सर्विसेज सिक्यूरिटी, ई–257,मालवीय नगर,जयपुर। .
2.प्रबंधक, यू.एम.डी.एस.,चेनपुरा माईन्स,मु.पो.–चेनपुरा, . .
वाया–आमलदार,तह0–जहाजपुर,जिला–भीलवाडा।

.. विपक्षी/नियोजकगण

उपस्थित :

श्री प्रभाष चौधरी,प्रतिनिधि–प्रार्थी की ओर से। . श्री आर.सी. चेचाणी,अधिवक्ता–विपक्षीगण की ओर से।. .

%% ipkV %% दिनांक 25.11.2024

प्रार्थी श्रमिक ने विपक्षीगण के विरूद्ध सेवा पृथककरण किये जाने बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया गया। जहां 45 दिन की निर्धारित समयावधि में कोई समझौता नहीं होने के कारण प्रार्थी ने औ0वि0अधि0,1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद न्यायालय के समक्ष पेश किया।

प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि उसने विपक्षीगण की चेनपुरा माईन्स पर दिनांक 1.7.2007 से दिनांक 31.1.2017 तक बतौर सिक्यूरिटी गार्ड सेवाएं दी तथा प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों तक कार्य किया। उसे दिनांक 1.2.2017 को विपक्षी ने बिना किसी कारण, बिना किसी जांच, बिना किसी नोटिस के कार्य से हटा दिया। वेतन वृद्धि व बोनस आदि की मांग करने पर उनकी सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं होते हुए भी उसका स्थानांतरण अन्यत्र कर दिया गया एवं वहां भी ड्यूटी पर लेने से मना कर दिया,जिस पर उसने विपक्षी सं0 एक को इस बारे में सूचित भी कर दिया,लेकिन फिर भी उसे काम पर नहीं लिया गया। प्रार्थी ने समस्त वेतन, परिलाभों सहित सेवा में बहाल करवाने की प्रार्थना की।

विपक्षी सं. एक ने अपने जवाब में यह अंकित किया कि प्रार्थी कभी भी सिक्यूरिटी गार्ड के पद पर नियोजित नहीं रहा है एवं दिनांक 1.7.2007 से कार्य प्रारंभ करने का तथ्य भी गलत है। वास्तविकता यह है कि उत्तरदाता को विपक्षी सं0 दो ने वाचमेन उपलब्ध कराने का ठेका दिनांक 1.7.2015 को दिया, जिसे दिनांक 1.4.2016 से 31.3.2017 तक नवीनीकृत किया गया। प्रार्थी को बतौर वाचमेन नियुक्त किया गया था, जो अकुशल श्रमिक की श्रेणी में आता है। सिक्यूरिटी गार्ड एवं वाचमेन अलग–अलग पद है। इस प्रकार प्रार्थी न तो दिनांक 1.7.2007 से कार्य कर रहा है, न कभी सिक्यूरिटी गार्ड के पद पर नियोजित रहा है। प्रार्थी ने अपने क्लेम प्रार्थनापत्र की चरण सं0 तीन में बिना जांच, बिना नोटिस के दिनांक 1.2.2017 को सेवा से हटा देने का कथन किया है, जबकि उसने क्लेम प्रार्थनापत्र की चरण सं0 5 में उसका स्थानांतरण कर देना अंकित किया है। प्रार्थी ने अपने स्थानांतरित स्थल पर कोई उपस्थिति नहीं दी, बल्कि वह स्थानांतरण के बाद स्वतः बिना किसी सूचना के अनुपस्थित हो गया। विपक्षी सं0 एक द्वारा अपनी आवश्यकता के अनुरूप प्रार्थी का स्थानांतरण किया है, जिस पर प्रार्थी ने उसे कार्य से बंद कर देना बताते हुए यह मामला उठाया है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की।

विपक्षी सं0 दो ने अपने जवाब में यह अंकित किया कि प्रार्थी उनके नियोजन में नहीं रहा है। उसका नाम न तो कंपनी के मस्टररोल में दर्ज है, न वेतन भुगतान पंजिका में दर्ज है, न उसका कोई रिकॉर्ड उनके पास है। प्रार्थी ने उत्तरदाता के यहां प्रत्येक वर्ष में 240 दिनों से अधिक समय तक सेवाएं नहीं दी, न अधि0, 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। अतः नोटिस देने, उसके विरूद्ध जांच कार्यवाही करने व उसे सेवा से हटाने का प्रश्न ही उत्पन्न नहीं होता है। प्रार्थी ने सेवा शर्तों से संबंधित व उत्तरदाता द्वारा उसका स्थानांतरण करने के संबंध में कोई दस्तावेज पेश नहीं किये हैं। ठेकेदार द्वारा किन–किन व्यक्तियों को कब–कब नियुक्त किया गया, उनकी क्या सेवा शर्तें हैं, इसकी जानकारी उत्तरदाता को नहीं है। उत्तरदाता कंपनी द्वारा सिक्यूरिटी कार्य हेतु विपक्षी सं0 एक को ठेका दिया हुआ है तथा उसी के अनुरूप विपक्षी सं0 एक वाचमेन ठेके पर रखता है। प्रार्थी, उत्तरदाता से कोई राहत प्राप्त करन का अधिकारी नहीं है।

प्रार्थी की ओर से साक्ष्य में स्वयं प्रार्थी ए ड 1 कालूराम के बयान शपथ पत्र पर दर्ज करवाये गये । खंडन में विपक्षीगण की ओर से एन ए ड 1 मसूद खान के बयान शपथपत्र पर दर्ज करवाये गये।

हमनें संपूर्ण पत्रावली का गहनता से अध्ययन किया और विचार किया।

प्रार्थी ने अपने क्लेम प्रार्थनापत्र व अपने साक्ष्य स्वरूप प्रस्तुत शपथपत्र में विपक्षीगण द्वारा दिनांक 1.7.2007 को बतौर सिक्यूरिटी गार्ड नियोजित करना कहा है। विपक्षी सं. एक ने अपने जवाब में यह कहा है कि उन्हें विपक्षी सं0 दो के यहां वाचमेन उपलब्ध करवाने का ठेका ही दिनांक 1.7.2015 को दिया गया। प्रार्थी दिनांक 1.6.2007 से कार्य नहीं कर रहा है। विपक्षी सं0 दो ने भी अपने अभिचनो में प्रार्थी द्वारा दिनांक 1.7.2007 से बतौर सिक्यूरिटी गार्ड सेवाएं देने के तथ्य को अस्वीकार करते हुए कहा है कि उन्होंने सिक्यूरिटी कार्य बाबत विपक्षी सं0 एक को ठेका दिया हुआ था। इस बारे में प्रार्थी ने अपनी जिरह में स्पष्ट रूप से यह कहा है कि उसे यू.एम.डी.एस. ने कोई नियुक्ति पत्र नहीं दिया, उसे पावरफुल सर्विसेज ने काम पर रखा था तथा उसने पावरफुल सर्विसेज को दिये गये ठेके के तहत ही कार्य किया था। विपक्षी गवाह एन ए ड 1 मसूद खान ने भी अपनी जिरह में यह कहा कि प्रार्थी उनके हाजरी रजिस्टर में अंकित तारीख के अनुसार ही काम कर रहा था। इस गवाह ने विपक्षीगण सं0 एक व दो के मध्य हुई संविदा के संबंध में हुए इकरारनामे की प्रति एम 2, दिये गये कार्यादेश की प्रति प्रदर्श एम 1, हाजरी रजिस्टर की प्रति प्रदर्श एम 5, वेतन भुगतान रजिस्टर की प्रति प्रदर्श एम 6 को भी प्रदर्शित करवाया है, जिनके संबंध में प्रार्थी की ओर से विपक्षी सं0 एक संवेदक के इस गवाह से कोई जिरह नहीं की गई है। इस प्रकार यह निर्विवादित है कि विपक्षी सं0 दो की खदान पर विपक्षी सं0 एक ठेकेदार के मार्फत प्रार्थी ने काम किया।

स्वयं प्रार्थी के उक्त अभिवचनों व पत्रावली पर उपलब्ध उक्त साक्ष्य से यह बिल्कुल स्पष्ट है कि प्रार्थी सीधे तौर पर विपक्षी सं0 एक (ठेकेदार) के ही संपर्क में रहा तथा उसी के अधीन कार्य किया। विपक्षी सं0 एक ने ही उसे विपक्षी सं0 दो के यहां कार्य करने के निर्देश दिये तथा इसी क्रम में वह निरंतर कार्य करता रहा। उसे वेतन भी विपक्षी सं0 एक ही देता था। अतः प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध स्थापित होना नहीं पाया जाता है।

अब प्रश्न यह है कि क्या प्रार्थी को विपक्षी सं0 एक ने अवैध तौर पर सेवा से पृथक किया है। यदि हां, तो वह क्या अनुतोष प्राप्त करने का अधिकारी है? इस संबंध में प्रार्थी का अपनी जिरह में कहना है कि दिनांक 21.3.2017 से उसका स्थानांतरण प्रदर्श 2 आदेश के जरिए चैनपुरा माईन्स से घेवरिया किया गया था तथा उसने घेवरिया जाकर स्थानांतरण आदेश की पालना में कोई जोईनिंग प्रार्थनापत्र नहीं दिया। आगे जिरह में प्रार्थी ने यह भी स्पष्ट रूप से स्वीकार किया है कि उसे सेवा से हटाने के बाबत कोई आदेश नहीं दिया गया। अतः स्वयं प्रार्थी के उक्त अभिवचनो से ही स्पष्ट है कि उसे विपक्षी द्वारा सेवा से पृथक नहीं किया गया, बल्कि उसका स्थानांतरण किया गया था। विपक्षी गवाह मसूद खां ने भी अपनी जिरह में प्रार्थी की ओर से दिये गये इस सुझाव को सही बताया कि उन्होंने प्रार्थी का जहां स्थानांतरण किया वहां प्रार्थी ने ड्यूटी जोईन नहीं की तथा वह अनुपस्थित चल रहा है। प्रार्थी की ओर से विपक्षी को दिये गये इस सुझाव से ही यह स्पष्ट हो जाता है कि स्वयं प्रार्थी भी यह मानता है कि उसे विपक्षी सं0 एक ने सेवा से पृथक नहीं किया, बल्कि विपक्षी सं0 एक ने उसका स्थानांतरण किया तथा उसने कार्य पर उपस्थिति नहीं दी। उक्त साक्ष्य से ही प्रार्थी का स्वेच्छा से अनुपस्थित होना पाया जाता है।

स्थानांतरण आदेश प्रदर्श 2 का भी अवलोकन किया गया, जिसमें यह अंकित किया गया है कि संस्थान की आवश्यकता के अनुसार आपका स्थानांतरण चैनपुरा माईन्स से न्यू प्लांट, घेवरिया पर दिनांक 01 फरवरी 2017 से किया जाता है। उक्त स्थानांतरण आदेश से भी यही तथ्य सामने आया है कि प्रार्थी का स्थानांतरण विपक्षी के नये संस्थान घेवरिया पर आवश्यकतानुसार किया गया है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक ठेकेदार के द्वारा सेवा से पृथक नहीं किया गया, बल्कि विपक्षी सं0 एक ने आवश्यकतानुसार विपक्षी सं0 दो के नये प्लांट पर स्थानांतरित किया गया।

प्रार्थी प्रतिनिधि का मुख्य तर्क यह रहा है कि सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं था। मेरे विनम्र मत में विपक्षी सं. एक ठेकेदार फर्म है तथा उनकी कार्यावधि भी निश्चित होती है। ऐसी स्थिति में यदि उनके द्वारा कार्य की आवश्यकता के अनुसार श्रमिकों का अन्यत्र स्थानांतरण किया भी जाता है तो उसे अवैध नहीं माना जा सकता है। प्रार्थी प्रतिनिधि ऐसा कोई प्रावधान बताने में असमर्थ रहे हैं कि इस प्रकार के श्रमिकों का अन्यत्र स्थानांतरण नहीं किया जा सकता हो। मुझे बताया गया है कि चैनपुरा माईन्स व घेवरिया के प्लांट में बहुत ज्यादा दूरी नहीं है तथा विपक्षी की माईन्स व प्लांट भीलवाडा जिले में ही स्थित है। अतः उक्त स्थानांतरण से प्रार्थी को कोई हानि हो रही हो, ऐसा तथ्य भी सामने नहीं आया है।

इस संबंध में प्रार्थी की ओर से अपने समर्थन में न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 1 (एस.सी.) कापरो इंजीनियरिंग इंडिया लि0 बनाम उम्मेदसिंह लोधी व अन्य पेश किया गया है, लेकिन उक्त न्यायिक दृष्टांत तथ्यात्मक भिन्नता के कारण हस्तगत मामले में लागू नहीं होता है। न्यायिक दृष्टांत वाले मामले में देवास से अलवर याने करीब 900 कि.मी. दूर स्थानांतरण किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है तथा इस मामले में तो प्रार्थी का स्थानांतरण कार्य की आवश्यकतानुसार विपक्षी सं0 एक ठेकेदार द्वारा जिले में ही विपक्षी सं0 दो के ही दूसरे प्लांट पर किया गया है। प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2017 (155) एफ एल आर पेज 52 (पंजाब व हरि..) हरजीतसिंह बनाम पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण,पटीयाला वाले मामले में श्रमिक का स्थानांतरण संस्थान के ही बंद कार्यालय में किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है बल्कि इस मामले में तो प्रार्थी का स्थानांतरण ठेकेदार द्वारा कार्य की आवश्यकतानुसार विपक्षी सं0 दो के ही नये प्लांट में किया गया है। अतः उक्त दोनों न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण इस मामले में लागू नहीं होते हैं। अतः इस संबंध में में प्रार्थी प्रतिनिधि के तर्क स्वीकार किये जाने योग्य नहीं है तथा प्रार्थी के स्थानांतरण को अवैध नहीं पाया जाता है।

प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2014 (140) एफ एल आर पेज 429 (देहली) स्कूटर्स इंडिया लि0 बनाम गवर्नमेंट आफ एन.सी.टी. ऑफ देहली व 2010 (126) एफ एल आर पेज 982 (राज0) शिवशंकर शर्मा बनाम राज0 राज्य विद्युत प्रसारण निगम लि0 में यह मत प्रतिपादित किये गये हैं कि श्रमिक की अनुपस्थिति के मामले में जांच कार्यवाही होना व 25—एफ के प्रावधानों की पालना होना आवश्यक है, लेकिन इस मामले में विवेचन के दौरान यह पाया गया है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा सेवा से पृथक नहीं किया गया है,बल्कि उसका स्थानांतरण विपक्षी सं0 दो के ही अन्य नये प्लांट पर आवश्यकतानुसार किया गया है तथा अपने कार्यस्थल पर प्रार्थी स्वयं ही स्वेच्छा से कार्य हेतु उपस्थित नहीं हुआ। अतः उक्त न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण लागू नहीं होते हैं।

समग्र साक्ष्य के अवलाकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा अवैध रूप से सेवा से पृथक नहीं किया गया है, बल्कि उसका नये प्लांट पर स्थानांतरण कर दिये जाने के कारण उसने स्वेच्छा से कार्य पर उपस्थिति नहीं दी तथा स्वेच्छा से सेवाओं का परित्याग किया।

प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक 2024 (182) एफ एल आर (आंध्रप्रदेश) पेज 442 डिपो मैनेजर, ए.पी.एस. आर.टी.सी. बनाम पोन्नापति वेंकटा रमन व अन्य में ठेकेदार के श्रमिक को भी मान0 उच्च न्यायालय द्वारा श्रमिक की तारीफ में आना माना गया, जिससे असहमति का प्रश्न ही नहीं है। उक्त न्यायिक दृष्टांत विचाराधीन मामले में सुसंगत नहीं है क्योंकि यहां इस संबंध में पक्षकारों के मध्य कोई विवाद नहीं है। इसी तरह प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 10 (एस.सी.) भी इस मामले में सुसंगत नहीं है क्योंकि इस मामले में प्रार्थी की योग्यता के संबंध में कोई विवाद नहीं है।

हस्तगत मामले में यह निर्विवादित है कि विपक्षी सं0 एक, एक ठेकेदार है, जो उसके पास आने वाले श्रमिकों को अन्यत्र नियोजित करता है। यदि उसके जरिये नियोजन मांगने वाले संबंधित व्यक्ति को किसी श्रमिक की आवश्यकता नहीं रही तो ऐसी स्थिति में यह ठेकेदार (विपक्षी सं0 एक) निश्चित ही श्रमिक को अन्यत्र कार्य करने के लिए कहेगा। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है।

उक्त विवेचन एवं विश्लेषण से यह स्पष्ट है कि प्रार्थी को उसके नियोक्ता विपक्षी सं0 एक ठेकेदार के द्वारा कार्य की आवश्यकता के अनुसार विपक्षी सं0 दो के ही नये प्लांट पर स्थानांतरित किया गया तथा स्वयं प्रार्थी ही दिनांक 1.2.2017 से विपक्षी सं0 एक के पास कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती है। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है। अतः वह विपक्षी सं0 एक से भी वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह स्पष्ट है कि स्वयं प्रार्थी ही दिनांक 1.2.2017 से विपक्षी सं0 एक के के द्वारा दिये गये स्थानांतरण आदेश की पालना में विपक्षी सं0 दो के नये प्लांट पर कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती। प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक—नियोजक के संबंध नहीं रहे हैं। अतः वह विपक्षीगण से वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि —

प्रार्थी श्रमिक श्री कालूराम को विपक्षी सं0 1. पावरफूल सर्विसेज सिक्यूरिटी के द्वारा दिनांक 1.7.2007 को सेवा से पृथक नहीं किया गया है, बल्कि उसने स्वेच्छा से सेवाओं का परित्याग किया है।

प्रार्थी व विपक्षी सं0 दो प्रबंधक,यू.एम.डी.एस,चेनपुरा माईन्स के मध्य श्रमिक–नियोजक के सबंध नहीं रहे हैं। प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रति केन्द्र सरकार को प्रकाशनार्थ भेजी जाये।

(सुशील कुमार शर्मा)
न्यायाधीश

औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय,भीलवाडा।.

पंचाट आज दिनांक 25.11.2024 को खुले न्यायालय में सुनाया गया।

(सुशील कुमार शर्मा)

न्यायाधीश,औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय,भीलवाडा।.

नई दिल्ली, 16 जनवरी, 2025

का.आ. 86.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ठेकेदार, पावरफुल सर्विस सिक्योरिटी ,ई -257 ,मालवीय नगर , जयपुर; प्रबंधक,यू.एम.डी .एस, चेनपुरा जहाजपुर, भीलवाड़ा ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री** lqjthr dekj eh.kk**, कामगार**, }kjk&in'k mik/;{k] Hkkjrh; etnj l?k] Hkikyxat]HkhyokMk] के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय-भीलवाड़ा पंचाट (संदर्भ संख्या 56/2017 एल.सी.आर) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2024 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-28-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th January, 2025

S.O. 86.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2017 L.C.R) of the **Industrial Tribunal and Labor Court-Bhilwara,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Contractor, Powerful Service Security, E-257, Malviya Nagar, Jaipur; The Manager, U.M.D.S, Chainpura, Jahazpur, Bhilwara, and Shri Surjeet Kumar Meena, through-Vice President, Bharatiya Mazdoor Sangh Bhupalganj, Bhilwara,** which was received along with soft copy of the award by the Central Government on 16.01.2024.

[No. L-42025-07-2025-28– IR (DU)]

DILIP KUMAR , Under Secy.

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पीठासीन अधिकारीः Jh l'khy dekj 'kekZ](जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 56/2017 एल.सी.आर

श्री सुरजीत कुमार मीणा पुत्र श्री भागूता,निवासी–सुंदरगढ, पो0–उलेला,तह0–जहाजपुर,जिला–भीलवाडा। द्वारा–श्री प्रभाष चौधरी, प्रदेश उपाध्यक्ष, भारतीय मजदूर संघ, 11/97,नई शाम की सब्जी मंडी,भूपालगंज, भीलवाडा।.

.. प्रार्थी

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1.ठेकेदार पावरफूल सर्विसेज सिक्यूरिटी, ई–257, मालवीय नगर,जयपुर।
2.प्रबंधक, यू.एम.डी.एस.,चेनपुरा माईन्स,मु.पो.–चेनपुरा, वाया–आमलदार,तह0–जहाजपुर,जिला–भीलवाडा।

.. विपक्षी/नियोजकगण

उपस्थित :

श्री प्रभाष चौधरी, प्रतिनिधि–प्रार्थी की ओर से।
श्री आर. सी. चेचाणी, अधिवक्ता–विपक्षीगण की ओर से।

ikV दिनांक 25.11.2024

प्रार्थी श्रमिक ने विपक्षीगण के विरूद्ध सेवा पृथककरण किये जाने बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया गया। जहां 45 दिन की निर्धारित समयावधि में कोई समझौता नहीं होने के कारण प्रार्थी ने औ0वि0अधि0,1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद न्यायालय के समक्ष पेश किया।

प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि उसने विपक्षीगण की चेनपुरा माईन्स पर दिनांक 4.10.2013 से दिनांक 20.3.2017 तक बतौर सिक्यूरिटी गार्ड सेवाएं दी तथा प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों तक कार्य किया। उसे दिनांक 21.3.2017 को विपक्षी ने बिना किसी कारण, बिना किसी जांच, बिना किसी नोटिस के कार्य से हटा दिया। वेतन वृद्धि व बोनस आदि की मांग करने पर उनकी सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं होते हुए भी उसका स्थानांतरण अन्यत्र कर दिया गया एवं वहां भी ड्यूटी पर लेने से मना कर दिया,जिस पर उसने विपक्षी सं0 एक को इस बारे में सूचित भी कर दिया,लेकिन फिर भी उसे काम पर नहीं लिया गया। प्रार्थी ने समस्त वेतन, परिलाभों सहित सेवा में बहाल करवाने की प्रार्थना की।

विपक्षी सं0 एक ने अपने जवाब में यह अंकित किया कि प्रार्थी कभी भी सिक्यूरिटी गार्ड के पद पर नियोजित नहीं रहा है एवं दिनांक 4.10.2013 से कार्य प्रारंभ करने का तथ्य भी गलत है। वास्तविकता यह है कि उत्तरदाता को विपक्षी सं0 दो ने वाचमेन उपलब्ध कराने का ठेका दिनांक 1.7.2015 को दिया, जिसे दिनांक 1.4.2016 से 31.3.2017 तक नवीनीकृत किया गया। प्रार्थी को बतौर वाचमेन नियुक्त किया गया था, जो अकुशल श्रमिक की श्रेणी में आता है। सिक्यूरिटी गार्ड एवं वाचमेन अलग–अलग पद है। इस प्रकार प्रार्थी न तो दिनांक 4.10.2013 से कार्य कर रहा है, न कभी सिक्यूरिटी गार्ड के पद पर नियोजित रहा है। प्रार्थी ने अपने क्लेम प्रार्थनापत्र की चरण सं0 तीन में बिना जांच, बिना नोटिस के दिनांक 21.3.2017 को सेवा से हटा देने का कथन किया है, जबकि उसने क्लेम प्रार्थनापत्र की चरण सं0 5 में उसका स्थानांतरण कर देना अंकित किया है। प्रार्थी ने अपने स्थानांतरित स्थल पर कोई उपस्थिति नहीं दी, बल्कि वह स्थानांतरण के बाद स्वतः बिना किसी सूचना के अनुपस्थित हो गया। विपक्षी सं0 एक द्वारा अपनी आवश्यकता के अनुरूप प्रार्थी का स्थानांतरण किया है, जिस पर प्रार्थी ने उसे कार्य से बंद कर देना बताते हुए यह मामला उठाया है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की।

विपक्षी सं0 दो ने अपने जवाब में यह अंकित किया कि प्रार्थी उनके नियोजन में नहीं रहा है। उसका नाम न तो कंपनी के मस्टररोल में दर्ज है, न वेतन भुगतान पंजिका में दर्ज है, न उसका कोई रिकॉर्ड उनके पास है। प्रार्थी ने उत्तरदाता के यहां प्रत्येक वर्ष में 240 दिनों से अधिक समय तक सेवाएं नहीं दी, न अधि0, 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। अतः नोटिस देने, उसके विरूद्ध जांच कार्यवाही करने व उसे सेवा से हटाने का प्रश्न ही उत्पन्न नहीं होता है। प्रार्थी ने सेवा शर्तों से संबंधित व उत्तरदाता द्वारा उसका स्थानांतरण करने के संबंध में कोई दस्तावेज पेश नहीं किये हैं। ठेकेदार द्वारा किन–किन व्यक्तियों को कब–कब नियुक्त किया गया, उनकी क्या सेवा शर्तें हैं, इसकी जानकारी उत्तरदाता को नहीं है। उत्तरदाता कंपनी द्वारा सिक्यूरिटी कार्य हेतु विपक्षी सं. एक को ठेका दिया हुआ है तथा उसी के अनुरूप विपक्षी सं0 एक वाचमेन ठेके पर रखता है। प्रार्थी, उत्तरदाता से कोई राहत प्राप्त करन का अधिकारी नहीं है।

प्रार्थी की ओर से साक्ष्य में स्वयं प्रार्थी ए ड 1 सुरजीत के बयान शपथपत्र पर दर्ज करवाये गये । खंडन में विपक्षीगण की ओर से एन ए ड 1 मसूद खान के बयान शपथपत्र पर दर्ज करवाये गये।

हमनें संपूर्ण पत्रावली का गहनता से अध्ययन किया और विचार किया।

प्रार्थी ने अपने क्लेम प्रार्थनापत्र व अपने साक्ष्य स्वरूप प्रस्तुत शपथपत्र में विपक्षीगण द्वारा दिनांक 4.10.2013 को बतौर सिक्यूरिटी गार्ड नियोजित करना कहा है। विपक्षी सं0 एक ने अपने जवाब में यह कहा है कि उन्हें विपक्षी सं0 दो के यहां वाचमेन उपलब्ध करवाने का ठेका ही दिनांक 1.7.2015 को दिया गया। प्रार्थी दिनांक 4.10.2013 से कार्य नहीं कर रहा है। विपक्षी सं0 दो ने भी अपने अभिचनो में प्रार्थी द्वारा दिनांक 4.10.2013 से बतौर सिक्यूरिटी गार्ड सेवाएं देने के तथ्य को अस्वीकार करते हुए कहा है कि उन्होंने सिक्यूरिटी कार्य बाबत विपक्षी सं0 एक को ठेका दिया हुआ था। इस बारे में प्रार्थी ने अपनी जिरह में स्पष्ट रूप से यह कहा है कि उसे यू.एम.डी.एस. ने कोई नियुक्ति पत्र नहीं दिया, उसे पावरफुल सर्विसेज ने काम पर रखा था तथा उसने पावरफुल सर्विसेज को दिये गये ठेके के तहत ही कार्य किया था। विपक्षी गवाह एन ए ड 1 मसूद खान ने भी अपनी जिरह में यह कहा कि प्रार्थी उनके हाजरी रजिस्टर में अंकित तारीख के अनुसार ही काम कर रहा था। इस गवाह ने विपक्षीगण सं0 एक व दो के मध्य हुई संविदा के संबंध में हुए इकरारनामे की प्रति एम 2, दिये गये कार्यादेश की प्रति प्रदर्श एम 1, हाजरी रजिस्टर की प्रति प्रदर्श एम 5, वेतन भुगतान रजिस्टर की प्रति प्रदर्श एम 6 को भी प्रदर्शित करवाया है, जिनके संबंध में प्रार्थी की ओर से विपक्षी सं0 एक संवेदक के इस गवाह से कोई जिरह नहीं की गई है। इस प्रकार यह निर्विवादित है कि विपक्षी सं0 दो की खदान पर विपक्षी सं0 एक ठेकेदार के मार्फत प्रार्थी ने काम किया।

स्वयं प्रार्थी के उक्त अभिवचनों व पत्रावली पर उपलब्ध उक्त साक्ष्य से यह बिल्कुल स्पष्ट है कि प्रार्थी सीधे तौर पर विपक्षी सं0 एक (ठेकेदार) के ही संपर्क में रहा तथा उसी के अधीन कार्य किया। विपक्षी सं0 एक ने ही उसे विपक्षी सं. दो के यहां कार्य करने के निर्देश दिये तथा इसी क्रम में वह निरंतर कार्य करता रहा। उसे वेतन भी विपक्षी सं0 एक ही देता था।

अतः प्रार्थी व विपक्षी सं. दो के मध्य श्रमिक–नियोजक के संबंध स्थापित होना नहीं पाया जाता है।

अब प्रश्न यह है कि क्या प्रार्थी को विपक्षी सं0 एक ने अवैध तौर पर सेवा से पृथक किया है। यदि हां, तो वह क्या अनुतोष प्राप्त करने का अधिकारी है? इस संबंध में प्रार्थी का अपनी जिरह में कहना है कि दिनांक 18.3.2017 से उसका स्थानांतरण प्रदर्श 2 आदेश के जरिए चैनपुरा माईन्स से भीलवाडा किया गया था तथा उसने भीलवाडा आकर स्थानांतरण आदेश की पालना में कोई जोईनिंग प्रार्थनापत्र नहीं दिया। आगे जिरह में प्रार्थी ने यह भी स्पष्ट रूप से स्वीकार किया है कि उसे सेवा से हटाने के बाबत कोई आदेश नहीं दिया गया। अतः स्वयं प्रार्थी के उक्त अभिवचनो से ही स्पष्ट है कि उसे विपक्षी द्वारा सेवा से पृथक नहीं किया गया, बल्कि उसका स्थानांतरण किया गया था। विपक्षी गवाह मसूद खां ने भी अपनी जिरह में प्रार्थी की ओर से दिये गये इस सुझाव को सही बताया कि उन्होंने प्रार्थी का जहां स्थानांतरण किया वहां प्रार्थी ने ड्यूटी जोईन नहीं की तथा वह अनुपस्थित चल रहा है। प्रार्थी की ओर से विपक्षी को दिये गये इस सुझाव से ही यह स्पष्ट हो जाता है कि स्वयं प्रार्थी भी यह मानता है कि उसे विपक्षी सं0 एक ने सेवा से पृथक नहीं किया, बल्कि विपक्षी सं0 एक ने उसका स्थानांतरण किया तथा उसने कार्य पर उपस्थिति नहीं दी। उक्त साक्ष्य से ही प्रार्थी का स्वेच्छा से अनुपस्थित होना पाया जाता है।

स्थानांतरण आदेश प्रदर्श 2 का भी अवलोकन किया गया, जिसमें यह अंकित किया गया है कि संस्थान की आवश्यकता के अनुसार आपका स्थानांतरण चैनपुरा माईन्स से भीलवाडा दिनांक 21.3.2017 से किया जाता है। उक्त स्थानांतरण आदेश से भी यही तथ्य सामने आया है कि प्रार्थी का स्थानांतरण विपक्षी के भीलवाडा स्थित प्लांट पर आवश्यकतानुसार किया गया है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक ठेकेदार के द्वारा सेवा से पृथक नहीं किया गया, बल्कि विपक्षी सं0 एक ने आवश्यकतानुसार विपक्षी सं0 दो के भीलवाडा स्थित प्लांट पर स्थानांतरित किया गया।

प्रार्थी प्रतिनिधि का मुख्य तर्क यह रहा है कि सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं था। मेरे विनम्र मत में विपक्षी सं0 एक ठेकेदार फर्म है तथा उनकी कार्यावधि भी निश्चित होती है। ऐसी स्थिति में यदि उनके द्वारा कार्य की आवश्यकता के अनुसार श्रमिकों का अन्यत्र स्थानांतरण किया भी जाता है तो उसे अवैध नहीं माना जा सकता है। प्रार्थी प्रतिनिधि ऐसा कोई प्रावधान बताने में असमर्थ रहे हैं कि इस प्रकार के श्रमिकों का अन्यत्र स्थानांतरण नहीं किया जा सकता हो। मुझे बताया गया है कि चैनपुरा माईन्स व भीलवाडा स्थित प्लांट में बहुत ज्यादा दूरी नहीं है तथा विपक्षी की माईन्स व प्लांट भीलवाडा जिले में ही स्थित है। अतः उक्त स्थानांतरण से प्रार्थी को कोई हानि हो रही हो, ऐसा तथ्य भी सामने नहीं आया है।

इस संबंध में प्रार्थी की ओर से अपने समर्थन में न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 1 (एस.सी.) कापरो इंजीनियरिंग इंडिया लि0 बनाम उम्मेदसिंह लोधी व अन्य पेश किया गया है, लेकिन उक्त न्यायिक दृष्टांत तथ्यात्मक भिन्नता के कारण हस्तगत मामले में लागू नहीं होता है। न्यायिक दृष्टांत वाले मामले में देवास से अलवर याने करीब 900 कि.मी. दूर स्थानांतरण किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है तथा इस मामले में तो प्रार्थी का स्थानांतरण कार्य की आवश्यकतानुसार विपक्षी सं0 एक ठेकेदार द्वारा जिले में ही विपक्षी सं0 दो के ही दूसरे प्लांट पर किया गया है। प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2017 (155) एफ एल आर पेज 52 (पंजाब व हरि..) हरजीतसिंह बनाम पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण,पटीयाला वाले मामले में श्रमिक का स्थानांतरण संस्थान के ही बंद कार्यालय में किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है बल्कि इस मामले में तो प्रार्थी का स्थानांतरण ठेकेदार द्वारा कार्य की आवश्यकतानुसार विपक्षी सं0 दो के ही नये प्लांट में किया गया है। अतः उक्त दोनों न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण इस मामले में लागू नहीं होते हैं। अतः इस संबंध में में प्रार्थी प्रतिनिधि के तर्क स्वीकार किये जाने योग्य नहीं है तथा प्रार्थी के स्थानांतरण को अवैध नहीं पाया जाता है।

प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2014 (140) एफ एल आर पेज 429 (देहली) स्कूटर्स इंडिया लि0 बनाम गवर्नमेंट आफ एन.सी.टी. ऑफ देहली व 2010 (126) एफ एल आर पेज 982 (राज0) शिवशंकर शर्मा बनाम राज0 राज्य विद्युत प्रसारण निगम लि0 में यह मत प्रतिपादित किये गये हैं कि श्रमिक की अनुपस्थिति के मामले में जांच कार्यवाही होना व 25–एफ के प्रावधानों की पालना होना आवश्यक है, लेकिन इस मामले में विवेचन के दौरान यह पाया गया है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा सेवा से पृथक नहीं किया गया है,बल्कि उसका स्थानांतरण विपक्षी सं0 दो के ही अन्य नये प्लांट पर आवश्यकतानुसार किया गया है तथा अपने कार्यस्थल पर प्रार्थी स्वयं ही स्वेच्छा से कार्य हेतु उपस्थित नहीं हुआ। अतः उक्त न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण लागू नहीं होते हैं।

समग्र साक्ष्य के अवलाकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा अवैध रूप से सेवा से पृथक नहीं किया गया है, बल्कि उसका नये प्लांट पर स्थानांतरण कर दिये जाने के कारण उसने स्वेच्छा से कार्य पर उपस्थिति नहीं दी तथा स्वेच्छा से सेवाओं का परित्याग किया।

प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक 2024 (182) एफ एल आर (आंध्रप्रदेश) पेज 442 डिपो मैनेजर, ए.पी.एस. आर.टी.सी. बनाम पोन्नापति वेंकटा रमन व अन्य में ठेकेदार के श्रमिक को भी मान0 उच्च न्यायालय द्वारा श्रमिक की तारीफ में आना माना गया, जिससे असहमति का प्रश्न ही नहीं है। उक्त न्यायिक दृष्टांत विचाराधीन मामले में सुसंगत नहीं है क्योंकि यहां इस संबंध में पक्षकारों के मध्य कोई विवाद नहीं है। इसी तरह प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 10 (एस.सी.) भी इस मामले में सुसंगत नहीं है क्योंकि इस मामले में प्रार्थी की योग्यता के संबंध में कोई विवाद नहीं है।

हस्तगत मामले में यह निर्विवादित है कि विपक्षी सं0 एक, एक ठेकेदार है, जो उसके पास आने वाले श्रमिकों को अन्यत्र नियोजित करता है। यदि उसके जरिये नियोजन मांगने वाले संबंधित व्यक्ति को किसी श्रमिक की आवश्यकता नहीं रही तो ऐसी स्थिति में यह ठेकेदार (विपक्षी सं0 एक) निश्चित ही श्रमिक को अन्यत्र कार्य करने के लिए कहेगा। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है।

उक्त विवेचन एवं विश्लेषण से यह स्पष्ट है कि प्रार्थी को उसके नियोक्ता विपक्षी सं. एक ठेकेदार के द्वारा कार्य की आवश्यकता के अनुसार विपक्षी सं0 दो के ही नये प्लांट पर स्थानांतरित किया गया तथा स्वयं प्रार्थी ही दिनांक 21.3.2017 से विपक्षी सं0 एक के पास कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती है। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है। अतः वह विपक्षी सं0 एक से भी वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह स्पष्ट है कि स्वयं प्रार्थी ही दिनांक 21.3.2017 से विपक्षी सं0 एक के द्वारा दिये गये स्थानांतरण आदेश की पालना में विपक्षी सं0 दो के नये प्लांट पर कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती। प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं। अतः वह विपक्षीगण से वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि –

प्रार्थी श्रमिक श्री सुरजीत कुमार को विपक्षी सं0 1. पावरफूल सर्विसेज सिक्यूरिटी के द्वारा दिनांक 21.3.2017 को सेवा से पृथक नहीं किया गया है, बल्कि उसने स्वेच्छा से सेवाओं का परित्याग किया है।

प्रार्थी व विपक्षी सं0 दो प्रबंधक,यू.एम.डी.एस,चेनपुरा माईन्स के मध्य श्रमिक–नियोजक के सबंध नहीं रहे हैं। प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रति केन्द्र सरकार को प्रकाशनार्थ भेजी जाये।

(सुशील कुमार शर्मा) न्यायाधीश,

औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय,भीलवाडा।.

पंचाट आज दिनांक 25.11.2024 को खुले न्यायालय में सुनाया गया।

नई दिल्ली, 16 जनवरी, 2025

का.आ. 87.—औद्योगिक विवाद अधिनियम,1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ठेकेदार, पावरफुल सर्विस सिक्योरिटी, ई -257, मालवीय नगर, जयपुर; प्रबंधक, यू.एम.डी .एस, चेनपुरा जहाजपुर, भीलवाड़ा ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री** fo".k 'kekZ**, कामगार**, }kjk&ikn'kZ mik/;{k] Hkkjrh; etnj l?k] Hkikyxat]HkhyokMk] के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय-भीलवाड़ा पंचाट (संदर्भ संख्या 57/2017 एल.सी.आर) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2024 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-29-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th January, 2025

S.O. 87.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2017 L.C.R) of the **Industrial Tribunal and Labor Court-Bhilwara,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Contractor, Powerful Service Security, E-257, Malviya Nagar, Jaipur; The Manager, U.M.D.S, Chainpura, Jahazpur, Bhilwara, and Shri Vishnu Sharma, through-Vice President, Bharatiya Mazdoor Sangh Bhupalganj, Bhilwara,** which was received along with soft copy of the award by the Central Government on 16.01.2024.

[No. L-42025-07-2025-29– IR (DU)]

DILIP KUMAR , Under Secy.

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पीठासीन अधिकारी:Jh l|'khy dekj 'kekZ](जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 57/2017 एल.सी.आर

श्री विष्णु शर्मा पुत्र श्री सत्यनारायण, निवासी बागूदार, तह.—जहाजपुर, जिला—भीलवाडा। द्वारा—श्री प्रभाष चौधरी, प्रदेश उपाध्यक्ष, भारतीय मजदूर संघ,. 11/97,नई शाम की सब्जी मंडी,भूपालगंज,भीलवाडा।.

.. प्रार्थी

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1.ठेकेदार पावरफूल सर्विसेज सिक्यूरिटी, ई—257, मालवीय नगर,जयपुर। .
2.प्रबंधक, यू.एम.डी.एस.,चेनपुरा माईन्स,मु.पो.—चेनपुरा, . .
वाया—आमलदार,तह0—जहाजपुर,जिला—भीलवाडा।

.. विपक्षी/नियोजकगण

उपस्थित :

श्री प्रभाष चौधरी,प्रतिनिधि—प्रार्थी की ओर से। .
श्री आर. सी. चेचाणी,अधिवक्ता—विपक्षीगण की ओर से।. .

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दिनांक 25.11.2024

प्रार्थी श्रमिक ने विपक्षीगण के विरूद्ध सेवा पृथककरण किये जाने बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया गया। जहां 45 दिन की निर्धारित समयावधि में कोई समझौता नहीं होने के कारण प्रार्थी ने औ0वि0अधि0,1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद न्यायालय के समक्ष पेश किया।

प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि उसने विपक्षीगण की चेनपुरा माईन्स पर दिनांक 27.3.2014 से दिनांक 20.3.2017 तक बतौर सिक्यूरिटी गार्ड सेवाएं दी तथा प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों तक कार्य किया। उसे दिनांक 21.3.2017 को विपक्षी ने बिना किसी कारण, बिना किसी जांच, बिना किसी नोटिस के कार्य से हटा दिया। वेतन वृद्धि व बोनस आदि की मांग करने पर उनकी सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं होते हुए भी उसका स्थानांतरण अन्यत्र कर दिया गया एवं वहां भी ड्यूटी पर लेने से मना कर दिया,जिस पर उसने विपक्षी सं0 एक को इस बारे में सूचित भी कर दिया,लेकिन फिर भी उसे काम पर नहीं लिया गया। प्रार्थी ने समस्त वेतन, परिलाभों सहित सेवा में बहाल करवाने की प्रार्थना की।

विपक्षी सं0 एक ने अपने जवाब में यह अंकित किया कि प्रार्थी कभी भी सिक्यूरिटी गार्ड के पद पर नियोजित नहीं रहा है एवं दिनांक 27.3.2014 से कार्य प्रारंभ करने का तथ्य भी गलत है। वास्तविकता यह है कि उत्तरदाता को विपक्षी सं0 दो ने वाचमेन उपलब्ध कराने का ठेका दिनांक 1.7.2015 को दिया, जिसे दिनांक 1.4.2016 से 31.3.2017 तक नवीनीकृत किया गया। प्रार्थी को बतौर वाचमेन नियुक्त किया गया था, जो अकुशल श्रमिक की श्रेणी में आता है। सिक्यूरिटी गार्ड एवं वाचमेन अलग—अलग पद है। इस प्रकार प्रार्थी न तो दिनांक 27.3.2014 से कार्य कर रहा है, न कभी सिक्यूरिटी गार्ड के पद पर नियोजित रहा है। प्रार्थी ने अपने क्लेम प्रार्थनापत्र की चरण सं0 तीन में बिना जांच, बिना नोटिस के दिनांक 21.3.2017 को सेवा से हटा देने का कथन किया है, जबकि उसने क्लेम प्रार्थनापत्र की चरण सं0 5 में उसका स्थानांतरण कर देना अंकित किया है। प्रार्थी ने अपने स्थानांतरित स्थल पर कोई उपस्थिति नहीं दी, बल्कि वह स्थानांतरण के बाद स्वतः बिना किसी सूचना के अनुपस्थित हो गया। विपक्षी सं0 एक द्वारा अपनी आवश्यकता के अनुरूप प्रार्थी का स्थानांतरण किया है, जिस पर प्रार्थी ने उसे कार्य से बंद कर देना बताते हुए यह मामला उठाया है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की।

विपक्षी सं0 दो ने अपने जवाब में यह अंकित किया कि प्रार्थी उनके नियोजन में नहीं रहा है। उसका नाम न तो कंपनी के मस्टररोल में दर्ज है, न वेतन भुगतान पंजिका में दर्ज है, न उसका कोई रिकॉर्ड उनके पास है। प्रार्थी ने उत्तरदाता के यहां प्रत्येक वर्ष में 240 दिनों से अधिक समय तक सेवाएं नहीं दी, न अधि0, 1947 की धारा 25—बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। अतः नोटिस देने, उसके विरूद्ध जांच कार्यवाही करने व उसे सेवा से हटाने का प्रश्न ही उत्पन्न नहीं होता है। प्रार्थी ने सेवा शर्तों से संबंधित व उत्तरदाता द्वारा उसका स्थानांतरण करने के संबंध में कोई दस्तावेज पेश नहीं किये हैं। ठेकेदार द्वारा किन—किन व्यक्तियों को कब—कब नियुक्त किया गया, उनकी क्या सेवा शर्तें हैं, इसकी जानकारी उत्तरदाता को नहीं है। उत्तरदाता कंपनी द्वारा सिक्यूरिटी कार्य हेतु विपक्षी सं0 एक को ठेका दिया हुआ है तथा उसी के अनुरूप विपक्षी सं0 एक वाचमेन ठेके पर रखता है। प्रार्थी, उत्तरदाता से कोई राहत प्राप्त करन का अधिकारी नहीं है।

प्रार्थी की ओर से साक्ष्य में स्वयं प्रार्थी ए ड 1 विष्णु शर्मा के बयान शपथपत्र पर दर्ज करवाये गये । खंडन में विपक्षीगण की ओर से एन ए ड 1 मसूद खान के बयान शपथपत्र पर दर्ज करवाये गये।

हमनें संपूर्ण पत्रावली का गहनता से अध्ययन किया और विचार किया।

प्रार्थी ने अपने क्लेम प्रार्थनापत्र व अपने साक्ष्य स्वरूप प्रस्तुत शपथपत्र में विपक्षीगण द्वारा दिनांक 27.3.2014 को बतौर सिक्यूरिटी गार्ड नियोजित करना कहा है। विपक्षी सं0 एक ने अपने जवाब में यह कहा है कि उन्हें विपक्षी सं0 दो के यहां वाचमेन उपलब्ध करवाने का ठेका ही दिनांक 1.7.2015 को दिया गया। प्रार्थी दिनांक 27.3.2014 से कार्य नहीं कर रहा है। विपक्षी सं0 दो ने भी अपने अभिचनो में प्रार्थी द्वारा दिनांक 27.3.2014 से बतौर सिक्यूरिटी गार्ड सेवाएं देने के तथ्य को अस्वीकार करते हुए कहा है कि उन्होंने सिक्यूरिटी कार्य बाबत विपक्षी सं0 एक को ठेका दिया हुआ था। इस बारे में प्रार्थी ने अपनी जिरह में स्पष्ट रूप से यह कहा है कि उसे यू.एम.डी.एस. ने कोई नियुक्ति पत्र नहीं दिया, उसे पावरफुल सर्विसेज ने काम पर रखा था तथा उसने पावरफुल सर्विसेज को दिये गये ठेके के तहत ही कार्य किया था। विपक्षी गवाह एन ए ड 1 मसूद खान ने भी अपनी जिरह में यह कहा कि प्रार्थी उनके हाजरी रजिस्टर में अंकित तारीख के अनुसार ही काम कर रहा था। इस गवाह ने विपक्षीगण सं0 एक व दो के मध्य हुई संविदा के संबंध में हुए इकरारनामे की प्रति एम 2, दिये गये कार्यादेश की प्रति प्रदर्श एम 1, हाजरी रजिस्टर की प्रति प्रदर्श एम 5, वेतन भुगतान रजिस्टर की प्रति प्रदर्श एम 6 को भी प्रदर्शित करवाया है, जिनके संबंध में प्रार्थी की ओर से विपक्षी सं0 एक संवेदक के इस गवाह से कोई जिरह नहीं की गई है। इस प्रकार यह निर्विवादित है कि विपक्षी सं0 दो की खदान पर विपक्षी सं0 एक ठेकेदार के मार्फत प्रार्थी ने काम किया।

स्वयं प्रार्थी के उक्त अभिवचनों व पत्रावली पर उपलब्ध उक्त साक्ष्य से यह बिल्कुल स्पष्ट है कि प्रार्थी सीधे तौर पर विपक्षी सं0 एक (ठेकेदार) के ही संपर्क में रहा तथा उसी के अधीन कार्य किया। विपक्षी सं0 एक ने ही उसे विपक्षी सं0 दो के यहां कार्य करने के निर्देश दिये तथा इसी क्रम में वह निरंतर कार्य करता रहा। उसे वेतन भी विपक्षी सं0 एक ही देता था। अतः प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध स्थापित होना नहीं पाया जाता है।

अब प्रश्न यह है कि क्या प्रार्थी को विपक्षी सं0 एक ने अवैध तौर पर सेवा से पृथक किया है। यदि हां, तो वह क्या अनुतोष प्राप्त करने का अधिकारी है? इस संबंध में प्रार्थी का अपनी जिरह में कहना है कि दिनांक 21.3.2017 से उसका स्थानांतरण प्रदर्श 1 आदेश के जरिए चैनपुरा माईन्स से भीलवाडा किया गया था तथा उसने भीलवाडा आकर स्थानांतरण आदेश की पालना में कोई जोईनिंग प्रार्थनापत्र नहीं दिया। आगे जिरह में प्रार्थी ने यह भी स्पष्ट रूप से स्वीकार किया है कि उसे सेवा से हटाने के बाबत कोई आदेश नहीं दिया गया। अतः स्वयं प्रार्थी के उक्त अभिवचनो से ही स्पष्ट है कि उसे विपक्षी द्वारा सेवा से पृथक नहीं किया गया, बल्कि उसका स्थानांतरण किया गया था। विपक्षी गवाह मसूद खां ने भी अपनी जिरह में प्रार्थी की ओर से दिये गये इस सुझाव को सही बताया कि उन्होंने प्रार्थी का जहां स्थानांतरण किया वहां प्रार्थी ने ड्यूटी जोईन नहीं की तथा वह अनुपस्थित चल रहा है। प्रार्थी की ओर से विपक्षी को दिये गये इस सुझाव से ही यह स्पष्ट हो जाता है कि स्वयं प्रार्थी भी यह मानता है कि उसे विपक्षी सं0 एक ने सेवा से पृथक नहीं किया, बल्कि विपक्षी सं0 एक ने उसका स्थानांतरण किया तथा उसने कार्य पर उपस्थिति नहीं दी। उक्त साक्ष्य से ही प्रार्थी का स्वेच्छा से अनुपस्थित होना पाया जाता है।

स्थानांतरण आदेश प्रदर्श 1 का भी अवलोकन किया गया, जिसमें यह अंकित किया गया है कि संस्थान की आवश्यकता के अनुसार आपका स्थानांतरण चैनपुरा माईन्स से भीलवाडा दिनांक 21.3.2017 से किया जाता है। उक्त स्थानांतरण आदेश से भी यही तथ्य सामने आया है कि प्रार्थी का स्थानांतरण विपक्षी के भीलवाडा स्थित प्लांट पर आवश्यकतानुसार किया गया है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक ठेकेदार के द्वारा सेवा से पृथक नहीं किया गया, बल्कि विपक्षी सं0 एक ने आवश्यकतानुसार विपक्षी सं0 दो के भीलवाडा स्थित प्लांट पर स्थानांतरित किया गया।

प्रार्थी प्रतिनिधि का मुख्य तर्क यह रहा है कि सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं था। मेरे विनम्र मत में विपक्षी सं0 एक ठेकेदार फर्म है तथा उनकी कार्यावधि भी निश्चित होती है। ऐसी स्थिति में यदि उनके द्वारा कार्य की आवश्यकता के अनुसार श्रमिकों का अन्यत्र स्थानांतरण किया भी जाता है तो उसे अवैध नहीं माना जा सकता है। प्रार्थी प्रतिनिधि ऐसा कोई प्रावधान बताने में असमर्थ रहे हैं कि इस प्रकार के श्रमिकों का अन्यत्र स्थानांतरण नहीं किया जा सकता हो। मुझे बताया गया है कि चैनपुरा माईन्स व भीलवाडा स्थित प्लांट में बहुत ज्यादा दूरी नहीं है तथा विपक्षी की माईन्स व प्लांट भीलवाडा जिले में ही स्थित है। अतः उक्त स्थानांतरण से प्रार्थी को कोई हानि हो रही हो, ऐसा तथ्य भी सामने नहीं आया है।

इस संबंध में प्रार्थी की ओर से अपने समर्थन में न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 1 (एस.सी.) कापरो इंजीनियरिंग इंडिया लि0 बनाम उम्मेदसिंह लोधी व अन्य पेश किया गया है, लेकिन उक्त न्यायिक दृष्टांत तथ्यात्मक भिन्नता के कारण हस्तगत मामले में लागू नहीं होता है। न्यायिक दृष्टांत वाले मामले में देवास से अलवर याने करीब 900 कि.मी. दूर स्थानांतरण किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है तथा इस मामले में तो प्रार्थी का स्थानांतरण कार्य की आवश्यकतानुसार विपक्षी सं0 एक ठेकेदार द्वारा जिले में ही विपक्षी सं0 दो के ही दूसरे प्लांट पर किया गया है। प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2017 (155) एफ एल आर पेज 52 (पंजाब व हरि..) हरजीतसिंह बनाम पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण,पटीयाला वाले मामले में श्रमिक का स्थानांतरण संस्थान के ही बंद कार्यालय में किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है बल्कि इस मामले में तो प्रार्थी का स्थानांतरण ठेकेदार द्वारा कार्य की आवश्यकतानुसार विपक्षी सं. दो के ही नये प्लांट में किया गया है। अतः उक्त दोनों न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण इस मामले में लागू नहीं होते हैं। अतः इस संबंध में में प्रार्थी प्रतिनिधि के तर्क स्वीकार किये जाने योग्य नहीं है तथा प्रार्थी के स्थानांतरण को अवैध नहीं पाया जाता है।

प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2014 (140) एफ एल आर पेज 429 (देहली) स्कूटर्स इंडिया लि. बनाम गवर्नमेंट आफ एन.सी.टी. ऑफ देहली व 2010 (126) एफ एल आर पेज 982 (राज0) शिवशंकर शर्मा बनाम राज0 राज्य विद्युत प्रसारण निगम लि. में यह मत प्रतिपादित किये गये हैं कि श्रमिक की अनुपस्थिति के मामले में जांच कार्यवाही होना व 25–एफ के प्रावधानों की पालना होना आवश्यक है, लेकिन इस मामले में विवेचन के दौरान यह पाया गया है कि प्रार्थी को विपक्षी सं. एक संवेदक द्वारा सेवा से पृथक नहीं किया गया है,बल्कि उसका स्थानांतरण विपक्षी सं0 दो के ही अन्य नये प्लांट पर आवश्यकतानुसार किया गया है तथा अपने कार्यस्थल पर प्रार्थी स्वयं ही स्वेच्छा से कार्य हेतु उपस्थित नहीं हुआ। अतः उक्त न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण लागू नहीं होते हैं।

समग्र साक्ष्य के अवलाकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा अवैध रूप से सेवा से पृथक नहीं किया गया है, बल्कि उसका नये प्लांट पर स्थानांतरण कर दिये जाने के कारण उसने स्वेच्छा से कार्य पर उपस्थिति नहीं दी तथा स्वेच्छा से सेवाओं का परित्याग किया।

प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक 2024 (182) एफ एल आर (आंध्रप्रदेश) पेज 442 डिपो मैनेजर, ए.पी.एस. आर.टी.सी. बनाम पोन्नापति वेंकटा रमन व अन्य में ठेकेदार के श्रमिक को भी मान0 उच्च न्यायालय द्वारा श्रमिक की तारीफ में आना माना गया, जिससे असहमति का प्रश्न ही नहीं है। उक्त न्यायिक दृष्टांत विचाराधीन मामले में सुसंगत नहीं है क्योंकि यहां इस संबंध में पक्षकारों के मध्य कोई विवाद नहीं है। इसी तरह प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 10 (एस.सी.) भी इस मामले में सुसंगत नहीं है क्योंकि इस मामले में प्रार्थी की योग्यता के संबंध में कोई विवाद नहीं है।

हस्तगत मामले में यह निर्विवादित है कि विपक्षी सं0 एक, एक ठेकेदार है, जो उसके पास आने वाले श्रमिकों को अन्यत्र नियोजित करता है। यदि उसके जरिये नियोजन मांगने वाले संबंधित व्यक्ति को किसी श्रमिक की आवश्यकता नहीं रही तो ऐसी स्थिति में यह ठेकेदार (विपक्षी सं0 एक) निश्चित ही श्रमिक को अन्यत्र कार्य करने के लिए कहेगा। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है।

उक्त विवेचन एवं विश्लेषण से यह स्पष्ट है कि प्रार्थी को उसके नियोक्ता विपक्षी सं0 एक ठेकेदार के द्वारा कार्य की आवश्यकता के अनुसार विपक्षी सं0 दो के ही नये प्लांट पर स्थानांतरित किया गया तथा स्वयं प्रार्थी ही दिनांक 21.3.2017 से विपक्षी सं0 एक के पास कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती है। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है। अतः वह विपक्षी सं0 एक से भी वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह स्पष्ट है कि स्वयं प्रार्थी ही दिनांक 21.3.2017 से विपक्षी सं0 एक के द्वारा दिये गये स्थानांतरण आदेश की पालना में विपक्षी सं0 दो के नये प्लांट पर कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती। प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं। अतः वह विपक्षीगण से वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि –

प्रार्थी श्रमिक श्री विष्णु शर्मा को विपक्षी सं0 1. पावरफूल सर्विसेज सिक्यूरिटी के द्वारा दिनांक 21.3.2017 को सेवा से पृथक नहीं किया गया है, बल्कि उसने स्वेच्छा से सेवाओं का परित्याग किया है।

प्रार्थी व विपक्षी सं0 दो प्रबंधक,यू.एम.डी.एस,चेनपुरा माईन्स के मध्य श्रमिक–नियोजक के सबंध नहीं रहे हैं। प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रति केन्द्र सरकार को प्रकाशनार्थ भेजी जाये।

(सुशील कुमार शर्मा) न्यायाधीश,
औद्योगिक न्यायाधिकरण एवं
श्रम न्यायालय,भीलवाडा।.

पंचाट आज दिनांक 25.11.2024 को खुले न्यायालय में सुनाया गया।

नई दिल्ली, 16 जनवरी, 2025

का.आ. 88.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ठेकेदार, पावरफुल सर्विस सिक्योरिटी, ई -257, मालवीय नगर, जयपुर; प्रबंधक, यू.एम.डी .एस, चेनपुरा जहाजपुर, भीलवाड़ा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री** ekxhyky, **कामगार**, }kjk&in'k mik/;{k] Hkkjrh; etnj l?k] Hkikyxat] HkhyokMk] के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय-भीलवाड़ा पंचाट (संदर्भ संख्या 54/2017 एल.सी.आर) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2024 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-30-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th January, 2025

S.O. 88.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2017 L.C.R) of the **Industrial Tribunal and Labor Court-Bhilwara,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Contractor, Powerful Service Security, E-257, Malviya Nagar, Jaipur; The Manager, U.M.D.S, Chainpura, Jahazpur, Bhilwara, and Shri Mangi Ram, through-Vice President, Bharatiya Mazdoor Sangh Bhupalganj, Bhilwara,** which was received along with soft copy of the award by the Central Government on 16.01.2024.

[No. L-42025-07-2025-30– IR (DU)]

DILIP KUMAR , Under Secy.

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पीठासीन अधिकारीः Jh l|'khy dekj 'kekZ](जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 54/2017 एल.सी.आर

श्री मांगीलाल पुत्र श्री उदा दरोगा,निवासी–पदमपुरा, पो0–राजगढ,तह0–जहाजपुर,जिला–भीलवाडा। द्वारा–श्री प्रभाष चौधरी,प्रदेश उपाध्यक्ष,भारतीय मजदूर संघ, 11/97,नई शाम की सब्जी मंडी,भूपालगंज,भीलवाडा।.

.. प्रार्थी

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1. ठेकेदार पावरफूल सर्विसेज सिक्यूरिटी, ई–257मालवीय नगर,जयपुर।
2. प्रबंधक, यू.एम.डी.एस.,चेनपुरा माईन्स,मु.पो.–चेनपुरा, वाया–आमलदार,तह0–जहाजपुर,जिला–भीलवाडा।

.. विपक्षी/नियोजकगण

उपस्थित :

श्री प्रभाष चौधरी, प्रतिनिधि–प्रार्थी की ओर से।
श्री आर.सी.चेचाणी,अधिवक्ता–विपक्षीगण की ओर से।.

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दिनांक 25.11.2024

प्रार्थी श्रमिक ने विपक्षीगण के विरूद्ध सेवा पृथककरण किये जाने बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया गया। जहां 45 दिन की निर्धारित समयावधि में कोई समझौता नहीं होने के कारण प्रार्थी ने औ0वि0अधि0,1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद न्यायालय के समक्ष पेश किया।

प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि उसने विपक्षीगण की चेनपुरा माईन्स पर दिनांक 1.7.2010 से दिनांक 31.1.2017 तक बतौर सिक्यूरिटी गार्ड सेवाएं दी तथा प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों तक कार्य किया। उसे दिनांक 1.2.2017 को विपक्षी ने बिना किसी कारण, बिना किसी जांच, बिना किसी नोटिस के कार्य से हटा दिया। वेतन वृद्धि व बोनस आदि की मांग करने पर उनकी सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं होते हुए भी उसका स्थानांतरण अन्यत्र कर दिया गया एवं वहां भी ड्यूटी पर लेने से मना कर दिया,जिस पर उसने विपक्षी सं0 एक को इस बारे में सूचित भी कर दिया,लेकिन फिर भी उसे काम पर नहीं लिया गया। प्रार्थी ने समस्त वेतन, परिलाभों सहित सेवा में बहाल करवाने की प्रार्थना की।

विपक्षी सं0 एक ने अपने जवाब में यह अंकित किया कि प्रार्थी कभी भी सिक्यूरिटी गार्ड के पद पर नियोजित नहीं रहा है एवं दिनांक 1.7.2010 से कार्य प्रारंभ करने का तथ्य भी गलत है। वास्तविकता यह है कि उत्तरदाता को विपक्षी सं0 दो ने वाचमेन उपलब्ध कराने का ठेका दिनांक 1.7.2015 को दिया, जिसे दिनांक 1.4.2016 से 31.3.2017 तक नवीनीकृत किया गया। प्रार्थी को बतौर वाचमेन नियुक्त किया गया था, जो अकुशल श्रमिक की श्रेणी में आता है। सिक्यूरिटी गार्ड एवं वाचमेन अलग–अलग पद है। इस प्रकार प्रार्थी न तो दिनांक 1.7.2010 से कार्य कर रहा है, न कभी सिक्यूरिटी गार्ड के पद पर नियोजित रहा है। प्रार्थी ने अपने क्लेम प्रार्थनापत्र की चरण सं0 तीन में बिना जांच, बिना नोटिस के दिनांक 1.2.2017 को सेवा से हटा देने का कथन किया है, जबकि उसने क्लेम प्रार्थनापत्र की चरण सं0 5 में उसका स्थानांतरण कर देना अंकित किया है। प्रार्थी ने अपने स्थानांतरित स्थल पर कोई उपस्थिति नहीं दी, बल्कि वह स्थानांतरण के बाद स्वतः बिना किसी सूचना के अनुपस्थित हो गया। विपक्षी सं0 एक द्वारा अपनी आवश्यकता के अनुरूप प्रार्थी का स्थानांतरण किया है, जिस पर प्रार्थी ने उसे कार्य से बंद कर देना बताते हुए यह मामला उठाया है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की।

विपक्षी सं. दो ने अपने जवाब में यह अंकित किया कि प्रार्थी उनके नियोजन में नहीं रहा है। उसका नाम न तो कंपनी के मस्टररोल में दर्ज है, न वेतन भुगतान पंजिका में दर्ज है, न उसका कोई रिकॉर्ड उनके पास है। प्रार्थी ने उत्तरदाता के यहां प्रत्येक वर्ष में 240 दिनों से अधिक समय तक सेवाएं नहीं दी, न अधि0, 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। अतः नोटिस देने, उसके विरूद्ध जांच कार्यवाही करने व उसे सेवा से हटाने का प्रश्न ही उत्पन्न नहीं होता है। प्रार्थी ने सेवा शर्तों से संबंधित व उत्तरदाता द्वारा उसका स्थानांतरण करने के संबंध में कोई दस्तावेज पेश नहीं किये हैं। ठेकेदार द्वारा किन–किन व्यक्तियों को कब–कब नियुक्त किया गया, उनकी क्या सेवा शर्तें हैं, इसकी जानकारी उत्तरदाता को नहीं है। उत्तरदाता कंपनी द्वारा सिक्यूरिटी कार्य हेतु विपक्षी सं0 एक को ठेका दिया हुआ है तथा उसी के अनुरूप विपक्षी सं. एक वाचमेन ठेके पर रखता है। प्रार्थी, उत्तरदाता से कोई राहत प्राप्त करन का अधिकारी नहीं है।

प्रार्थी की ओर से साक्ष्य में स्वयं प्रार्थी ए ड 1 मांगीलाल के बयान शपथपत्र पर दर्ज करवाये गये । खंडन में विपक्षीगण की ओर से एन ए ड 1 मसूद खान के बयान शपथपत्र पर दर्ज करवाये गये।

हमनें संपूर्ण पत्रावली का गहनता से अध्ययन किया और विचार किया।

प्रार्थी ने अपने क्लेम प्रार्थनापत्र व अपने साक्ष्य स्वरूप प्रस्तुत शपथपत्र में विपक्षीगण द्वारा दिनांक 1.7.2010 को बतौर सिक्यूरिटी गार्ड नियोजित करना कहा है। विपक्षी सं0 एक ने अपने जवाब में यह कहा है कि उन्हें विपक्षी सं0 दो के यहां वाचमेन उपलब्ध करवाने का ठेका ही दिनांक 1.7.2015 को दिया गया। प्रार्थी दिनांक 1.7.2010 से कार्य नहीं कर रहा है। विपक्षी सं0 दो ने भी अपने अभिचनो में प्रार्थी द्वारा दिनांक 1.7.2010 से बतौर सिक्यूरिटी गार्ड सेवाएं देने के तथ्य को अस्वीकार करते हुए कहा है कि उन्होंने सिक्यूरिटी कार्य बाबत विपक्षी सं. एक को ठेका दिया हुआ था। इस बारे में प्रार्थी ने अपनी जिरह में स्पष्ट रूप से यह कहा है कि उसे यू.एम.डी.एस. ने कोई नियुक्ति पत्र नहीं दिया, उसे पावरफुल सर्विसेज ने काम पर रखा था तथा उसने पावरफुल सर्विसेज को दिये गये ठेके के तहत ही कार्य किया था। विपक्षी गवाह एन ए ड 1 मसूद खान ने भी अपनी जिरह में यह कहा कि प्रार्थी उनके हाजरी रजिस्टर में अंकित तारीख के अनुसार ही काम कर रहा था। इस गवाह ने विपक्षीगण सं0 एक व दो के मध्य हुई संविदा के संबंध में हुए इकरारनामे की प्रति एम 2, दिये गये कार्यादेश की प्रति प्रदर्श एम 1, हाजरी रजिस्टर की प्रति प्रदर्श एम 5, वेतन भुगतान रजिस्टर की प्रति प्रदर्श एम 6 को भी प्रदर्शित करवाया है, जिनके संबंध में प्रार्थी की ओर से विपक्षी सं0 एक संवेदक के इस गवाह से कोई जिरह नहीं की गई है। इस प्रकार यह निर्विवादित है कि विपक्षी सं0 दो की खदान पर विपक्षी सं0 एक ठेकेदार के मार्फत प्रार्थी ने काम किया।

स्वयं प्रार्थी के उक्त अभिवचनों व पत्रावली पर उपलब्ध उक्त साक्ष्य से यह बिल्कुल स्पष्ट है कि प्रार्थी सीधे तौर पर विपक्षी सं0 एक (ठेकेदार) के ही संपर्क में रहा तथा उसी के अधीन कार्य किया। विपक्षी सं0 एक ने ही उसे विपक्षी सं0 दो के यहां कार्य करने के निर्देश दिये तथा इसी क्रम में वह निरंतर कार्य करता रहा। उसे वेतन भी विपक्षी सं0 एक ही देता था। अतः प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध स्थापित होना नहीं पाया जाता है।

अब प्रश्न यह है कि क्या प्रार्थी को विपक्षी सं0 एक ने अवैध तौर पर सेवा से पृथक किया है। यदि हां, तो वह क्या अनुतोष प्राप्त करने का अधिकारी है? इस संबंध में प्रार्थी का अपनी जिरह में कहना है कि दिनांक 21.3.2017 से उसका स्थानांतरण प्रदर्श 2 आदेश के जरिए चैनपुरा माईन्स से मांडलगढ प्लांट पर किया गया था तथा उसने मांडलगढ जाकर स्थानांतरण आदेश की पालना में कोई जोईनिंग प्रार्थनापत्र नहीं दिया। आगे जिरह में प्रार्थी ने यह भी स्पष्ट रूप से स्वीकार किया है कि उसे सेवा से हटाने के बाबत कोई आदेश नहीं दिया गया। अतः स्वयं प्रार्थी के उक्त अभिवचनो से ही स्पष्ट है कि उसे विपक्षी द्वारा सेवा से पृथक नहीं किया गया, बल्कि उसका स्थानांतरण किया गया था। विपक्षी गवाह मसूद खां ने भी अपनी जिरह में प्रार्थी की ओर से दिये गये इस सुझाव को सही बताया कि उन्होंने प्रार्थी का जहां स्थानांतरण किया वहां प्रार्थी ने ड्यूटी जोईन नहीं की तथा वह अनुपस्थित चल रहा है। प्रार्थी की ओर से विपक्षी को दिये गये इस सुझाव से ही यह स्पष्ट हो जाता है कि स्वयं प्रार्थी भी यह मानता है कि उसे विपक्षी सं0 एक ने सेवा से पृथक नहीं किया, बल्कि विपक्षी सं0 एक ने उसका स्थानांतरण किया तथा उसने कार्य पर उपस्थिति नहीं दी। उक्त साक्ष्य से ही प्रार्थी का स्वेच्छा से अनुपस्थित होना पाया जाता है।

स्थानांतरण आदेश प्रदर्श 2 का भी अवलोकन किया गया, जिसमें यह अंकित किया गया है कि संस्थान की आवश्यकता के अनुसार आपका स्थानांतरण चैनपुरा माईन्स से मांडलगढ पर दिनांक 01 फरवरी 2017 से किया जाता है। उक्त स्थानांतरण आदेश से भी यही तथ्य सामने आया है कि प्रार्थी का स्थानांतरण विपक्षी के नये संस्थान मांडलगढ पर आवश्यकतानुसार किया गया है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक ठेकेदार के द्वारा सेवा से पृथक नहीं किया गया, बल्कि विपक्षी सं0 एक ने आवश्यकतानुसार विपक्षी सं0 दो के नये प्लांट पर स्थानांतरित किया गया।

प्रार्थी प्रतिनिधि का मुख्य तर्क यह रहा है कि सेवा शर्तों में स्थानांतरण का कोई प्रावधान नहीं था। मेरे विनम्र मत में विपक्षी सं0 एक ठेकेदार फर्म है तथा उनकी कार्यावधि भी निश्चित होती है। ऐसी स्थिति में यदि उनके द्वारा कार्य की आवश्यकता के अनुसार श्रमिकों का अन्यत्र स्थानांतरण किया भी जाता है तो उसे अवैध नहीं माना जा सकता है। प्रार्थी प्रतिनिधि ऐसा कोई प्रावधान बताने में असमर्थ रहे हैं कि इस प्रकार के श्रमिकों का अन्यत्र स्थानांतरण नहीं किया जा सकता हो। मुझे बताया गया है कि चैनपुरा माईन्स व मांडलगढ के प्लांट में बहुत ज्यादा दूरी नहीं है तथा विपक्षी की माईन्स व प्लांट भीलवाडा जिले में ही स्थित है। अतः उक्त स्थानांतरण से प्रार्थी को कोई हानि हो रही हो, ऐसा तथ्य भी सामने नहीं आया है।

इस संबंध में प्रार्थी की ओर से अपने समर्थन में न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 1 (एस.सी.) कापरो इंजीनियरिंग इंडिया लि0 बनाम उम्मेदसिंह लोधी व अन्य पेश किया गया है, लेकिन उक्त न्यायिक दृष्टांत तथ्यात्मक भिन्नता के कारण हस्तगत मामले में लागू नहीं होता है। न्यायिक दृष्टांत वाले मामले में देवास से अलवर याने करीब 900 कि.मी. दूर स्थानांतरण किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है तथा इस मामले में तो प्रार्थी का स्थानांतरण कार्य की आवश्यकतानुसार विपक्षी सं0 एक ठेकेदार द्वारा जिले में ही विपक्षी सं0 दो के ही दूसरे प्लांट पर किया गया है। प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2017 (155) एफ एल आर पेज 52 (पंजाब व हरि..) हरजीतसिंह बनाम पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण,पटीयाला वाले मामले में श्रमिक का स्थानांतरण संस्थान के ही बंद कार्यालय में किया गया था, लेकिन हस्तगत मामले में ऐसा नहीं है बल्कि इस मामले में तो प्रार्थी का स्थानांतरण ठेकेदार द्वारा कार्य की आवश्यकतानुसार विपक्षी सं0 दो के ही नये प्लांट में किया गया है। अतः उक्त दोनों न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण इस मामले में लागू नहीं होते हैं। अतः इस संबंध में में प्रार्थी प्रतिनिधि के तर्क स्वीकार किये जाने योग्य नहीं है तथा प्रार्थी के स्थानांतरण को अवैध नहीं पाया जाता है।

प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2014 (140) एफ एल आर पेज 429 (देहली) स्कूटर्स इंडिया लि0 बनाम गवर्नमेंट आफ एन.सी.टी. ऑफ देहली व 2010 (126) एफ एल आर पेज 982 (राज0) शिवशंकर शर्मा बनाम राज0 राज्य विद्युत प्रसारण निगम लि0 में यह मत प्रतिपादित किये गये हैं कि श्रमिक की अनुपस्थिति के मामले में जांच कार्यवाही होना व 25–एफ के प्रावधानों की पालना होना आवश्यक है, लेकिन इस मामले में विवेचन के दौरान यह पाया गया है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा सेवा से पृथक नहीं किया गया है,बल्कि उसका स्थानांतरण विपक्षी सं0 दो के ही अन्य नये प्लांट पर आवश्यकतानुसार किया गया है तथा अपने कार्यस्थल पर प्रार्थी स्वयं ही स्वेच्छा से कार्य हेतु उपस्थित नहीं हुआ। अतः उक्त न्यायिक दृष्टांत भी तथ्यात्मक भिन्नता के कारण लागू नहीं होते हैं।

समग्र साक्ष्य के अवलाकन एवं विश्लेषण से यही पाया जाता है कि प्रार्थी को विपक्षी सं0 एक संवेदक द्वारा अवैध रूप से सेवा से पृथक नहीं किया गया है, बल्कि उसका नये प्लांट पर स्थानांतरण कर दिये जाने के कारण उसने स्वेच्छा से कार्य पर उपस्थिति नहीं दी तथा स्वेच्छा से सेवाओं का परित्याग किया।

प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक 2024 (182) एफ एल आर (आंध्रप्रदेश) पेज 442 डिपो मैनेजर, ए.पी.एस. आर.टी.सी. बनाम पोन्नापति वेंकटा रमन व अन्य में ठेकेदार के श्रमिक को भी मान0 उच्च न्यायालय द्वारा श्रमिक की तारीफ में आना माना गया, जिससे असहमति का प्रश्न ही नहीं है। उक्त न्यायिक दृष्टांत विचाराधीन मामले में सुसंगत नहीं है क्योंकि यहां इस संबंध में पक्षकारों के मध्य कोई विवाद नहीं है। इसी तरह प्रार्थी की ओर से प्रस्तुत अन्य न्यायिक दृष्टांत 2022 (172) एफ एल आर पेज 10 (एस.सी.) भी इस मामले में सुसंगत नहीं है क्योंकि इस मामले में प्रार्थी की योग्यता के संबंध में कोई विवाद नहीं है।

हस्तगत मामले में यह निर्विवादित है कि विपक्षी सं0 एक, एक ठेकेदार है, जो उसके पास आने वाले श्रमिकों को अन्यत्र नियोजित करता है। यदि उसके जरिये नियोजन मांगने वाले संबंधित व्यक्ति को किसी श्रमिक की आवश्यकता नहीं रही तो ऐसी स्थिति में यह ठेकेदार (विपक्षी सं0 एक) निश्चित ही श्रमिक को अन्यत्र कार्य करने के लिए कहेगा। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है।

उक्त विवेचन एवं विश्लेषण से यह स्पष्ट है कि प्रार्थी को उसके नियोक्ता विपक्षी सं0 एक ठेकेदार के द्वारा कार्य की आवश्यकता के अनुसार विपक्षी सं0 दो के ही नये प्लांट पर स्थानांतरित किया गया तथा स्वयं प्रार्थी ही दिनांक 1.2.2017 से विपक्षी सं0 एक के पास कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती है। कोई भी व्यक्ति ठेकेदार से स्थान विशेष पर ही नियोजन दिलाने की मांग नहीं कर सकता है। अतः वह विपक्षी सं0 एक से भी वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह स्पष्ट है कि स्वयं प्रार्थी ही दिनांक 1.2.2017 से विपक्षी सं0 एक के द्वारा दिये गये स्थानांतरण आदेश की पालना में विपक्षी सं0 दो के नये प्लांट पर कार्य हेतु नहीं गया। विपक्षी सं0 एक ने उसे कार्य से हटाया हो, ऐसी स्थिति भी प्रकट नहीं होती। प्रार्थी व विपक्षी सं0 दो के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं। अतः वह विपक्षीगण से वांछित अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि –

प्रार्थी श्रमिक श्री मांगीलाल को विपक्षी सं0 1. पावरफूल सर्विसेज सिक्यूरिटी के द्वारा दिनांक 1.2.2017 को सेवा से पृथक नहीं किया गया है, बल्कि उसने स्वेच्छा से सेवाओं का परित्याग किया है।

प्रार्थी व विपक्षी सं0 दो प्रबंधक,यू.एम.डी.एस,चेनपुरा माईन्स के मध्य श्रमिक–नियोजक के सबंध नहीं रहे हैं। प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रति केन्द्र सरकार को प्रकाशनार्थ भेजी जाये।

(सुशील कुमार शर्मा) न्यायाधीश,

औद्योगिक न्यायाधिकरण एवं
श्रम न्यायालय,भीलवाडा।.

पंचाट आज दिनांक 25.11.2024 को खुले न्यायालय में सुनाया गया।

नई दिल्ली, 16 जनवरी, 2025

का.आ. 89.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **मेसर्स जेएएस टोल रोड कंपनी लिमिटेड, नेलमंगला, बैंगलोर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री श्री ओंकार नाइक एन,कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय,बैंगलोर, पंचाट (संदर्भ संख्या **33/2018**)को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2024-188-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th January, 2025

S.O. 89.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2018) of the **Central Government Industrial Tribunal cum Labour Court, Bangalore** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. JAS Toll Road Compnay Limited, Nelamangala, Bangalore, and Shri Onkar Naik .N, Worker,** which was received along with soft copy of the award by the Central Government on 16.01.2025

[No. L-42025-07-2024-188– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT AT HYDERABAD

DATED : 3RD OCTOBER 2024

PRESENT : **Shri IRFAN QAMAR**
Presiding Officer

I D No. 33/2018

I Party	**II Party**
Sri Onkar Naik N, S/o Nagaya Naik, Muddapura, Holalkere Taluk, Hosadurga Road and Post, CHITRADURGA POST.	The Management of M/s. JAS Toll Road Compnay Limited, Kulemepalya, NH-4, Opp. KBDL, Nelamangala, BANGALORE – 562 123.

Appearances

I Party : **Sh. N Prathap Simha**
President

II Party : **Sh. Vaidyanathan R**
Advocate

1. This petition has been filed by the Petitioner under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 challenging the Termination order dated 10.10.2017 from service by the 2nd Party.

2. After Registering the matter notices were issued to parties and both appeared. Though several opportunities were given to the 2nd Party but they did not file their counter statement and the matter came to be posted for Evidence of 1st Party. Petitioner was accorded sufficient opportunity to adduce evidence in

support of his claim but he failed to do so. The opportunity of Petitioner to adduce Evidence closed. Perused the record. The claim of the Petitioner is not substantiated by any evidence.

3. Therefore, in view of the above "No Claim" Award is passed and the Petition stands dismissed. Transmit.

AWARD

No Claim Award is passed.Transmit

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on

3rd October 2024)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 90.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – sg – Je U;k;ky;, जबलपुर के पंचाट(एलसी-आर/56/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10@01@2025 को प्राप्त हुआ था।

[सं. एल- 22013/01/2025-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 90.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.LC/-R/56/2023*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **W.C.L,**and their workmen, received by the Central Government on **10*/01/2025***

[No. L-22013/01/2025 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/56/2023

Present: P.K.Srivastava

H.J.S..(Retd)

R.K.K.M.S. (INTUC),

Regional Chandameta,

Dist. Chhindwara (M.P.)- 480447

Workman

Versus

The General Manager,

W.C.L, Pench Area,

Parasia

Management

AWARD

(Passed on this 10th day of January-2025.)

Vide communication reference number **CHA-1(2)/2021** by the Deputy Chief Labour Commissioner (Central) Jabalpur, Ministry of Labour, New Delhi this reference is sent to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') The dispute under reference related to :-

"कृया संयुक्त महामंत्री राष्ट्रीय कोयला खदान मजदूर संघ (इंटक), चांदामेटा, जिला-छिंदवाड़ा का महाप्रबंधक, वेस्टर्न कोल लिमिटेड पेंच क्षेत्र, परासिया जिला छिंदवाड़ा से उरधन ओपन कास्ट मांइस के

कामगार श्रीं नईम अहमद माइनिंग सरदार टो न १५७ की पदोन्नति ओव्हरमेन पद पर किये जाने एवं पिछली वरीयता सहित आर्थिक क्षति पूर्ती का लाभ प्रदान किये जाने का दावा न्यायोचित है? यदि हा तो श्री नईम अहमद माइनिंग सरदार वेस्टर्न कोल लिमिटेड से किस अनुतोष के अधिकारी है? "

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 10/01/2025

नई दिल्ली, 16 जनवरी, 2025

का.आ. 91.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 17/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02@01@2025 को प्राप्त हुआ था।

[सं. एल- 22012/129/2016-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 91.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 17/2018** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025***

[No. L-22012/129/2016 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 17 OF 2018

PARTIES: Nitai Chandra Mukherjee

Vs.

Management of Eastern Coalfields Limited, Headquarters, Sanctoria.

REPRESENTATIVES:

For the Union/Workman: Mr. H. L. Soni, Asst. Gen. Secy., Koyla Mazdoor Congress.

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 14.10.2024

AWARD

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-22012/129/2016-IR(CM-II)** dated 22.06.2018 has been pleased to refer the following dispute between the employer, that is the Management of Eastern Coalfields Limited, Headquarters, Sanctoria and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the Management of Eastern Coalfields Limited, Headquarters, Sanctoria in denying the payment of outstanding dues to Shri Netai Chandra Mukherjee, Ex. Librarian is legal and justified? If not, to what relief the workman is entitled to and from which date? "

1. On receiving Order **No. L-22012/129/2016-IR(CM-II)** dated 22.06.2018 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 17 of 2018** was registered on 02.07.2018 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. P. K. Goswami, learned advocate for the management of ECL has appeared. The case is fixed up today for appearance of Nitai Chandra Mukherjee, the aggrieved workman and evidence of workman witness, in default, the Industrial Dispute is to be disposed of in accordance with law. It is 12.20 pm now. None appeared on behalf of the workman on repeated calls. No affidavit-in-chief is filed on behalf of the workman for evidence. Mr. H. L. Soni, union representative is not found available.

3. On a perusal of record, I find that the case was registered on 02.07.2018. Written statement was filed by the workman on 18.09.2018 and by the management on 17.02.2023. The case was thereafter fixed for evidence on 01.08.2023, 17.01.2024, 12.06.2024 and today i.e., 14.10.2024. I find the workman is not diligent in proceeding with this case and the same is dismissed for default. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 92.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 02/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को o2@01@2025 को प्राप्त हुआ था।

[सं. एल- 22012/06/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 92.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.02/2022** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22012/06/2022 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 02 OF 2022

PARTIES: Prem Kumar Kurmi
(adopted son of Ashok Kumar Kurmi).

Vs.

Management of Kunustoria Colliery, ECL and another.

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: 29.10.2024

AWARD

Instant Industrial Dispute has been raised by the President of Koyala Mazdoor Congress, a recognized Trade Union and on failure of conciliation proceeding between the employer, that is the Management of Kunustoria Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman, the Government of India 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), through the Ministry of Labour and Employment has referred the scheduled Industrial Dispute to this Central Government Industrial Tribunal vide its Order **No. L-22012/06/2022-IR(CM-II)** dated 01.02.2022 for adjudication.

SCHEDULE

"Whether the action of the Management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Ltd. in regretting the claim for employment of Shri Prem Kumar Kurmi, adopted son of Late Ashok Kumar Kurmi, Ex-Roof Bolter of Kunustoria Colliery is just and legal? If not, to what relief the dependant son is entitled to? "

1. On receiving Order **No. L-22012/06/2022-IR(CM-II)** dated 01.02.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 02 of 2022** was registered on 01.02.2022 / 01.07.2022 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. The union representative on behalf of Prem Kumar Kurmi, the dependent son of Late Ashok Kumar Kurmi filed their written statement on 10.08.2022. In a nutshell, the fact of the case leading to this Industrial Dispute is that Ashok Kumar Kurmi was employed as a Roof-Bolter at Kunustoria Colliery under Kunustoria Area of Eastern Coalfields Limited (hereinafter referred to as ECL). He was a permanent employee under ECL and died in harness on 14.03.2014. Ashok Kumar Kurmi did not have any issue from his wife. He adopted Prem Kumar Rawat, son of Kapildev Rawat and Smt. Lakshmi Devi, with a consent of the biological father and mother. A deed of adaptation was prepared and submitted at Kunustoria Colliery for inclusion of the name of the adopted son as a dependent in the Service Record and other documents of the company i.e., Form PS-3, relating to the particulars of the family of the workman, Form PS-4, regarding nominee of the workman and also in the nomination forms for payment of Gratuity and Coal Mines Provident Fund (hereinafter referred to as CMPF) Refund.

3. The management of ECL initiated the proposal for inclusion of the name of the adopted son in the Service File of the employee and the management of the company at the Area level sought legal opinion from the penal advocates of the company and after receiving legal opinion the competent authority approved the inclusion of name of Prem Kumar Kurmi, as adopted son in the company's record. Ashok Kumar Kurmi also nominated Prem Kumar Kurmi, his adopted son in Form 'F' for payment of gratuity and Form 'A' for CMPF Refund and payment of pension. After the death of the employee Prem Kumar Kurmi applied for providing him employment under the provision of National

Coal Wage Agreement (hereinafter referred to as NCWA) and also for payment of Gratuity, CMPF, Life Cover Scheme. Gratuity and CMPF payments were settled and paid to Prem Kumar Kurmi. He was also paid the Pension under CMPS scheme of CMPFO and the amount of the Life Cover Scheme, payable to the dependent.

4. The proposal for employment of Prem Kumar Kurmi as a dependent was processed and after screening at the colliery level Initial Medical Examination (hereinafter referred to as IME) of Prem Kumar Kurmi was held and the IME Board found him fit for duty. The General Manager of the Area also recommended the employment proposal of the dependent son and had sent the file to Headquarters of ECL for approval. The adopted son had taken the surname of his adoptive father and in his educational certificate his name has been recorded as Prem Kumar Kurmi, son of Ashok Kumar Kurmi. The case of the union is that Prem Kumar Kurmi was below eighteen years of age at the time of death of his father so his name was kept in the live roster of the company under the provision of clause 9.5.0 (iii) of NCWA. An order was issued by the management of Kunustoria Area bearing Ref. No. ECL/KNT/PERS/2015/3653 dated 14/15.10.2015 for maintaining the name of Prem Kumar Kurmi in the live roster. After proper screening at the colliery and Area level and Medical Examination the General Manager of the Area recommended the proposal for employment of Prem Kumar Kurmi, which was sent to the Headquarters of ECL at Sanctoria for approval of the competent authority. The management of ECL at Sanctoria did not approve the proposal for employment and regretted the same. It is contended that denying employment to Prem Kumar Kurmi after keeping his name in the live roster is illegal, unjustified and he should be provided with employment without further delay. According to the union the adoption of Prem Kumar Kurmi had taken much earlier but at the instance of management at Colliery Level a Deed of Adoption was prepared and submitted for fulfillment of their unnecessary demand. The management took legal opinion from their penal advocates and also paid the Gratuity, Life Cover Scheme, CMPF dues and Pension amount to Prem Kumar Kurmi. Aadhaar Card, Educational Certificates bearing the name of adoptive father have been produced. It is urged that the dependant adopted son does not have any source of income to maintain his livelihood and he should be provided with an employment in accordance with the norms of NCWA.

5. The Agent of Kunustoria Colliery contested the case on behalf of the management. In their written statement filed on 17.01.2023, the management has specifically stated that Ashok Kumar Kurmi was an employee at Kunustoria Colliery who expired on 14.03.2014 and during his lifetime he had claimed that he adopted Prem Kumar Kurmi as his son. It is the case of the management that Prem Kumar Kurmi was born on 30.04.1998 but the adoption deed was signed on 17.04.2013 when his age was 14 years 11 months and 15 days and not 7 years 6 months as stated in the representation of the union. The management has refuted the claim for employment on the ground that the competent authority after going through the details of the case and material on record, regretted the claim for employment of Prem Kumar Kurmi. Since the Deed of Adoption has no basis, the decision of the management, regretting the claim for employment was intimated to Prem Kumar Kurmi by letter of ECL vide letter No. ECL/ KNT/ P&IR/ Empl./ 2020/581 dated 28.05.2020. According to the management the claim of the union has no legal foundation and is contradictory to the Deed of Adoption and prayed for dismissing the claim.

6. To substantiate the case of Prem Kumar Kurmi, the union has filed an affidavit-in-chief of Prem Kumar Kurmi, reiterating the case disclosed in the pleading of the union. In his affidavit-in-chief he stated that Kapildev Rawat and Smt. Lakshmi Devi who are his biological father and mother gave him in adoption to Smt. Nutan Devi, wife of Ashok Kumar Kurmi, during her lifetime. Smt. Nutan Devi died in June, 2005. The biological father and mother of Prem Kumar Kurmi handed him over to the adoptive father and mother. Apart from giving and receiving in adoption, *'Datta Homam'* was performed in presence of friends and families of both biological and adoptive parents. Ashok Kumar Kurmi thereafter, applied before the management of ECL for including the name of Prem Kumar Kurmi in Service Record and other documents of the company. At the relevant time management of the colliery directed the adoptive father to submit deed of adoption, as such deed of adoption was prepared in the Office of the Additional District Sub Registrar, Raniganj, Burdwan (WB) on 17.04.2013. The name of Prem Kumar Kurmi was included in the Service Record and in the Forms PS-3 and PS-4. After death of Ashok Kumar Kurmi, Prem Kumar Kurmi applied for his employment. According to the provision of Clause 9.5.0 (iii) of NCWA the management of the colliery initially maintained the name of Prem Kumar Kurmi in the live roster as he was below eighteen years at the time of his father's death. After he attained the age of eighteen years a screening test was done at Colliery and Area level. On medical examination he was found medically fit by the IME Board and the management had sent the proposal for employment to ECL Headquarters for approval. On 14.03.2014 Ashok Kumar Kurmi died leaving behind his only dependant son, who was a minor at the relevant time. The management took legal opinion from its penal advocates relating to the legality of the adoption and denied the claim for employment by Prem Kumar Kurmi.

7. Prem Kumar Kurmi was examined as Workman Witness – 1. In course of his evidence-in-chief he has produced the following documents :

(i) Copy of the Identity Card of Ashok Kumar Kurmi is produced as Exhibit W-1.

(ii) Copy of the Certificate of death of Ashok Kumar Kurmi, as Exhibit W-2.

(iii) Copy of the Death Registration Certificate of Ashok Kumar Kurmi, as Exhibit W-3.

(iv) Copy of the Death Registration Certificate of Nutan Devi, as Exhibit W-4.

(v) Copy of the Office order dated 18.01.2014 for inclusion of the name of Prem Kumar Kurmi as the dependent of Ashok Kumar Kurmi, as Exhibit W-5.

(vi) Copy of the letter dated 21/23.01.2014, intimating Ashok Kumar Kurmi that name of Prem Kumar Kurmi has been included in the Service record, as Exhibit W-6.

(vii) Copy of the Service Book of Ashok Kumar Kurmi, as Exhibit W-7.

(viii) Copy of the Form PS-3 is produced as Exhibit W-8.

(ix) Copy of the Form PS-4, as Exhibit W-9.

(x) Copy of the letter dated 15.03.2014 of Prem Kumar Kurmi addressed to the Agent of Kunustoria Colliery, informing about death of Ashok Kumar Kurmi, as Exhibit W-10.

(xi) Copy of letter dated 14/15.10.2015 of the Assistant Manager (IR/Pers), Kunustoria Colliery addressed to the Agent of Kunustoria Colliery regarding maintaining the name of Prem Kumar Kurmi in the live roster of ECL, as Exhibit W-11.

(xii) Copy of the letter dated 06.06.2016 of Prem Kumar Kurmi addressed to the Agent of Kunustoria Colliery, claiming employment on attaining majority, as Exhibit W-12.

(xiii) Copy of the letter dated 03.10.2016 of the Agent of Kunustoria Area issued to Prem Kumar Kurmi for his IME on 19.10.2016, as Exhibit W-13.

(xiv) Copy of the letter dated 07/08.07.2017 issued by the Agent, Kunustoria Colliery, forwarding employment file of Prem Kumar Kurmi to Area Personnel Manager, Kunustoria Area, as Exhibit W-14.

(xv) Copy of the letter dated 28/29.12.2017 issued by the Assistant Manager (Personnel), Kunustoria Colliery, asking Prem Kumar Kurmi to appear before the General Manager (P&IR), ECL, HQ along with witnesses of the Indemnity Bond, as Exhibit W-15.

(xvi) Copy of the application dated 29.09.2018 of Prem Kumar Kurmi seeking employment, as Exhibit W-16.

(xvii) Copy of another application of Prem Kumar Kurmi for employment addressed to the General Manager, Kunustoria Area, as Exhibit W-17.

(xviii) Copy of the Provisional Certificate of Secondary School Examination under the Bihar School Examination Board, Patna issued to Prem Kumar Kurmi is produced as Exhibit W-18.

(xix) Copy of the Deed of Adoption in seven pages, as Exhibit W-19.

(xx) Copy of the letter dated 08.01.2017 issued by the Area Personnel Manager, Kunustoria Area to Mr. P. K. Goswami, advocate, seeking legal opinion for inclusion of name of the adopted son, as Exhibit W-20.

(xxi) Copy of the opinion of Mr. P. K. Goswami, advocate dated 13.01.2014 relating to inclusion of name of Prem Kumar Kurmi, as Exhibit W-21.

8. In his cross-examination WW-1 stated that Ashok Kumar Kurmi, the adoptive father is the brother of the biological mother of Prem Kumar Kurmi. He deposed that he had no document to show that he was adopted in the year 2005. In his cross-examination he stated that he passed the Madhyamik examination and other Board examinations after the death of Ashok Kumar Kurmi and during his childhood he used to reside at Kunustoria Colliery. He denied the suggestion given on behalf of the management that no adoption had taken place. He also denied that he was not entitled to get employment in place of Ashok Kumar Kurmi.

9. Mrs. Harshna Lal, Assistant Manager (Personnel), Kunustoria Colliery has adduced evidence on behalf of the management. She filed affidavit-in-chief and was examined as Management Witness – 1. In her affidavit-in-chief she stated that Prem Kumar Kurmi was born on 30.04.1998 and the Deed of Adoption was signed on 17.04.2013 when he was 14 years 11 months and 15 days old. The claim for employment as a dependent son was sent to the Headquarters but after going through the factual details and materials on record the competent authority has regretted the claim for employment of Prem Kumar Kurmi on the ground that the Deed of Adoption had no legal basis, as intimated by the Head of Department (Legal), ECL. It is stated in her affidavit-in-chief that the claim of the union has no legal foundation and the decision of the Headquarters was communicated to the Assistant Personnel Manager of Kunustoria Area by letter dated 14.04.2020, regretting the claim for employment. The Assistant Personnel Manager, Kunustoria Area further communicate the same to the Agent of Kunustoria Colliery on 17.04.2020 and the Agent, Kunustoria

Colliery in his letter dated 28.05.2020 addressed to Prem Kumar Kurmi informed that *"the competent authority has regretted the claim of employment of Sri Prem Kumar Kurmi since the Adoption Deed submitted with the claim, has no legal basis as intimated by the HOD (legal), ECL".* Management Witness has produced the following documents in support of their case :

(i) Copy of the letter dated 14.04.2020 whereby the competent authority has regretted the claim for employment of Prem Kumar Kurmi is produced as Exhibit M-1.

(ii) Copy of the letter dated 17.04.2020 issued by the Assistant Personnel Manager, Kunustoria Area addressed to the Agent, Kunustoria Colliery, communicating the decision of the competent authority, as Exhibit M-2.

(iii) Copy of the letter dated 28.05.2020 issued by the Agent, Kunustoria Colliery addressed to Prem Kumar Kurmi, informing him that his prayer for employment has been regretted by the competent authority, as Exhibit M-3.

10. In course of cross-examination MW-1 admitted that the management of ECL has approved the inclusion of the name of Prem Kumar Kurmi, as son in the Service Record of Ashok Kumar Kurmi on 18.01.2014. She further deposed that before incorporating the name of Prem Kumar Kurmi in the Service Record, as dependent, the management had asked for a Deed of Adoption and also sought for legal opinions from the advocates before the decision was taken. The copy of the legal opinion of Mr. P. K. Das, advocate dated 26.12.2013 has been marked as Exhibit W-22. The death information of Ashok Kumar Kurmi given to the Agent of Kunustoria Colliery on 15.03.2014 has been identified by the management witness as Exhibit W-10. She admitted the fact that the management of the company maintained the name of Prem Kumar Kurmi in the live roster for the purpose of his employment on attaining majority and the same has been marked as Exhibit W-11. The application of Prem Kumar Kurmi seeking employment on compassionate ground on him attaining majority has been submitted on 06.06.2016 and the same has been admitted as Exhibit W-12. She stated in her evidence that the IME Board found Prem Kumar Kurmi medically fit for employment and the death benefits of Ashok Kumar Kurmi, such as Provident Fund dues and Gratuity were paid to Prem Kumar Kurmi as his legal heir. It also transpires from evidence that the application submitted by Prem Kumar Kurmi for his employment was forwarded to the Assistant Personnel Manager at Kunustoria Area on 07/08.07.2017. The witness denied the suggestion that the management arrived at a wrong decision by not providing employment to Prem Kumar Kurmi as dependent of the deceased employee.

11. The stage is now set to consider whether the action of the management of ECL is justified in regretting the claim for employment of Prem Kumar Kurmi as an adopted son of Ashok Kumar Kurmi and if the applicant is entitled to any relief in this case.

12. Advancing his argument on behalf of the dependent of the deceased workman, Mr. Rakesh Kumar, Union representative submitted that Ashok Kumar Kurmi was a permanent employee at Kunustoria Colliery. Prior to his death on 14.03.2014, Ashok Kumar Kurmi had prayed for inclusion of the name of his adopted son, Prem Kumar Kurmi in his Service Record. Prem Kumar Rawat, the son of Kapildev Rawat and Smt. Lakshmi Devi was adopted on 20.11.2005. On being asked to produce a Deed of Adoption for the purpose of considering the prayer for inclusion of the name of Prem Kumar Kurmi in the Service Record of his adopted father, a Deed of Adoption was prepared in the year 2013 and has been produced as Exhibit W-19. The management of the company after verifying essential particulars and after obtaining legal opinion from their penal advocates (Exhibit W-21 and W-22) included the name of Prem Kumar Kurmi in the Service Record of Ashok Kumar Kurmi. Mr. Rakesh Kumar referred to Exhibit W-5, which is a copy of the letter dated 18.01.2014, where the Assistant Personnel Manager of Kunustoria Area informed the Agent, Kunustoria Colliery that on the basis of his record the competent authority has pleased to accord approval for incorporating the name of dependent of the following employees of this colliery. The name of Ashok Kumar Kurmi figures in the said list. Mr. Rakesh Kumar also relied upon Exhibit W-6, a letter dated 21/23.01.2014 issued by the Personnel Manager, Kunustoria Colliery in which Ashok Kumar Kurmi was informed that his application for inclusion of dependent's name in the Service File has been sent to the Area for approval of the competent authority and the competent authority vide letter No. A.KNT/P&IR/6597 dated 18.01.2014 of Assistant Manager (Personnel), Kunustoria Area has been pleased to approve the inclusion of dependent's name. Furthermore, the name of the dependent, Prem Kumar Kurmi has been described as son and his date of birth has been recorded as 30.04.1998. Mr. Rakesh Kumar argued that the Service Book (Exhibit W-7) and the particulars of family members of Ashok Kumar Kurmi (Exhibit W-8), Nomination From PS-4 (Exhibit W-9) clearly reveal that the name of the Prem Kumar Kurmi has been recorded as son. It is argued that according to the provision of Clause 9.3.3 of NCWA-IX, which is applicable to Ashok Kumar Kurmi, an adopted son has been recognised to be a dependent by the Joint Bipartite Committee for the Coal Industry and his legal right for employment as a dependent has been aggrandized. It is further argued on behalf of the dependent of the deceased employee that Prem Kumar Kurmi had submitted his application before the Agent of Kunustoria Colliery on 15.03.2014, informing about the death of his father, Ashok Kumar Kurmi on 14.03.2014 at 1.30 pm and prayed for adopting necessary legal procedure. It is pointed out that in Exhibit W-11 the Assistant Personnel Manager, Kunustoria Area in his letter to the Agent, Kunustoria Colliery by letter Ref. No. A-KNT/P&IR/13/3380 dated 12.10.2015, informed that the General Manager of Kunustoria Area

recommended that the name of Prem Kumar Kurmi, son of Ashok Kumar Kurmi, Ex-Roof Bolter, U. Man No. 118878 of Kunustoria Colliery be kept in the live roster till he attained the age of eighteen years as per provision of NCWA. Mr. Rakesh Kumar referred to the application of Prem Kumar Kurmi dated 06.06.2016 (Exhibit W-12) addressed to the Agent of Kunustoria Colliery, informing that he has attained the age of eighteen years and submitted his claim for employment as per NCWA. Relevant documents for employment were also enclosed with the application. On 03.10.2016, the Agent, Kunustoria Colliery referred Prem Kumar Kurmi for IME on 19.10.2016. after necessary examinations the file was forwarded to the Area Personnel Manager, Kunustoria Area along with relevant documents. It is argued that the management has no plausible reason to deny appointment to Prem Kumar Kurmi as dependent of Ashok Kumar Kurmi in violating of the terms of NCWA. Mr. Rakesh Kumar prayed for necessary direction upon the management to provide employment to the legally adopted son and only dependent of Ashok Kumar Kurmi.

13. Mr. P. K. Das, learned advocate for the management of ECL refuting the claim for employment of Prem Kumar Kurmi argued that in Clause 9.3.3 of NCWA it has been laid down that the dependent for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependent is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the employee and almost wholly dependent on the earning of the employee may be considered. In the instant case Prem Kumar Kurmi claimed employment in the capacity of an adopted son but his name has been recorded in the Service Record of the deceased employee as son, therefore he is not entitled to any employment in the capacity of an adopted son. It is further argued that the Deed of Adoption dated 17.04.2013 (Exhibit W-19) has been produced in support of the fact that adoption have been taken on 20.11.2005. It is contended that Prem Kumar Kurmi was not adopted by Ashok Kumar Kurmi and the management of ECL was not satisfied about the legality of the adoption. On the basis of such consideration management regretted the claim for employment of Prem Kumar Kurmi on the ground that the same has no legal basis and issued a letter of regret dated 28.05.2020 to Prem Kumar Kurmi, which has been produced as Exhibit M-3. Learned advocate urged that there is no merit in this Industrial Dispute and the same is liable to be dismissed on contest.

14. I have traversed the pleadings of the parties, evidence adduced by Prem Kumar Kurmi as WW-1 and Mrs. Harshna Lal as MW-1, documents produced by the parties and considered the arguments advanced on behalf of the union and the management of ECL. The facts which emerge from the pleading of the union and admitted by the management is that Ashok Kumar Kurmi was a permanent employee of ECL and he adopted Prem Kumar Rawat, son of Kapildev Rawat and Smt. Lakshmi Devi and also submitted his application before Kunustoria Colliery for inclusion of the name of his adopted son in Service Record and other documents of the company i.e., Form PS-3, Form PS-4, Form 'F' and Form 'A'. It is undisputed that the management after obtaining legal opinion about such adoption, recorded the name of Prem Kumar Kurmi as a son of Ashok Kumar Kurmi in his Service Record and also in the Form PS-3 and Form PS-4. The union in support of such inclusion of name has produced Exhibit W-5, W-6, W-7, W-8 and W-9. The argument advanced by learned advocate for the management that the name of Prem Kumar Kurmi has been-recorded as son and not as adopted son in the service record of Ashok Kumar Kurmi, does not bear any significance and would not disqualify him from the claim of employment. Such evidence has neither been denied nor any attempt was made to controvert the same in course of evidence. From the documents produced by the union it appears that by letter No. ECL/KNT/PERS/2015/3653 dated 14/15.10.2015, the Area Personnel Manager, Kunustoria Area informed the Agent of Kunustoria Colliery that the General Manager, Kunustoria Area has approved the inclusion of the name of Prem Kumar Kurmi, son of Late Ashok Kumar Kurmi in the live roster till he attained the age of eighteen years, as per the provision of NCWA. According to the Certificate issued by the Bihar School Examination Board, Patna, produced as Exhibit W-18, the date of birth of Prem Kumar Kurmi has been recorded as 30.04.1998 and he passed the Senior School examination in the year 2015. On his attaining majority Prem Kumar Kurmi submitted three applications dated 06.06.2016 (Exhibit W-12), 29.09.2018 (Exhibit W-16) and 20.07.2019 (Exhibit W-17) addressed to various authorities of the management of ECL for providing him with employment. It is also gathered from the documentary evidence that the Agent of Kunustoria Colliery has referred Prem Kumar Kurmi for his medical examination before the IME Board on 19.10.2016. The letter dated 03.10.2016 has been produced as Exhibit W-3. Subsequently, the adopted son was informed by the Assistant Manager (Personnel), Kunustoria Colliery to appear before the General Manager (P&IR), ECL, HQ along with the witness of the Indemnity Bond. The management considered the legal opinion for inclusion of the name of the adopted son in the Service Record. Mr. P. K. Goswami and Mr. P. K. Das both advocates in their respective legal opinion, produced as Exhibit W-21 and W-22, opined that the adoption of Prem Kumar Kurmi by Ashok Kumar Kurmi is valid and legal. Acting upon such opinion management has admitted the claim of Ashok Kumar Kurmi and recorded the name of Prem Kumar Kurmi in his service record. Ashok Kumar Kurmi expired one year thereafter, giving rise to this legal claim for employment of his dependent son. After attaining the age of eighteen years on 06.06.2016, Prem Kumar Kurmi submitted an application dated 06.06.2016, informing the management that at the time of death of his father he was below eighteen years and his name was kept in the live roster and that on attaining the age of eighteen years he submitted his claim for employment as per NCWA. It is strange to find that after passage of more than three years the management of ECL by their letter dated 28.05.2020 (Exhibit M-3), addressed to Prem Kumar Kurmi, informed that :

"After going through the factual details and materials on record, the competent authority has regretted the claim of employment of Sri Prem Kumar Kurmi since the Adoption Deed, submitted with the claim, has no legal basis as intimated by the HOD(Legal), ECL."

From the Deed of Adoption, it may be gathered that the family of biological parents as well as the family of adoptive parents are Hindu. The Hindu Adoptions and Maintenance Act, 1956, therefore applied to the procedure of giving and taking in adoption. Section 6 of the Hindu Adoptions and Maintenance Act, 1956 lays down the requisites of valid adoption. It provides that :

"(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption; and

(iv) the adoption is made in compliance with the other conditions mentioned in this Chapter."

In the instant case the adoption took place in the year 2005 and the adopted son since then is recognized to be a son of the adoptive parents. In the Certificate issued by the Bihar School Examination Board, Patna, the father's name of Prem Kumar Kurmi has been recorded as Ashok Kumar Kurmi. The presumption of a valid adoption therefore arises in favour of Prem Kumar Kurmi. The management of ECL did not raise any specific ground on which the adoption would be invalidated.

15. Section 11 (vi) of the Hindu Adoptions and Maintenance Act, 1956, relating to conditions of valid adoption lays down that :

"(vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up to the family of its adoption. Provided that the performance of dattahomam shall not be essential to the validity of an adoption."

It is absolutely clear that the procedure of adoption depends upon actually giving and taking in adoption and there is no requirement of executing any Deed of Adoption for validating the act nor even any *'Datta Homam'* is necessary. The management of ECL after being duly satisfied with the legality of adoption has recorded the name of Prem Kumar Kurmi as the dependent son in the Service Record of Ashok Kumar Kurmi. The management cannot be allowed to approbate and reprobate their own act for the purpose of denying employment to the dependent son of a deceased employee, agreed upon in NCWA.

16. The management of Kunustoria Colliery by their own act has admitted that the name of Prem Kumar Kurmi was maintained in the live roster on recommendation of the General Manager, Kunustoria Area as per the provision of NCWA. He was also referred to IME Board for his medical examination and recommendation were made to ECL Headquarters for his employment. The dependent son submitted several applications for his employment to the Agent of Kunustoria Colliery, the Chairman-cum-Managing Director of ECL at Sanctoria and the General Manager of Kajora Area, praying for providing him with employment, having attaining majority. The management having regretted the claim for employment by their letter dated 28.05.2020 has acted in an unjust and unlawful manner, violating the terms of NCWA by not providing employment to the dependent son of the deceased employee and caused unnecessary delay. Any further delay will make ECL liable to pay compensation to the dependant son.

17. Under such facts and circumstances, I hold the claim for employment of Prem Kumar Kurmi before the management of ECL, as a dependent son of Ashok Kumar Kurmi is just and in accordance with the provision of NCWA. The Industrial Dispute is allowed on contest with a direction to the management of Kunustoria Colliery under Kunustoria Area of Eastern Coalfields Limited to consider the claim for employment of Prem Kumar Kurmi and provide necessary employment to him within two (2) months from receipt of the Award.

Hence,

ORDERED

that the Industrial Dispute is decided in favour of the union and against the management on contest. The management of Kunustoria Colliery under Kunustoria Area of Eastern Coalfields Limited is directed to consider the proposal for employment of Prem Kumar Kurmi, dependent son of Ashok Kumar Kurmi and provide him with a suitable employment within two (2) months from communication of the Award. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 93.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 26/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/51/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 93.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 26/2022** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22012/51/2022 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 26 OF 2022

PARTIES: Bani Parida
(Dependant daughter of Mahantar Parida)

Vs.

Management of Parasea Colliery of 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: 18.10.2024.

AWARD

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-22012/51/2022-IR(CM-II)** dated 02.06.2022 has been pleased to refer the following dispute between the employer, that is the Management of Parasea Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the demand raised by Union i.e. Koyla Mazdoor Congress vide representation dated 29/10/2019 (copy enclosed) against the action of the management of Parasea Colliery under Kunustoria Area of M/s. Eastern Coalfields Ltd. I not providing employment under the provisions of National Coal Wage Agreement – VI (NCWA- VI) in spite of Memorandum of Settlement No. 1(82)/2015/E.2 dated 27/9/2016 (copy enclosed) to Ms. Bani Parida dependent daughter of Late Mahantar Parida, Ex- UG Loader of Parasea 6/7 Incline, who expired on 31/01/2000 while in service, is legal and justified? If not, to what relief she is entitled to? "

1. On receiving Order **No. L-22012/51/2022-IR(CM-II)** dated 02.06.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 26 of 2022** was registered on 02.06.2022/01.07.2022 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. P. K. Das, learned advocate appeared for Eastern Coalfields Limited. The case is fixed up today as special chance for appearance and evidence of Bani Parida, petitioner in default, the case is to be disposed of. It is 12.35 pm now. Petitioner has not turned up. Mr. Rakesh Kumar, union representative of Koyala Mazdoor Congress filed a petition stating that Bani Parida has not appeared and the case may be disposed of. No reason has been cited. Considered. Copy served.

3. I find from the record that written statements have been filed by parties on 13.02.2023. The case was thereafter fixed up for evidence of workman witness on 17.04.2023, 07.08.2023, 24.01.2024, 18.06.2024 and today i.e., 18.10.2024 as a special chance. The aggrieved dependent of the workman, claiming employment has not turned up after reasonable opportunities was given to her. Today the union confirmed that Bani Parida is not inclined to proceed with this case any further. Accordingly, the Industrial Dispute raised by the union over the issue of not providing employment to Bani Parida, dependent daughter of Late Mahantar Parida who expired on 31.01.2000 is dismissed for non-prosecution. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that the Industrial Dispute is dismissed for non-prosecution. Let a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 94.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 02/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/142/2002-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 94.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.02/2003** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22012/142/2002 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 02 OF 2003

PARTIES: Dinesh Yadav

Vs.

Management of Bahula Colliery of ECL

REPRESENTATIVES:

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

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 13.11.2024.

AWARD

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-22012/142/2002-IR(CM-II)** dated 13.02.2003 has been pleased to refer the following dispute between the employer, that is the Management of Bahula Colliery under Kenda Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the demand of the Koyala Mazdoor Congress from the management of Bahula Colliery under Kenda Area of M/s Eastern Coalfields Limited for regularisation of Sh. Dinesh Yadav, Fitter Cat IV as Mech(MM) Excav. Gr. D with retrospective effect is legal and justified? If so, to what relief is the workman entitled and from what date? "

1. On receiving Order **No. L-22012/142/2002-IR(CM-II)** dated 13.02.2003 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 02 of 2003** was registered on 11.03.2003 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. For ends of justice the case is fixed up today for evidence of management witness and hearing of argument. Mr. P. K. Goswami, learned advocate for Eastern Coalfields Limited and Mr. Rakesh Kumar, union representative are present. It is submitted by Mr. Rakesh Kumar that Dinesh Yadav, aggrieved workman has expired and the union is not inclined to proceed further with this case. An application is filed by Mr. R. Kumar on behalf of Koyala Mazdoor Congress praying for dismissing the case. Copy served.

3. After registration of the case Notice were issued to the parties concerned. Both parties appeared and filed their written statements. Concerned workman had filed his affidavit-in-chief and faced cross-examination on 08.12.2015. No document has been admitted in evidence. Management produced Mr. Rakesh Kumar Basant as their witness and filed his affidavit on 30.07.2024.

4. Since workman seeking relief has passed away during pendency of this case, no purpose would be served by proceeding with this case any further. In view of application filed today, the Industrial Dispute is disposed of for non-prosecution. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 95.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 59/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को o2@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/107/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 95.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.59/2022** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22012/107/2022 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 59 OF 2022

PARTIES: Uttam Roy

Vs.

Management of Jhanjra Project Colliery 3 & 4, ECL

REPRESENTATIVES:

For the Union / Workman: None.

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 05.11.2024

AWARD

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-22012/107/2022-IR(CM-II)** dated 22.12.2022 has been pleased to refer the following dispute between the employer, that is the Management of Jhanjra Project Colliery 3 & 4, Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of Jhanjra Project Colliery 3 & 4, Jhanjra Area of M/s. E.C. Ltd. in not fixation the pay properly in the regularized post of Mining Sirdar -cum- Shot Firer (T) to Sri Uttam Roy is fair, legal and justified? If not, to what relief the workman concerned is entitled to? "

1. On receiving Order **No. L-22012/107/2022-IR(CM-II)** dated 22.12.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 59 of 2022** was registered on 26.12.2022 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. P.K. Das, learned advocate appeared for the management of ECL accompanied by Mr. Alaric Oneal Lyndem, the management representative. Case is fixed up today for appearance of the workman, Uttam Roy and evidence of both parties. On repeated calls at 1.20 PM, Uttam Roy is not found present. No step has been taken by the General Secretary, Colliery Mazdoor Union (HMS), Bengal Hotel, Asansol.

3. After registration of the case Notice were issued to the parties concerned. The management appeared through Mr. P. K. Das, learned advocate and filed written statement on 08.05.2023. None appeared for the union. The Office was directed to issue Notice to Uttam Roy at his registered postal address. The workman appeared on 23.02.2024 after second Notice, represented by Mr. Bipul Banerjee, learned advocate and filed his written statement. The case was fixed on 16.07.2024 for evidence of both parties. No step was taken by Uttam Roy. The case is again fixed up today for evidence of both parties but the workman is absent without taking steps.

4. Under such circumstances, the Industrial Dispute raised on the issue of non-fixation of pay of Uttam Roy properly in the post of Mining Sirdar -cum- Shot Firer (T) is dismissed for default. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in this case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2025

का.आ. 96.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;,आसनसोल के पंचाट (सन्दर्भ संख्या 36/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को o2@01@2025 को प्राप्त हुआ था।

[सं. एल- 22013/01/2025-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th January, 2025

S.O. 96.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 36/2023** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025***

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

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. 36 OF 2023

PARTIES: Bijoy Kumar Das

Vs.

Management of 3 & 4 Incline, Jhanjra Area of M/s. ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Chandi Banerjee, Gen. Secy., Colliery Mazdoor Union.

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 04.11.2024.

AWARD

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 Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(31)/2023/E** dated 26.07.2023 has been pleased to refer the following dispute between the employer, that is the Management of 3 & 4 Incline, Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of 3 & 4 Incline, Jhanjra Area of M/s. ECL in not paying the amount of arrear wages, Sunday wages and holiday wages to Shri Bijoy Kumar Das is justified? If not, what relief the workman is entitled to? "

1. On receiving Order **No. 1(31)/2023/E** dated 26.07.2023 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute **Reference case No. 36 of 2023** was registered on 28.07.2023 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. P. K. Das, learned advocate appeared for the management of Eastern Coalfields Limited. Case is fixed up today for evidence of Bijoy Kumar Das, the aggrieved workman. Mr. Chandi Banerjee, union representative appeared for the workman and filed a petition stating that Bijoy Kumar Das is not inclined to continue with the Reference case and the same may be disposed of.

3. After registration of case the workman as well as management filed their written statements. Bijoy Kumar Das filed his affidavit-in-chief on 23.02.2024. Thereafter, the workman did not appear on 11.03.2024, 15.07.2024 and filed a petition today, stating that he does not want to proceed with this case any further. Considered the matter. The Reference case is dismissed for non-prosecution. The petition filed today is disposed of. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 17 जनवरी, 2025

का.आ. 97.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91 क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा भारतीय किसान उर्वरक सहकारी लिमिटेड के कारखानों और स्थापनों के नियमित कर्मचारियों को राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए उक्त अधिनियम के प्रवर्तन से छूट देती है।

2. **छूट निम्नलिखित शर्तों के अधीन है, अर्थात्: -**

(क) कारखानों और स्थापनों द्वारा कर्मचारियों का एक रजिस्टर रखा जाएगा जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट होंगे;

(ख) कर्मचारियों को उक्त अधिनियम के अधीन ऐसे लाभ प्राप्त होते रहेंगे जिनके लिए वे छूट की तारीख से पूर्व भुगतान किए गए अंशदान के आधार पर पात्र होंगे;

(ग) छूट अवधि के लिए अंशदान, यदि पहले ही भुगतान किया जा चुका है, वापस नहीं किया जाएगा;

(घ) उक्त कारखाना और स्थापन का नियोक्ता ऐसे विशिष्टियों में ऐसे विवरणी प्रस्तुत करेगा और इसमें ऐसे विवरण शामिल होंगे जो उक्त अवधि के संबंध में देय थे, जिसके लिए वह कारखाना कर्मचारी राज्य बीमा (सामान्य) विनियम 1950 के अधीन संचालन के अधीन थी;

(ङ) उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन निगम द्वारा नियुक्त एक सामाजिक सुरक्षा अधिकारी या उसके द्वारा इस संबंध में अधिकृत निगम का कोई अन्य अधिकारी, निम्नलिखित प्रयोजनों के लिए नियुक्त किया जाएगा –

(i) उक्त अवधि के लिए उक्त अधिनियम की धारा 44 की उपधारा (1) के अधीन प्रस्तुत किसी भी विवरणी में निहित विवरण का सत्यापन करना; या

(ii) यह सुनिश्चित करना कि क्या उक्त अवधि के लिए कर्मचारी राज्य बीमा (सामान्य) विनियम, 1950 के अनुसार अपेक्षित रजिस्टरों और रिकॉर्डों का रखरखाव किया गया था; या

(iii) यह सुनिश्चित करना कि क्या कर्मचारी नियोक्ता द्वारा नकद और अन्य प्रकार के लाभों के पात्र बने रहेंगे, जिनके आधार पर इस अधिसूचना के अधीन छूट दी जा रही है; या

(iv) यह सुनिश्चित करना कि क्या अधिनियम के किसी भी उपबंध का उस अवधि के दौरान अनुपालन किया गया था जब उक्त कारखाने और स्थापना के संबंध में ऐसे उपबंध लागू थे –

(क) प्रधान या आसन्न नियोक्ता से ऐसी जानकारी की अपेक्षा करेगा जिसे उक्त अधिनियम के प्रयोजन के लिए आवश्यक समझे; या

(ख) किसी भी युक्तियुक्तक समय पर ऐसे प्रधान या आसन्न नियोक्ता द्वारा अधिगृहित किसी कारखाने, स्थापनो, कार्यालय या अन्य परिसर में प्रवेश करेगा और जहां के प्रभारी किसी व्यक्ति से अपेक्षा करेगा कि वह उसे कर्मचारियों के रोजगार और मजदूरी के संदाय से संबंधित खाते, लेखा बही और अन्य दस्तावेज प्रस्तुत करें और जांच करने की अनुमति दे या उसे ऐसी जानकारी प्रदान करें जिसे वह आवश्यक समझे; या

(ग) प्रधान या आसन्न नियोक्ता, उसके अभिकर्ता या सेवक, या ऐसे कारखाने, प्रतिष्ठान, कार्यालय या अन्य परिसर में पाए जाने वाले किसी व्यक्ति या किसी ऐसे व्यक्ति की जांच करेगा जिसके बारे में उक्त निरीक्षक या अन्य अधिकारी के पास यह मानने का उचित कारण हो कि वह कर्मचारी रह चुका है; या

(घ) ऐसे कारखाने, प्रतिष्ठान, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा बही या अन्य दस्तावेज की प्रतियां मांगेगा या उससे संदर्भित अंश प्राप्त करेगा; या

(ङ) ऐसी अन्य शक्तियों का प्रयोग करेगा जो केन्द्रीय सरकार द्वारा विनिर्दिष्ट की जाएं।

3. विनिवेश या निगमीकरण के मामले में, दी गई छूट रद्द कर दी जाएगी और नई इकाई छूट के लिए समुचित सरकार को आवेदन कर सकती है।

[सं. एस-38014/08/2020-एस एस-I)

डी.एम.खरे, अवर सचिव

New Delhi, the 17th January, 2025

S.O. 97.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories and establishments of the Indian Farmers Fertiliser Cooperative Limited from the operation of the said Act for a period of one year from the date of publication of this notification in the Official Gazette.

2. The exemption is subject to the following conditions, namely:-

(a) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees;

(b) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date of exemption;

(c) the contribution for the exempted period, if already paid, shall not be refundable;

(d) the employer of the said factory and establishment shall submit such returns in such forms and containing such particulars as were due from it in respect of the said period during which that factory was subject to the operation under the Employees' State Insurance (General) Regulations, 1950;

(e) a Social Security Officer shall be appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, for the purposes of —

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and for that purpose the establishment may —

(a) require the principal or immediate employer for such information as he may consider necessary for the purpose of the said Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) ask for copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises; or

(e) exercise such other powers as may be specified by the Central Government;

3. In case of disinvestment or corporatisation, the exemption granted shall be cancelled and the new entity may apply to the appropriate Government for exemption.

[No. S-38014/08/2020-SS-I]

D.M. KHARE, Under Secy.

नई दिल्ली, 17 जनवरी, 2025

का.आ. **98.**—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रीय केमिकल्स एंड फर्टीलाइज़र्स लिमिटेड (ट्रॉम्बे यूनिट) के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रवर्तन से छूट प्रदान करती है और यह छूट राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

(क) कारखाना और स्थापना छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेगी;

(ख) कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे छूट की तारीख से पूर्व संदत्त अभिदाय के आधार पर हकदार हो जाते हैं;

(ग) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(घ) उक्त कारखाने और स्थापना का नियोजक उक्त अवधि की बाबत जिसके दौरान वह कारखाना कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन प्रवर्तन के अध्यधीन था, ऐसी विवरणियां, ऐसे प्ररूप में और ऐसी विषिश्टियों से युक्त होगी जो उसे उक्त अवधि की बाबत उससे देय थी, प्रस्तुत करेगा;

(ङ) निगम द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस प्रयोजन के लिए इस निमित्त प्राधिकृत कोई अन्य पदधारी—

(i) उक्त अधिनियम की धारा 44 की उपधारा (1) के अधीन, उक्त अवधि के लिए प्रस्तुत किसी विवरणी में अंतर्विष्ट विशिष्टयों को सत्यापित करने; या

(ii) यह अभिनिश्चयन के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चयन के लिए कि कर्मचारी, नियोजक द्वारा दिये गए उन प्रसुविधाओं को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या

(iv) यह अभिनिश्चयन के लिए कि उस अवधि के दौरान, जब उक्त कारखाने और स्थापन के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा—

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे वह उक्त अधिनियम के प्रयोजन के लिए आवश्यक समझता है ; या

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना; या

(ङ) ऐसी अन्य शक्तियों का प्रयोग करना जो विनिर्दिष्ट दिए जाएँ।

3. उपविनिधान या निगमीकरण की दशा में, प्रदत्त छूट रद्द हो जाएगी और तब नई इकाई को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/15/2020-एस.एस-I]

धीरेंद्र मोहन खरे, अवर सचिव

New Delhi, the 17th January, 2025

S.O. 98.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), herein after referred as the said Act, the Central Government hereby exempts the regular employees of factories and establishments of the M/s Rashtriya Chemical and Fertilizer Limited (Trombay Unit), Mumbai, Maharashtra from the operation of the said Act and the exemption shall be effective for a period of one year from the date of publication of this notification in the Official Gazette.

2. The exemption is subject to the following conditions, namely:-

(a) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees;

(b) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date of exemption;

(c) the contribution for the exempted period, if already paid, shall not be refundable;

(d) the employer of the said factory and establishment shall submit such returns in such forms and containing such particulars as were due from it in respect of the said period to which that factory was subject to the operation under the Employees' State Insurance (General) Regulations, 1950;

(e) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it shall for the purposes of, —

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment may —

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary for the purpose of the said Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register, account,

book or other document maintained in such factory, establishment, office or other premises; or

(e) exercise such other powers as may be specified.

3. In case of disinvestment or corporatisation, the exemption granted shall be cancelled and the new entity may apply to the appropriate Government for exemption.

[No. S-38014/15/2020-SS-I]

D.M. KHARE, Under Secy.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 99.—औधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **इंडियन ओवरसीज बैंक; ग्रुप 2 केयर सर्विसेज प्राइवेट लिमिटेड** के प्रबंधतत्र, संबद्ध नियोजको और उनके **कर्मकार श्री प्राण कुमार पासवान** के बीच अनुबंध में निर्दिष्ट औधोगिक विवाद में केन्द्रीय सरकार औधोगिक अधिकरण/श्रम न्यायालय, **दिल्ली - 1** के पंचाट **(88/2023)** प्रकाशित करती है।

[सं. एल-12011/22/2023-आई.आर. (बी-II)**]**

सलोनी, उप निदेशक

New Delhi, the 20th January, 2025

S.O. 99.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 88/2023*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Delhi-1*** as shown in the Annexure, in the industrial dispute between the management of **Indian Overseas Bank; Group 2 Care Services Private Limited** and **Sh. Pran Kumar Paswan.**

[No. L-12011/22/2023– IR (B-II)]

SALONI , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No. 88/2023

Sh. Pran Kumar Paswan S/o Sh. Uday Kumar Paswan,

Through All India General Mazdoor Trade Union,

170- Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi-110019.

Workman…

Versus

1. The Branch Manager,
   Indian Overseas Bank, 1-107 A Ground Floor,
   Block-1, Kirti Nagar, New Delhi-110015.
2. Group 2 Care Services Private Limited,
   Through its Directors, I-144, Basement,
   Jangpura Extension, New Delhi-110014.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-12011/22/2023 (IR(B-II)) dated 13.03.2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the demand raised by All India General Mazdoor Trade Union vide letter dated 15.12.2021 regarding termination of services of Sh. Pran Kumar Paswan S/o Sh. Uday Kumar Paswan by the management of Indian Overseas Banks and others is legal, proper and justified? If yes, what relief the Shri Pran Kumar Paswan is entitled to and what other directions, if any, are necessary in this matter?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA, Retired Judge, Allahabad High Court Presiding Officer

Date: 07.11.2024

नई दिल्ली, 20 जनवरी, 2025

का.आ. 100.—औघोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केनरा बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके **कर्मकार श्री विनय कुमार** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **दिल्ली - 1** के पंचाट **(282/2022)** प्रकाशित करती है।

[सं. एल-12011/91/2022-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 20th January, 2025

S.O. 100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 282/2022)** of the ***Central Government Industrial Tribunal-cum-Labour Court Delhi-1*** as shown in the Annexure, in the industrial dispute between the management of **Canara Bank** and **Sh. Vinay Kumar.**

[No. L-12011/91/2022– IR (B-II)]

SALONI , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No. 282/2022

Sh. Vinay Kumar and 9 others,

Through All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi-110019.

Workman…

Versus

1. The Managing Director & CEO,

   Canara Bank,

   112, JC Road, PB No. 6684, Bangalore-560002.

2. The Assistant General Manager,

   Canara Bank,

   8th Floor, Ansal Tower, 38, Nehru Place, New Delhi-110019.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-12011/91/2022 (IR(B-II)) dated 31.10.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the demand of General Secretary, All India General Mazdoor Trade Union, New Delhi from the management of Canara Bank in respect of Sh. Vinay Kumar and 9 others (List attached as Annexure-A) for regularizing their services with retrospective effect form the date of their initial appointment and to pay the salary and benefits at par with their regular counterparts on the principle of equal pay for equal work form the date of their joining and entire consequent difference of the arrears of wages till the date of their actual regularization along with all other consequential benefits monetary or otherwise is proper, legal and justified? If yes, to what relief these workmen concerned are entitled and what directions are necessary in this respect?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA, Retired Judge, Allahabad High Court Presiding Officer

Date: 07.11.2024

नई दिल्ली, 20 जनवरी, 2025

का.आ. 101.— औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **एम.एस. डिविजनल अस्पताल उत्तर रेलवे** के प्रबंधतत्र, संबद्ध नियोजको और उनके **कर्मकार श्री सोनू कुमार**के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **दिल्ली-1** के पंचाट **(208/2023)** प्रकाशित करती है।

[सं. एल-39025/01/2024-आई.आर. (बी-II)-48]

सलोनी, उप निदेशक

New Delhi, the 20th January, 2025

S.O. 101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 208/2023*)*** of the ***Central Government Industrial Tribunal-cum-***

Labour Court ***Delhi-1*** as shown in the Annexure, in the industrial dispute between the management of **The M.S. Divisional Hospital Northern Railway** and **Sh. Sonu Kumar.**

[No. L-39025/01/2024– IR (B-II)-48]

SALONI , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No. 208/2023

Sh. Sonu Kumar S/o Sh. Jagbir Singh (Fouji),

R/o A-371 C, Anandpur Dham Colony, Village-Kerala,

Delhi-110081.

Workman…

Versus

The M.S. Divisional Hospital Northern Railway,

New Delhi-110001.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. ND-96(23)/ID(2A)2023-DYCLC dated 16.08.2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the demand of Sh. Sonu Kumar S/o Sh. Jagbir Singh, Lab Technician, workman for reinstatement against the management of Divisional Hospital Northern Railway, New Delhi is justified, fair and legal and if yes, then what relief the workman is entitled to?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA Retired Judge, Allahabad High Court Presiding Officer

Date: 07.11.2024

नई दिल्ली, 20 जनवरी, 2025

का.आ. 102.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, भारत संचार निगम लिमिटेड, अहमदनगर, महाराष्ट्र; मैसर्स एकॉर्ड सिक्योरिटी एंड अलाइड सर्विसेज प्रा. लिमिटेड,सीबीडी बेलापुर, नवी मुंबई, मुंबई,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री भास्कर नारायण गाडेकर और**

5 अन्य, कामगार, के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय,अहमदनगर, पंचाट (संदर्भ संख्या Reference (I.T) No.02/2019(CNR-MHLC-160000682019)**को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/18/2018-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 102.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference(I.T)No.02/2019(CNR-MHLC-160000682019)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Bharat Sanchar Nigam Ltd., Ahmednagar, Maharashtra ; M/s. Accord Security and Allied Services Pvt. Ltd., CBD Belapur, Navi Mumbai, Mumbai, and Shri Bhaskar Narayan Gadekar and 5 Ors.,Worker,**which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/18/2018– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 02 / 2019.

(CNR – MHIC-160000682019)

1. The General Manager,
Bharat Sanchar Nigam Ltd.
DTO Compound Near GPO,
Ahmednagar, Maharashtra – 414001.

2. M/s. Accord Security and Allied Services Pvt. Ltd.,
13, Punit Tower No. 1, Plot No. 31,
Sec – 11, CBD Belapur,
Navi Mumbai, Mumbai – 400614. … **First Party.**

VERSUS

Bhaskar Narayan Gadekar and 5 Ors.,
Plot No. 3, Shivajinagar, Renuka
Mata Colony, Kedgaon,
Dist. Ahmednagar – 414001. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.
Shri. K. Y. Modgekar, Ld. Adv. for Second Party.

AWARD

(Delivered on 30/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication.

2. The dispute between the parties as per the terms of Reference and Order dated 12.02.2019 is Scheduled as follows :-

"Whether the Industrial Dispute raised by Sh. Bhaskar Narayan Gadekar and 05 others as per annexure-A against M/s. Accord Security and Allied Services Pvt. Lid. (Contractor) and the BSNL, Ahmednagar, Maharashtra (Principal Employer) seeking for permanency/ regularization, with continuity of service and full back wages is an industrial dispute under section 2(k) of ID Act, 1947 and the workmen who have raised the dispute are workmen under section 2(s) of ID Act, 1947? 2. whether the various contracts awarded by the principal employer i.e. BSNL Ahmednagar Maharashtra in favour of contractors since 1999 for hiring of security, cable laying etc are valid in law? 3. whether the appointment of Contractor since 2003 for various

contracts like security, cable laying etc are valid in law. 4.whether the applicant workmen as per Annexure `A` are the employees of the M/s. Accord Security and Allied Services Pvt. Ltd. (Contractor) or the Principal Employer i.e. BSNL Ahmednagar? 5. Whether there are any violations of labour laws like minimum wages Act, 1948, the Contract labour (R&A) Act, 1970 and the equal remuneration Act, 1976 by M/s. Accord Security and Allied services Pvt. Ltd. (Contractor) and the Principal Employer i.e. BSNL, Ahmednagar? 6. whether the claim of the applicant workmen as per Annexure A for permanency/regularization with continuity of service and full back wages in Bharat Sanchar Nigam Ltd. is legal, justified and proper? and if yes, the relief entitled thereto?"

3. Second Party to the Reference / Workmen have filed Statement of Claim at Exh. U-5, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work.

4. The Second Party – Workmen submits that they were in employment with the First Party – Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), as Security Guard since 2003. The nature of work performed by them is permanent and they are in continuous service with the BSNL since 2003. They have completed continuous service of 240 days in each year during their service tenure.

5. It is submitted that the Second Party – Workmen were appointed by the BSNL and also they were allotted work by the BSNL. They were paid wages by the BSNL and their work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party – Workmen were paid only Rs. 14,570/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party – Workmen were shown to have been appointed through various Contractors. However, the Second Party – Workmen submits that they were employees of the BSNL. Juniors to the Second Party – Workmen are still in service. Therefore, the Second Party – Workmen submits that grant them permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-5, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party – Workmen are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party – Workmen were never appointed by the BSNL, nor they were specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party – Workmen.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing cable maintenance / line maintenance / housekeeping. The Second Party – Workmen were appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party – Workmen as well as pay their salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party – Workmen were engaged through independent Contractor and discharging work as a Contract labourers for temporary duration, they are not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party – Workmen cannot be treated as its employees.

9. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-11, and I have given my findings on them, for the reasons stated below, are as under :-

Sr. No.	Issues	Findings
1.	Whether demand of the Second Party Workmen is legal and proper?	No.
2.	Whether the Second Party workmen are entitled for the reliefs as prayed for?	No.
3.	What Award?	As per final Award.

REASONS

<u>As to Issue Nos. 1 to 3 :-</u>

10. The Second Party / Workmen did not appear in the matter after the Written Statement was filed. The Second Party / Workmen were granted with ample and reasonable opportunity. The matter is old and was at the same stage, awaiting evidence of the Second Party. However, since there was no presence of the Second Party, the matter is taken

up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 14.11.2024. Even today when the matter was called from time to time, the Second Party - Workmen did not appear in the matter.

11. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of their contentions in the Statement of Claim and notice of demand, the Second Party – Workmen have not filed any documentary evidence on record. There is no oral evidence led by the Second Party – Workmen to substantiate their claim.

12. Perusal of documents filed by the BSNL on record shows that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party – Workmen in terms of employer-employee relationship with the BSNL. Therefore, the Second Party – Workmen have failed to prove employer-employee relationship between themselves and the BSNL.

13. The Second Party – Workmen have claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workmen, the Second Party – Workmen are not entitled for any relief as claimed.

14. In view of the above, Issue Nos. 1 and 2 are answered in negative, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

Date : 30.11.2024.

Argued on: 30.11.2024.

Judgment dictated on : 30.11.2024.

Judgment transcribed on: 02.12.2024.

Judgment checked & signed on: 02.12.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मालिक, जयसवाल इंटरप्राइजेज, नासिक (महाराष्ट्र); संभागीय अभियंता, भारत संचार निगम लिमिटेड, राहाटा, अहमदनगर, महाप्रबंधक, भारत संचार निगम लिमिटेड, अहमदनगर, महाराष्ट्र,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री संदीप पांडुरंग दिवेकर, कामगार,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर,पंचाट(संदर्भ संख्या Reference (I.T)No.03/2019(CNR-MHLC-160000692019)** को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/18/2018-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 103.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference(I.T)No.03/2019(CNR-MHLC-160000692019)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to T**he Proprietor, Jaiswal Enterprises, Nasik (Maharashtra);The Divisional Engineer, Bharat Sanchar Nigam Ltd., Rahata, Ahmednagar, The General Manager, Bharat Sanchar Nigam Ltd., Ahmednagar, Maharashtra , and Shri Sandip Pandurang Divekar,Worker,** which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/18/2018– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 03/2019.

(CNR – MHIC-160000692019)

1. The Proprietor,
   Jaiswal Enterprises,
   A-52, Pragati Housing Society,
   Vrundavannagar, Adgaon,
   Opp. Jatra Hotel,
   Nasik (Maharashtra) – 422004.
2. The Divl. Engineer,
   Bharat Sanchar Nigam Ltd.,
   DAT Office, Post – Shridi,
   Tal. Rahata, Dist. Ahmednagar – 414001.
3. The General Manager,
   Bharat Sanchar Nigam Ltd.,
   DTO Compound Near GPO,
   Ahmednagar, Maharashtra – 414001. … **First Party.**

VERSUS

Sandip Pandurang Divekar,
Age : 36 years, Occu. : Nil,
R/o. Post – Khadki,
Tal. Kopragaon,
Dist. Ahmednagar – 414001. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.
Shri. K. Y. Modgekar, Ld. Adv. for Second Party.
(V.P. withdrawn after filing Statement of Claim)

AWARD

(Delivered on 15/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication. Initially, the dispute was referred to the Industrial Tribunal, Pune (Maharashtra). However, vide order dated 06.06.2019 in Transfer Application, the Hon'ble President, Industrial Court, Maharashtra, Mumbai has transferred the matter to this Industrial Tribunal.

2. The dispute between the parties as per the terms of Reference and Order dated 11.02.2019 is Scheduled as follows :-

> *"Whether the Industrial dispute raised by Sh. Sandip Pandurang Divekar against M/s Jaiswal Enterprises, Nasik (Contractor) and the BSNL, Ahmednagar, Maharashtra (Principal Employer) seeking for permanency / regularization, with continuity of services and full back wages is an industrial dispute under Section 2(k) of ID Act 1947 and the workman who has raised the dispute is a workman under Section 2(S) of ID Act 1947? 2. Whether the various Contract awarded by the Principal Employer ie. BSNL Ahmednagar Maharashtra in favour of contractor since 2006 for hiring of security, cable laying, electricians etc. are valid in law? 3. Whether the appointment of Contractor since 2006 for various contracts like security, cable laying, electricians is valid in law. 4. Whether the applicant workman is an employee of M/s Jaiswal Enterprises,*

Nasik, (Contractor) or the Principal Employer i.e. BSNL Ahmednagar? 5. Whether there are any violations of labour laws like Minimum Wages Act, 1948, the Contract Labour (R&A) Act, 1970 and the Equal Remuneration Act, 1976 by M/s. Jaiswal Enterprises, Nasik (Contractor) and the Principal Employer i.e. BSNL, Ahmednagar? 6. Whether the claim of the applicant workman for permanency/regularization with continuity of service and full back wages in BSNL is legal, justified and proper? and if yes, the relief entitled thereto?"

3. Second Party to the Reference / Workman has filed Statement of Claim at Exh. U-2, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work. It is also claimed by the Second Party that his oral termination since 01.07.2018 be set aside and he may be reinstated in service with continuity and full back wages.

4. The Second Party submits that he was in employment with the First Party No. 2 i.e. Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), in its Kopargaon Division as Electrician, since 24.02.2002. The nature of work performed by him is permanent and he is in continuous service with the BSNL since 24.02.2002 till 01.07.2018, when he was orally terminated from service. He has completed continuous service of 240 days in each year during his service tenure.

5. It is submitted that the Second Party was appointed by the BSNL and also he was allotted work by the BSNL. He was paid wages by the BSNL and his work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party was paid only Rs. 8,000/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party was shown to have been appointed through various Contractors. However, the Second Party submits that he was an employee of the BSNL. Since 01.07.2018, the Second Party is not allotted with any work and hence, he was orally terminated from service without any notice or compensation as required by the law. Juniors to the Second Party are still in service. Therefore, the Second Party submits that his termination be set aside by granting him reinstatement, continuity and full back wages along with grant of permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-4, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party was never appointed by the BSNL, nor he was specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing cable maintenance / line maintenance / housekeeping. The Second Party was appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party as well as pay his salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party was engaged through independent Contractor and discharging work as a Contract labourer for temporary duration, he is not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party cannot be treated as its employee.

9. The First Party No. 1 i.e. Jaiswal Enterprises has appeared, but failed to file its Say / Written Statement. Hence, the matter was proceeded further without Written Statement of the First Party No. 1 vide order below Exh. U-1 dated 17.05.2023.

10. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-2, and I have given my findings on them, for the reasons stated below, are as under :-

Sr. No.	Issues	Findings
1.	Whether demand of the Second Party Workman is legal and proper?	No.
2.	Whether the Second Party is entitled for the reliefs as prayed for?	No.
3.	What Award?	As per final Award.

REASONS

As to Issue Nos. 1 to 3 :-

11. The Second Party / Workman did not appear in the matter after the Written Statement was filed. The Second Party / Workman was granted with ample and reasonable opportunity. The matter is old and was at the same stage, awaiting evidence of the Second party. However, since there was no presence of the Second Party, the matter is taken up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 05.10.2024. Even today when the matter was called from time to time, the Second Party did not appear in the matter.

12. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of his contentions in the Statement of Claim and notice of demand, the Second Party has not filed any documentary evidence on record. There is no oral evidence led by the Second Party to substantiate his claim.

13. The BSNL has filed documents on record to show that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party in terms of employer-employee relationship with the BSNL. Therefore, the Second Party has failed to prove employer-employee relationship between himself and the BSNL.

14. The Second Party has claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workman, the Second Party is not entitled for any relief as claimed.

15. In view of the above, Issue Nos. 1 and 2 are answered in negative, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative.

16. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member,

Date : 15.11.2024.

Argued on: 15.11.2024.

Judgment dictated on : 15.11.2024.

Judgment transcribed on: 15.11.2024.

Judgment checked & signed on: 15.11.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मालिक, जयसवाल इंटरप्राइजेज, नासिक (महाराष्ट्र); संभागीय अभियंता, भारत संचार निगम लिमिटेड, राहाटा, अहमदनगर, महाप्रबंधक, भारत संचार निगम लिमिटेड, अहमदनगर, महाराष्ट्र,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री तौफीक शफीक शेख,** कामगार, के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर, पंचाट (संदर्भ संख्या Reference (I.T) No. 04/2019 (CNR-MHLC-160000702019)** को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/13/2018-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 104.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference (I.T) No. 04/2019(CNR-MHLC-160000702019)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in

relation to T**he Proprietor, Jaiswal Enterprises, Nasik (Maharashtra);The Divisional Engineer, Bharat Sanchar Nigam Ltd., Rahata, Ahmednagar, The General Manager, Bharat Sanchar Nigam Ltd., Ahmednagar, Maharashtra , and Shri Taufik Shafik Shaikh, Worker,** which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/13/2018– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 04/2019.

(CNR – MHIC-160000702019)

1. The Proprietor,
   Jaiswal Enterprises,
   A-52, Pragati Housing Society,
   Vrundavannagar, Adgaon,
   Opp. Jatra Hotel,
   Nasik (Maharashtra) – 422004.
2. The Divl. Engineer,
   Bharat Sanchar Nigam Ltd.,
   DAT Office, Post – Shridi,
   Tal. Rahata, Dist. Ahmednagar – 414001.
3. The General Manager,
   Bharat Sanchar Nigam Ltd.,
   DTO Compund Near GPO,
   Ahmednagar, Maharashtra – 414001. … **First Party.**

VERSUS

Taufik Shafik Shaikh,

Age : 34 years, Occu. : Nil,

R/o. Post – Tilaknagar,

Tal. Kopragaon, Dist. Ahmednagar,

Ahmednagar – 414001. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.

Shri. K. Y. Modgekar, Ld. Adv. for Second Party.

AWARD

(Delivered on 15/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication. Initially, the dispute was referred to the Industrial Tribunal, Pune (Maharashtra). However, vide order dated 06.06.2019 in Transfer Application, the Hon'ble President, Industrial Court, Maharashtra, Mumbai has transferred the matter to this Industrial Tribunal.

2. The dispute between the parties as per the terms of Reference and Order dated 12.02.2019 is Scheduled as follows :-

> *"Whether the Industrial dispute raised by Sh. Taufik Shafik Shaikh against M/s Jaiswal Enterprises, Nasik (Contractor) and the BSNL, Ahmednagar, Maharashtra (Principal Employer) seeking for permanency/ regularization, with continuity of services and full back wages is an industrial dispute under Section 2(k) of*

ID Act 1947 and the workman who has raised the dispute is a workman under Section 2(S) of ID Act 1947? 2. Whether the various Contract awarded by the Principal Employer ie. BSNL Ahmednagar Maharashtra in favour of contractor since 2006 for hiring of security, cable laying, electricians etc. is valid in law? 3. Whether the appointment of Contractor since 2006 for various contracts like security, cable laying, electricians are valid in law. 4. Whether the applicant workman is an employee of M/s Jaiswal Enterprises, Nasik, (Contractor) or the Principal Employer ie. BSNL Ahmednagar? 5. Whether there are any violations of labour laws like Minimum wages Act 1948, the Contract labour (R&A) Act 1970 and the Equal remuneration Act 1976 by M/s Jaiswal Enterprises, Nasik (Contractor) and the Principal Employer ie. BSNL, Ahmednagar? 6. Whether the claim of the applicant workman for permanency/regularization with continuity of service and full back wages in BSNL is legal, justified and proper? If yes, the relief entitled thereto?"

3. Second Party to the Reference / Workman has filed Statement of Claim at Exh. U-2, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work. It is also claimed by the Second Party that his oral termination since 01.07.2018 be set aside and he may be reinstated in service with continuity and full back wages.

4. The Second Party submits that he was in employment with the First Party No. 2 i.e. Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), in its Shirdi Division as Electrician, since 01.01.2006. The nature of work performed by him is permanent and he is in continuous service with the BSNL since 01.01.2006 till 01.07.2018, when he was orally terminated from service. He has completed continuous service of 240 days in each year during his service tenure.

5. It is submitted that the Second Party was appointed by the BSNL and also he was allotted work by the BSNL. He was paid wages by the BSNL and his work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party was paid only Rs. 8,000/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party was shown to have been appointed through various Contractors. However, the Second Party submits that he was an employee of the BSNL. Since 01.07.2018, the Second Party is not allotted with any work and hence, he was orally terminated from service without any notice or compensation as required by the law. Juniors to the Second Party are still in service. Therefore, the Second Party submits that his termination be set aside by granting him reinstatement, continuity and full back wages along with grant of permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-9, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party was never appointed by the BSNL, nor he was specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing cable maintenance / line maintenance / housekeeping. The Second Party was appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party as well as pay his salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party was engaged through independent Contractor and discharging work as a Contract labourer for temporary duration, he is not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party cannot be treated as its employee.

9. The First Party No. 1 i.e. Jaiswal Enterprises has also made submissions at Exh. C-8. It is submitted that the Second Party was working under the Contract entered between Jaiswal Enterprises and the BSNL on job work basis. During the period of contract, the Second Party was paid all the legal monetary benefits. Since the contract was for a specific period, after end of the contract, no work was provided to the Second Party in connection with the BSNL. However, it is submitted that the Second Party can approach the Contractor, and he may be provided work at different places in execution of other Contract.

10. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-12, and I have given my findings on them, for the reasons stated below, are as under :-

Sl. No.	Issues	Findings
1.	Whether the Reference is maintainable?	Yes.
2.	Whether there exists employer-employee relationship in between First Party	Partly Yes. Employer-

	and Second Party?	employee relationship between Jaiswal Enterprises and the Second Party exists.
3.	Does the Second Party prove that, the First Party has illegally and improperly terminated his services w.e.f. 01.07.2018?	No.
4.	Whether the Second Party is entitled for the relief claimed?	No.
5.	What Award?	As per final Award.

REASONS

As to Issue Nos. 1 to 5 :-

11. The Second Party / Workman did not appear in the matter after the Written Statement was filed. The Second Party/ Workman was granted with ample and reasonable opportunity. The matter is old and was at the same stage, awaiting evidence of the Second party. However, since there was no presence of the Second Party, the matter is taken up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 05.10.2024. Even today when the matter was called from time to time, the Second Party did not appear in the matter.

12. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of his contentions in the Statement of Claim and notice of demand, the Second Party has not filed any documentary evidence on record. There is no oral evidence led by the Second Party to substantiate his claim.

13. The Contractor has filed documents on record, as per which the Second Party was paid Rs. 8,000/- per month by the Contractor along with contribution of Employees Provident Fund and Employees State Insurance. The documents on record exhibits that the Second Party was paid salary by the Contractor. Hence, it can be held that there is relationship of employer-employee between the First Party No. 1 i.e. Jaiswal Enterprises and the Second Party. Thus, the present Reference is maintainable against the First Party No. 1 i.e. Contractor. Hence, issue No. 1 is answered in affirmative.

14. The BSNL has also filed documents on record to show that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party in terms of employer-employee relationship with the BSNL. Therefore, the Second Party has failed to prove employer-employee relationship between himself and the BSNL.

15. The Second Party has claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workman, the Second Party is not entitled for any relief as claimed.

16. In view of the above, Issue Nos. 2 to 4 are answered accordingly, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 5, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

Date : 15.11.2024.

Argued on: 15.11.2024.

Judgment dictated on : 15.11.2024.

Judgment transcribed on: 15.11.2024.

Judgment checked & signed on: 15.11.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मालिक, कुमार और ब्रदर्स, सांगोम, नालासोपारा (पूर्व) पालघर, ठाणे, महाराष्ट्र; महाप्रबंधक, भारत संचार निगम लिमिटेड, अहमदनगर, महाराष्ट्र,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री विश्वनाथ काशीनाथ गवारे, कामगार,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर, पंचाट (संदर्भ संख्या Reference (I.T) No. 09/2018 (CNR-MHLC-160000382018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/21/2017-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 105.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference (I.T) No. 09/2018 (CNR-MHLC-160000382018)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to The Proprietor, Kumar and Bros, Sangom, Nalasopara (East) Palghar, Thane, Maharashtra ;**The General Manager, Bharat Sanchar Nigam Ltd., Ahmednagar, Maharashtra , and Shri Vishwanath Kashinath Gaware, Worker,** which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/21/2017– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 09 / 2018.

(CNR – MHIC-160000342018)

1. Sh. Anand Dubey,
   Proprietor,
   Kumar and Bros, Sangom,
   A-104, Achole Road,
   Gangavihar Complex,
   Nalasopara (East) Palghar,
   Thane, Maharashtra – 401209.

2. The General Manager,
   BSNL, DTO Compound Near GPO,
   Ahmednagar, Maharashtra – 400022. … **First Party.**

VERSUS

Vishwanath Kashinath Gaware,
Post Sirajgaon, Tal. Shrirampur,
Dist. Ahmednagar, Savedi,
Ahmednagar, Maharashtra – 400022. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.

Shri. K. Y. Modgekar, Ld. Adv. for Second Party.

AWARD

(Delivered on 30/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication.

2. The dispute between the parties as per the terms of Reference and Order dated 08.02.2018 is Scheduled as follows :-

"1) Whether the demand raised by Vishwanath Kashinath Gaware seeking reinstatement in the services of the BSNL, Ahmednagar, Maharashtra with continuity of service and full back wages is legal and justified and Whether the various Contracts awarded by the Principal Employer and the contractors appointed by BSNL Ahmednagar Maharashtra since 2000 are valid in law? What directions are necessary in the case and what relief is the workman entitled thereto?"

3. Second Party to the Reference / Workman has filed Statement of Claim at Exh. U-4, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work.

4. The Second Party – Workman submits that he was in employment with the First Party – Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), as Cable Maintenance and House Keeping Workman, since 2000. The nature of work performed by him is permanent and he is in continuous service with the BSNL since the year 2000. He has completed continuous service of 240 days in each year during his service tenure.

5. It is submitted that the Second Party – Workman was appointed by the BSNL and also he was allotted work by the BSNL. He was paid wages by the BSNL and his work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party – Workman was paid only Rs. 3,500/- to 4,000/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party – Workman was shown to has been appointed through various Contractors. However, the Second Party – Workman submits that he was employee of the BSNL. Juniors to the Second Party – Workman are still in service. Therefore, the Second Party – Workman submits that grant him permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-5, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party – Workman are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party – Workman was never appointed by the BSNL, nor he was specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party – Workman.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing security services. The Second Party – Workman was appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party – Workman as well as pay his salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party – Workman was engaged through independent Contractor and discharging work as a Contract labourer for temporary duration, he is not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party – Workman cannot be treated as its employee.

9. Considering the above facts and circumstances, following Issues arise for my determination and my findings on them, for the reasons stated below, are as under :-

Sr. No.	Issues	Findings
1.	Whether there exists employer employee relation between First Party and Second Party?	No.
2.	Whether the Second Party workman is entitled for permanency / regularization with continuity in service with full back wages, and other reliefs as claimed for?	No.
3.	What Award?	As per final Award.

REASONS

As to Issue Nos. 1 to 3 :-

10. The Second Party / Workman did not appear in the matter after the Written Statement was filed. The Second Party/Workman was granted with ample and reasonable opportunity to appear and proceed further in the matter. The matter is old and was at the same stage. However, since there was no presence of the Second Party, the matter is taken up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 14.11.2024. Even today when the matter was called from time to time, the Second Party – Workman did not appear in the matter.

11. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of his contentions in the Statement of Claim and notice of demand, the Second Party – Workman has not filed any documentary evidence on record. There is no oral evidence led by the Second Party – Workman to substantiate his claim.

12. The BSNL has filed documents on record to show that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party – Workman in terms of employer-employee relationship with the BSNL. Therefore, the Second Party – Workman has failed to prove employer-employee relationship between himself and the BSNL.

13. The Second Party – Workman has claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workman, the Second Party – Workman is not entitled for any relief as claimed.

14. In view of the above, Issue Nos. 1 and 2 are answered in negative, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

Date : 30.11.2024.

Argued on: 30.11.2024.

Judgment dictated on : 30.11.2024.

Judgment transcribed on: 02.12.2024.

Judgment checked & signed on: 02.12.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, भारत संचार निगम लिमिटेड, बीएसएनएल), अहमदनगर, महाराष्ट्र, अहमदनगर; मालिक, अनुजा सर्विसेज, राहाता, अहमदनगर; मालिक, सिएना बिल्डकॉन, कोठी रोड, अहमदनगर, मालिक, एस एन एंटरप्राइजेज, सवेदी, अहमदनगर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री किशन जगन्नाथ यादव, और अन्य–13, कामगार,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर, पंचाट (संदर्भ संख्या Reference (I.T) No.13/2018 (CNR-MHLC-160000592018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/20/2017-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 106.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference(I.T) No. 13/2018(CNR-MHLC-160000592018)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Bharat Sanchar Nigam Limited, BSNL), Ahmednagar, Maharashtra, Ahmednagar ;The Proprieter, Anuja Services, Rahata, Ahmednagar; The Proprieter, Siena Buildcon, Kothi Road,Ahmednagar ; The Proprieter, S N Enterprises, Savedi, Ahmednagar, and Shri Kishan Jagannath Yadav, and others–13, Worker,** which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/20/2017– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 13 / 2018.

(CNR – MHIC-160000592018)

1. The General Manager,
   Bharat Sanchar Nigam Limited,
   (BSNL), DTO Compound Near GPO,
   Ahmednagar, Maharashtra,
   Ahmednagar – 414001.
2. The Proprieter,
   Anuja Services,
   Gate No. 34/2, Kolhar Budruk,
   Tal. Rahata, Ahmednagar,
   Ahmednagar – 413736.
3. The Proprieter,
   Siena Buildcon,
   Gate No. 38, Bhajipala
   Marketyard, Kothi Road,
   Ahmednagar,
   Ahmednagar – 414001.
4. The Proprieter,
   S N Enterprises,
   Plot No. 15, Sambhaji Nagar,
   Pipeline Road, Savedi, Ahmednagar,
   Ahmednagar – 414003. … **First Party.**

VERSUS

1. Kishan Jagannath Yadav,
   Age : 46 years, Occu. : Service,
   R/o. At Post – Shirasgaon,
   Tq. Shrirampur, Dist. Ahmednagar,
   and others – 13. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.

Shri. K. Y. Modgekar, Ld. Adv. for Second Party.

AWARD

(Delivered on 15/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication.

2. The dispute between the parties as per the terms of Reference and Order dated 21.03.2018 is Scheduled as follows :-

> *"1) Whether Sh. Kisan J. Yadav and 13 others (details as per Annex A) can be considered as workman under ID Act? 2) Whether their demand of regularisation fo services can be considered as a dispute under ID Act? 3) And if so, whether the demand of these workers, who have been working since 1999 as claimed, for regularisation with payment of back wages, is legal and justified? if yes, what relief these workmen are entitled to?"*

3. Second Party to the Reference / Workmen have filed Statement of Claim at Exh. U-6, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work.

4. The Second Party – Workmen submits that they were in employment with the First Party – Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), as Cable Maintenance Worker, since 25.12.1989. The nature of work performed by them is permanent and they are in continuous service with the BSNL since 25.12.1989. They have completed continuous service of 240 days in each year during their service tenure.

5. It is submitted that the Second Party – Workmen were appointed by the BSNL and also they were allotted work by the BSNL. They were paid wages by the BSNL and their work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party – Workmen were paid only Rs. 5,500/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party – Workmen were shown to have been appointed through various Contractors. However, the Second Party – Workmen submits that they were employees of the BSNL. Juniors to the Second Party – Workmen are still in service. Therefore, the Second Party – Workmen submits that grant them permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-12, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party – Workmen are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party – Workmen were never appointed by the BSNL, nor they were specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party – Workmen.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing cable maintenance / line maintenance / housekeeping. The Second Party – Workmen were appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party – Workmen as well as pay their salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party – Workmen were engaged through independent Contractor and discharging work as a Contract labourers for temporary duration, they are not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party – Workmen cannot be treated as its employees.

9. The First Party No. 2 i.e. Anuja Services and First Party No. 4 i.e. S.N. Enterprises have also made submissions respectively at Exh. C-3 and C-2. It is submitted that the Second Party – Workmen were working under the Contract entered between them and the BSNL on job work basis. During the period of contract, the Second Party – Workmen were paid all the legal monetary benefits. Since the contract was for a specific period, after end of the contract, no work was provided to the Second Party – Workmen in connection with the BSNL.

10. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-11, and I have given my findings on them, for the reasons stated below, are as under :-

Sl. No.	Issues	Findings
1.	Whether demand of the Second Party Workmen is legal and proper?	No.
2.	Whether the Second Party workmen are entitled for the reliefs as prayed for?	No.
3.	What Award?	As per final Award.

REASONS

As to Issue Nos. 1 to 3 :-

11. The Second Party / Workmen did not appear in the matter after the Written Statement was filed. The Second Party / Workmen were granted with ample and reasonable opportunity. The matter is old and was at the same stage, awaiting evidence of the Second Party. However, since there was no presence of the Second Party, the matter is taken up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 05.10.2024. Even today when the matter was called from time to time, the Second Party - Workmen did not appear in the matter.

12. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of their contentions in the Statement of Claim and notice of demand, the Second Party – Workmen have not filed any documentary evidence on record. There is no oral evidence led by the Second Party – Workmen to substantiate their claim.

13. The First Party Nos. 2 and 4 i.e. Contractors have also admitted that they are entering into the agreement with the BSNL by following due process of law of the Contract though tendering procedure, which is open to all registered Contractors, and the Second Party – Workmen were deployed by them as per the scope and terms and conditions of the work, which is only job work basis. They have paid wages to the Second Party – Workmen as per the Minimum Wages Act which included Provident Fund, Bonus, etc.

14. The BSNL has filed documents on record to show that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party – Workmen in terms of employer-employee relationship with the BSNL. Therefore, the Second Party – Workmen have failed to prove employer-employee relationship between themselves and the BSNL.

15. The Second Party – Workmen have claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workmen, the Second Party – Workmen are not entitled for any relief as claimed.

16. In view of the above, Issue Nos. 1 and 2 are answered in negative, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

Date : 15.11.2024.

Argued on: 15.11.2024.

Judgment dictated on : 15.11.2024.

Judgment transcribed on: 15.11.2024.

Judgment checked & signed on: 15.11.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, भारत संचार निगम लिमिटेड, बीएसएनएल), अहमदनगर, महाराष्ट्र; मालिक, वर्ल्ड वाइड सिक्योरिटी ऑर्गनाइजेशन, भोपाल, मध्य प्रदेश; मालिक, सन सिक्योरिटी सर्विसेज, परमार नगर नंबर 3, पुणे,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सदानंद दत्त सिंह और 21 अन्य, कामगार,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर, पंचाट (संदर्भ संख्या Reference (I.T) No.14/2018(CNR-MHLC-160000612018)** को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2025 को प्राप्त हुआ था।

[सं. एल- 40012/19/2017-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 107.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference (I.T) No.14/2018(CNR-MHLC-160000612018)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Bharat Sanchar Nigam Limited, BSNL), Ahmednagar, Maharashtra, The Proprietor, World Wide Security Orgn.,Bhopal, Madhya Pradesh; The Proprietor, Sun Security Services, Parmarnagar No. 3, Pune, and Shri Sadanand Datta Singh and 21 others, Worker,** which was received along with soft copy of the award by the Central Government on 17.01.2025.

[No. L-40012/19/2017– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR.

BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 14 / 2018.

(CNR – MHIC-160000612018)

1. The General Manager,
   (BSNL), DTO Compound Near GPO,
   Ahmednagar, Maharashtra.
2. Capt. V.P. Singh (Retd.),
   Proprietor,
   World Wide Security Orgn.,
   Plot No. 6, Sector-B,
   Vidyanagar Petrol Pump,
   MPEB Office, Bhopal,
   Madhya Pradesh – 262028.
3. Col. Ashok Kumar Mago,
   Proprietor,
   Sun Security Services,
   Surve No. 67,
   1st Floor, Parmarnagar No. 3,
   Pune – 411013. … **First Party.**

VERSUS

1. Sadanand Datta Singh and 21 others,

C/o. Adv. K.Y. Modgekar,

301, Ambarapartment,

Nagar Manmad Road, Savedi,

Ahmednagar – 414001. … **Second Party.**

APPEARANCE :- Shri. A. V. Patil, Ld. Adv. for First Party.

Shri. K. Y. Modgekar, Ld. Adv. for Second Party.

AWARD

(Delivered on 15/11/2024)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication.

2. The dispute between the parties as per the terms of Reference and Order dated 08.02.2018 is Scheduled as follows :-

"1) Whether the industrial dispute raised by Sh. Sadanand Datta Singh and 21 others as per Annexure-A against M/s. World Wide Security Organisation (Contractor), M/s. Sun Security Services,(Contractor) and the BSNL, Ahmednagar, Maharashtra (Principal Employer) seeking permanency / regularization with continuity in service with full back wages is an industrial dispute? Whether the various Contracts awarded by BSNL the Principal Employer and the Contractors since 1999 are valid in law? Whether there are any violations of Labour Laws by the Principal Employer and contractors? And if so, what relief they are entitled thereto?"

3. Second Party to the Reference / Workmen have filed Statement of Claim at Exh. U-9, claiming the relief of permanency along with consequential benefits, and also reliefs on the basis of equal pay for equal work.

4. The Second Party – Workmen submits that they were in employment with the First Party – Bharat Sanchar Nigam Limited (for short, hereinafter referred to as 'the BSNL'), as Gunman, since 25.12.1989. The nature of work performed by them is permanent and they are in continuous service with the BSNL since 01.05.2000. They have completed continuous service of 240 days in each year during their service tenure.

5. It is submitted that the Second Party – Workmen were appointed by the BSNL and also they were allotted work by the BSNL. They were paid wages by the BSNL and their work was also controlled by the BSNL. Other permanent employees of the BSNL were granted wages and other benefits as per Government employees. However, the Second Party – Workmen were paid only Rs. 12,435/- per month without any benefit of leave, etc.

6. It is further submitted that, since the initial appointment, the Second Party – Workmen were shown to have been appointed through various Contractors. However, the Second Party – Workmen submits that they were employees of the BSNL. Juniors to the Second Party – Workmen are still in service. Therefore, the Second Party – Workmen submits that grant them permanency in employment with the BSNL, with consequential benefits.

7. The BSNL appeared in the matter and filed its Written Statement at Exh. C-37, inter alia objecting the Reference as illegal and untenable in law. It is submitted that majority of demands of the Second Party – Workmen are not subject matter of the Reference and this Tribunal cannot enlarge the scope of Reference. It is further submitted that the demands raised by the Second Party in the Statement of Claim are not supported by any legal and factual justification, nor the demands are supported by any documentary evidence. According to the BSNL, it is a Central Government undertaking and bound by law to follow the Rules of recruitment and procedure of appointment on any sanctioned post within the framework of approved staffing pattern. The Second Party – Workmen were never appointed by the BSNL, nor they were specifically designated on any post, and there is no privity of contract of employment between the BSNL and the Second Party – Workmen.

8. It is further submitted by the BSNL that independent agencies / Contractors are entrusted with the work of providing security servicves. The Second Party – Workmen were appointed by such independent agency / Contractor. Independent Contractor used to control and supervise the work of Second Party – Workmen as well as pay their salary and other service benefits. The appointment of Contractor was on the basis of agreement between the BSNL and the respective Contractor, and in stipulation of the terms and conditions in the said agreement, the respective Contractor has undertaken the entire liability and responsibility of employees deployed by him. Therefore, since the Second Party – Workmen were engaged through independent Contractor and discharging work as a Contract labourers for temporary duration, they are not entitled for any reliefs as claimed. With detailed contentions in the Written Statement, the BSNL has made submission in respect of its contentions that the Second Party – Workmen cannot be treated as its employees.

9. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-11, and I have given my findings on them, for the reasons stated below, are as under :-

Sl. No.	Issues	Findings
1.	Whether there exists employer employee relation between First Party and Second Party?	No.
2.	Whether the Second Party workmen are entitled for permanency / regularization with continuity in service with full back wages, and other reliefs as claimed for?	No.
3.	What Award?	As per final Award.

REASONS

As to Issue Nos. 1 to 3 :-

10. The Second Party / Workmen did not appear in the matter after the Written Statement was filed. The Second Party/Workmen were granted with ample and reasonable opportunity. The matter is old and was at the same stage, awaiting evidence of the Second Party. However, since there was no presence of the Second Party, the matter is taken up for passing of Award by considering the material on record. A specific order to that effect is also passed below Exh. O-1 on 05.10.2024. Even today when the matter was called from time to time, the Second Party – Workmen did not appear in the matter.

11. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of their contentions in the Statement of Claim and notice of demand, the Second Party – Workmen have not filed any documentary evidence on record. There is no oral evidence led by the Second Party – Workmen to substantiate their claim.

12. The BSNL has filed documents on record to show that the work in the Sub Division was closed between the period from 2009 to 2019. The BSNL has filed documents which shows that many numbers of Exchanges have been closed during the span of time. There is no document on record to show relation of the Second Party – Workmen in terms of employer-employee relationship with the BSNL. Therefore, the Second Party – Workmen have failed to prove employer-employee relationship between themselves and the BSNL.

13. The Second Party – Workmen have claimed benefits of permanency in service with continuity and full back wages against the BSNL. Therefore, in absence of relationship between the BSNL and Second Party – Workmen, the Second Party – Workmen are not entitled for any relief as claimed.

14. In view of the above, Issue Nos. 1 and 2 are answered in negative, and the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

Date : 15.11.2024.

Argued on: 15.11.2024.

Judgment dictated on : 15.11.2024.

Judgment transcribed on: 15.11.2024.

Judgment checked & signed on: 15.11.2024.

नई दिल्ली, 20 जनवरी, 2025

का.आ. 108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में, केन्द्रीय सरकार मेसर्स एस.ई.डब्लू. वर्क प्राइवेट लिमिटेड, नोएडा, (उत्तर प्रदेश),** प्रबंधतंत्र के संबद्ध नियोजकों और, **श्री विजय चन्द्रसेन गायकवाड,कामगार,**के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/आर/50/2022, को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20.01.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-31-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 108.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID.No. CGIT/LC/R/50/2022),** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s S.E.W. Work Private Limited, Noida, (Uttar Pradesh), and Shri Vijay Chandrasen Gaikwad,Worker,** which was received along with soft copy of the award by the Central Government on 20.01.2025.

[No. L-42025-07-2025-31– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/50/2022

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Vijay Chandrasen Gaikwad,

648 / 1A, Bhagirathpura,

Indore (Madhya Pradesh) - 452003

Workman

Versus

M/s S.E.W. Work Private Limited,

A-21, Sector 23, Noida,

Noida (Uttar Pradesh) - 201301

Management

AWARD

(Passed on this 06th day of January-2025.)

As per letter dated **03/11/2022** by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number **J-1(1-17)/2022-IR** dt. **03/11/2022**. The dispute under reference related to :-

"क्या श्री विजय चन्द्रसेन गायकवाड़ कर्मकार को अनावेदक मैसर्स एस.ई.डबलु वर्क प्रा. लि. द्वारा आवेदक को काम से निकाला जाना न्यायोचित है? यदि नहीं तो, उक्त कर्मकार को कब से और किन लाभों के साथ नौकरी पर पुन: बहाल किया जाना चाहिए?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 06/01/2025

नई दिल्ली, 20 जनवरी, 2025

का.आ. 109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में, केन्द्रीय सरकार प्रबंध निदेशक, फेरो स्क्रैप निगम लिमिटेड, भिलाई-(छ.ग.),** प्रबंधतंत्र के संबद्ध नियोजकों और, **महासचिव, भिलाई श्रमिक सभा (एचएमएस), दुर्ग (छ.ग.),** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/आर/33/2021, को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20.01.2025 को प्राप्त हुआ था।

[सं. एल- 42011/66/2021-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 109.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. CGIT/LC/R/33/2021),** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Ferro Scrap Nigam Limited, Bhilai-(C.G) and The General Secretary, Bhilai Shramik Sabha (HMS), Durg (C.G),** which was received along with soft copy of the award by the Central Government on 20.01.2025,

[No. L-42011/66/2021– IR (DU)]

DILIP KUMAR , Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/33/2021

Present: P. K. Srivastava

H.J.S..(Retd)

The General Secretary

Bhilai Shramik Sabha (HMS)

Block- 10/2, Central Avenue Road (24 Unit),

Sector-2, Bhilai Township,

Durg (CG)-490001.

Workman

Versus

Managing Director

Ferro Scrap Nigam Limited

FSNL Bhawan, Equipment Chowk, Central

Avenue, Bhilai Central Avenue,

P.B. No. 37, Bhilai-(CG) 490006

Management

(JUDGMENT)

(Passed on this 03rd day of January-2025)

As per letter dated 12/08/2021 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-42011/66/2021/IR(DU) dt. 12/08/2021. The dispute under reference related to :-

"Whether the inquiry proceedings against Shri Akshay Kumar Sharma as raised by Bhilai Shramik Sabha, Bhilai vide letter dated 20.02.2020 were vitiated ? If yes, then what relief the disputant worker is entitled to? What other directions, if any, are necessary in the matter ?"

After registering the case on the basis of the both the reference and petition, notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

Case of the workman is mainly that his service conditions are governed by Certified Standing Orders duly signed and published in 1979. The management issued him a charge sheet on 19.12.2017 with the allegation that he committed misconduct by way of:-

(1) Dishonesty in connection with company business

(2) Drunkenness in work premises,

(3) Disobedience of lawful and reasonable order of superior,

(4) Breach of Standing Order.

He denied the charges vide his reply dated 16.12.2017. The management decided to conduct inquiry vide its order dated 04.01.2018. The inquiry was conducted and charges were wrongly held proved by the Inquiry Officer. The Disciplinary Authority wrongly concurred with the finding of the Inquiry Officer and issued a show cause notice, the workman submitted the reply of the show cause notice, but the Disciplinary Authority passed punishment order dated 31.03.2018, which is disproportionate to the charges proved, the Appellate Authority also wrongly dismissed appeal.

The case of management is that departmental inquiry is legally conducted, that is there is no illegality or any material irregularity committed during the inquiry. Charges are proved from the evidence in inquiry and the punishment is proportionate to the charges.

Following P**reliminary Issue** was framed on 17.04.2024 the basis of pleadings :-

Whether the inquiry conducted against the Workman is just proper and legal ?

In evidence, on preliminary issue, the workman examined himself as a witness. He has been cross-examined by management side.

The workman has filed documents regarding inquiry which are chargesheet, reply on chargesheet, inquiry proceedings, inquiry report, letter of management, sending copy of inquiry report, reply of the workman on inquiry report, punishment order, order of Appellate Authority. All these documents had been admitted by management and marked exhibits.

The preliminary issue was decided vide order dated 12.09.2024 holding the departmental inquiry legal and proper. This order is part of this Award.

Following additional issues were framed on 12.09.2024:-

1. ***Whether, charges are proved from inquiry papers ?***
2. ***Whether, punishment is proportionate to the charges proved ?***

No evidence was filed by any of the parties on additional issues.

I have heard argument of workman. Learned Counsel for management was not available at the time of argument. Parties were given opportunity to filed written arguments. The workman side filed written arguments which are part of record. I have gone through the written arguments and the record as well.

Additional Issue No.-1 :-

According to the charge-sheet, the charge against the workman was that on 12.12.2017, when he was on duty in the second shift, he was found unauthorizedly absent from his workplace NSB Yard at 08.15 pm during surprise inspection. He left his workplace at 06.15 pm. He was expected to be at his workplace from 06.30 pm as the tea break permissible was from 06.00 pm to 06.30 pm. Also, when he came back on 08.30 pm, he was drunk and was not in a position to work. Further, he did not report for medical examination immediately as directed and left his workplace before time without any reason or authorization, thus conducted misconduct as define in Clause-25(9&10).

As it comes out from perusal of inquiry, management produced attendance punch card of the workman, examined as many as six witnesses who had corroborated the charge.

The settled proposition of law with respect to proof of charge in a departmental proceedings is that the charge should be proved to the extent of probability only and not beyond reasonable doubt. Following judgments may be referred to in this respect.

Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. ***T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255***

Standard of proof in a departmental inquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, ***there should be some evidence to prove the charge.*** *Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the Inquiry Officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref:* ***(i) Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10 , 11, 12 & 13). (ii) M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)***

In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, *it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental inquiry and of prosecution are two different and distinct aspects. Departmental Inquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The inquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under inquiry can go on simultaneously."*

In the case of ***T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255****, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.*

In the cases of ***Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425****, the distinction between departmental inquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of inquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental inquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental inquiry are different. In the case of departmental inquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental inquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental inquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental inquiry and trial of criminal case. "*

In the case in hand, the workman denied the charges, he did not produce any evidence during inquiry. After examining the evidence collected during the inquiry as mentioned above, on the yardstick as propounded in the cases referred to above, I find nothing to hold that the finding of the Inquiry Officer with respect to proof of these charges is perverse. Hence, holding the finding correctly recorded, additional issue no.-1 is answered accordingly.

Additional Issue No.-2 :-

The workman has been punished with penalty of reduction of basic pay by eight stages in a time scale without affecting his annual increment.

The settled proposition of law is that the punishment can be interfered by this Tribunal only when it is so disproportionate to the charge that it shocks the conscience of this Tribunal. Following judgments are being referred to in this respect.

Hon'ble Apex Court in ***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749*** while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

> ***"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."***

In ***DG, RPF vs. Sai Babu (2003) 4 SCC 331***, Hon'ble Apex Court has observed that:

> ***"6……. Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."***

In ***United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364*** Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

> ***"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.***
>
> ***12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof.***"

In ***Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257*** Hon'ble Supreme Court reiterated the legal position as follows:

> ***"8. …… The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."***

In ***State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580*** Hon'ble Supreme Court stated that:

> ***"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.***

Hon'ble Apex Court in *Administrator,* ***UnionTerritory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101*** has observed that

> ***"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or***

appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

This extract is taken fro**m *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya*, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721 : 2011 SCC OnLine SC 416 at page 587**

7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] , Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] , Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036] and High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1 SCC 416 : 2000 SCC (L&S) 144] .)

In ***Air India Corporation Bombay vs. V.A. Ravellow 1972 (25) FLR 319 (SC)*** it has been observed that:

"Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed."

In ***Knhaiyalal Agarwal and others vs. Factory Manager, Gwaliar Sugar Co. Ltd. AIR 2001 SC 3645*** Hon'ble Apex Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

"Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved."

Examining the punishment order, in the light of aforesaid proposition of law as laid down in cases referred to above, I find nothing on record to indicate that the punishment is so shockingly disproportionate to the charges proved to warrant interference.

On the basis of above discussion, additional issue no.-2 is answered accordingly.

Consequently, the workman is held entitled to no relief.

ORDER

Holding the inquiry proceedings against Shri Akshay Kumar Sharma as raised by Bhilai Shramik Sabha vide letter dated 20.02.2020 legal, the disputant worker is entitled to no relief. No other directions in the matter. No order as to cost.

DATE:- 03/01/2025

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – sह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 37/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को o2@01@2025 को प्राप्त हुआ था।

[सं.एल-22013/01/2025-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No. 37/2023** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 37 OF 2023

PARTIES: Amlendu Kumar Ghosh

Vs.

Management of MIC Jhanjra Area of M/s. ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Chandi Banerjee, Gen. Secy., Colliery Mazdoor Union.

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 05.11.2024.

AWARD

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 Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(32)/2023/E** dated 26.07.2023 has been pleased to refer the following dispute between the employer, that is the Management of MIC Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of MIC Jhanjra Area of M/s. ECL in not paying the amount of arrear wages, Sunday wages and holiday wages to Shri Amlendu Kumar Ghosh is justified? if not, what relief the workman is entitled to? "

1. On receiving Order **No. 1(32)/2023/E** dated 26.07.2023 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute **Reference case No. 37 of 2023** was registered on 28.07.2023 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. P. K. Das, learned advocate for the management of Eastern Coalfields Limited and Mr. Chandi Banerjee, union representative of Colliery Mazdoor Union ((INTUC)) representing the aggrieved workman, Amlendu Kumar Ghosh are present. Case is fixed up today for evidence of both parties, in default, the case shall be disposed of in accordance with law.

3. Written Statements were filed by the parties on 11.09.2023. On call, Mr. Chandi Banerjee filed an application before this Tribunal today stating that the concerned workman is not interested in continuing this case and prayed for disposing the same. Till date no evidence has been adduced by the parties. In view of the application filed today, the case is dismissed for non-prosecution. The petition filed today is disposed of. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE , Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – sg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 22/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/198/2000-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 22/2001** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **02*/01/2025*.**

[No. L-22012/198/2000– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 22 OF 2001

PARTIES: Krishna Kora

Vs.

Management of Satgram Project, ECL

REPRESENTATIVES:

For the Union/Workman: Smt. Debarati Konar, Advocate

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 30.12.2024

AWARD

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-22012/198/2000-IR(C-II)** dated 14.06.2001 has been pleased to refer the following dispute between the employer, that is the Management of Satgram Project of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of Satgram Project/Incline in dismissing the service of Sh. Krishna Kora, U.G. Trammer, with effect from 22.7.1999 is legal and justified? If not, what relief Sh. Krishna Kora is entitled to? "

1. On receiving Order **No. L-22012/198/2000-IR(C-II)** dated 14.06.2001 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 22 of 2001** was registered on 02.07.2001/19.11.2001 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 along with a list of witnesses.

2. After issuance of notice, both parties appeared but did not file their written statement. Accordingly, the case was disposed of on 15.07.2002 by drawing up a No Dispute Award. On an Application filed by the aggrieved workman, on 27.01.2005 this Tribunal set aside the No Dispute Award and allowed the parties to contest the case by filing written statement. The Organising Secretary, Colliery Mazdoor Union (INTUC) filed their written statement on 24.03.2006 and the management of ECL filed their written statement on 25.11.2009. The fact of the case disclosed in the written statement of the union is that Krishna Kora was a permanent employee of Eastern Coalfields Limited and was posted as an Under Ground Trammer at Satgram Incline Colliery. Due to unauthorized absence of Krishna Kora, a Charge Sheet bearing No. ECL/SI/Manager/P/CS/99/602 dated 26/28.04.1998 was issued against the workman as per clause 17(i)(n) of the Model Standing Order applicable to ECL. It is the contention of the union that Model Standing Order ceased to be in existence at the time of issuance of Charge Sheet and the same was not binding upon the workman. In brief, the fact of the case as disclosed in written statement is that the workman submitted his reply against Charge Sheet on 03.05.1999 and disclosed that he was under medical during period of his absence from duty which was beyond the control of the workman. After his recovery, he was not allowed to join duty and no subsistence allowance was paid to him. Mr. R.K. Banerjee, Survey Officer, Satgram Project took up the role of Enquiry Officer on his own and asked the workman to attend the enquiry without issuance of any notice. The workman participated in the enquiry but he was not provided with assistance of any co-worker. LTI of the workman was obtained on the purported Enquiry Report without his being aware of its content which was written in English. Further case of the union is that the workman was under the treatment of Dr. Sugendra Singh who was never examined by Enquiry Officer to find out whether the medical certificate was genuine or not. It is contended that the Enquiry Officer did not supply any Enquiry Report to the workman. The General Manager, Satgram Area issued an order of dismissal against the workman on 17/22.07.1999. After receiving the order of dismissal, the workman prayed for his reinstatement in duty but the management did not extend any accommodation to him nor replied to hisrepresentation. It is the case of the union that Krishna Kora has been illegally terminated from his service and prayed for his reinstatement by setting aside the order of dismissal of the workman, with full back wages and consequential reliefs.

3. Management contested the case and in their written statement categorically stated that Charge Sheet was issued to the workman for his misconduct by unauthorized absence from duty without information. The charged employee failed to give any satisfactory reply. As a result, a domestic enquiry was held in respect of the charges. The Enquiry Officer held enquiry and submitted his report holding the workman guilty of the charges. After careful consideration of the Enquiry Report and other relevant documents, Krishna Kora was dismissed from service by disciplinary authority by passing order bearing Ref. No. Sat/General Manager/Per/C/99/469(B) dated 17/22.07.1999. It is claimed that the order of dismissal is justified and there was no violation of natural justice at any stage. The management has denied the claim of workman that he had fallen ill, preventing him from attending his duty, for which he was medically treated by a doctor at his native place. The management claimed that the workman is not entitled to any relief and the Industrial Dispute is liable to be dismissed.

4. The point for consideration in this case, as reflected in the schedule, is whether the action of the management of Satgram Project/Incline in dismissing Krishna Kora, U.G. Trammer, from his service with effect from 22.7.1999 is legal and justified? If not, what relief Sh. Krishna Kora is entitled to?

5. The union has examined Krishna Kora as WW-1 and filed an affidavit-in-chief, affirming his case. The witness was initially cross-examined on 01.08.2013. After passage of 10 years, Krishna Kora was re-examined on recall for the purpose of admitting his documents in evidence as the proceeding is based on documents. The following documents have been relied upon by the union:

(i) Copy of the Charge Sheet dated 26/28.04.1999 is marked as Exhibit W-1.

(ii) Copy of reply submitted by the charged employee, as Exhibit W-2.

(iii) Copy of Enquiry Proceeding in three pages, as Exhibit W-3.

(iv) Copy of Enquiry Report, as Exhibit W-4.

(v) Copy of order of dismissal dated 17/22.07.1999, as Exhibit W-5.

(vi) Copy of mercy petition dated 19.07.1999, as Exhibit W-6.

In his re-cross-examination, the workman admitted that he did not submit any document of medical treatment in support of his illness before the Enquiry Officer nor did he inform the company about his illness before absenting. He further deposed that he did not seek the assistance of any co-workers during enquiry and faced the enquiry alone.

6. The management of ECL examined Mr. Saleem Ahmed as MW-1. An affidavit-in-chief has been filed by the witness reiterating the management's case. It is also stated in the affidavit-in-chief that a second Show Cause Notice was issued to the workman but he failed to reply to the same. In support of the case, the management produced the following documents :

(i) Copy of Charge Sheet, as Exhibit M-1.

(ii) Copy of reply of workman, as Exhibit M-2.

(iii) Copy of Enquiry Report and finding, as Exhibit M-3.

(iv) Copy of second Show Cause Notice dated 08.07.1999, as Exhibit M-4.

(v) Copy of order of dismissal, as Exhibit M-5.

In cross-examination, the management witness admitted that the Enquiry Officer had verbally informed Krishna Kora of holding of enquiry in respect of the Charge Sheet on 11.05.1999. A suggestion was put to the witness that no departmental enquiry was held against Krishna Kora and his LTI was obtained at the office for terminating him. The witness denied the suggestion. It transpires from the cross-examination of the witness that no order of appointment of Enquiry Officer was produced and no notice of Enquiry was issued.

7. Smt. Debarati Konar, learned advocate arguing the case for the workman submitted that Krishna Kora was suffering from illness and was under treatment at his native place in Champaran, Bihar. His absence from duty was beyond his control, therefore the workman can't be held guilty of the charge of unlawful absence which should be deliberate and willful. Learned advocate submitted that the workman participated in the enquiry and produced the medical certificates issued by Dr. Sugendra Singh, R.M.P. but the same was not considered by the Enquiry Officer and he did not issue any notice to the doctor for his examination. Learned advocate vehemently argued that the workman was not found guilty for unauthorized absence on earlier occasion and for the first time he was absent due to his illness but the management issued an order of dismissal which is disproportionate to the charge of absence for the first time. It is submitted that the General Manager passed an order of dismissal where he had taken into consideration the past conduct of the workman but no separate charge was framed against him for any past misconduct. It is urged that the order of dismissal passed by the General Manager, Satgram Area is liable to be set aside and the workman should be reinstated in service with back wages.

8. Mr. P.K. Das, learned advocate for the management of ECL argued that the workman is guilty of unauthorized absence for 106 days from 11.01.1999 to 26.04.1999 without any information to the employer company nor did he produce any medical certificate from any doctor in support of his medical treatment during that period. It is submitted that the Enquiry Officer intimated the workman about the date of holding Enquiry Proceeding. The workman participated in the Enquiry Proceeding where the charge was read over and explained to him in Bengali and the workman claiming to be suffering from back pain and under medical treatment did not examine the doctor to support his case. On the other hand, management representative adduced evidence against the workman in his presence but he did not raise any objection. Learned advocate for the management argued that the charge of unauthorized absence was proved against the workman and he was handed over with the Enquiry Report and finding of Enquiry Officer along with second Show Cause Notice (Exhibit M-4). The workman did not reply to second Show Cause Notice. Thereafter, the General Manager issued an order dated 17/22.07.1999 dismissing him from service. According to the management, the workman is not entitled to any relief as his misconduct has affected the service of the employer company adversely.

9. I have considered the arguments advanced by the learned advocate of the respective parties in the light of materials on record and evidence adduced by the witnesses. Admittedly, Krishna kora was an employee under Satgram Project of ECL who absented from duty for 106 days from 11.01.1999 to 26.04.1999 without any information to the management, either seeking leave or disclosing the reason for his absence from duty. The management issued a Charge Sheet against the workman dated 26/28.04.1999 for his unauthorized absence and charged him under clause 17 (i) (n) of the Model Standing Order applicable to Industrial Establishment in Coal Mines was issued. The workman received the Charge Sheet by affixing his LTI. A copy of Charge Sheet has been produced as Exhibit M-1.

Soon after, the workman submitted his reply to the charge sheet on 29.04.1999 disclosing that he was unable to attend his duty due to illness, but did not disclose the nature of illness in his reply. The management did not find the reply satisfactory and initiated a departmental enquiry. Mr. R.K. Banerjee, Survey Officer was appointed as the Enquiry Officer. He informed the workman to attend the enquiry on 11.05.1999. The workman participated in the Enquiry Proceeding and the charge was read over and explained to him in Bengali by the management representative. It appears from the enquiry proceeding, Exhibit M-3, that the charged employee disclosed that he was under medical treatment of Dr. Sugendra Singh for his backbone problem. Statements of Subir Chakraborty, Bablu Dutta and P.K. Roy, three Management Representatives were recorded by the Enquiry Officer. The workman admitted that he neither send any sick information to the management nor did he inform that he was under treatment of Dr. Sugendra Singh, R.M.P. The workman pleaded guilty to the charge of unauthorized absence. The workman did not produce any medical document or certificate issued by any doctor in support of his long absence from duty. In his written statement, the workman did not whisper about the nature of his ailment. Even at the time of adducing evidence before this Tribunal, the workman did not produce any medical certificate issued in his favour by Dr. Sugendra Singh. Learned advocate for the workman submitted that the workman was undergoing treatment at Champaran, Bihar. No satisfactory reason has been assigned as to why the workman employed at Satgram Incline under Raniganj P.S. in

West Bengal would proceed all the way to Champaran, Bihar for his medical treatment. The ground of his absence therefore cannot be accepted in absence of evidence from the concerned doctor.

10. After the workman was found guilty of the charge, a Second Show Cause Notice dated 08.07.1999 was issued to him by the General Manager. In course of evidence, no objection was raised against admission of the Second Show Cause Notice in evidence. The management evidence was not assailed denying that no Second Show Cause Notice was issued to the charged employee. On 27.07.1999, the appropriate authority after careful consideration of the report of Enquiry Officer and other relevant/connected papers accepted the findings of the Enquiry Proceeding and issued an order of dismissal of Krishna Kora with immediate effect. On a perusal of the order of dismissal, I find that it has reference to the issuance of second Show Cause Notice on 07/08.07.1999 which extended opportunity to the charged employee to submit his explanation. It may be gathered from materials on record that the Enquiry Proceeding was conducted in compliance with the principles of natural justice and proper opportunity was given to the workman to represent his case.

11. It is to be borne in mind that a person is employed in any establishment for rendering sincere, dedicated and steadfast service to the employer company. An employee cannot be allowed to cause disruption of service of the employer by proceeding on unauthorized leave for indefinite period. The management therefore has right and authority to take appropriate steps against the workman for his misconduct of long absence from duty. In the instant case, I do not find any illegality, impropriety or arbitrariness on the part of the management in awarding a punishment of dismissal against the workman for his misconduct. The punishment imposed against the charged employee is not found disproportionate to the nature of charge. I therefore hold that the workman is not entitled to any relief and the Industrial Dispute is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. The order of dismissal issued by the management of ECL against Krishna Kora calls for no interference.

The workman is not entitled to any relief of reinstatement or back wages. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE**,** Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, हैदराबाद के पंचाट (पहचान l[;k 108/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/32/2014-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 108/2014*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **14*/01/2025.***

[No. L-22012/32/2014– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 17th day of December, 2024

INDUSTRIAL DISPUTE No. 108/2014

Between:

The President (Bandari Satyanarayan),

Telengana Trade Union Council,

Raj kumar Complex, Saibaba Temple Road,

Jaffar Nagar, Mancherial -504208. ….. Workman /Union

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,,

Bellampalli Area, Goleti Township -504 292.

Adilabad Dist. …. Respondent

Appearances:

For the Workman : Sri S. Bhagwanth Rao, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/32/2014-IR(CM-II) dated 22.5.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of General Manager, M/s. Singareni Collieries Company Ltd.,, Bellampalli Area, Goleti Township(P.O), Adilabad Distt. in terminating the services of Sri Goli Rajesham, Ex-coal Filler, MVK-5 Inc., SCCO Limited, Bellampalli Area with effect from 8.11.1995 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 108/2014 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the Workman is appointed as an employee on 11.10.1988, and he was confirmed to his service and he become permanent employee during the course of service in the company. It is submitted that the Workman could not attend to his duties during the year 1994 due to his ill health, the Respondent issued a Show cause notice dated 4.1.1995 and the Workman submitted a reply dt 11.1.1995 and could not be considered by the Respondent Company and dismissed from service through proceedings No.MVK-5/16/95/27/TBPA/3517, dated 9.11.1995. It is submitted that the Workman preferred an appeal to the Higher authorities that went in vain and mechanically upheld the orders of chief General Manager, Bellampalli. It is submitted that the Workman has put in 11 years of service without any red remark and the Workman has got still 20 years of service for superannuation. It is submitted that removal from service of the Workman, who has rendered more than two years of qualified service is arbitrary, illegal and against to the principles of natural justice and also against to the provision are governed by various standing orders of company. It is submitted that Workman could not opt for Rs.3,00,000/- compensation in lieu of employment, but opted employment. Now, the Workman has got re-option to claim compensation of Rs.5,00,000/- in lieu of dependent employment through settlements dated 20.11.2009 if the employment is not provided. The action of the Respondent amounts to "hire and Fire" which has no force in the industrial jurisprudence. It is submitted that, the " Award And Settlements" both are decrees in Industrial Disputes Act. There was a settlement from 1.1.2000 to 31.12.2010 before the Regional Labour Commissioner at Hyderabad those who were removed from 1-1-2000 to 30-12-2010, cases can be considered by the Management as per the circular P. 40 /5911/IR/33, dt 10-3-2000, workman was called for interview and so the case of the workman is not considered for re-employment-as per settlement. If the workman was given employment he could have been put in more than additional 20 years of service. The non-consideration of Workman is very bad in law and against settlement by the company. It is submitted that Respondent did not conduct enquiry properly and no subsistence allowance was paid and Respondent obtained thumb impressions on enquiry report by the Workman and workman do not know English language and enquiry conducted by the Respondent without mentioning contents therein. It is submitted that after removal from the service by the Respondent, the workman and children of workman are fallen on roads with untold sufferings. The relationship between the workman and Respondent is still continuing and the workman has not reached the age of superannuation. It is therefore prayed to direct the Respondent to reinstate the workman into service with continuity and other attendant benefits and with full back wages.

3. **Respondent filed counter denying the averments of the Workman as under**:

The contention of the Workman that he was appointed vide order dated 28.5.1988 on 8.6.1988 and was initially posted to work at Mahaveerkhani No.3 incline of Bellampalli Area.. His date of birth as 3.1.1962 is authenticated as the same is furnished in the initial appointment order issued on 28.5.1988. It is submitted that he was dismissed on 9.1.1995 due to habitual absenteeism. He was 33 years at the time of his dismissal from services and attained more than 54 years as on the date of filing this ID. He was not regularized till the date of his dismissal. He was issued with charge sheet dated 12.9.94 as he absented from duties from July, 1993 to December, 1993 under the clause No.25(25) which reads as follows:-

Clause No.25(25) of Company's Standing Orders:-

"Habitual late attendance or habitual absence from duty without sufficient cause."

It is further submitted that workman has participated fully in the enquiry conducted on 27.9.1994 and a copy of enquiry report and enquiry proceeding wee also sent to him vide letter dated 8/9.11.1994 and workman submitted his representation on the same which was found that there were no extenuating reasons as such he was dismissed from Company's services w.e.f. 9.1.1995 vide letter dated 5.1.1995 and his name was removed from the rolls of the Company with the allegation that the Workman preferred an appeal to the higher authorities, but in vain and mechanically upheld the orders of the Chief General Manager, Bellampalli is denied and the Workman is put to strict proof of the same. It is submitted that the allegations made are denied as the workman had only 8 years of service as on the date of filing the petition . It is also submitted that the workman had attended the enquiry conducted by the respondent company and he was given full and fair opportunity to defend his case. It is submitted that while issuing him the Office order on 28.05.1988 the following conditions were laid down there itself.

"Your services will be utilized in any available absenteeism vacancies in piece rated jobs only, between 8th and 23rd of the month in the II & II shifts only and stands automatically terminated at the end of two months. Your empanelment does not confer any right of' employment or permanent absorption in company's rolls and will be subject to orders of courts. In case your work or attendance or conduct is unsatisfactory management reserves the right to refuse you empanelment or disempanel you if already empanelled even before completion of the temporary period without assigning any reason therefor."

The Office Order bearing letter No.P.BPA/261-VII/2097, dated 28.05.1988 with all the above conditions was received by the workman and he had affixed his thumb impression duly acknowledging the receipt of the office order. It is to reiterate that the workman was held designation of Badli Filler and he was not regularized as Coal filler which was his next step of his placement which would be allowed based on his attendance. Had he been regularized by becoming eligible based on his attendance he might have been designated as Coal filler. Though the conditions say that he would be engaged in absenteeism vacancies of coal fillers, the workman was never restrained from attending to duties and he absented from duties on his own. It is submitted that the workman was dismissed from the company services only after following all the principles of natural justice giving him opportunity to defend his case. It is pertinent to mention here that though the agreement exists, payment of compensation called lump sum payment in lieu of dependent employment who left the services due to death or medical invalidity, but the same is not applicable in the cases of dismissals from company services. It is submitted that as per the Settlement and the Circular dt.09.08.2011, the employees who were dismissed from the services of the Company between 01.01.2000 and 31.12.2010 were considered for employment on fulfillment of the conditions stipulated therein by the High Power Committee. However, the Workman was dismissed from service with effect from 09.01.1995 and hence the Workman is not covered under the Settlement. It is submitted that every charge sheeted employee will be given full and fair opportunity to defend his case. Though the enquiry report is recorded in English language the deliberations was taken place in local language i.e., in Telugu language only. Though the proceedings are recorded in English language the same was read over and explained to him in local language. It is submitted that had the workman worked regularly while he was in service there would have been no financial troubles to him. It is submitted that it is a belated case wherein more than 19 years elapsed from the date of the dismissal of the workman. It is submitted that the workman raised the dispute with abnormal delay. In the instant case fair enquiry was held and full opportunity was given to the workman to participate in the domestic enquiry. He was also supplied with the enquiry report and enquiry proceedings so as to enable him to submit his representation to the competent authority. In view of the above, it is prayed to dismiss the claim petition as devoid of merits.

4. Perused written arguments filed by Respondent.

5. **On the basis of pleadings of both the parties, following issues are to be determined**:-

I. Whether the departmental enquiry held against workman is legal and valid?

II. Whether, present industrial dispute is bad for inordinate delay and latches and hence not maintainable?

III. Whether the action of Respondent in terminating the services of the workman vide order dated 9.11.1995 is justified?

IV. To what relief if any the workman is entitled for?

Findings:-

6. Point No.I:- The legality and validity of Domestic Enquiry has been held legal and valid vide order dated 29.3.2023 by the Court.

Hence, this point is answered accordingly.

7. Point No.II:- The Learned Counsel for Respondent submitted that the present industrial dispute has been raised by the workman with inordinate delay of 19 years from the date of his dismissal and the same cannot be entertained in view of the provision of ID Act and is liable to be dismissed on this count alone. Further, it is submitted that the present petition has been filed with the delay of 19 years from the date of dismissal and is liable to be dismissed on the ground of delay and latches.

8. The perusal of record reveals that the Workman has raised present industrial dispute by filing petition u/s.2A(2) of I.D. Act, 1947 challenging the dismissal order dated 9.1.1995 and has not furnished any explanation in his claim statement regarding the inordinate delay of 19 years in raising the industrial dispute. Admittedly, workman was dismissed from services by the Respondent vide order dated 9.1.1995 and the reference for adjudication has been made to this Tribunal vide order dated 22.5.2014. There is a delay of about 19 years in raising the industrial dispute and workman has not furnished any plausible explanation in his claim statement for such inordinate delay in raising the industrial dispute. Therefore, in the instant case, the industrial dispute has been raised by the workman with an inordinate delay of 19 years and such an inordinate delay in raising the dispute it will cause prejudice to the Respondent to defend the case due to long period elapsed and he may not have record pertaining to the matter in his possession due to loss or damage done to it.

9. In this context, it is settled law laid down by **Hon'ble Supreme Court,** that, if the industrial dispute is raised by the workman after an inordinate delay of 8 to 12 years, then, such a dispute is not maintainable.

In **K R Reddy Vs. Industrial Tribunal-II, Hyderabad, Hon'ble Court held**:

"The Supreme Court extensively considered the scope of relevant provisions and precedent decisions. The Supreme Court held that there was inordinate, unexplained delay in referring the dispute."

Hence, industrial dispute not maintainable.

In Assistant Engineer, CAD, Kota and Dhan Kumwar, CA No.6473, 2006 III LLJ, the Hon'ble Apex Court held:

"workman raising the dispute eight years after termination of service –relief by Labour Court should not have been granted to workman."

In the case of Haryana State Co-operative Land Development Bank and Neelam, 2005 I LLJ, the Hon'ble Apex Court held:

"Though no time limit prescribed for raising industrial dispute, but stale claim, could not be entertained – approaching Labour Court after delay of more than 7 years. Held:- justified refusal of relief in this case."

Therefore, in view of the ongoing discussion and law laid down by Hon'ble Court, I am of the view that in the instant matter industrial dispute is raised by workman after inordinate delay of 19 years and hence is bad and not maintainable due to delay and latches in raising the industrial dispute.

This point is answered against the workman and in favour of Respondent.

10. Point No. III:- Now, we proceed to examined the instant matter on merit. Workman in his claim statement has submitted that he was appointed on 11.10.1988 in Respondent Company and was confirmed in the service. Further, it is submitted that workman did not attend to his duties during the year 1994 due to his ill-health and Respondent issued a show cause notice dated 4.1.1995 and Workman has submitted reply dated 11.1.1995. But his reply was not considered by the Respondent company and he was dismissed from Service vide order dated 9.11.1995. Therefore, it is submitted that order of his removal from service is illegal and against the principles of natural justice and liable to be set aside.

11. On the other hand, Respondent has contended that the submission of the Workman that he could not attend the duty in the year 1994 due to ill-health is not true and correct. It is contended that not a single document has been filed which establishes the fact of illness. It is submitted that while issuing him the Office order on 28.05.1988 the following conditions were laid down there itself, that his services will be utilized in any available absenteeism vacancies in piece rated jobs only, between 8th and 23rd of the month in the II & II shifts only and stands automatically terminated at the end of two months and his empanelment does not confer any right of' employment or permanent absorption in company's rolls and will be subject to orders of courts. In case his work or attendance or conduct is unsatisfactory management reserves the right to refuse his empanelment or disempanel him if already empanelled even before completion of the temporary period without assigning any reason. Moreover, "Badli" or "Substitute" is one who is appointed in the post of a permanent workman or probationer, who is temporarily absent. Further, this "Badli" becomes eligible for regularization, on completion of one year subject to availability of

sanctioned vacancies. Therefore, the workman was badli filler at the time of dismissal, not yet got permanent in post, hence, in view of his absenteeism from duty unauthorizedly he was dismissed from services and further it is contended that the workman also appealed against his dismissal order to higher authorities and order of his dismissal has been upheld.

12. In view of the submissions of the Learned Counsels of both parties, perused the record. The Workman in his claim statement has alleged that he could not attend to his duties during the year 1994 due to his ill-health and he was dismissed from service through proceeding dated 9.11.1995 by the Respondent on the charge of absenteeism under Company's Standing Orders No.25.25 and 25.31. But the record reveals that the Petitioner workman remained absent from different date i.e., July, 1993 to December, 1993 and charge sheet dated 12.9.1994 was issued under Company's Standing Orders No.25.25 & 25.31 and the enquiry was conducted against the Petitioner workman on the said date and he was held guilty of habitual absenteeism from duty for the period from July, 1993 to December, 1993 in contravention of Company's Standing Orders. Thus, Petitioner has not explained his absenteeism from duty for the period from July, 1993 to December, 1993 in his claim statement.

13. Further, it is note worthy here that, in the claim petition the Petitioner workman has challenged his dismissal order dated 9.11.1995 whereas the dismissal order dated 5.1.1995 issued by General Manager, Bellampalli reflects that the Petitioner was dismissed from the service of the Company w.e.f. 9.1.1995. Therefore, the dismissal order dated 9.1.1995 has not been challenged by the Petitioner in his claim statement. Therefore, in view of the fore gone discussion the claim statement is devoid of merits.

14. Although, Petitioner has taken the plea that due to ill-health he was absent from duty, but Workman did not file any documentary evidence to substantiate his claim that he was absent from duties from July, 1993 to December, 1993 due to illness. No medical certificate obtained from competent medical authority has been filed to substantiate his claim. Moreover workman has not submitted any explanation as to why he did not report sick at the hospital of the Respondent company. Admittedly, Workman remained absent from duty without any sanctioned leave or sufficient cause for the alleged period during the period from July, 1993 to December, 1993 as the same amounts to misconduct under Company's Standing Order No.25.25 and 25.31.

The Company Standing Orders No.25.25 and 25.31 are extracted below-

25.25: "Habitual late attendance or habitual absence from duty without any sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause for over staying beyond sanctioned leave."

15. As regards, habitual absentee employee from duty without any sufficient cause, Hon'ble Apex Court have laid down the principles in number of cases. Few decisions of Hon'ble Court are quoted below:-

In State of U.P. Vs. Ashok Kumar Singh 1996 (1) SCC 302, the Hon'ble Apex Court have held:-

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

In **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 Hon'ble Apex Court have held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Hon'ble Apex Court have held:

"11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

Therefore, in view of the settled law laid down by Hon'ble Apex Court and provision contained in Standing Orders, the workman has committed gross misconduct as he remained absent from duty habitually without sanctioned leave or without any sufficient cause for the period July, 1993 to December, 1993. Therefore, he has been rightly held guilty of misconduct under the Company's Standing Orders No. 25.25 and 25.31.

16. As far as the question of interference by Tribunal in the finding and order of disciplinary authority is concerned, it is settled law that Tribunal is not empowered to interfere in the order of Disciplinary Authority except when such findings are based on no evidence or where they are clearly perverse. In this context, I would like to refer few decisions of Hon'ble Apex Court as discussed below:-

In the case of State of Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 is relevant. Therein the Hon'ble Apex Court have held:-

"6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, in the case of **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:**

"once the Enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Further, **in the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, (supra) Hon'ble Apex Court have held:-**

33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject.That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Thus, in view of the fore gone discussion and settled law laid down by the Hon'ble Apex Court as discussed above, in the instant matter I do not find any ground or occasion to interfere in the finding or order of dismissal of workman passed by Disciplinary Authority. It is not a case of no evidence or order suffering from perversity. It is admitted fact that workman remained absent from duty unauthorizedly and failed to prove the averment of illness by any cogent and reliable evidence. Therefore, the order of dismissal dated 5.1.1995 w.e.f.

9.1.1995 passed by Disciplinary Authority is held legal and justified.

Thus, Point No.III is answered accordingly.

17. **Point No.IV**: In view of the finding given in Point Nos. I,II & III, the claim petition of the Workman is devoid of merits, and he is not entitled to get any relief, hence, same is liable to be dismissed.

Thus, Point No.IV is answered accordingly.

ORDER

The action of General Manager, M/s. Singareni Collieries Company Ltd.,, Bellampalli Area, Goleti Township(P.O), Adilabad Distt. in terminating the services of Sri Goli Rajesham, Ex-coal Filler, MVK-5 INC., SCC Ltd., Bellampalli Area vide order dated 5.1.1995 with effect from 9.1.1995 is held justified. As such, the workman is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 17th day of December, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 जनवरी, 2025

का.आ. 113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – sah – Je U;k;ky;, हैदराबाद के पंचाट (पहचान l[;k 239/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/71/2014-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 239/2014*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on ***14/01/2025.***

[No. L-22012/71/2014– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 23rd day of December, 2024

INDUSTRIAL DISPUTE No. 239/2014

Between:

The President (Bandari Satyanarayan),

Telengana Trade Union Council,

Raj kumar Complex, Saibaba Temple Road,

Jaffar Nagar, Mancherial -504208. ….. Workman /Union

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,,

Sreerampur Area, Sreerampur-504 303.

Adilabad Dist. …. Respondent

Appearances:

For the Workman : Sri S. Bhagwanth Rao, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/71/2014-IR(CM-II) dated 25.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Adilabad Distt. in terminating the services of Sri Jellampally Lingaiah, Ex-coal Filler, SRP-I, Inc., Sreerampur Area with effect from 12.3.2007 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 239/2014 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the Workman was appointed as an employee on 1.1.1988, and he was confirmed to his service and he become permanent employee during the course of service in the company. It is submitted that the Workman could not attend to his duties during the year 2005 due to his ill health, the Respondent issued a Show cause notice dated 6.5.2006 and the Workman submitted a reply dt 15.5.2006 and could not be considered by the Respondent Company and dismissed from service through proceedings No.SRP/PER/13/008/1418, dated 5.3.2007. It is submitted that the Workman preferred an appeal to the Higher authorities that went in vain and mechanically upheld the orders of Chief General Manager, Sreerampur Division. It is submitted that the Workman has put in 8 years of service without any red remark and the Workman has got still 20 years of service for superannuation. It is submitted that removal from service of the Workman, who has rendered more than two years of qualified service is arbitrary, illegal and against to the principles of natural justice and also against the provision are governed by various standing orders of company. It is submitted that Workman could not opt for Rs.3,00,000/- compensation in lieu of employment, but opted employment. Now, the Workman has got re-option to claim compensation of Rs.5,00,000/- in lieu of dependent employment through settlements dated 20.11.2009 if the employment is not provided. The action of the Respondent amounts to "hire and Fire" which has no force in the industrial jurisprudence. It is submitted that, the " Award And Settlements" both are decrees in Industrial Disputes Act. There was a settlement from 1.1.2000 to 31.12.2010 before the Regional Labour Commissioner at Hyderabad those who were removed from 1-1-2000 to 30-12-2010, cases can be considered by the Management as per the circular P. 40 /5911/IR/33, dt 10-3-2000, workman was called for interview and so the case of the workman is not considered for re-employment-as per settlement. If the workman was given employment he could have been put in more than additional 20 years of service. The non-consideration of Workman is very bad in law and against settlement by the company. It is submitted that Respondent did not conduct enquiry properly and no subsistence allowance was paid and Respondent obtained thumb impressions on enquiry report by the Workman and workman do not know English language and enquiry conducted by the Respondent without mentioning contents therein. It is submitted that after removal from the service by the Respondent, the workman and children of workman are fallen on roads with untold sufferings. The relationship between the workman and Respondent is still continuing and the workman has not reached the age of superannuation. It is therefore prayed to direct the Respondent to reinstate the workman into service with continuity and other attendant benefits and with full back wages.

3. **Respondent filed counter denying the averments of the Workman as under**:

The contention of the Workman that he was appointed vide order dated 25.2.1988 as Floating Badlifiller and regularized as Coal Filler. It is submitted that he was dismissed vide order dated 5.3.2007 w.e.f.12.3.2007 due to habitual absenteeism. He was issued with charge sheet dated 6.5.2006 as he absented from duties during 2004 to 2006 under the clause No.25(25) and 25.31 which reads as follows:-

Clause No.25.25 and 25.31of Company's Standing Orders:-

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave."

It is further submitted that workman has participated fully in the enquiry conducted on 20.7.2006 and a copy of enquiry report and enquiry proceeding were also sent to him vide letter dated 24.7.2006 and workman did not submit any representation against the same and as such he was dismissed from Company's services w.e.f. 12.3.2007 vide letter dated 5.3.2007. The Petitioner's attendance over three calendar years, ie 2004- 113musters; 2005-099 musters and 2006-084 musters and after finding that there was no improvement in his attendance even during the year 2006 and as there was no extenuating circumstances to take a lenient view, the Petitioner was dismissed w.e.f. 12.3.2007. It is submitted that Petitioner assured during counselling that he will be regular to his duties and attend duty for 20 days in a month but he did not keep his promise. He did not communicate reasons of his absence to the mine authorities at any point of time, which establishes that he was not interested in his job. Petitioner did not submit any document or communication regarding his father's death and family problems due to which he remained absent from duties as he stated during enquiry proceedings. It is also submitted that the workman had attended the enquiry conducted by the respondent company and he was given full and fair opportunity to defend his case. It is submitted that the workman was dismissed from the company services only after following all the principles of natural justice giving him opportunity to defend his case. It is pertinent to mention here that though the agreement exists, payment of compensation called lump sum payment in lieu of dependent employment who left the services due to death or medical invalidity, but the same is not applicable in the cases of dismissals from company services. It is submitted that as per the Settlement and the Circular dt.09.08.2011, the employees who were dismissed from the services of the Company between 01.01.2000 and 31.12.2010 were considered for employment on fulfillment of the conditions stipulated therein by the High Power Committee. However, the Workman was dismissed from service with effect from 1.12.2006 and hence the Workman is not covered under the Settlement. It is submitted that every charge sheeted employee will be given full and fair opportunity to defend his case. Though the enquiry report is recorded in English language the deliberations was taken place in local language i.e., in Telugu language only. Though the proceedings are recorded in English language the same was read over and explained to him in local language. It is submitted that had the workman worked regularly while he was in service there would have been no financial troubles to him. It is submitted that it is a belated case wherein more than 10 years elapsed from the date of the dismissal of the workman. It is submitted that the workman raised the dispute with abnormal delay. In the instant case fair enquiry was held and full opportunity was given to the workman to participate in the domestic enquiry. He was also supplied with the enquiry report and enquiry proceedings so as to enable him to submit his representation to the competent authority. In view of the above, it is prayed to dismiss the claim petition as devoid of merits.

4. Perused written arguments filed by Respondent.

5. **On the basis of pleadings of both the parties, following issues are to be determined**:-

I. Whether the departmental enquiry held against workman is legal and valid?

II. Whether, present industrial dispute is bad for inordinate delay and latches and hence not maintainable?

III. Whether the action of Respondent in terminating the services of the workman vide order dated 5.3.2007 is justified?

IV. To what relief if any the workman is entitled for?

Findings:-

6. **Point No.I**:- The legality and validity of Domestic Enquiry has been held legal and valid vide order dated 29.3.2023 by the Court.

Hence, this point is answered accordingly.

7. **Point No.II**:- The Learned Counsel for Respondent submitted that the present industrial dispute has been raised by the workman with inordinate delay of 7 years from the date of his dismissal and the same cannot be entertained in view of the provision of ID Act and is liable to be dismissed on this count alone. Further, it is submitted that the present petition has been filed with the delay of 7 years from the date of dismissal and is liable to be dismissed on the ground of delay and latches.

8. The perusal of record reveals that the Workman has raised present industrial dispute by filing petition u/s.2A(2) of I.D. Act, 1947 challenging the dismissal order dated 5.3.2007 and has not furnished any explanation in his claim statement regarding the inordinate delay of 7 years in raising the industrial dispute. Admittedly, workman was dismissed from services by the Respondent vide order dated 5.3.2007 and the reference for adjudication has been made to this Tribunal vide order dated 25.11.2014. There is a delay of about 7 years in raising the industrial dispute and workman has not furnished any plausible explanation in his claim statement for such inordinate delay in raising the industrial dispute. Therefore, in the instant case, the industrial dispute has been raised by the workman with an inordinate delay of 7 years and such an inordinate delay in raising the dispute it will cause prejudice to the Respondent to defend the case due to long period elapsed and he may not have record pertaining to the matter in his possession due to loss or damage done to it.

9. In this context, it is settled law laid down by **Hon'ble Supreme Court,** that, if the industrial dispute is raised by the workman after an inordinate delay of 8 to 12 years, then, such a dispute is not maintainable.

In **K R Reddy Vs. Industrial Tribunal-II, Hyderabad, Hon'ble Court held**:

"The Supreme Court extensively considered the scope of relevant provisions and precedent decisions. The Supreme Court held that there was inordinate, unexplained delay in referring the dispute."

Hence, industrial dispute not maintainable.

In Assistant Engineer, CAD, Kota and Dhan Kumwar, CA No.6473, 2006 III LLJ, the Hon'ble Apex Court held:

"workman raising the dispute eight years after termination of service –relief by Labour Court should not have been granted to workman."

In the case of Haryana State Co-operative Land Development Bank and Neelam, 2005 I LLJ, the Hon'ble Apex Court held:

"Though no time limit prescribed for raising industrial dispute, but stale claim, could not be entertained – approaching Labour Court after delay of more than 7 years. Held:- justified refusal of relief in this case."

Therefore, in view of the ongoing discussion and law laid down by Hon'ble Court, I am of the view that in the instant matter industrial dispute is raised by workman after inordinate delay of 7 years and hence is bad and not maintainable due to delay and latches in raising the industrial dispute.

This point is answered against the workman and in favour of Respondent.

10. Point No.III:- Now, we proceed to examine the instant matter on merit. Workman in his claim statement has submitted that he was appointed on 25.2.1988 in Respondent Company and was confirmed in the service. Further, it is submitted that workman did not attend to his duties during the year 2005 due to his ill-health and Respondent issued a show cause notice dated 6.5.2006 and Workman has submitted reply dated 15.5.2006. But his reply was not considered by the Respondent company and he was dismissed from Service vide order dated 5.3.2007. Therefore, it is submitted that order of his removal from service is illegal and against the principles of natural justice and liable to be set aside.

11. On the other hand, Respondent has contended that the submission of the Workman that he could not attend the duty in the year 2005 due to ill-health is not true and correct. It is contended that not a single document has been filed which establishes the fact of illness.

12. In view of the submissions of the Learned Counsels of both parties, perused the record. The Workman in his claim statement has alleged that he could not attend to his duties during the year 2005 due to his ill-health and he was dismissed from service through proceeding dated 5.3.2007 by the Respondent on the charge of absenteeism under Company's Standing Orders No.25.25 and 25.31. But the record reveals that the Petitioner workman remained absent during the year 2005 and charge sheet dated 6.5.2006 was issued under Company's Standing Orders No. 25.25 & 25.31 and the enquiry was conducted against the Petitioner workman. On conclusion of enquiry workman was held guilty of habitual absenteeism from duty during the year 2005 in contravention of Company's Standing Orders.

13. Although, Petitioner has taken the plea in claim statement that due to ill-health he was absent from duty, but Workman did not file any documentary evidence i.e., prescription of a Doctor, Medical Certificate to substantiate his claim that he was absent from duties during the year 2005 due to his illness. Moreover workman has not submitted any explanation as to why he did not report sick at the hospital of the Respondent company. Although Petitioner has taken the plea in his claim statement that due to illness he could not attend his duty during the year 2005, but Petitioner did not explained what kind of illness he was suffering during the alleged period and why he did not intimate to authority and reported sick at Respondent Company's Hospital for treatment. Further, during the enquiry, in his statement Petitioner states that,

"I wish to state that I am working as a Coal Filler at SRP 1 Incline. I admit that, I have absented from duties habitually without leave or permission from January, 2005 to December, 2005 due to father's death and family problems. I am repenting on my past activities. I assure the Management that, from now onwards I will regularly attend to my duties. I request the Management to take a lenient view for this time and excuse me."

Thus, he has taken the plea for absenteeism from duty during the year 2005 as due to father's death and family problems which is quite contradictory to the plea taken in claim statement. Thus, the plea of Petitioner for absenting from duty is not acceptable.

14. Admittedly, Workman remained absent from duty without any sanctioned leave or sufficient cause for the alleged period in the charge sheet and the same amounts to misconduct under Company's Standing Order No.25.25 and 25.31.

The Company's Standing Orders No.25.25 and 25.31 are extracted below-

25.25: "Habitual late attendance or habitual absence from duty without any sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause for over staying beyond sanctioned leave."

15. As regards, misconduct of habitual absence from duty by the employee without any sufficient cause, Hon'ble Apex Court have laid down the principles in its decision and few decisions are quoted below:-

In State of U.P. Vs. Ashok Kumar Singh 1996 (1) SCC 302, the Hon'ble Apex Court have held:-

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

In **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 Hon'ble Apex Court have held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Hon'ble Apex Court have held:

"9. When an employee absent himself from duty even without sanctioned leave for a long period, it prima facie shows lack of interest in the work. Para 19(h) of the Standing Orders as quoted above relate to habitual negligence of duties and lack of interest in the authority's work. When an employee absents himself from duty without sanctioned leave the authority can, on the basis of record, come to conclusion about the employee being habitually negligent in duties and an exhibited lack of interest in the employer's work.

11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

Therefore, in view of the fore gone discussion and settled law laid down by Hon'ble Apex Court, the habitual absence from duty by an employee is a serious misconduct. Thus, in view of provision contained in Respondent Company's Standing Orders, the Petitioner has committed gross misconduct as he remained absent from duty habitually without sanctioned leave or without any sufficient cause during the year 2005. Therefore, he has been rightly held guilty of misconduct under the Company's Standing Orders No. 25.25 and 25.31.

16. As far as the question of interference by Tribunal in the finding and order of disciplinary authority is concerned, it is settled law that Tribunal is not empowered to interfere in the order of Disciplinary Authority except when such findings are based on no evidence or where they are clearly perverse. In this context, I would like to refer few decisions of Hon'ble Apex Court as discussed below:-

In the case of State of Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 is relevant. Therein the Hon'ble Apex Court have held:-

"6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, in the case of **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:**

"once the Enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Further, **in the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, (supra) Hon'ble Apex Court have held:-**

33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject.That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Thus, in view of the fore gone discussion and settled law laid down by the Hon'ble Apex Court as discussed above, in the instant matter I do not find any ground or occasion to interfere in the finding or order of dismissal of workman passed by Disciplinary Authority. It is not a case of no evidence or order suffering from perversity. It is admitted fact that workman remained absent from duty unauthorizedly and failed to prove the averment of illness by any cogent and reliable evidence. Therefore, the order of dismissal dated 5.3.2007 w.e.f. 12.3.2007 passed by Disciplinary Authority is held legal and justified.

Thus, Point No.III is answered accordingly.

17. **Point No.IV**: In view of the finding given in Point Nos. I,II & III, the claim petition of the Workman is devoid of merits, and he is not entitled to get any relief, hence, same is liable to be dismissed.

Thus, Point No.IV is answered accordingly.

ORDER

The action of General Manager, M/s. Singareni Collieries Company Ltd.,, Sreerampur Area, Adilabad Distt. in terminating the services of Sri Jalampalli Lingaiah, Ex-coal Filler, SRP-1, Sreerampur Area vide order dated 5.3.2007 with effect from 12.3.2007 is held justified. As such, the workman is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 23rd day of December, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 जनवरी, 2025

का.आ. 114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k – सह – Je U;k;ky;, हैदराबाद के पंचाट (पहचान l[;k 194/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/51/2014-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 194/2014*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **14*/01/2025.***

[No. L-22012/51/2014– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 23rd day of December, 2024

INDUSTRIAL DISPUTE No. 194/2014

Between:

The President (Bandari Satyanarayan),

Telengana Trade Union Council,

Raj kumar Complex, Saibaba Temple Road,

Jaffar Nagar, Mancherial -504208. ….. Workman /Union

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,,

Sreerampur Area, Sreerampur -504 303.

Adilabad Dist. …. Respondent

Appearances:

For the Workman : Sri S. Bhagwanth Rao, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/51/2014-IR(CM-II) dated 8.8.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Adilabad Distt. in terminating the services of Sri Godari Rajaiah, Ex-coal Filler, IK-1 Inc., Sreerampur Area with effect from 1.12.2006 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 194/2014 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the Workman was appointed as an employee on 23.3.1988, and he was confirmed to his service and he become permanent employee during the course of service in the company. It is submitted that the Workman could not attend to his duties during the year 2005 due to his ill health, the Respondent issued a Show cause notice dated 3.4.2006 and the Workman submitted a reply dt 15.6.2006 and could not be considered by the Respondent Company and dismissed from service through proceedings No.SRP/PER/13/008/8114, dated 23.11.2006. It is submitted that the Workman preferred an appeal to the Higher authorities that went in vain and mechanically upheld the orders of Chief General Manager, Sreerampur Division. It is submitted that the Workman has put in 8 years of service without any red remark and the Workman has got still 20 years of service for superannuation. It is submitted that removal from service of the Workman, who has rendered more than two years of qualified service is arbitrary, illegal and against to the principles of natural justice and also against to the provision are governed by various standing orders of company. It is submitted that Workman could not opt for Rs.3,00,000/- compensation in lieu of employment, but opted employment. Now, the Workman has got re-option to claim compensation of Rs.5,00,000/- in lieu of dependent employment through settlements dated 20.11.2009 if the employment is not provided. The action of the Respondent amounts to "hire and Fire" which has no force in the industrial jurisprudence. It is submitted that, the " Award And Settlements" both are decrees in Industrial Disputes Act. There was a settlement from 1.1.2000 to 31.12.2010 before the Regional Labour Commissioner at Hyderabad those who were removed from 1-1-2000 to 30-12-2010, cases can be considered by the Management as per the circular P. 40 /5911/IR/33, dt 10-3-2000, workman was called for interview and so the case of the workman is not considered for re-employment-as per settlement. If the workman was given employment he could have been put in more than additional 20 years of service. The non-consideration of Workman is very bad in law and against settlement by the company. It is submitted that Respondent did not conduct enquiry properly and no subsistence allowance was paid and Respondent obtained thumb impressions on enquiry report by the Workman and workman do not know English language and enquiry conducted by the Respondent without mentioning contents therein. It is submitted that after removal from the service by the Respondent, the workman and children of workman are fallen on roads with untold sufferings. The relationship between the workman and Respondent is still continuing and the workman has not reached the age of superannuation. It is therefore prayed to direct the Respondent to reinstate the workman into service with continuity and other attendant benefits and with full back wages.

3. **Respondent filed counter denying the averments of the Workman as under**:

The contention of the Workman that he was appointed vide order dated 23.3.1988 as Floating Badlifiller and regularized as Coal Filler. It is submitted that he was dismissed vide order dated 23.11.2006 w.e.f.1.12.2006 due to habitual absenteeism. He was issued with charge sheet dated 10.4.2006 as he absented from duties during the year 2005 under the clause No.25(25) and 25.31 which reads as follows:-

Clause No.25.25 and 25.31of Company's Standing Orders:-

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave."

It is further submitted that workman has participated fully in the enquiry conducted on 18.4.2006 and a copy of enquiry report and enquiry proceeding were also sent to him vide letter dated 26.8.2006 and workman did not submit any representation against the same and as such he was dismissed from Company's services w.e.f. 1.12.2006 vide letter dated 23.11.2006. The Petitioner's attendance over three calendar years, ie 2004- 112 musters; 2005-087 musters and 2006-015 musters and after finding that there was no improvement in his attendance even during the year 2006 and as there was no extenuating circumstances to take a lenient view, the Petitioner was dismissed w.e.f. 1.12.2006. It is submitted that Petitioner assured during counselling that he will be regular to his duties and attend duty for 20 days in a month but he did not keep his promise. He did nto communicate reasons of his absence to the mine authorities at any point of time, which establishes that he was not interest in his job. If the Petitioner was realy suffering from health problems he ought to have reported sick in Colliery Hospital and requested for sanctioned leave which he did not avail. It is also submitted that the workman had attended the enquiry conducted by the respondent company and he was given full and fair opportunity to defend his case. It is submitted that the workman was dismissed from the company services only after following all the principles of natural justice giving him opportunity to defend his case. It is pertinent to mention here that though the agreement exists, payment of compensation called lump sum payment in lieu of dependent employment who left the services due to death or medical invalidity, but the same is not applicable in the cases of dismissals from company services. It is submitted that as per the Settlement and the Circular dt.09.08.2011, the employees who were dismissed from the services of the Company between 01.01.2000 and 31.12.2010 were considered for employment on fulfillment of the conditions stipulated therein by the High Power Committee. However, the Workman was dismissed from service with effect from 1.12.2006 and hence the Workman is not covered under the Settlement. It is submitted that every charge sheeted employee will be given

full and fair opportunity to defend his case. Though the enquiry report is recorded in English language the deliberations was taken place in local language i.e., in Telugu language only. Though the proceedings are recorded in English language the same was read over and explained to him in local language. It is submitted that had the workman worked regularly while he was in service there would have been no financial troubles to him. It is submitted that it is a belated case wherein more than 10 years elapsed from the date of the dismissal of the workman. It is submitted that the workman raised the dispute with abnormal delay. In the instant case fair enquiry was held and full opportunity was given to the workman to participate in the domestic enquiry. He was also supplied with the enquiry report and enquiry proceedings so as to enable him to submit his representation to the competent authority. In view of the above, it is prayed to dismiss the claim petition as devoid of merits.

4. Perused written arguments filed by Respondent.

5. **On the basis of pleadings of both the parties, following issues are to be determined**:-

I. Whether the departmental enquiry held against workman is legal and valid?

II. Whether, present industrial dispute is bad for inordinate delay and latches and hence not maintainable?

III. Whether the action of Respondent in terminating the services of the workman vide order dated 23.11.2006 is justified?

IV. To what relief if any the workman is entitled for?

Findings:-

6. Point No.I:- The legality and validity of Domestic Enquiry has been held legal and valid vide order dated 29.3.2023 by the Court.

Hence, this point is answered accordingly.

7. Point No.II:- The Learned Counsel for Respondent submitted that the present industrial dispute has been raised by the workman with inordinate delay of 8 years from the date of his dismissal and the same cannot be entertained in view of the provision of ID Act and is liable to be dismissed on this count alone. Further, it is submitted that the present petition has been filed with the delay of 8 years from the date of dismissal and is liable to be dismissed on the ground of delay and latches.

8. The perusal of record reveals that the Workman has raised present industrial dispute by filing petition u/s.2A(2) of I.D. Act, 1947 challenging the dismissal order dated 23.11.2006 and has not furnished any explanation in his claim statement regarding the inordinate delay of 8 years in raising the industrial dispute. Admittedly, workman was dismissed from services by the Respondent vide order dated 23.11.2006 and the reference for adjudication has been made to this Tribunal vide order dated 8.8.2014. There is a delay of about 8 years in raising the industrial dispute and workman has not furnished any plausible explanation in his claim statement for such inordinate delay in raising the industrial dispute. Therefore, in the instant case, the industrial dispute has been raised by the workman with an inordinate delay of 8 years and such an inordinate delay in raising the dispute it will cause prejudice to the Respondent to defend the case due to long period elapsed and he may not have record pertaining to the matter in his possession due to loss or damage done to it.

9. In this context, it is settled law laid down by **Hon'ble Supreme Court,** that, if the industrial dispute is raised by the workman after an inordinate delay of 8 to 12 years, then, such a dispute is not maintainable.

In **K R Reddy Vs. Industrial Tribunal-II, Hyderabad, Hon'ble Court held**:

"The Supreme Court extensively considered the scope of relevant provisions and precedent decisions. The Supreme Court held that there was inordinate, unexplained delay in referring the dispute."

Hence, industrial dispute not maintainable.

In Assistant Engineer, CAD, Kota and Dhan Kumwar, CA No.6473, 2006 III LLJ, the Hon'ble Apex Court held:

"workman raising the dispute eight years after termination of service –relief by Labour Court should not have been granted to workman."

In the case of Haryana State Co-operative Land Development Bank and Neelam, 2005 I LLJ, the Hon'ble Apex Court held:

"Though no time limit prescribed for raising industrial dispute, but stale claim, could not be entertained – approaching Labour Court after delay of more than 7 years. Held:- justified refusal of relief in this case."

Therefore, in view of the ongoing discussion and law laid down by Hon'ble Court, I am of the view that in the instant matter industrial dispute is raised by workman after inordinate delay of 8 years and hence is bad and not maintainable due to delay and latches in raising the industrial dispute.

This point is answered against the workman and in favour of Respondent.

10. Point No.III:- Now, we proceed to examined the instant matter on merit. Workman in his claim statement has submitted that he was appointed on 23.3.1988 in Respondent Company and was confirmed in the service. Further, it is submitted that workman did not attend to his duties during the year 2005 due to his ill-health and Respondent issued a show cause notice dated 3.4.2006 and Workman has submitted reply dated 15.6.2006. But his reply was not considered by the Respondent company and he was dismissed from Service vide order dated 23.11.2006. Therefore, it is submitted that order of his removal from service is illegal and against the principles of natural justice and liable to be set aside.

11. On the other hand, Respondent has contended that the submission of the Workman that he could not attend the duty in the year 2005 due to ill-health is not true and correct. It is contended that not a single document has been filed which establishes the fact of illness.

12. In view of the submissions of the Learned Counsels of both parties, perused the record. The Workman in his claim statement has alleged that he could not attend to his duties during the year 2005 due to his ill-health and he was dismissed from service through proceeding dated 23.11.2006 by the Respondent on the charge of absenteeism under Company's Standing Orders No.25.25 and 25.31. But the record reveals that the Petitioner workman remained absent from duty during the year 2005 for 216 days and charge sheet dated 10.4.2006 was issued under Company's Standing Orders No.25.25 & 25.31 and the enquiry was conducted against the Petitioner. The Petitioner was held guilty of habitual absenteeism from duty for 216 days without sanctioned leave and sufficient cause during the year 2005 in contravention of Company's Standing Orders. Thus, Petitioner has not explained his absenteeism from duty during the year 2005 in his claim statement.

13. Although, Petitioner has taken the plea that due to ill-health he was absent from duty, but Workman did not file any documentary evidence i.e., Medical certificate or prescription of any Doctor to substantiate his claim that he was absent from duties during the year 2005 due to his illness. Moreover workman has not submitted any explanation as to why he did not report sick at the hospital of the Respondent company for treatment or intimate to Respondent about his illness or apply for leave. Admittedly, Workman remained absent from duty for 216 days without any sanctioned leave or sufficient cause for the alleged period during the year 2005 and such conduct of Petitioner amounts to misconduct under Company's Standing Order No.25.25 and 25.31.

The Company Standing Orders No.25.25 and 25.31 are extracted below-

25.25: "Habitual late attendance or habitual absence from duty without any sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause for over staying beyond sanctioned leave."

14. As regards, misconduct of habitual absence from duty by an employee without any sufficient cause, Hon'ble Apex Court have laid down the principles in numerous cases. Few decisions of Hon'ble Court are quoted below:-

In State of U.P. Vs. Ashok Kumar Singh 1996 (1) SCC 302, the Hon'ble Apex Court have held:-

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

In **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 Hon'ble Apex Court have held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Hon'ble Apex Court have held:

"9. When an employee absent himself from duty even without sanctioned leave for a long period, it prima facie shows lack of interest in the work. Para 19(h) of the Standing Orders as quoted above relate to habitual negligence of duties and lack of interest in the authority's work. When an employee absents himself from duty without sanctioned leave the authority can, on the basis of record, come to conclusion about the employee being habitually negligent in

duties and an exhibited lack of interest in the employer's work.

11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

Therefore, in view of the settled law laid down by Hon'ble Apex Court and provision contained in Standing Orders, the workman has committed gross misconduct as he remained absent from duty habitually without sanctioned leave or without any sufficient cause during the year 2005. Therefore, he has been rightly held guilty of misconduct under the Company's Standing Orders No. 25.25 and 25.31.

15. As far as the question of interference by Tribunal in the finding and order of disciplinary authority is concerned, it is settled law that Tribunal is not empowered to interfere in the order of Disciplinary Authority except when such findings are based on no evidence or where they are clearly perverse. In this context, I would like to refer few decisions of Hon'ble Apex Court as discussed below:-

In the case of State of Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 is relevant. Therein the Hon'ble Apex Court have held:-

"6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, in the case of **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:**

"once the Enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Further, **in the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, (supra) Hon'ble Apex Court have held:-**

33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject..That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Thus, in view of the fore gone discussion and settled law laid down by the Hon'ble Apex Court as discussed above, in the instant matter I do not find any ground or occasion to interfere in the finding or order of dismissal of workman

passed by Disciplinary Authority. It is not a case of no evidence or order suffering from perversity. It is admitted fact that workman remained absent from duty for 216 days unauthorizedly and failed to substantiate his plea of illness by any cogent and reliable evidence. Therefore, the order of dismissal dated 23.11.2006 w.e.f. 1.12.2006 passed by Disciplinary Authority is held legal and justified and warrants no interference by the Tribunal.

Thus, Point No.III is answered accordingly.

17. **Point No.IV**: In view of the finding given in Point Nos. I,II & III, the claim petition of the Workman is devoid of merits, and he is not entitled to get any relief, hence, same is liable to be dismissed.

Thus, Point No.IV is answered accordingly.

ORDER

The action of General Manager, M/s. Singareni Collieries Company Ltd.,, Sreerampur Area, Adilabad Distt. in terminating the services of Sri Godari Rajaiah, Ex-coal Filler, IK-1 INC., Sreerampur Area vide order dated 23.11.2006 with effect from 1.12.2006 is held justified. As such, the workman is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 23rd day of December, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 जनवरी, 2025

का.आ. 115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – sह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 61/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/109/2022-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference I.D .No. 61/2022** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **07*/01/2025*.**

[No. L-22012/109/2022– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 61 OF 2022

PARTIES: Rajkumar Harijan

Vs.

Management of Jhanjra Project Colliery 1 & 2 Incline, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Shabe Alam, Organizing Secretary, Colliery Mazdoor Congress

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 26.12.2024

AWARD

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-22012/109/2022-IR(CM-II)** dated 22.12.2022 has been pleased to refer the following dispute between the employer, that is the Management of Jhanjra Project Colliery 1 & 2 Incline under Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Jhanjra Project Colliery 1 & 2 Incline, Jhanjra Area, M/s. E.C.Ltd. in not fixation of pay properly in the regularized post of Mining Sirdar-cum-Shot Firer to Sri Rajkumar Harijan is fair, legal & justified? If not, what relief the workman is entitled to?"

1. On receiving Order **No. L-22012/109/2022-IR(CM-II)** dated 22.12.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 61 of 2022** was registered on 26.12.2022 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. Rajkumar Harijan, the aggrieved workman as well as management of ECL filed their written statement on 18.04.2023 exchanging copies. The fact of the case narrated by the workman in his written statement is that he is a permanent employee under ECL and was initially posted as Timber Mistry. After passing the Mining Sardarship, he was deployed as Mining Sirdar-cum-Shot Firer (T) for a period of six months as trainee and officiating payment was made in addition as adjustment basic. After successful completion of training period, the workman was regularized as Mining Sirdar-cum-Shot Firer and letter No. AGT/JNR/PERS/2016/856 dated 03.10.2016 was issued whereby he was regularized to the said post with effect from 26.05.2016. It is contended that while fixing pay in Technical and Supervisory Grade-C, his pay became less than what he was receiving during his training period as Timber Mistry. The workman claimed that his basic as Timber Mistry ought to be Rs. 68,361.34 per month but while fixing his pay in Technical and Supervisory Grade-C, his pay was reduced to Rs. 66,370.24 per month. Several representations were made before the management for proper fixation of his pay with retrospective effect but the management did not take any steps. Hence this Industrial Dispute has been raised.

3. Management contested the case by filing a written statement, denying the claim of the workman. According to the management, Rajkumar Harijan was deployed as Mining Sirdar-cum-Shot Firer for six months and difference of wage was paid to him as per company's rule. After successful completion of training period, he was regularized as Mining Sirdar-cum-Shot Firer in Technical and Supervisory Grade-C. His pay was fixed as Monthly Rated workers. The management denied that fixation of pay of the concerned workman was done in illegal manner and stated that claim for protection of pay is not legally tenable. The management prayed for dismissing the Industrial Dispute on a plea that the workman is not entitled to any relief.

4. Short point for consideration, laid down in the schedule is whether the management of Jhanjra Project Colliery 1 and 2 Incline, ECL has not fixed the pay of Rajkumar Harijan in proper manner after his regularization to the post of Mining Sirdar-cum-Shot Firer.

5. In order to prove his case, Rajkumar Harijan has filed his affidavit-in-chief. He is examined as WW-1. In his affidavit-in-chief, he has stated that he was regularized to the post of Mining Sirdar-cum-Shot Firer after six months training but his fixation of pay on his regularization was less than his payment he was receiving as Timber Mistry during training period. During his evidence-in-chief, the workman produced the following documents:

(i) Copy of the Office Order dated 24/26.11.2015 whereby Rajkumar Harijan of Jhanjra project Colliery was encadred as Mining Sirdar-cum-Shot Firer (Trainee) for a period of six months is produced as Exhibit W-1.

(ii) Copy of Office Order dated 03/04.10.2016 whereby the workman was regularized as Mining Sirdar-cum-Shot Firer is produced as Exhibit W-2.

(iii) Copy of the payslip of December, 2015 is marked as Exhibit W-3.

(iv) Copy of the payslip of February, 2016 and March, 2016 is marked as Exhibit W-4.

(v) Copy of the payslips of May, June, July 2016 is marked as Exhibit W-5.

(vi) Copy of the payslips of August, September 2016 is marked as Exhibit W-6.

6. Mr. Alaric Oneal Lyndem is examined as MW-1. In his affidavit-in-chief, the witness admitted that Rajkumar Harijan was working as Timber Mistry in Category – V and subsequently was regularized to the post of Mining Sirdar-cum-Shot Firer in Technical and Supervisory Grade-C as per guidelines of company by order dated 03/04.10.2016. It is further stated in the affidavit the pay of the workman was fixed as Monthly Rated Category on his regularization and denied that pay fixation of workman had not been done according to the guidelines of the company. It is the case of the management that the post of Mining Sirdar-cum-Shot Firer in Technical and Supervisory Grade-C in an entry level supervisory post which is done through selection and not promotion. The witness produced the following documents :

(i) A letter regarding encadrement of Rajkumar Harijan to the post of Mining Sirdar-cum-Shot Firer (Trainee) dated 05.11.2015 is produced as Exhibit M-1.

(ii) Copy of Office Order dated 03/04.10.2016 regularizing the workman to the post of Mining Sirdar-cum-Shot Firer from 26.05.2016 is produced as Exhibit M-2.

(iii) Details of monthly basic pay, rate of DA and increment of the concerned workman has been produced as Exhibit M-3.

(iv) Copy of guidelines dealing with promotion issued by the General Manager (P&IR) dated 04.10.2012 is produced as Exhibit M-4.

7. It is argued by Mr. Shabe Alam that after regularization of the workman in higher post as Mining Sirdar-cum-Shot Firer, no increment of pay was allowed to him and the management of ECL converted his daily rated wage paid to him as Timber Mistry, at the rate of Rs. 1204.23 per day, to a basic pay of Rs. 32249.36 per month which is a summation of his basic pay at the daily rate. Mr. Alam argued that in the instant case, the workman is entitled to an increment @ 3% of his basic wage in the higher category/grade on progressive basis which is provided in clause 2.10.0 in the NCWA-IX. According to the union representative, the basic pay of the workman is required to be fixed with an increment of 3% over the progressive basic pay i.e., Rs. 32249.36 per month and the basic pay of the workman after completion of his training period ought to be Rs. 33216.84 per month with effect from 26.05.2016.

8. Mr. P.K. Das, learned advocate for the management of ECL refuting the claim of the union argued that there is no anomaly in the fixation of pay of the workman which has been done as per the norms of the company by the finance department of the company. It is further argued that the post of Mining Sirdar-cum-Shot Firer is not a promotional post therefore, the workman is entitled to a conversion of his daily rated payment to a monthly rated payment along with usual increments in the month of July.

9. I have considered the argument advanced by the learned advocate for the management and union representative in the light of the facts and circumstances of the case and the evidence adduced by the parties. It is an admitted fact the Rajkumar Harijan was working as a Timber Mistry in Category-V and was deployed to function as Mining Sirdar-cum-Shot Firer (Trainee) for a period of six months and he was receiving the difference of wages as adjustment basic. Exhibit M-1, a letter dated 05.11.2015 relating to his encadrement as Mining Sirdar-cum-Shot Firer disclosed that Rajkumar Harijan would function as a trainee in the said post for a period of six months and shall receive difference of wages. Exhibit M-3, a chart showing details of monthly basic, DA rate and increment prepared by the System Manager, Jhanjra Area reveals that Rajkumar Harijan was receiving difference of pay, described as "Adjustment Basic" which is an officiating pay during the period of his training and the same was in addition to his daily wage as Timber Mistry. On completion of his training period, he was regularized to the post of Mining Sirdar-cum-Shot Firer, in Technical and Supervisory Grade- C with effect from 26.05.2016. The Office Order dated 03/04.10.2016 (Exhibit W-2 and Exhibit M-2) further disclose that the new basic of Rajkumar Harijan would be fixed as per norms of the company by the Associated Finance. In reality, it appears from Exhibit M-3 that the daily basic of Rs. 1240.36 was converted to a monthly basic of Rs. 32,249.36. The said sum is nothing but a multiple of 26.78 of the daily basic pay of the workman which he received during his posting as Category-V employee. It is true that as per Office Order dated 24/26.11.2015 (Exhibit W-1), the workman in the post of Timber Mistry is entitled to receive difference of wages with Mining Sirdar-cum-Shot Firer (Trainee) in Grade-C for six months. Therefore, the difference of pay which he had been receiving for six months as a trainee is the amount he would have been entitled to if he was posted as a Mining Sirdar-cum-Shot Firer. It is obvious that on being posted in a higher position whether by promotion or by regularization, an employee is entitled to higher pay. It is unconscionable that the pay of the workman would remain the same after completing training period of six months and being deputed to a higher category or rank.

10. According to the provision of clause 2.10.0 of the NCWA-IX, it would appear that for fitment of Time Rated to Monthly Rated employees, the rate of increment which is proposed to be paid on the basic wage of each category/grade of employees on progressive basis is @ 3% of the basic wage. The cumulative daily wage of the workman as Timber Mistry was converted to the Monthly Rated at Rs. 32,249.36 per month. In the instant case I find that on regularization of the workman to the post of Mining Sirdar-cum-Shot Firer in the Technical and Supervisory Grade-C with effect from 26.05.2016, he is entitled to fixation of his pay with an increment of 3% of his basic wage at the relevant time on a progressive basis. In the instant case, it is evident that the increment of 3% was granted to the aggrieved workman at the time of his regular annual increment which was due on 1st of July. Since the workman has

already been regularized to a higher post in the cadre strength of the company, he is entitled to 3% increment on his basic pay on his regularization with effect from 26.05.2016. The action of the management of Jhanjra Project Colliery is not fixing the pay of the of the workman in proper manner on his regularization to the post of the Mining Sirdar-cum-Shot Firer is found not justified. The management is directed to fix his pay in the aforesaid manner. Payment of his arrears be made within three months from the date of communication of this Award. The workman shall also be entitled to his regular annual increments w.e.f. 01.07.2016. The Industrial Dispute is accordingly decided in favour of the workman/ union.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against management of Jhanjra Project Colliery 1 & 2 Incline, ECL. The management is directed to fix the pay of Rajkumar Harijan on his regularization as Mining Sirdar-cum-Shot Firer with an increment of 3% on his progressive basic wage of Rs. 32,249.36 per month with effect from 26.05.2016 and shall also be entitled to usual annual increments as per norms of the company. Management of Eastern Coalfields Limited shall pay arrears within three (3) months from the date of communication of this Award. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – lg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 11/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/16/2016-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 11/2016** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **07*/01/2025*.**

[No. L-22012/16/2016– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 11 OF 2016

PARTIES: Bikram Yadav

(dependant son of Ajhola Devi)

Vs.

Management of S.S.I. Colliery of 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: 24.12.2024.

AWARD

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-22012/16/2016-IR(CM-II)** dated 03.05.2016 has been pleased to refer the following dispute between the employer, that is the Management of S.S.I. Colliery under Ningah Group of Mines, Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of S.S.I. Colliery under Sripur Area of M/s ECL in denying to provide employment to Shri Bikram Yadav, dependent son of Late Ajhola Devi, Ex-Kamin, who died while on employment, is legal and or justified? If not, what relief Shri Bikram Yadav is entitled to? "

1. On receiving Order **No. L-22012/16/2016-IR(CM-II)** dated 03.05.2016 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2016** was registered on 13.05.2016 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, Union representative filed a written statement on behalf of Bikram Yadav on 13.07.2016. Management contested the case by filing written statement on 14.12.2016. Brief fact of the case as disclosed in the written statement of the union is that Ajhola Devi, Ex-Kamin, U.M. No. 259383 was a permanent employee of S.S.I. Colliery under Sripur Area of Eastern Coalfields Limited (hereinafter referred to as ECL). She died in harness on 18.01.2006 and was survived by Bikram Yadav, adopted son. According to provision of National Coal Wage Agreement (hereinafter referred to as NCWA) one dependant of the deceased employee is entitled to get compassionate employment under the employer company. Bikram Yadav, filed an application on 03.06.2008 before the management, claiming employment as an adopted son of Ajhola Devi. After scrutiny at Colliery and Area level and after holding screening the claim of Bikram Yadav was found genuine and all required documents were found in order. Medical examination of Bikram Yadav was held by the Initial Medical Examination (hereinafter referred to as IME) Board, which declared him fit for employment. After completing all formalities, the Area management forwarded the employment proposal to the ECL Headquarters for approval. Examining the proposal for employment ECL Headquarters directed Police Verification to find out genuineness of the relation between Ajhola Devi and Bikram Yadav and also obtained legal opinion from the learned advocate about the legality of the Adoption Deed. Police Verification Report was submitted, in which the Police Authority confirmed the relationship between Bikram Yadav and Ajhola Devi, wife of late Ratan Yadav. Legal opinion submitted by the learned advocate of the company confirmed the genuineness of the Adoption Deed. After completion of the entire procedure the Headquarters of ECL has kept the proposal for employment pending. Neither the employment was provided to the dependant son nor was the claim for employment regretted. It is further stated that Ajhola Devi had included the name of Bikram Yadav as her adopted son in all the records of the company, namely Service Record, PS-3, PS-4 and she also availed LTC and LLTC in the name of Bikram Yadav during her service tenure. Management accepted Bikram Yadav as the adopted son and granted necessary benefits on account of LTC and LLTC to Ajhola Devi and no question has been raised doubting the relationship. The Provident Fund and Gratuity amount lying in the credit of Ajhola Devi has been paid to Bikram Yadav, treating him as the son of deceased employee, which supports the claim of Bikram Yadav, that the management of ECL has already accepted him as the son of Ajhola Devi. It is inter-alia contended that in the Voter Identity Card, PAN Card and Aadhaar Card of Bikram Yadav the name of his father is recorded as Ratan Yadav, who is the husband of Ajhola Devi. It is the case of the union that Bikram Yadav is facing starvation and has no employment till date. It is prayed that management of ECL should provide employment to the dependant of the deceased employee as per provision of NCWA.

3. The management in the written statement has denied that Bikram Yadav is the adopted son of Ajhola Devi, the deceased employee. It is contended that the Industrial Dispute has been raised more than seven years after the death of Ajhola Devi and the same is stale one. In paragraph - (4) it is stated that Ajhola Devi died on 18.01.2006, while she was working at S.S.I. Colliery and was survived by one Bikram Yadav, son and Kumari Dayamati, daughter. Referring to the National Coal Wage Agreement (hereinafter referred to as NCWA) it is pleaded that one dependant of the deceased employee is entitled to compassionate appointment for sustaining the family due to stoppage of regular income of the earning member. It is also stated that Bikram Yadav submitted application on 03.06.2008, claiming employment as adopted son of Ajhola Devi. The management after examining the prayer is of the impression that the alleged adoption has been contrived by manufacturing of documents and it would be evident from facts that though Bikram Yadav claimed to have been adopted on 28.12.1994 by Ajhola Devi, he is carrying the name of his biological father Ram Chandra Paswan @ Das in several documents including the Voters' List of the year 2014

and 2015. Photocopies of the same have been enclosed. It is contended that adoption deed submitted by Bikram Yadav is mere paperwork and there was no actual giving and taking between the biological and adoptive family for severing his relationship from the biological family. It is claimed that even after twenty-one years of the alleged adoption the relationship of Bikram Yadav with his biological father is subsisting and the alleged adoption is not valid. The management alternatively asserted that more than nine years have passed after the death of Ajhola Devi and there is no scope for providing compassionate appointment to the claimant to tide over the financial crisis. The management relied upon a decision of the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [Civil Appeal No. 3597 of 2009]**, and submitted that employment on compassionate ground was disapproved after passage of long years and Reference of such stale dispute for adjudication is bad in law. The management urged that the petitioner claiming to be adopted son is not entitled to any relief and the Industrial Dispute is liable to be dismissed.

4. The union filed affidavit-in-chief of Bikram Yadav, the person claiming employment and examined him as Workman Witness No. 1. It is stated in the affidavit-in-chief that Ajhola Devi has no issue and she has adopted Bikram Yadav by executing a deed of adoption. The adopted son claimed employment as per provisions of NCWA as a dependant of the deceased employee. It is asserted that his name is included in the Service Record of his mother and his application was referred to the ECL Headquarters after screening and medical examination, in which he was found fit for employment. Police verification was conducted for finding out the relationship between Bikram Yadav and Ajhola Devi. Legal opinion was obtained from advocates who also confirmed the genuineness of the adoption. Following documents have been produced by the union in course of his evidence :

(i) Copy of Identity Card of Ajhola Devi issued by the management of ECL has been produced as Exhibit W-1.

(ii) Copy of the Death Certificate of Ajhola Devi, as Exhibit W-2.

(iii) Copy of application of Bikram Yadav dated 03.06.2008 to the Manager, S.S.I. Colliery, as Exhibit W-3.

(iv) Copy of letter dated 26.12.2008 issued by Deputy Chief Personnel Manager, Sripur Area to Bikram Yadav for holding his IME, as Exhibit W-4.

(v) Copy of the Form PS-4, as Exhibit W-5.

(vi) Copy of the Form 'F', as Exhibit W-6.

(vii) Copy of Form relating to details of family for availing LTC benefits, as Exhibit W-7.

(viii) Copy of letter issued by the Assistant Labour Commissioner (Central), Asansol forwarding Demand Draft towards payment of Gratuity to Bikram Yadav has been produced as Exhibit W-8.

(ix) Copy of the Deed of Adoption, as Exhibit W-9.

(x) Copy of letter dated 14/16.04.2008 issued by the Manager, Sripur Seam Incline to Bikram Yadav, as Exhibit W-10.

(xi) Copy of letter dated 30.12.2008 of Area Medical Officer, Sripur Area to the Chief Medical Officer (I/C), Central Hospital Kalla for Audiometry test of Bikram Yadav, as Exhibit W-11.

(xii) Copy of letter dated 30.12.2008 of Area Medical Officer, Sripur Area to the P.M.E. (I/C), P.M.E. Unit, Ningah for X-ray and pathological investigation of Bikram Yadav, as Exhibit W-11/1.

(xiii) Copy of report of Audiometry test of Bikram Yadav dated 30.12.2008, as Exhibit W-11/2.

(xiv) Copy of letter dated 29.11.2010/06.12.2010 issued by the Senior Personnel Officer, S.S.I. Colliery to Bikram Yadav, as Exhibit W-12.

(xv) Copy of letter dated 05/23.07.2011 issued by the Personnel Manager (I/C), Sripur Area to the Manager (Personnel) (Empl./Hq.), ECL, Headquarters, as Exhibit W-13.

(xvi) Copy of letter dated 25/27.08.2012 issued by the Senior Manager Personnel (I/C), Sripur Area to the Manager Personnel (Empl.), ECL, as Exhibit W-14.

(xvii) Copy of letter dated 07/19.02.2013 issued by the Manager, SSI Colliery to Bikram Yadav, as Exhibit W-15.

(xviii) Copy of letter dated 25.02.2013 of Bikram Yadav addressed to the Manager, SSI Colliery, as Exhibit W-16.

(xix) Copy of letter dated 10.11.2009 issued by the Agent, Ningah Group of Mines to the Superintendent of Police, Lakhisarai, Bihar, as Exhibit W-17.

(xx) Copy of the Police Verification Report dated 05.02.2010, as Exhibit W-18.

(xxi) Copy of PAN Card of Bikram Yadav, as Exhibit W-19.

(xxii) Copy of Voter's Identity Card of Bikram Yadav, as Exhibit W-20.

(xxiii) Copy of Aadhaar Card of Bikram Yadav, as Exhibit W-21.

(xxiv) Copy of Driving License of Bikram Yadav, as Exhibit W-22.

(xxv) Copy of Voter's Identity Card of Ajhola Devi, as Exhibit W-23.

(xxvi) Copy of the Voters List of Jamuria Constituency (279), as Exhibit W-24.

5. In his cross-examination dated 26.03.2018 the witness stated that he is unable to state his actual age at the time of adoption. The witness claimed to have studied up to Class-VIII and deposed that he was unable to find his School Certificate. Witness also stated that his biological mother and father are alive and they are not going to adduce any evidence regarding their giving in adoption. he went to the extent of deposing that his natural parents are not ready to give evidence. The witness failed to state in whose presence the adoption took place. Suggestion was given to the witness that the entries in the service record of Ajhola Devi, disclosing Bikram Yadav as her son were incorrect, the witness denied the same.

6. Since relevant documents were not admitted in the evidence recorded on earlier occasion, the workman was recalled by the union and was re-examined on 22.02.2023. In course of his re-cross-examination Bikram Yadav deposed that he was adopted by Ajhola Devi in the year 1994 and also stated that Ram Jatan Nunia and Ram Jatan Kanu were present at the time of adoption. He also deposed that the persons who were present at the time of his adoption have expired. It may be gathered from the cross-examination of WW-1 that the adoption was made by execution of adoption deed only, which was prepared by Mr. Mahendar Shaw, advocate. The witness deposed that he studied up to Class-VIII in Mahavir Vidyalay at Ningah and he was continuing his education at the time of his adoption. No document relating to his education has been filed to show whether the School Certificates were bearing the name of his biological father or adoptive father. The witness admitted that the School Admission Register bears the name of his father and Ramchandra Das of Jamuria is his natural father. In unguarded moments the witness during his re-cross-examination admitted that in the Voters List of the year 2015, the name of his father appears as Ramchandra Das. He went further to deposed that till 2013 he was known as Bikram Das, son of Ramchandra Das. At times the witness stated that he was adopted in the year 2014 and later on stated that he was adopted in the year 1994.

7. Mr. Ajit Kumar Mazumdar, Deputy Manager (Personnel), SSI Colliery has been examined as Management Witness No. 1. He filed his affidavit-in-chief, dismissing the claim of Bikram Yadav, that he is the adoptive son of Ajhola Devi. The specific case of the management is that though Bikram Yadav is said to have been adopted on 28.12.1994, he is carrying the surname of his biological father Ram Chandra Paswan @ Das in several records including the Voters' List of the year 2014 and 2015 of Jamuria Constituency. It is claimed that the relationship of Bikram Yadav has not been severed from the biological father and the Industrial Dispute raised nine years after the death of Ajhola Devi does not entitle the claimant to any compassionate employment as per provision of NCWA. In course of his examination-in-chief the witness has produced the following documents :

(i) Copy of the Service Register of Ajhola Devi has been produced as Exhibit M-1.

(ii) Copy of the Form PS-3 of Ajhola Devi, as Exhibit M-2.

(iii) Copy of the Form PS-4 of Ajhola Devi, as Exhibit M-3.

(iv) Copy of the Voters' List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency, as Exhibit M-4.

(v) Copy of the Voters' List of the year 2014 of Jamuria (General) Vidhan Sabha Constituency, as Exhibit M-5.

(vi) Copy of the IME Report, as Exhibit M-6.

It is stated by the witness that the name of Bikram Yadav appears against Sl. No. 74 of the Voters List of the year 2014 of Jamuria (General) Vidhan Sabha Constituency where his father's name has been recorded as Ramchandra Das (Exhibit M-5). It is also deposed that in the Voters List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency the name of Bikram Yadav appeared against Sl. No. 73 and his father's name was recorded as Ramchandra Das, who is the biological father (Exhibit M-4). The witness deposed that as the adoption of Bikram Yadav is doubtful, the management did not approve his employment in the capacity of an adopted son of the deceased employee.

8. In course of cross-examination, the witness deposed that the name of Bikram Yadav has been recorded as son of Ajhola Devi on the basis of documents submitted by Ajhola Devi during her lifetime. The name of Bikram Yadav is also recorded in the Form PS-3 and PS-4 as the son of Ajhola Devi. Witness admitted that Death Gratuity of Ajhola

Devi was paid to Bikram Yadav under order of the Competent Authority and the management did not take any final decision regarding employment. The IME Report has been produced as Exhibit M-6. Management witness denied the suggestion that the management of the company acted illegally by not providing employment to the dependant during seventeen years from 2006 to 2023.

9. Mr. Rakesh Kumar, Union representative argued that Bikram Yadav is the adopted son of Ajhola Devi, who died in herness in 2006. The name of Bikram Yadav is recorded in the Service Record of Ajhola Devi before her death and the name of Bikram Yadav also appeared in the Service Register (Exhibit M-1), Form PS-3 (Exhibit M-2) and Form PS-4 (Exhibit M-3). A details of family members receiving LTC benefit has been produced as Exhibit W-7, where the name of the son appeared as Bikram Yadav. It is submitted that soon after the death, application was submitted by the dependant on 03.06.2008, claiming employment as per the provisions of NCWA. Management held Screening and medical examination but withheld their decision of providing employment to Bikram Yadav. It is further submitted that police verification was done by the management to find out the genuineness of the claimant. The Agent, Ningah Group of Mines issued a letter dated 10.11.2009 addressed to the Superintendent of Police, Lakhisarai, Bihar for Police Verification (Exhibit W-17). After holding police verification, a report was submitted by the Superintendent of Police, Lakhisarai, Bihar addressed to the Agent, Ningah Group of Mines along with a report in support of genuineness of such relationship (Exhibit W-18). It is claimed by the union that Bikram Yadav is entitled to employment as a dependant son, as per the provisions of NCWA without further delay.

10. Mr. P. K. Das, learned advocate for the management refuted the claim, arguing that Bikram Yadav is not the adopted son of Ajhola Devi and his name has been incorporated by Ajhola Devi for the purpose of obtaining benefits which she was not entitled to. Referring to the affidavit-in-chief of Bikram Yadav it is argued that the claimant did not hesitate to make false statement before the Tribunal, wherein in Paragraph No. 2 he stated that the mother was not having any issue so she adopted him as son, as per the law and an Adoption Deed was prepared. It is pointed out that in the Service Register the name of daughter of Ajhola Devi is recorded as Dayamanti. Even in the Form PS-3 and PS-4 the name of daughter has been recorded as Nitu Kumari. Referring to the deed of adoption registered on 28.12.1994 before the Additional District Sub-Registrar, Asansol, (Exhibit W-9), learned advocate for the management submitted that Bikram @ Tanku Paswan, son of Sri Ram Chandra Paswan of Bhatapara, Ningah has been adopted on 28.12.1985 in presence of relatives and friends and other persons of locality with the consent of her husband Ratan Yadav, who died in 1987. Learned advocate referred to the recital of the adoption deed and submitted that Ram Chandra Paswan, the father and Smt. Sushila Devi, the mother of Bikram @ Tanku Paswan have consented to take Bikram @ Tanku Paswan in adoption and since then Bikram Yadav has no connection with his biological parents and he is treated as the son of Ajhola Devi. Learned advocate argued that the deed has been manufactured for the purpose of procuring employment and pointed out that Bikram Yadav himself has contradicted the contents of the adoption deed by deposing that he was adopted by Ajhola Devi in the year 1994 and did not mention that he was given in adoption in the year 1985 as mentioned in the adoption deed. Learned advocate further argued that the name of Bikram Yadav actually is Bikram Das and in the Voters List of Jamuria (General) Vidhan Sabha Constituency of the year 2014 the name of Bikram Das son of Ramchandra Das appeared against Sl. No. 74 (Exhibit M-5) and in the Voters List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency the name of Bikram Das son of Ramchandra Das has been recorded in Sl. No. 73 (Exhibit M-4). It is argued that the witness himself has admitted in his cross-examination dated 17.10.2023 that till 2013 he was known as Bikram Das son of Ramchandra Das.

11. Laying emphasis on such evidence Management's Advocate argued that the relationship of Bikram Das was never severed from his biological family for which his parents were not examined in this case. No School Leaving Certificate or Education Certificate has been produced by Bikram Das, which would have been proved that his father's name is Ramchandra Das and not Ratan Yadav. It is argued that the union has miserably failed to prove that Bikram Yadav fulfilled the conditions under Clause 9.3.3 of NCWA to claim employment as a legally adopted son, especially when there is no evidence to prove that he was residing with the deceased and almost wholly dependent on the earning of the deceased employee. It is urged that the Industrial Dispute is liable to be dismissed.

12. I have considered the materials on record, evidence adduced by the parties and argument advanced by the union representative on behalf of the claimant and learned advocate for the management. The undisputed fact emerging from the pleadings of the parties need not be repeated. Bikram Yadav claimed employment in the capacity of a dependant son of Ajhola Devi. After the death of Ajhola Devi on 18.01.2006 Bikram Yadav submitted an application before the management of the company representing himself to be the adopted son of the deceased employee. The application of Bikram Yadav dated 03.06.2008 has been produced as Exhibit W-3. There is no delay in filing the application. Management swung into action, initiated necessary proceeding to examine his prayer. IME was held. The claimant appeared for his screening. After holding medical examination on 02.01.2009 Bikram Yadav was found fit

for job (Exhibit M-6). Subsequently, management issued a letter dated 29.11.2010 / 06.12.2010 addressed to Bikram Yadav (Exhibit W-12) whereby it was communicated to him that there was difference of name in respect of name of husband of Ajhola Devi and sought for some explanation regarding difference of name of Ratan Yadav along with attestation by two responsible persons. The proposal for employment along with relevant documents and indemnity bond and affidavit were forwarded to the ECL Headquarters for necessary action through letter dated 05/23.07.2011 (Exhibit W-13). By issuing a letter dated 07/19.02.2013 the management of SSI Colliery informed Bikram Yadav to submit fresh and original deed of adoption for the purpose of comparing the same and also sought for clarification under what circumstances two applications were made by him. In one of his applications, he described himself as the son of Ajhola Devi and in the other application he claimed himself to be the adopted son of Ajhola Devi. On considering Exhibit M-4 and M-5, which are documents prepared after the death of Ajhola Devi, in the year 2015 and 2014, it would appear that Bikram Das, claiming himself to be Bikram Yadav has been described as the son of Ramchandra Das and not the son of Ratan Yadav. Bikram Yadav in his cross-examination has admitted that till the year 2013 he was known as Bikram Das, son of Ramchandra Das. There is no evidence on record to suggest that Bikram Yadav @ Bikram Das was residing with the deceased or was dependant on the earning of the deceased. So far as the question of adoption is concerned no plausible evidence has been adduced to establish that there was compliance of relevant condition of Hindu Adoptions and Maintenance Act, 1956. I find that the deed was prepared in the year 1994 (Exhibit W-9), stating therein that the adoption took place in the year 1985. If there was a valid adoption in the year 1985, the claimant would have dissociated from his biological parents and would have carried the surname of his adoptive parents. In my considered view Bikram Yadav @ Bikram Das has failed to prove that he is the adopted son of Ajhola Devi or he was residing with the deceased employee and dependent upon the earning of the deceased. I therefore hold that Bikram Yadav is not entitled to any employment as a dependant under Eastern Coalfields Limited on the basis of his claim of being the adopted son of Ajhola Devi. The Industrial Dispute is therefore dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Bikram Yadav @ Bikram Das is not entitled to any employment on compassionate ground against the death of Ajhola Devi under the provision of NCWA. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Govt. of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – lg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 22/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/137/2013-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 22/2013** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **07*/01/2025*.**

[No. L-22012/137/2013– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 22 OF 2013

PARTIES: Kudus Mia

Vs.

Management of Ghusick Unit of Kalipahari (R) 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: 23.12.2024

AWARD

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-22012/137/2013-IR(CM-II)** dated 04.10.2013 has been pleased to refer the following dispute between the employer, that is the Management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management to retire Kudus Mia premature, taking his date of birth as 07.02.1951 is fair, proper and justified, while his date of birth in Identity Card, Service Excerpt and School Certificate is 02.01.1956 and he should be retired on January, 2016. If not, so what relief management can provide to him? "

1. On receiving Order **No. L-22012/137/2013-IR(CM-II)** dated 04.10.2013 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 22 of 2013** was registered on 14.02.2014 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. After registration of the case the President, Koyala Mazdoor Congress filed written statement on 10.06.2015. The management of ECL filed their written statement on 05.07.2016. The fact of the case disclosed in the written statement of the union is that, Kudus Mia was posted as Boiler Fireman at Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of Eastern Coalfields Limited (hereinafter referred to as ECL) bearing U.M. No. 281649. As per Service Excerpt provided to Kudus Mia in the year1987 his date of birth was recorded as 02.01.1956. Accordingly, the workman was to superannuate from his service on 31.01.2016. The management of Ghusick Colliery illegally issued a Notice of Superannuation w.e.f. 01.03.2011. It is a case of the union that the date of birth of Kudus Mia was correctly recorded in his Service Record which was communicated to him by supply of Service Record Excerpt. On the basis of Form 'B' Register of the company, the management of Ghusick Unit of Kalipahari (R) Colliery issued Identity Card to the workman where his date of appointment is recorded as 17.03.1981 and his date of birth is recorded as 02.01.1956. The workman is absolutely in dark as to how the management treated his date of birth as 07.02.1951 for the purpose of superannuating him. In the written statement the union prayed that Kudus Mia should be reinstated in his employment by accepting his date of birth as 02.01.1956 and management should be directed to pay back the wages for his forced superannuation, rendering him idle w.e.f. 01.03.2011 till the date of joining.

3. Management contested the case by filing written statement, contending inter-alia that the Industrial Dispute raised by the union is not maintainable and the claim of the applicant is not tenable under the law. It is the case of the management that the applicant is not entitled to get any relief. Furthermore, the Labour Court has no jurisdiction to grant any relief to the petitioner and the Industrial Dispute is liable to be rejected.

4. In order to substantiate their case, the union has examined Kudus Mia as Workman Witness – 1 and filed his affidavit-in-chief. On behalf of the workman following documents have been filed :

(i) Copy of the Service Record Excerpt of Kudus Mia along with particulars of family in Form PS-3 are collectively marked as Exhibit W-1.

(ii) Copy of the Identity Card of Kudus Mia, as Exhibit W-2.

(iii) Copy of the Form PS- 4, as Exhibit W-3.

(iv) Copy of the Transfer Certificate issued by the Head Master of Primary School, Buddhudih, as Exhibit W-4.

The workman stated that his actual date of birth is 02.01.1956 but he has been prematurely superannuated from service in March, 2011 and he raised this Industrial Dispute in the year 2012.

5. Management examined Mr. Apurba Biswas, Manager (Personnel), Kalipahari Colliery as Management Witness – 1. Affidavit-in-chief has been filed wherein it is stated that the date of birth of Kudus Mia was recorded in the Statutory Form 'B' Register as 07.02.1951 and the workman has been superannuated on 07.02.2011 on his attaining sixty years of age. The witness has relied upon the following documents :

(i) Copy of the Form 'B' Register of Kudus Mia has been produced as Exhibit M-1.

(ii) Copy of the Service Record Excerpt of Kudus Mia, as Exhibit M-2.

(iii) Copy of the Form PS-4, as Exhibit M-3.

(iv) Copy of the Form PS-3, as Exhibit M-4.

(v) Copy of the Notice of superannuation of Kudus Mia dated 10/16.12.2010, as Exhibit M-5.

6. The point for consideration before this Tribunal is whether the management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of ECL superannuated Kudus Mia in premature manner by treating his date of birth as 07.02.1951 and whether the date of birth of Kudus Mia as per his Identity Card, Service Record and School Certificate is 02.01.1956 and what relief the workman is entitled to, if any.

7. The bone of contention in the case is the disputed date of birth, on the basis of which Kudus Mia has been superannuated from his service. Advancing his argument on behalf of the workman Mr. Rakesh Kumar, Union representative submitted that Kudus Mia was appointed as a loader on 17.03.1981 and at the time of his appointment his date of birth was recorded as 02.01.1956. The said date of birth is mentioned in his original Form 'B' Register and thereafter it was also reflected in the Service Record Excerpt, which was supplied to the workman in the year 1987 and has been produced as Exhibit W-1. It is argued that the important excerpt from Service Record bears the signature of management representative as well as Kudus Mia and no objection was raised by the employee in respect of the entries made therein. Referring to Form PS-3, which is also marked as Exhibit W-1 collectively, Mr. Rakesh Kumar argued that in Column No. (6) date of birth was initially recorded as 02.01.1956 and the form bears the signature of Kudus Mia as well as the Regional Commissioner, CMPF Region – III, Asansol. Subsequently, the entry against Column No. 6 has been cancelled and the date of birth has been recorded as 07.02.1951 without any communication or consent of the workman. It is submitted that Form PS-3 bears the signature of Personnel Manager, Kalipahari (R) Colliery, ECL dated 29.05.1998. Referring to Form PS-4 which is a nomination form for Coal Mines Provident Fund, marked as Exhibit W-3, the date of birth was also recorded as 02.01.1956 which was subsequently cancelled and changed to 07.02.1951 without any information or Notice to the workman. Reliance has also been placed on a copy of Identity Card of the workman which was issued on 17.03.1981, bearing the date of birth of Kudus Mia as 02.01.1956 (Exhibit W-2) and a Transfer Certificate, issued by the Head Master of Primary School, Buddhudih under District Council, Santhal Pargana, Dumka dated 31.12.1962. In the Certificate his date of birth has been recorded in Hindi as 02.01.1956. The union representative vehemently argued that the workman has been illegally superannuated from his service in a premature manner. Relying upon the provision of Annexure-I of Implementation Instruction No. 76, which is applicable to the workman, it is argued that at the time of appointment of an employee who has passed Matriculation or equivalent examination, the date of birth recorded in the certificate is treated as correct date of birth and the same was not to be altered under any circumstances. In case of non-matriculate but educated person who has pursued studies in a recognized educational institution, the date of birth recorded in the School Leaving Certificate, shall be treated as correct date of birth and the same will not be altered under any circumstances. It is submitted that in respect of illiterate candidates when appointees are not covered under the foregoing clauses, the date of birth will be determined by the Colliery Medical Officer, keeping in view any documentary and other relevant evidence as produced by the appointee. Date of birth as determined shall be treated as correct date of birth and the same will not be altered under any circumstances. Mr. Rakesh Kumar submitted that the date of birth of Kudus Mia is consistently recorded as 02.01.1956 and the same is also mentioned in his School Transfer Certificate and Service Record but the management acted in arbitrary manner and in violation of natural justice has superannuated Kudus Mia, five years prior to the term of his service, in an unlawful manner. It is submitted that though the Industrial Dispute is raised in the year 2012 the procedure could not be completed prior to his actual date of superannuation in the year 2016. The workman therefore should be granted his back wages for the period during which he was rendered idle by issuance of a wrong order by the management.

8. Mr. P. K. Das, learned advocate for the management of ECL refuted the claim of the union and submitted that after issuance of the Notice of superannuation to the workman on 10/16.12.2010 (Exhibit M-5), disclosing his date of superannuation as 01.03.2011, the workman raised no objection. It is argued that the date of birth of the workman, recorded in the Service Book, maintained by the company's System Department (Exhibit M-2) appears as 07.02.1951 but the workman did not raise any objection against such entry. Learned advocate drew my attention to the Form PS-3 (Exhibit M-4) and Form PS-4 (Exhibit M-3), where the date of birth of the workman has been recorded as 07.02.1951 and submitted that the forms bear the signature of the workman as well as the Personnel Manager, Kalipahari (R) Colliery, ECL and attested by the Regional Commissioner, CMPF Region – III, Asansol. It is argued that the workman is not entitled to any relief and his superannuation form service is based upon the entries made in the Service Record. Learned advocate urged that the Industrial Dispute is liable to the dismissed.

9. I have considered the facts and circumstances of the case, pleadings of parties, evidence adduced by the union as well as management and arguments advanced in support of their respective cases. Instant case is essentially based upon materials on record. Important Service Record Excerpt was issued to the workman and the same bears the seal and signature of management authority as well the workman. The date of birth of Kudus Mia appearing in Column No. (6) of Service Record Excerpt is 02.01.1956 and his dated of appointment is 17.03.1981. The date of birth of the employee was also recorded as 02.01.1956 in the Form PS-3 (Exhibit W-1 collectively). The same was subsequently cancelled and noted as 07.02.1951. The change incorporated in Form PS-3 does not bear initial or signature of the concerned person. Therefore, the subsequent change in the date of birth does not appears to be reliable. The same is the fate with Form PS-4 where the date of birth was initially recorded as 02.01.1956 and subsequently cancelled and changed as 07.02.1951 (Exhibit W-3). In the School Transfer Certificate, the date of birth of Kudus Mia was recorded as 02.01.1956 and at the time of issuance of the Transfer Certificate by the concerned School (Exhibit W-4) he was studying in Class-IV. No objection was raised against the certificate. I find that the date of birth recorded in the School Transfer Certificate is supporting with the date of birth recorded in the Service Record Excerpt of the workman. The management has produced a copy of Form 'B' Register which has been marked as Exhibit M-1 where the date of birth of the workman was recorded as 07.02.1951. the document does not bear any signature of the workman therefore, it can safely be presumed that such recording has been made by the management without any knowledge to the workman. A copy of Service Book of Kudus Mia has been produced as Exhibit M-2 (in two pages) where his date of birth is recorded as 07.02.1951 in Column No. 11. The document does not bear the signature of the employee and date therefore, the same does not have any binding effect upon the concerned employee.

10. In my foregoing discussion, I have already considered the copies of Form PS-3 and PS-4, where the date of birth of the workman has been subsequently changed. Though the said forms bear the signature of Kudus Mia and other management representative the disputed date of birth cannot be accepted as there is no evidence that the signature of Kudus Mia was obtained after such changes were made. It can be presumed that the changes had been made after signatures were obtained on the documents where date of birth was initially recorded as 02.01.1956. If the changes were necessary after signature were obtained, in such case a fresh form could have been issued for the purpose of recording correct date of birth or the change should have been countersigned and no controversy would have arisen in such case. Learned advocate for the management, in course of his argument admitted that the management did not issue any Notice to Kudus Mia, disputing his date of birth at any point of time after it was recorded as 02.01.1956 nor did Kudus Mia raise any objection against the entries made in the Service Record Excerpt in the year 1987. Under such circumstance there was no occasion for the management of ECL to hold any assessment of age of the workman for the purpose of changing / recording his date of birth to 07.02.1951. The employer company has not been able to produce any document on the basis of which it arrived at the conclusion that the date of birth of the workman is 07.02.1951. In my considered view the correct date of birth is 02.01.1956, which was initially recorded in the Service Record of Kudus Mia and he attained the age of sixty on 02.01.2016. The Notice of superannuation issued to the workman was contrary to the provisions laid down in Annexure – I of Implementation Instruction No. 76 dated 25.04.1988, relating to determination of age at the time of appointment of the workman. The management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of ECL therefore has acted in an arbitrary and illegal manner by issuing Notice of superannuation to the workman, prematurely five years earlier to his actual date of superannuation. From the copy of Notice of superannuation (Exhibit M-5) it appears that the management decided to terminate the service of Kudus Mia on superannuation w.e.f. 01.03.2011. If the management considered his date of birth as 07.02.1951, in such case his date of superannuation would have been 28.02.2011. Therefore, even by conjecture the Notice of Superannuation is not legally tenable. Since, the workman has already attained the age of superannuation in January, 2016 there is no scope for his reinstatement in service. However, the workman is entitled to compensation for the loss suffered by him due to his idleness, on his premature superannuation from service w.e.f. 01.03.2011 (Exhibit M-5). In my considered view it is just and appropriate to grant monetary compensation to the workman, equivalent to his pay for the period from 01.03.2011 to 31.01.2016. The management of ECL shall pay the compensation amount to Kudus Mia within three (3) months from the date of communication of this Award.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of Eastern Coalfields Limited. The Notice of superannuation issued to Kudus Mia dated 10/16.12.2010 is not found legally tenable and the same is set aside. The management of ECL is directed to compensate Kudus Mia for his premature superannuation, contrary to the date of birth mentioned in his initial Service Record. The management shall pay a compensation equivalent to his monthly salary from 01.03.2011 till the actual date of superannuation i.e., 31.01.2016 within three (3) months from the date of communication of the Award. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – lg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 12/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/176/2018-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 12/2019** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **07*/01/2025*.**

[No. L-22012/176/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 12 OF 2019

PARTIES: Harish Chandra Ram
(son-in-law of Late Sadagar Harijan).

Vs.

Management of Madhujore Colliery of ECL.

REPRESENTATIVES:

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

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 20.12.2024

AWARD

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-22012/176/2018-IR(CM-II)** dated 04.02.2019 has been pleased to refer the following dispute between the employer, that is the Management of Madhujore Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" *Whether denial to provide employment on compassionate ground by the management of Madhusudanpur* (Madhujore) *Colliery of Eastern Coalfields Limited to Sri Harish Chandra, Son-in-law of Late Saudagar Harijan, Ex. Timbr Mazdoor is justified or not, what relief Sri Harish Chandra is entitled to?* **"**

1. On receiving Order **No. L-22012/176/2018-IR(CM-II)** dated 04.02.2019 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 12 of 2019** was registered on 18.02.2019 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. The management of ECL filed their written statement on 02.12.2022 and Mr. Rakesh Kumar, representative of Koyala Mazdoor Congress filed written statement on behalf of the claimant dependant on 21.02.2023. The fact of the case disclosed in the written statement of the workmen's union is that Sadagar Harijan was a permanent employee of Eastern Coalfields Limited (hereinafter referred to as ECL) and was posted as Timber Mazdoor at Madhujore Colliery under Kajora Area of ECL. He died due to a fatal mines accident while he was on duty on 13.04.2001. After his death an agreement was signed between the management of ECL and other unions functioning in Madhujore Colliery where the company agreed to provide employment to one dependant of Sadagar Harijan according to the provisions of National Coal Wage Agreement (hereinafter referred to as NCWA) within fifteen days. The wife of Sadagar Harijan predeceased him. Nathuni Devi, the daughter of Sadagar Harijan was the only serving family member, who was already married with Harish Chandra Ram in the year 1993. As per provision of NCWA the married daughter did not accept the employment but she submitted an application on 15.05.2001 before the management praying for providing employment to Harish Chandra Ram, her husband, who was dependant and residing in the family of his father-in-law. The son-in-law of the deceased employee also filed a separate application before the management claiming employment as a dependant as per the provisions of NCWA. Relevant documents were also submitted by the son-in-law, well within time. After screening of the claimant and holding of his medical examination by the Initial Medical Examination (hereinafter referred to as IME) Board at the Area, Harish Chandra Ram was found medically fit for employment. It is the case of the union that at the time of fatal accidents taking place in the colliery, the General Manager of the Area has the authority to provide employment to the dependants of the deceased employee and the proposals are sent to ECL Headquarters for post-facto approval. In the instant case the Personnel Manager (EMPL) ECL Headquarters made some queries in respect of the claim of Harish Chandra Ram and the dependant son-in-law complied the same by furnishing required documents. After long lapse of time the management neither provided employment to the dependant son-in-law and nor regretted the prayer for employment. It is urged that the claim for employment is not on compassionate ground but is based upon the terms of NCWA. The union prayed for passing an award with a direction for providing employment to the dependant son-in-law and to pay monetary compensation to the daughter.

3. The management contested the Industrial Dispute by filing their written statement wherein it is admitted that Sadagar Harijan was a permanent employee at Madhujore Colliery bearing U.M. No. 660516, who was posted as a Timber Mazdoor and expired on 13.04.2001. It is contended that an Industrial Dispute has been raised before the Assistant Labour Commissioner (Central) more than twelve years after the death of Sadagar Harijan and the dispute has been referred to this Tribunal after eighteen years as such the Industrial Dispute is stale and liable to be dismissed. The management placed reliance upon the findings of the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [2009 (13) SCC 112]** and claimed that the Hon'ble Supreme Court of India has disapproved the employment on compassionate ground after passage of long years. It is contended that as the dispute is stale it should not be considered for conciliation. In respect of the facts of the case management stated that Harish Chandra Ram Harijan applied for his employment on 17.07.2001. He is the son-in-law of Sadagar Harijan and the name of his wife has been recorded as Nathuni Kumari in the service record of the deceased employee. Upon screening of documents for employment at the Colliery level on 15.12.2005, the file was sent to the Area level and then to ECL Headquarters. Subsequently, a letter dated 27.07.2011 / 01.08.2011 was issued by the ECL Headquarters, seeking fresh attestation form due to some mismatch in the name of claimant in the recommendation sheet and existing Attestation Form. After completion of formalities the area authority issued letter to Harish Chandra Ram Harijan to appear before the Area Screening Committee on 23.09.2011 along with necessary documents and other dependants of the deceased employee. Harish Chandra Ram Harijan did not appear before the Area Screening Committee for which no further action could be taken. Instead of appearing before the Area Screening Committee Harish Chandra Ram Harijan preferred this Industrial Dispute before Assistant Labour Commissioner (Central), which was thereafter referred to this Tribunal. It is contended that the prayer for providing employment to Harish Chandra Ram, the son-in-law of the deceased employee cannot be allowed and the married daughter is not entitled to any monetary compensation.

4. In order to prove their case union examined Harish Chandra Ram as Workman Witness – 1 and filed his affidavit-in-chief. The witness produced a copy of agreement entered between the family members of Sadagar Harijan and the management for providing employment to the dependant of deceased. The document is marked as Exhibit W-1, copy of the Death Registration Certificate is produced as Exhibit W-2, copy of the Service Record Excerpt of Sadagar Harijan as Exhibit W-3. The witness sated that Nathuni Devi is his wife and she submitted an application dated 15.05.2001 for his employment which is produced as Exhibit W-4. Application dated 15.05.2001submitted by Harish Chandra Ram for employment is produced as Exhibit W-5. Witness identified a copy of letter dated 18.11.2006 issued by the Manager, Madhujore Colliery to the Personnel Manager, Kajora Area, whereby relevant documents for employment of Harish Chandra Ram were forwarded, document is marked as Exhibit W-6. A copy of letter dated 04.12.2006 issued by the Manager, Madhujore Colliery to the Personnel Manager, Kajora Area enclosing the documents for necessary action is produced as Exhibit W-7. Other relevant documents like copy of letter dated 26.08.2011 forwarding fresh Attestation Form of Harish Chandra Ram along with employment file is produced as Exhibit W-8, a copy of Marriage Certificate of Nathuni Devi and Harish Chandra Ram is produced as Exhibit W-8/1, copy of Succession Certificate in favour of Nathuni Devi as Exhibit W-8/2, a copy of Relationship Certificate in

respect of Sadagar Harijan as Exhibit W-8/3, a copy of Cremation Certificate as W-8/4, copy of Death Certificate of the employee issued by Medical Officer as Exhibit W-8/5, copy of Affidavit of Harish Chandra Ram as Exhibit W-8/6, copy of Electoral Photo Identity Card of Sadagar Harijan and Nathani Harijan as Exhibit W-8/7, copy of Electoral Photo Identity Card of Harish Chandra Ram as Exhibit W-8/8, copy of Aadhaar Card as Exhibit W-8/9, copy of Indemnity Bond executed by Harish Chandra Ram as Exhibit W-8/10, copy of Madhyamik Certificate of Harish Chandra Ram as Exhibit W-8/11, copy of Madhyamik Marksheet of Harish Chandra Ram as Exhibit W-8/12, copy of Intermediate Examination Certificate of Harish Chandra Ram as Exhibit W-8/13. A copy of the Postmortem Report of Sadagar Harijan is produced as Exhibit W-9.

5. Mr. Rakesh Kumar, Union representative arguing the case on behalf of the union submitted that Harish Chandra Ram has claimed employment as a dependant of the deceased employee, immediately within a short period after his death on 13.04.2001 by submitting an application before the management on 15.05.2001. The claim has been supported by Nathuni Devi, who also filed a separate application before the company. It is submitted that Sadagar Harijan, an employee of ECL met with a fatal accident as a result an agreement was entered between the representatives of the management and various functioning unions, wherein the management agreed to provide employment to dependant of deceased within fifteen to thirty days of submission of papers of claim along with the Death Certificate and Indemnity Bond. It is argued by the union representative that the management of the company held screening test and IME of Harish Chandra Ram but the management did not act upon the documents submitted and after lapse of five years issued a letter on 26.08.2011 whereby the Senior Manager (Personnel), Madhujore Colliery informed the Chief Manager (Personnel), Kajora Area for submitting fresh Attestation Form of Harish Chandra Ram along with employment file. It is argued that the management remained silent for indefinite period without informing the claimant about his prayer for employment. It is only due to such deliberate inaction on the part of the management that the dependant has raised the Industrial Dispute before the Assistant Labour Commissioner (Central) and thereafter the Industrial Dispute has been referred to this Tribunal. It is vehemently argued by the union representative that though the dependant of the deceased workman has fulfilled all the condition for his employment under the company, the management of the company has failed to comply the terms of NCWA by not providing employment to the son-in-law and monetary compensation to the daughter. It is contended that the claimant should be provided with employment under the company without further delay.

6. The management adduced evidence through Mr. Proloy Dasgupta, Manager (Personnel), Madhusudanpur Colliery as Management Witness – 1. He filed an affidavit-in-chief admitting the fact that application was submitted by Harish Chandra Ram for his employment on 15.05.2001, wherein it was found that he was the son-in-law of Sadagar Harijan and as per service record the name of the wife of Harish Chandra Ram is Nathuni Kumari. After scrutiny of the documents by the Screening Committee on 15.12.2005 the file was sent to the ECL Headquarters. The Headquarters sought for certain clarification by issuing letter dated 16/28.01.2009 and the documents were re-submitted to the Headquarters. Thereafter another letter dated was sent to the Area level and then to ECL Headquarters. Subsequently, a letter dated 27.07.2011 / 01.08.2011 was issued by the ECL Headquarters for submitting fresh Attestation Form due to mismatch in the name of the claimant appearing in the recommendation sheet and existing Attestation Form. The Area issued a letter to Harish Chandra Ram to appear before the Screening Committee on 23.09.2011 along with some documents but the claimant did not comply for which no further action could be taken. Management of ECL in support of their case produced the following documents :

(i) Copy of Death Certificate of Sadagar Harijan has been produced as Exhibit M-1.

(ii) Copy of Service Record Excerpt of Sadagar Harijan, as Exhibit M-2.

(iii) Copy of the application of Nathuni Devi dated 15.05.2001, as Exhibit M-3.

(iv) Copy of the application of Harish Chandra Ram dated 15.05.2001, as Exhibit M-4.

(v) Copy of the report of the Screening Committee, as Exhibit M-5.

(vi) Copy of the letter dated 23.09.2011 of Senior Manager, Madhujore Colliery to Harish Chandra Ram, as Exhibit M-6.

7. In course of cross-examination the witness stated that the claimant was examined by the IME Board but he was unable to produce the report. Regarding letter dated 23.09.2011 seeking further details, produced as Exhibit M-6, the witness deposed that the letter was served upon Harish Chandra Ram in the office after calling him. The witness however, could not produce any record to show that the letter dated 23.09.2011 was served upon the claimant at any point of time.

8. Mr. P. K. Das, learned advocate for the management arguing the case on behalf of the management submitted that there has been non-compliance of letter dated 23.09.2011 and there was inordinate delay on the part of the dependant, claiming employment, as such his prayer could not be acted upon. Learned advocate laid emphasis on the principle laid down by the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [2009 (13) SCC 112]** and argued that the compassionate appointment is offered to a

dependant with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis. It is argued that in the instant case Nathuni Devi is the married daughter of the deceased employee who was married long before the death, in the year 1993 and no evidence has been adduced by the union that Nathuni Devi and her husband Harish Chandra Ram were residing at Madhujore Colliery with the deceased employee. It is argued that the claimant is not entitled to any employment as he did not comply the instruction of submission of fresh Attestation Form along with relevant document and the Industrial Dispute, raised after a long period of eighteen years is liable to be dismissed.

9. The point for consideration as enshrined in the Schedule of this Reference is whether the management of Madhujore Colliery is justified in denying employment to Harish Chandra Ram, son in law of late Sadagar Harijan and to what relief, if any, Harish Chandra Ram is entitled to.

10. I have considered the facts and circumstances of the case which evolved out of the pleadings of the parties as well as the evidence adduced by the contending sides and the argument advanced by the learned advocate on behalf of the management and union. Leaving aside the admitted facts of the case that Sadagar Harijan died an accident death at his workplace and Nathuni Devi, the married daughter, sought employment for her husband as dependant of her deceased father, it needs to be considered whether the claimant ought to have been provided with employment on compassionate ground. Within a short period from the death of Sadagar Harijan on 13.04.2001, his married daughter and son-in-law have submitted separate applications before the management for providing employment to Harish Chandra Ram. The copies of applications have been produced as Exhibit W-4 and W-5 which have not been denied by the management. Harish Chandra Ram has passed his Madhyamik examination from Board of High School and Intermediate Education, Uttar Pradesh in the year 1988 and his date of birth has been recorded as 15.07.1972. Copy of the certificate has been produced as Exhibit W-8/11. At the time of submitting his application on 15.05.2001 for employment Harish Chandra Ram was twenty-nine years of age and within a permissible age limit for applying for employment as a dependant, which is thirty-five years, as on date of submitting application. The management of the company summoned him for screening on 15.12.2005 along with the daughter of the deceased employee. He was admittedly referred for his medical examination by the IME Board, which would transpire from the oral testimony of MW-1. The report of the Screening Committee was produced by the management witness as Exhibit M-5. The management has not been able to explain their all-pervading silence for six years until 23.09.2011 when they claim to have issued a letter to Harish Chandra Ram for resubmitting his Attestation Form. No satisfactory evidence has been adduced by the management regarding service of letter dated 23.09.2011 upon Harish Chandra Ram. MW-1 admitted that he cannot produce any receipt to show that the letter was served upon Harish Chandra Ram for the purpose of compliance. It can safely be held that the letter dated 23.09.2011 was not served upon Harish Chandra Ram and he cannot be held responsible for non-compliance of such instruction and submitting fresh attestation Form after six years. It appears to me that in this matter the management of ECL is wholly responsible for their deliberate delay in frustrating the case of the employee. The apparent steps and measures have been taken by the management after long lapse of time.

11. Learned advocate for the management argued that no evidence has been adduced to prove that Nathuni Devi was a dependant daughter of Sadagar Harijan or after their marriage the daughter and son-in-law lived with Sadagar Harijan at the time of his death. On a careful perusal of cross-examination of WW-1, I find that no suggestion was put to Harish Chandra Ram that his wife and he were not dependent upon Sadagar Harijan. Therefore, the contention of the management advocate does not find any support for the evidence on record. It is true that the Industrial Dispute has been raised and thereafter referred to this Tribunal in the year 2019 but under the Industrial Disputes Act, 1947 there is no specified time limit for raising an Industrial Dispute. However, delay in raising Industrial Dispute ought to be considered while examining the object of raising such dispute. In the present case the Industrial Dispute has been raised after seventeen years from the date of death of employee. Though, it is submitted on behalf of the union the claim for employment is not a claim based upon compassionate ground but it based upon the terms of NCWA, it has to be construed that at the time of incorporating such terms in NCWA for providing employment, the ultimate object is to provide immediate support to the deceased employee's family, which is based upon humanitarian and compassionate ground. In the present case it appears that the marriage between the daughter of the deceased employee and Harish Chandra Ram took place in the year 1993, which is about eight years prior to the death of the employee. The petitioner, claimant have been able to look after and maintain themselves for twenty-three years after the death of Sadagar Harijan without any employment been granted by the management of ECL. It is therefore, clear that the family is able to overcome the crisis. In this respect it would be condign to place reliance upon the decision of the Hon'ble Supreme Court of India in the case of **Bhawani Prasad Sonkar Vs. Union of India and Others [2011 (4) SCC 209]**, where it was held that :

"*Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our Constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible.*

Nevertheless, the concept of compassionate appointment has been recognized as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be,

is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve."

In the instant case the claimant is presently fifty-two years of age and the dispute was raised in the year 2019, eighteen years after the death of the workman. The petitioner and his family have been able to tide over the crisis during this long time. Therefore, I hold that no purpose would be served by providing employment to Harish Chandra Ram at this stage. In my considered view Clause 9.3.3 of NCWA-VI does not accept marriage daughter to be a dependant. It would not be appropriate to provide monetary compensation to the daughter of Sadagar Harijan.

Hence,

ORDERED

that the Industrial Dispute Industrial Dispute is dismissed on contest. The prayer for employment of the claimant at this belated stage is disallowed. A married daughter cannot be considered as a dependant of the deceased employee and the prayer for granting monetary compensation is not sustainable. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 119.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 23/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/83/2018-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.23/2019** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **21*/01/2025*.**

[No. L-22012/83/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 23 OF 2019

PARTIES: Sikandar B.P.

Vs.

Management of Khas Kajora Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Sudarsan Roy and Mr. Khokon Mukherjee, Advocates

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 24/10/2024

AWARD

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-22012/83/2018-IR(CM-II)** dated 05/11/2018 has been pleased to refer the following dispute between the employer, that is the Management of Khas Kajora Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Khas Kajora Colliery of Eastern Coalfields Ltd. in rejection of mercy petition for reinstatement of service in respect of dismissed employee Sri Sikandar B.P. is justified. If not, to what relief the workman is entitled?"

1. On receiving Order **No. L-22012/83/2018-IR(CM-II)** dated 05/11/2018 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 23 of 2019** was registered on 02/04/2019 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. Workman filed written statement on 29/05/2019 and the management of Khas Kajora Colliery filed their written statement on 04/01/2023. In gist, factual matrix of the workman's case disclosed in the written statement is that Sikandar B.P. was posted as an Underground Loader at Khas Kajora colliery under ECL, having UM No. 116276. Due to absence from duty he was dismissed from service w.e.f. 18/06/1999. Being aggrieved with the order of dismissal Sikandar B.P. filed a Writ Petition before the Hon'ble High Court at Calcutta bearing W.P. No. 7744 of 2001 which was disposed of on 20/06/2005 with a direction that the petitioner should be allowed to resume his duty immediately after communication of order and the petitioner shall be entitled to get back wages in full. Management filed an Appeal challenging the order of Hon'ble Singh Bench dated 20/06/2005 and the Hon'ble Division Bench dismissed the Writ Application on the ground of maintainability and observed that matter requires adjudication under Industrial Disputes Act. Aggrieved workman preferred a Special Leave Petition before the Hon'ble Supreme Court of India bearing S.L.P. No. 9782 of 2010 but the same was dismissed on 16/08/2011 on the ground of delay and merits.

3. During pendency of Special Leave Petition workman submitted a mercy petition before the Dy. General Manager (P&IR), ECL Head Quarter on 27/12/2010 in accordance with the Memorandum of Settlement dated 22/05/2007. Management on 08/03/2013 replied that the matter has attained finality after exhausting due process of justice up to the Apex Court, as such the same cannot be reviewed. It is contended in written statement that Hon'ble Supreme Court by dismissing Special Leave Petition did not restrict Right of the workman to get justice and it is incorrect on the part of the management to state that matter attained finality. Due to dismissal of the Special Leave Petition by the Supreme Court, it is contended by the workman that the management of ECL did not consider his mercy petition although in similar conditions workmen were reinstated in service duringpendency of Special Leave Petition before the Supreme Court. Workman thereafter submitted application before the Dy. CLC (C), Asansol on 29/06/2016. The Conciliation Officer took up the matter under reference No. 1(37)/2016 on different dates and finally on 13/07/2017 the conciliation failed and the case has been referred to this Tribunal by the Ministry of Labour & Employment for adjudication. It is contended by the workman that charge sheet was not served upon him and he did not have the opportunity to represent his case. It is alleged that management has dismissed the workman without providing him opportunity to defend his case. It is urged that procedures adopted by the management in the enquiry was illegal and improper and violative of the principles of Natural Justice. It is inter alia contended that no second show cause Notice was served upon the workman before issuance of the order of dismissal on the basis of ex-parte enquiry, as such charge of unauthorized absence of ten months and twenty five days levelled against him is unjustified and he is entitled to be reinstated in service with full back wages for the period of his idleness.

4. Management contested the Industrial Disputes by filing written statement wherein it is stated that Sikandar B.P. was appointed as Underground Loader under ECL on 06/11/1997. After joining his work he had served for forty eight days in the year 1997 and thirty three days in the year 1998. Thereafter for his unauthorized absence warning letters were issued to him on three occasions by letters dated 06/04/1998, 04/08/1998 and 08/09/1998. Workman continued to remain absent without any information or authorization w.e.f. 16/08/1998. He was charge sheeted on 24/11/1998 under section 17 (i)(d) and (n) of Model Standing orders applicable to the coal mines at the relevant time. Sikandar B.P. failed to submit reply to the charge sheet as a result matter was referred fordomestic enquiry and three Notices of Enquiry were issued to him on 30/01/1999, 12/02/1999 and 17/04/1999, fixing dates for enquiry proceeding. Workman did not attend the enquiry nor did he send any information on any of these three dates as such enquiry was held ex-parte. Enquiry was proceeded following the principles of Natural Justice and full opportunity was given to the workman to defend his case but he did not participate and he was found guilty of the charges of unauthorized and habitual absence.

5. A Second show cause Notice was issued to the workman vide letter No. KA/PM/C-6/10/784 dated 12/19.05.1999 but no cause was shown by the concerned workman and the Competent Authority issued a letter No. KA/PM/C-6/10/1097/3180 dated 09/14.06.1999 dismissing him from the service of the company. According to the management, Sikandar B.P. has been found guilty of unauthorized absence from 16/08/1998 without any information and permission of the Competent Authority. It is the case of the management that due to such unauthorized absence, work of the employer and production process was hampered. Workman did not improve his performance in his attendance after sufficient opportunities provided to him and it is due to gross negligence on the part of the workman the management could not maintain his name in the pay roll of the company. Referring to the decision of Hon'ble Supreme Court in the case of **Union of India and Ors Vs. Bishamber Das Dogra,** it is submitted that the Hon'ble Court observed that habitual absence means gross violation of discipline. Management relied upon the decision of

Hon'ble High Court of Calcutta in the case of **Dayanand Paswan Vs Coal India Ltd and Ors,** where the High Court upheld the action of Eastern Coalfields Limited in dismissing the workman concerned as justified and held that *"... The conduct and attitude of the petitioner appears to have been extremely casual and cavalier. In the judgement and order dated 28th April, 2016 delivered on W.P. No. 800 of 2014 (Some Majhi-vs-Coal India Ltd.) this court emphasized that an employee must take his duty seriously. He cannot take his employment for granted. He must follow the rules and regulations of the employer company. He must conduct himself in a disciplined manner. He must perform his duties with responsibility and employee should adhere to discipline not only for personal excellence but also for the collective good of the organization which he serves."* It is asserted in the written statement that punishment awarded to the ex-workman is proportionate to the misconduct and it is not an arbitrary decision. It is argued before the Tribunal that the management is justified in dismissing the workman from service and he is not entitled to any relief.

6. The case was fixed up for evidence of parties on 15/03/2023, 22/03/2023, 27/06/2023 and 04/12/2023. In his affidavit-in-chief dated 22/03/2023, Sikandar B.P. reiterated the facts stated in his written statement and specifically averred that he did not receive charge sheet prior to 13/07/1999 and enquiry Notice was not served upon him and no enquiry was ever held. It is stated that the procedure adopted by the company for his dismissal was arbitrary and resulted in miscarriage of justice. He is entitled to be reinstated in service with back wages. In his examination-in-chief workman deposed that during his absence from duty he was suffering from jaundice and was under medical treatment of Dr. S. K. Mondal of Nirsha and he had filed documents before the colliery. Workman has been examined as WW-I. He stated that he submitted application regarding his illness and disclosed reasons for his inability to attend duty. A copy of Identity Card of the workman has been produced as Exhibit W-1 and copy of charge sheet dated 24/11/1998 has been produced as Exhibit W-2. Witness stated that no second show cause Notice was served upon him before order of dismissal was issued. A copy of letter dated 27/07/1999 issued by the Personnel Manager refusing to reconsider the case of his dismissal on merit has been produced as Exhibit W-3. In cross-examination workman witness deposed that he has filed a medical certificate issued by Dr. S. K. Mondal which has been produced as Exhibit W-4. Witness stated that he will examine Dr. S. K. Mondal in this case. It may be gathered from evidence of workman witness that he did not receive copy of Notice of Enquiry. He also denied the charge of habitual absence in respect of his work. Cross-Examination reveals that an Appeal was preferred before the Hon'ble Division Bench of High Court at Calcutta bearing FMA 1905 of 2006 with MAT 611 of 2007 arising out of Writ Petition No. 7744(W) of 2001 wherein the order passed by the Hon'ble Single Bench was set aside and Writ Application was dismissed. The Hon'ble Court observed that for effective adjudication the dispute should be raised under the Industrial Disputes Act. Witness admitted that Special Leave Petition No. 9782 of 2010 was dismissed by the Hon'ble Supreme Court. Witness in his evidence denied that he was not suffering from illness or was not under medical treatment of Dr. S. K. Mondal. Witness failed to produce documents that he had informed management regarding his illness or his inability to attend duty at any point of time during his absence. Workman denied suggestion that he violated rules of the company and acted irresponsibly or that he was not entitled to be reinstated in service.

7. Mr. Proloy Dasgupta, Management Representative has been examined as MW-I. He filed an affidavit-in-chief on 04/12/2023. In his affidavit he has averred that Sikandar B.P. absented himself from duty from 16/08/1998 without any information and permission for which he was charge sheeted on 24/11/1998 under section 17 (i)(d) and (n) of Model Standing Orders applicable to coal mines at the relevant time. Workman had been given ample opportunity to improve his performance in respect of his attendance but he did not pay any heed. Workman did not participate in the enquiry and the Domestic Enquiry held ex-parte, Sikandar B.P. was found guilty of charges of habitual and unauthorized absence from duty. It is claimed that the punishment awarded is proportionate to the nature of his misconduct and he is not entitled to any relief. In course of evidence management produced following documents in support of their case:-

(i) Copy of charge sheet is produced as Exhibit M-1

(ii) Copy of Notice of Enquiry dated 30/01/1999 is produced as Exhibit M-2

(iii) Copy of Notice of Enquiry dated 12/02/1999 is produced as Exhibit M-3

(iv) Copy of Notice of Enquiry dated 17/04/1999 is produced as Exhibit M-4

(v) Copy of Enquiry Proceeding including Enquiry Report in eight pages is collectively marked as Exhibit M-5

(vi) Copy of Second show cause Notice dated 12/19.05.1999 is produced as Exhibit M-6

(vii) Copy of letter of termination dated 09/14.06.1999 is produced as Exhibit M-7

(viii) Copies of three warning letters issued to the workman for his unauthorized absence are collectively produced as Exhibit M-8

(ix) copy of judgment passed by Hon'ble Single Bench of the Calcutta High Court is produced as Exhibit M-9

(x) Copy of judgment passed by the Hon'ble Division Bench of Calcutta High Court in seventeen pages is collectively produced as Exhibit M-10

(xi) Copy of order passed by the Hon'ble Supreme Court in SLP No. 9782 of 2010 is produced as Exhibit M-11

During cross-examination of MW-I, witness deposed that management was unable to produce application received from Sikandar B.P. which had been marked in Exhibit W-3. Witness denied that workman reported for duty on 13/07/1999 or that he was not allowed to join. Witness also denied the suggestion that charge sheet and Notice of Enquiry were served upon the workman after passing the order of dismissal.

8. The point for consideration before this Tribunal as laid down in schedule of the reference is 'Whether the action of the management of Khas Kajora Colliery of Eastern Coalfields Ltd. in rejection of mercy petition for reinstatement of service in respect of dismissed employee Sri Sikandar B.P. is justified? If not, to what relief the workman is entitled?'

9. Mr. Sudarshan Roy, learned advocate for the dismissed workman advancing his argument submitted that Sikandar B.P. was unable to attend his duty from 16/08/1998 due to his illness. Management of the company without serving any copy of charge sheet initiated a departmental enquiry against workman alleging unauthorized absence for ten months and twenty five days. No intimation was given to the workman by serving Notice of Enquiry and the entire departmental enquiry was conducted keeping the workman in dark and without serving any second show cause Notice to the workman, he was dismissed by order dated 09/14.06.1999 on the ground of his habitual absence and long continuous absence for more than 'ten days'. Learned advocate took me through the evidence of workman witness who filed medical certificate issued by Dr. S. K. Mondal which has been produced as Exhibit W-4. Learned advocate relied upon a decision of Hon'ble Supreme Court of India in the case of **State Bank of Patiala and Others Vs. S. K. Sharma; (1996) 3 Supreme Court Cases 364** wherein it has been held by the Hon'ble Supreme Court that '*Where, however, there are no rules/regulations/statutory provisions incorporating the principles of Natural Justice, but those principles are implicit in the very nature of the action/order, if there is total violation of those principles i.e. no opportunity/hearing was given, then the action/order would be invalid but if there is violation of only a facet of the principles i.e. no adequate opportunity/no fair hearing was given, test of prejudice should be applied and if no prejudice caused, no interference would be called for*.' It is inter alia argued that workman submitted a mercy petition before the management of the company praying for his reinstatement in service on the basis of Memorandum of Settlement dated 22/05/2007 reached between Management of the company and various Trade Unions functioning under the coal mines. Since the management did not consider the mercy petition, it is urged that the order of dismissal passed against the workman is illegal, violative of the principles of Natural Justice and is liable to be set aside as the management ought to have considered the mercy petition submitted by the workman on 27/12/2010.

10. Mr. P. K. Das, learned advocate appearing for the management of Khas KajoraColliery under ECL in reply argued that Industrial Dispute has been raised after a period of twenty years from dismissal of the workman as such the proceeding is stale and needs to be dismissed in limine. It is argued that workman joined his service in November, 1997 as Underground Loader. He worked for only forty eight days in the year 1997 and thirty three days in the year 1998. Being a habitual absentee, workman was warned on three occasions and letters dated 06/04/1998, 04/08/1998 and 08/09/1998 were issued to him as warning for his unauthorized absence. Workman did not improve his attendance and as a result charge sheet was issued to him on 24/11/1998 for his unauthorized absence as well as habitual absence in the previous two years. Ld. Advocate vehemently argued that the workman had served only for eighty one days under the company and he is not entitled to get any relief. It is further argued that after charge sheet was issued to the workman, he did not participate in the enquiry due to which an ex-parte Departmental Enquiry was held against the workman where the charges were proved against him beyond doubt. Learned advocate produced copy of charge sheet, Notice of Enquiry as well Enquiry Proceeding along with Enquiry Report in eight pages which has been collectively marked as Exhibit M-5. It is argued that second show cause Notice was issued to the workman by letter dated 12/19.05.1999 (Exhibit M-6) but the workman did not submit any reply and ultimately was dismissed from service by letter dated 09/14.06.1999 issued by the General Manager who is the Competent Authority. Learned advocate for the management argued that the workman challenged the order of dismissal before the Hon'ble High Court at Calcutta and the Hon'ble Division Bench set aside the order of Single Bench passed in Writ Petition No. 7744 (W) of 2001 where the Hon'ble Court relying upon a decision in the case of **Webel Video Devices Ltd. Vs Prasanta Kumar Das and others reported in 2007 (3) CHN 8** observed that all disputes relating to workman to be raised under Industrial Disputes Act for effective adjudication which is beneficial not only for the workman concerned but also for the employer. Hon'ble Division Bench was pleased to hold that the Impugned Judgment passed by the Single Bench was not legally sustainable and set aside and quashed the same and observed that the matter required adjudication under the Industrial Disputes Act. Ld. Advocate submitted that in the instant case, Industrial Dispute has been raised not against the order of dismissal but regarding rejection of mercy petition filed by the dismissed workman for his reinstatement in service. It is urged that question of dismissal is not the subject matter of consideration and the Tribunal is not required to enter into the question of dismissal of workman but should hold adjudication of the scheduled dispute.

11. I have perused the pleading, evidence adduced in light of the scheduled reference and also considered the argument advanced on behalf of the dismissed workman and the management of Eastern Coalfields Ltd. Admitted position in this case is that Sikandar B.P., Ex-Underground Loader at Khas Kajora colliery under ECL was appointed in service of the colliery on 06/11/1997. He was charge sheeted on 24/11/1998 for his unauthorized absence from 16/08/1998 and for his habitual absence. It transpires from the evidence of workman witness that he received a letter

dated 27/07/1999 issued by the Personnel Manager (IC), Kajora Area admitted as Exhibit W-3, wherein he was informed that his application against order of dismissal dated 09/14.06.1999 was examined by the management and found that workman remained absent from duty from 16/08/1998 without any authorization also that he had attended duty only for forty eight days in the year 1997 and thirty three days in the year 1998. The application was not found satisfactory and that the workman did not appear in the enquiry proceeding to defend his case for which his appeal against the order of dismissal was found to be without merit.

12. Dismissed workman instead of raising an Industrial Dispute, preferred a Writ Petition bearing No. 7744 (W) of 2001 before the Hon'ble High Court at Calcutta and by order dated 13/06/2005 and 20/06/2005 (Exhibit M-9) the Hon'ble Single Bench directed reinstatement of the workman with full back wages. The order of single Bench was challenged by ECL before the Division Bench in FMA 1905 of 2006 with MAT 611 of 2007 and order passed by the Single Bench was set aside with a direction that dispute relating to workman should be raised under Industrial Disputes Act for effective adjudication. Matter did not stop there and a Special Leave Petition was preferred before the Hon'ble Supreme Court of India bearing SLP No. 9782 of 2010. Hon'ble Supreme Court disposed of the same with an observation that there was no ground for interference with the Impugned judgement and the Special Leave Petition was dismissed on the ground of delay as well as on merits. It is clear from the decisions of Hon'ble Division Bench of the High Court at Calcutta as well as the Hon'ble Supreme Court of India that an Industrial Dispute had to be raised before the Tribunal for adjudication. From the evidence on record, it is crystal clear that management of ECL has not been able to prove that charge sheet, Notice of Enquiry and second show cause Notice were served upon the workman before imposing the punishment of dismissal from service. Evidence reveals that workman was dismissed from service on 09/14.06.1999. Therefore, his claim of reporting for duty on 13/07/1999 is inconsequential as he could not have joined after termination. It is the case of the workman that he has not received any charge sheet, Notice of Enquiry and Second show cause Notice before his dismissal. Management Witness in his turn failed to produce any document to prove that charge sheet, Notice of Enquiry or second show cause Notice were issued and served upon the workman through registered post or personal messenger. In absence of such evidence, I have no hesitation to hold that workman was not provided with reasonable opportunity to defend himself in respect of charges levelled against him to substantiate any plausible reason for his long absence from service before the Enquiry Officer. From the facts and circumstances of the case, it emerges that there has been violation of the principles of Natural Justice by the management in holding the enquiry proceeding. Outcome of such enquiry proceeding is therefore, not sustainable under law. Management charged the workman for unauthorised absence from duty from 16/08/1998 till issuance of charge sheet on 24/11/1998. The period of absence of the workman as per charge sheet is three months and nine days. Workman claimed to have submitted a mercy petition on 27/12/2010 i.e. after a period of more than ten years from his dismissal. The Special Leave to Appeal before the Hon'ble Supreme Court was dismissed on 16/08/2011 and order of Hon'ble Division Bench of High Court at Calcutta remained uninterfered. Under such circumstances workman had right and capacity to raise dispute even after a lapse of ten years. According to the provisions of the Memorandum of Settlement dated 22/05/2007, if an employee was less than forty five years of age on the date of dismissal and had remained absent for less than nine months, management was enjoined with the duty to consider the mercy petition. In the present case, it has come to fore that the enquiry proceeding was held without providing opportunity to the workman resulting in violation of the principles of Natural Justice. On applying the test of prejudice, it is clear that the workman has been terminated from service without being heard and the same has caused prejudice to him. The decision relied on behalf of the workman in the case of **State Bank of Patiala and Others Vs. S. K. Sharma; (1996) 3 Supreme Court Cases 364** is therefore applicable to the present case.

13. Bearing in mind the law laid down by Hon'ble High Court at Calcutta in the case of **Axis Bank Vs Union of India and Others; (2022) (175) FLR 2571** wherein it is held that "The Labour Tribunal under the Industrial Dispute Act has a limited authority and jurisdiction to proceed only with the reference arose from the conciliation proceeding and cannot travel beyond the scope of reference." I am of the view that Tribunals do not have any jurisdiction to adjudicate validity, correctness and legality of the reference. This Tribunal therefore cannot adjudicate the validity of the enquiry proceeding nor the legality of the order of termination from service as the same have not been included in the schedule of the reference. Therefore, it is just and appropriate on the part of this Tribunal to hold that action of the management of Khas Kajora Colliery in rejection of mercy petition for reinstatement of Sikandar B.P. in service is improper. Management of the company is duty bound to consider such application/mercy petition on merit. No order of reinstatement or back wages can be passed at this stage, as it is contingent upon consideration of the mercy petition submitted before the management of ECL.

14. Accordingly the Industrial Dispute is decided in favour of Sikandar B.P. on contest. Management of Khas Kajora colliery shall reconsider the representation/mercy petition of the workman dated 27/12/2010 regarding his reinstatement in service in terms of the Memorandum of Settlement dated 22/05/2007 on examining various facts relating to effective service of charge sheet, Notice of Enquiry and Second show cause Notice upon the workman. The entire procedure shall be completed within a period of one month from the date of communication of Award and the result shall be communicated to the workman within fifteen days thereafter.

Hence,

ORDERED

that Industrial Dispute is allowed on contest in favour of Sikandar B.P. Management of Khas Kajora Colliery, Eastern Coalfields Ltd. is directed to reconsider the representation/mercy petition of the workman

dated 27/12/2010 seeking his reinstatement in service in terms of Memorandum of Settlement dated 22/05/2007. Management shall examine the facts relating to effective service of charge sheet, Notice of Enquiry and Second show cause Notice upon the workman. The entire procedure shall be completed within a period of one month from the date of communication of Award. At the time of examination, management shall ensure that charge sheet, Notice of Enquiry and Second show cause Notice have been served upon the workman before passing the order of dismissal. Findings of the management shall be communicated to the workman within fifteen days thereafter. Let copies of Award be sent to the Ministry for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 120.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – lg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 48/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/14/2020-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 48/2023** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **21*/01/2025*.**

[No. L-22012/14/2020– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 48 OF 2023

PARTIES: Sunil Roy,
(son of Late Jagdish Roy)
Vs.
Management of Madhujore 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: 30/12/2024

AWARD

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-22012/14/2020-IR(CM-II)** dated 09/06/2020 has been pleased to refer the following dispute between the employer, that is the Management of Madhujore Colliery, Kajora Area of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Madhujore Colliery, Kajora Area, M/s. E. C. Ltd., in not providing employment on compassionate ground to Sri Sunil Roy, son of Late Jagdish Roy, Ex-employee of Madhujore Colliery, Kajora Area is justified? If not, what relief the dependent son of deceased workman is entitled to?"

1. On receiving Order **No. L-22012/14/2020-IR(CM-II)** dated 09/06/2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 48 of 2023** was registered on 25/09/2023 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. Sunil Roy, petitioner claiming employment and the Agent, Madhujore colliery filed their respective written statements on 01/11/2023. In brief, fact of the case disclosed in the written statement of the union is that Jagdish Roy, the father of Sunil Roy was a General Mazdoor at Madhujore colliery under ECL and he died in harness on 23/10/2014. According to the provision under clause 9.3.0 of NCWA-VI, it was agreed that employment would be provided to one dependent of workers who are disabled permanently and also who died while in service of the company. Sunil Roy, dependent son of Late Jagdish Roy submitted an application before the management on 29/12/2014 claiming employment under the provision of NCWA. After proper screening at the colliery level and holding medical examination by Initial Medical Examination Board, Sunil Roy was declared medically fit for employment and the General Manager of the Area recommended the proposal for providing employment, forwarded the file to ECL Head Quarters. Management of ECL issued a letter dated 03/08/2018 whereby proposal for employment was regretted on the ground that the age of dependent son was found different in his educational certificates and the one recorded in the service record of the deceased employee. According to the union, age of Sunil Roy in service record of the employee was recorded by the dealing clerk of the colliery and date of birth in his matriculation certificate was recorded on the basis of declaration of parents/guardians at the time of admission. It is contended that management cannot raise dispute regarding relationship of Sunil Roy with Late Jagdish Roy without verifying their relationship and question regarding age of the person should be decided on the basis of guidelines issued by Coal India Limited in Implementation Instruction No. 76. It is further contended that if the management had problem in accepting the date of birth recorded in matriculation certificate, then his age can be assed by the medical board/Initial Medical Examination Board of the company. It is inter alia submitted that during lifetime of the employee, management provided LLTC and LTC benefit to the employee in name of Sunil Roy and treated him as son of Late Jagdish Roy. It is further submitted that if management is bearing any doubt about genuinety of his age in the educational certificate of Sunil Roy, then the same can be verified and dependent can also withdraw his educational certificates as he will not have any extra benefit in the post of General Mazdoor (UG) Category-I. It is urged that Sunil Roy is entitled to get employment as dependent at the earliest and the wife of the deceased employee should be paid monetary compensation as per the provisions NCWA from the date of death of employee till employment is provided to her dependent son.

3. Management has contested the claim raised through union by filing their written statement. The counter case of the management is that Sunil Roy, alleged son of Late Jagdish Roy, claimed employment against death of his father and application was received at the office of the Agent, Madhujore Colliery on 29/12/2014. Proposal was processed at the colliery level and screening was held on 04/07/2015 for providing employment. The employment proposal was forwarded to the Area authority on 29/09/2015. Medical Examination of Sunil Roy was held by the Initial Medical Examination Board on 15/10/2015. Area level screening committee for employment verified the details on 16/11/2015 and proposal was forwarded to ECL Head Quarters for further necessary action in the matter. It is submitted that the Competent Authority of ECL Head Quarters examined the proposal and regretted prayer by issuing a letter bearing No. ECL/CMD/C-6B/EMPL/ED-3450/18/369 dated 03/08/2018 with following observation "*The case file lacks clarity. The name of the claimant got entered in the service record by his deceased father in the year 1987 and year of birth of the claimant is mentioned as 1981. But, the claimant's date of birth appears to be 20.05.1990 as per his educational documents. If he has taken birth in 1990 then how could it be foreseen in 1987? This indicates that the relationship between the claimant and the ex-employee is doubtful. Hence the employment proposal of the so-called son is regretted and Monthly Monetary Cash Compensation to the widow sanctioned subject to her eligibility as per NCWA.*" Said decision of the Competent Authority was communicated to Sunil Roy through letter dated 27/08/2018. It is the case of ECL management that compassionate appointment is not a vested right and it cannot be agitated at any point of time. It is urged that the Industrial Dispute is misconceived one and it is not maintainable in the eyes of law and is liable to be dismissed. It is claimed that action of the management is justified and petitioner is not entitled to any relief or reliefs.

4. In order to substantiate their case, union has examined Sunil Roy as workman witness No. 1 who filed his affidavit-in-chief stating that Late Jagdish Roy, his father was a General Mazdoor at Madhujore colliery. He was a permanent employee of ECL having UM No. 677481 and died on 23/10/2014. He has also stated that he applied for employment and submitted necessary documents in support of his claim. Screening and Initial Medical Examination were held at the instance of management of ECL. Proposal was sent to ECL Head Quarters for approval but due to

mismatch of his age recorded in service record of Late Jagdish Roy and in his educational certificate, management expressed its doubt regarding relationship between Sunil Roy and Late Jagdish Roy. It is assured that reason for regretting employment on such ground is not justified. It is stated that age can appear different in different records and that his age in service record of the employee was recorded by the dealing clerk of the colliery on their own but age in admit card and educational certificates were recorded on the basis of declaration of parents/guardians and the date of birth recorded at the time of admission and age mentioned at the time of filling the form for matriculation examination. It is stated that if there is any doubt regarding relationship, the management has liberty to verify relationship through any source/police authority and also difference of age of candidate appearing in two records can be settled by the determination of age by the Initial Medical Examination Board or by independent Medical Board which will be accepted for all purposes. It is stated that no objection was raised by the management regarding genuinety of relationship with his father, therefore question of genuinety should not arise. It is stated that other family members have expressed their No Objection in favour of the claimant and appeared before screening committee at the colliery level and area level for making their statements. It is stated in the affidavit that at the time of death of Jagdish Roy, age of Sunil Roy was thirty three years as per age recorded in PS-III and service record of the deceased employee and as per educational certificate he was twenty five years of age at the time of death of his father. Considering any of the two ages recorded in two different documents he is entitled to get employment as per NCWA. Witness claimed that he should be provided employment as a non-matric candidate by assessment of age by the Medical Board as per Coal India Limited's Implementation Instruction No. 76. Witness contended that according to the age recorded in two different documents he was below thirty five years of age on the date of death of his father and is therefore entitled to get employment. His mother has not been paid monthly monetary cash compensation. Both reliefs of employment to son as well as monetary compensation to his mother should be granted till employment is provided to him. In course of evidence, witness produced the following documents in order to support his claim:-

(i) copy of service excerpt of Late Jadgish Roy is produced as Exhibit W-1.

(ii) copy of form PS-3 of Late Jagdish Roy is produced as Exhibit W-2.

(iii) copy of form PS-4 of Late Jagdish Roy is produced as Exhibit W-3.

(iv) copy of death certificate of the employee is produced as Exhibit W-4.

(v) copy of relationship certificate of the family members issued by Prodhan is produced as Exhibit W-5.

(vi) copy of No Objection Certificate issued in his favour is produced as Exhibit W-6.

(vii) copy of another relationship certificate issued by MLA is produced as Exhibit W-7.

(viii) copy of Madhyamik Examination certificate is produced as Exhibit W-8.

(ix) copy of school leaving certificate is produced as Exhibit W-9.

(x) copy of birth certificate is produced as Exhibit W-10.

(xi) copy of internal correspondence issued by the management dated 29/04/2017 relating to recovery of LTC amount availed by his father is produced as Exhibit W-11.

(xii) copy of letter dated 03/08/2018 by which employment proposal was regretted is produced as Exhibit W-12.

In course of cross-examination, WW-I stated that he passed his matriculation examination from BSEB, Patna and his father admitted him in the primary school. He has also stated that his father never submitted application for correction of his age in the service record according to his matriculation certificate. It transpires from evidence that only at the time of screening test held after death of his father, he came to know his age recorded in service record of his father. He also denied the suggestion that ground for regretting prayer for employment was correct and lawful.

5. In order to demolish the claim of the union, management has examined Mr. Proloy Dasgupta, Manager (Personnel), Madhujore colliery as MW-I. In support of the management's case, Mr. Proloy Dasgupta filed his affidavit-in-chief, reiterating facts stated in the written statement and further contended that in service record of the deceased employee, year of birth of the claimant is mentioned as 1981 but date of birth of claimant appears as 20/05/1990 in his educational certificates. Since the age recorded in two documents are different, management expressed its doubt regarding relationship between Sunil Roy and the deceased employee and the company decided to sanction Monthly Monetary Cash Compensation to the widow of the deceased subject to her eligibility as per NCWA. It is stated that decision of the Competent Authority was communicated to Kamali Devi which was received by her son on 27/08/2018. It is further averred that female dependent of the deceased never submitted any application praying for Monthly Monetary Cash Compensation along with necessary documents for processing the same. It is finally contended that matter was referred to this Tribunal in the year 2023, after nine years since death of the employee rendering it a stale claim which is liable to be dismissed. Witness asserted that action of the management in denying employment to the claimant is justified and petitioner is not entitled to any relief. At the time of his examination, witness produced the following documents in support of the management's case:-

(i) copy of Identity Card of the employee is produced as Exhibit M-1.

(ii) copy of death certificate of Jagdish Roy is produced as Exhibit M-2.

(iii) copy of birth certificate of Sunil Roy is produced as Exhibits M-3 and M-12.

(iv) copy of application submitted by Sunil Roy praying for his employment is produced as Exhibit M-4.

(v) copy of letter dated 29/12/2014 submitted by the wife of Jagdish Roy claiming employment for her son is produced as Exhibit M-5.

(vi) copy of screening committee's report of Kajora Area in five pages is collectively produced as Exhibit M-6.

(vii) copy of IME report in two pages is collectively produced as Exhibit M-7.

(viii) copy of screening report of Sunil Roy in four pages is collectively produced as Exhibit M-8.

(ix) copy of letter dated 03/08/2018 issued by Sr. Manager (Personnel) Empl/ED addressed to Sr. Manager (Personnel), Kajora Area regretting claim of employment to the dependent is produced as Exhibit M-9.

(x) copy of letter dated 27/08/2018 addressed to Smt. Kamali Devi, wife of deceased employee regretting claim for employment of Sunil Roy is produced as Exhibit M-10.

(xi) copy of Service Record Excerpt of Jagdish Roy in two pages is collectively produced as Exhibit M-11.

(xii) copy of secondary examination certificate of Sunil Roy issued from BSEB, Patna is produced as Exhibit M-13.

(xiii) copy of marksheet of secondary school examination, 2015 of Sunil Roy is produced as Exhibit M-14.

During cross-examination, MW-I deposed that if a person is a matriculate, his date of birth appearing in certificate/admit card is considered by IME and in the case of non-matriculate person, the age is determined by IME. It is also deposed that IME does not consider the age of dependents recorded in service record of deceased workman at the time of providing employment. It transpires from testimony of MW-I that screening committee at colliery and area level had recommended employment of Sunil Roy and no compliant or dispute was received regarding relationship of Sunil Roy with the deceased employee. It also appears that management of the company did not initiate any verification process to ascertain relationship of Sunil Roy with Jagdish Roy. With reference to copy of Service Record Excerpt of Jagdish Roy produced as Exhibit M-11, witness deposed that it is nowhere mentioned that it was prepared in the year 1987 and that no date has been mentioned in the document at the time of putting signatures.

6. Mr. Rakesh Kumar, union representative advancing argument in support of the claim for employment and monetary compensation in favour of the dependents, submitted that Jagdish Roy, workman was suffering from cancer and he died on 23/10/2014 in harness. Soon after his death, dependents of the deceased submitted two applications separately on 29/12/2014 (Exhibits M-4 and M-5 respectively) stating that Jagdish Roy died at Tata Memorial Hospital, Mumbai and they are facing hardship after his death and for their sustenance, prayed for employment to Sunil Roy, youngest son against death of his father. Employment process was initiated and screening test was held on 04/07/2015 (Exhibit M-6) and medical test was held by the Initial Medical Examination Board on 15/10/2015 (Exhibit M-7). It is argued that in the Initial Medical Examination Report, the IME Board recorded his date of birth as 20/05/1990 according to admit card of the candidate issued from BSEB, Patna and declared him fit for job. Union representative argued that screening Bio-data & report of employment under death scheme was held at Kajora Area on 16/11/2015, report of which has been produced as Exhibit M-8. No Objection Certificate was also issued by other family members of Jagdish Roy for providing employment to Sunil Roy. Proposal for providing employment to Sunil Roy was forwarded to ECL Head Quarters but the management by issuing letter No. ECL/CMD/C-6B/EMPL/ED-3450/18/369 dated 03/08/2018 expressed their doubt over relationship between the claimant and ex-employee on frivolous grounds that age of claimant was entered in service record prepared in the year 1987 as 1981 and date of birth of the claimant as per his educational certificates appeared as 20/05/1990. It is argued that copy of service record of Jagdish Roy (Exhibit M-11) does not bear any testimony that such entry was made in the year 1987 and that no date was affixed by any of the signatories. To demolish the counter claim of the management that on date of recording age of Sunil Roy in service record he was six years, Mr. Rakesh Kumar argued that ages of dependents are recorded by dealing clerks without any supportive documents and there is every possibility of committing mistakes at the time of recording age of such persons. It is vehemently argued that according to provisions of Implementation Instruction No. 76, in case of a matriculate candidate, date of birth of the candidate appearing in educational certificates is considered as correct age for providing employment. It is strenuously argued that same procedure should be followed by the IME Board which is required to consider age of person recorded in educational certificates and not the age of person seeking employment according to service record of the deceased employee. Mr. Kumar submitted that at no point of time management had raised objection regarding relationship between Sunil Roy and Jagdish Roy, deceased employee. Screening committee has considered such facts and did not consider it necessary to initiate any police

verification. It is argued that in order to frustrate the case of the dependent son of the deceased from getting employment in place of his deceased father, management has raised dispute regarding age and relationship at a later stage without any substance. It is urged that Sunil Roy, dependent son should be provided employment according to the provision under clause 9.3.0 of NCWA-VI and Management should pay Monthly Monetary Cash Compensation to the widow of deceased according to the clause 9.5.0 of NCWA-VI till employment is provided to their dependent son.

7. Mr. P. K. Das, learned advocate refuting the claim of the union submitted that according to birth certificate of Sunil Roy (Exhibit M-12) and matriculation certificate (Exhibit M-13), his date of birth is 20/05/1990 but in service record excerpt of Jagdish Roy (Exhibit M-11) it is stated that age of Sunil Roy was six years as on 01/04/1987 which implies that his year of birth is 1981. It is argued that if statements in service record of Jagdish Roy is considered to be correct then the discrepancy of age of Sunil Roy appearing in Service Record Excerpt of the deceased employee and the one recorded in matriculation certificate cannot be reconciled and explained. It is argued that a person cannot have difference of nine years of age between the service record and the date of birth of the petitioner in his matriculation certificate. For such reasons, management of the company is doubtful regarding identity of Sunil Roy, petitioner for his employment. It is further argued that workman died in the year 2014 and industrial dispute was raised after a period of nine years, i.e. in the year 2023 which is liable to be dismissed treating the same as stale.

8. On a conspectus of materials produced before the Tribunal, evidence adduced by parties and on considering arguments advanced by the contending parties, it appears to me that admitted facts of this case is that Jagdish Roy, General Mazdoor working at Madhujore colliery expired on 23/10/2014 while he was in the roll of the company. According to the provision of NCWA, a joint bi-partite agreement, management of Coal India Limited and representing employees agreed upon the term of providing employment to one dependent of the workers who died while in service of the company. In clause 9.3.3 of NCWA, dependent for this purpose has been defined as wife or husband, as the case may be, unmarried daughter, son and legally adopted son. In the instant case, death certificate of the employee has been produced as Exhibit W-4. The family particulars of Jagdish Roy as per form PS-3 produced as Exhibit W-2 reveals that Smt. Kamali Devi is wife of the deceased, aged forty one years and at the relevant time their son, Sunil Roy was (17) seventeen years of age. This family particulars are related to Coal Mines Provident Fund account of the employee and factual details were submitted on 12/05/1998. On the basis of their own document, it can be derived that year of birth of Sunil Roy is actually 1981 which supports the case that his age was six years as on 01/04/1987, recorded in service record excerpt of the company (Exhibit W-1). It is true that the Service Record Excerpt does not bear any date of birth and none of the signatories have put any date indicating when such documents were prepared. Be that as it may. The employment process was initiated on the basis of applications submitted by the wife of deceased and Sunil Roy. At the time of screening test held on 04/07/2015 (copy of report is produced as Exhibit M-6), Sunil Roy and others appeared and put their signatures on screening committee's Report. No dispute was raised regarding relationship between the claimant and the deceased employee. A pre-employmental medical examination of Sunil Roy was held on 15/10/2015 and from the report it is found that his date of birth is recorded as 20/05/1990 as per his age appearing in the admit card and Madhyamik Examination certificate. Candidate was also found fit for employment. A second screening test was held at the Area level (copy of screening report is produced is Exhibit M-8) where claimant in his statement disclosed that he was about twenty five years of age as on 16/11/2015.

9. Management did not initiate police verification to dispel their doubt regarding relationship between claimant and deceased. It is only at the time of regretting the prayer for employment by letter dated 03/08/2018, after lapse of four years, management expressed doubt about relationship only due to difference of age appearing in Service Record Excerpt of his father and his matriculation certificate. Provision under clause 9.3.4 of NCWA lays down that dependent to be considered for employment should be physically fit and suitable and his age should not be more than thirty five years, in case of a male dependent. Whatever age of Sunil Roy is considered, he is less than thirty five years of age at the time of applying for his employment. According to Implementation Instruction No. 76 for the purpose of providing employment, age appearing in matriculation certificate is to be considered and not the probable age recorded in service record excerpt of the deceased employee. In the instant case, Sunil Roy has raised claim for employment immediately after the death of his father and no adverse report is received by the Management to hold his relationship with Jagdish Roy as son doubtful. Screening Committees' report, No Objection Certificate by other dependents (Exhibit W-6) and Medical Report of Initial Medical Examination are all in favour of the claimant. Only hindrance faced by management in providing employment is due to difference of age of the candidate recorded in two different documents. Service Record Excerpt (Exhibit W-1) does not bear any date of making entries or verification by signatories, therefore the same cannot be the basis for considering the age of a candidate. Union produced copy of Form PS-3 (Exhibit W-2) containing family particulars of Jagdish Roy regarding Coal Mines Provident Fund. The document bears the date 12/05/1998 and L.T.I. of Jagdish Roy. It is also certified by the Manager of Madhujore Colliery on 12/05/1998. According to the entries made in Exhibit W-2, age of Sunil Roy was recorded as (17) seventeen years, which implies that the year of birth of Sunil Roy is 1981. The contents of Exhibit W-2 corroborate the age of Sunil Roy recorded in the service Record Excerpt of his father (Exhibit W-1). The age of Sunil Roy in the subsequently prepared documents like the certificate of Secondary Examination issued by BSEB of the year 2005 (Exhibit M-13) and the Birth Registration Certificate issued from Bihar on 30/05/2013 (Exhibit M-12) is recorded as 20/05/1990. I have no hesitation to hold that the date of birth appearing as 20/05/1990 does not reconcile with

Exhibits W-1 and W-2 even by reasonable approximation. By no stretch of imagination, it can be assumed that the date of birth in Exhibit M-12 and Exhibit M-13 are anything near to the truth. Such certificates are prepared to reduce the age of the claimant by nine years and are thoroughly unreliable and need to be discarded for the purpose of granting employment. Notwithstanding the provisions of Implementation Instruction No. 76 laying down procedures for assuming the age of Matriculate candidate, the Management of ECL in exercise of its discretion can accept the age of Sunil Roy recorded in Service Record Excerpt (Exhibit W-1) and Form PS-3 (Exhibit W-2) of the deceased employee for the purpose of employment of the dependent son. The dependent son cannot be permitted to reap undue benefit of extra period of service on the basis of subsequently prepared documents. The dependent son Sunil Roy should be considered for his employment without further delay on the part of the Management of ECL however, he shall not be allowed to claim extended period of service under ECL on the basis of his date of birth recorded as 20/05/1990 which is inconsistent with his age declared by his father in Exhibit W-2. The Management of ECL is vested with the discretion to assess the age of Sunil Roy on the basis of his year of birth recorded in Exhibit W-1 and Exhibit W-2 or by holding ossification test according to established medical practice. The management would not be bound by secondary examination certificate (Exhibit M-13) for the purpose of employment at any stage when there is sufficient material to disbelieve the same. The delay in processing the prayer for employment can be attributed to the Management of ECL, therefore the contention that the Industrial Dispute raised after nine years, hence stale cannot be accepted. Management is duty bound and obliged to comply terms of agreement in NCWA for providing employment to the dependent son. In case of **Bhawani Prasad Sonkar vs Union of India and Others (2011) 4 SCC 209;** the Hon'ble Supreme Court of India has held that "*Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our Constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognized as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve."* In the present case it is undisputed that employee was suffering from cancer and while under medical treatment he expired at Tata Memorial Hospital, Mumbai. At the relevant time family was facing dearth of sustenance and there is no evidence on record to suggest that till date the dependents of the ex-employee have overcome the crisis. The Hon'ble Court in the above mentioned decision has recognized the exception to the general rule for providing compassionate appointment and observed that scheme/policy as the case may be, is binding on both, the employer as well as on the employee and scheme has to be strictly construed and confined. The scheme laid down in clause 9.3.0 of NCWA therefore has to be strictly complied.

10. In the light of my discussion, I find and hold that management by regretting prayer for employment to Sunil Roy, son of the deceased Jagdish Roy is improper, arbitrary and not sustainable under law. Management is duty bound and liable to provide employment to the dependent son of the deceased who complied all relevant conditions and submitted all documents. Management should not cause further delay in processing the prayer and provide employment. Kamali Devi is also entitled to get Monthly monetary cash compensation according to the clause 9.5.0 of NCWA-VI till employment is provided to her son. Management of ECL is directed to complete the process of employment to Sunil Roy, dependent son of the deceased within a period of three months from date of communication of Award. Management shall also pay Monthly Monetary Cash Compensation to Kamali Devi, widow of the deceased from date of death of the employee till employment is provided to their dependent son. Industrial Dispute is therefore allowed on contest.

Hence,

ORDERED

that Industrial Dispute is allowed on contest against the management of Madhujore colliery of ECL. Management of Madhujore colliery of ECL is directed to provide employment to Sunil Roy, son of the deceased employee within three months from date of communication of Award. Management shall also pay monthly monetary cash

compensation to Kamali Devi, widow of the deceased from the date of death of her husband till employment is provided to their dependent son. Let an Award be drawn up in the light of my above discussion. Let copies of the Award be communicated to the Ministry for information.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में

dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 65/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/339/2004-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 65/2005** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **21*/01/2025*.**

[No. L-22012/339/2004– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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

AWARD

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.

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 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.

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.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – सह – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 07/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07@01@2025 को प्राप्त हुआ था।

[सं. एल-22012/20/2021-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 07/2021** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **07*/01/2025*.**

[No. L-22012/20/2021– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

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. 07 OF 2021

PARTIES: Bilam Majhi.

Vs.

Management of Nimcha 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: 20.12.2024

AWARD

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-22012/20/2021-IR(CM-II)** dated 15.06.2021 has been pleased to refer the following dispute between the employer, that is the Management of Nimcha Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the Management of M/s. Eastern Coalfields Ltd. in relation to its Nimcha Colliery under Satgram Area in imposing a punishment of dismissal on Shri Bilam Majhi, General Mazdoor (UM No. 187907), Nimcha Colliery w.e.f. 23-11-2011 is just and legal? If not, to what relief the workman is entitled to? "

1. On receiving Order **No. L-22012/20/2021-IR(CM-II)** dated 15.06.2021 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 07 of 2021** was registered on 17.06.2021 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.

2. Mr. P. K. Das, learned advocate for the management of Eastern Coalfields Limited is present. Case is fixed up today as a special chance for evidence of Bilam Majhi, the dismissed workman. In compliance with order dated 09.08.2024, Notice under registered post was sent to Bilam Majhi at his home address which has been returned unserved with a report *"addressee cannot be located".*

3. After registration of this case Mr. Rakesh Kumar, President, Koyala Mazdoor Congress filed written statement on behalf of the workman on 08.11.2021 and the management of Eastern Coalfields Limited filed their written statement on 12.12.2022. The case was thereafter fixed for evidence of workman witness on 17.02.2023, 24.05.2023, 13.10.2023 and 26.03.2024. For ends of justice the case was again fixed on 09.08.2024 for appearance of the workman and his evidence. On prayer of Mr. Rakesh Kumar, an order was passed on 09.08.2024 to issue Notice to the workman at his home address, provided by the union, fixing today for his appearance and evidence, as a special chance.

4. On repeated calls at 12.50 PM, the workman as well as the union representative are found absent. It appears from the record that ample opportunities were given to the dismissed workman and union for examining their witness to prove their case. Since no one has turned up, I find that the union and the workman are not diligent enough to pursue this case. The Industrial Dispute referred by the Government of India is accordingly dismissed for default. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that the Industrial Dispute is dismissed for default. A No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 21 जनवरी, 2025

का.आ. 123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k – sg – Je U;k;ky;, आसनसोल के पंचाट (सन्दर्भ संख्या 07/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21@01@2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आई.आर. (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 21st January, 2025

S.O. 123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. I.D. No. 07/2018)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bhubneswar** as shown in the Annexure, in the industrial dispute between the Management of **M.C.L.** and their workmen, received by the Central Government on 2***1/01/2025.***

[No. L-22013/01/2025– IR (CM-II)]
MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 07/2018

Filed under Section 2-A(2) of the I.D. Act

Date of Passing Order – 30th September, 2024

Between :-

Shri Susanta Jena,

At./Po. Dhukuta, Via/P.S. Bantala,

Dist. Angul, Odisha.

… Applicant-Workman.

(And)

1. M/s. Cavalier Transporters Pvt. Ltd. (Contractor),
   Post Box No. 77, P.O. South Balanda,
   Talcher, Dist. Angul, Odisha.
2. The General Manager,
   Jagannath OCP of M/s. MCL,
   Jagannath Area, Talcher,
   Dist. Angul (Odisha)

… Managements.

Appearances:

None … Applicant-Workman.

None … For the Managements.

ORDER

This is an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an "Act").

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working since 2009 as a high skilled worker as an Heavy Vehicle minimum wages. He was paid less wages than the employees discharging similar work at the same work place. He was also never paid bonus through-out his service period although he was entitled for that. When he insisted for payment of wages at par with his counter-part employees of the Management no. 2 and to provide him better medical facilities and regular salary, bonus and other facilities the Managements illegally and arbitrarily retrenched him from his service with effect from 24.08.2015 without any retrenchment compensation. Thereafter he approached the A.L.C(C), Angul and as the conciliation process was delayed for more than 45 days before the conciliation officer he preferred the present application before this Tribunal.

He has prayed to answer the present dispute in his favour by passing an award with direction for his reinstatement into service and for payment of full back wages.

3. The 1st Party-Management No. 1 has not appeared inspite of notice being issued to it, as such order of exparte against the Management No. 1 was passed on 18.02.2019.

4. The 1st Party-Management No. 2 has also not appeared inspite of several notice issued to it and it has also not filed any written statement.

5. When the case was posted for filing of written statement by the Management No. 2 the applicant workman has sent a petition through post with a prayer to drop the proceeding and to pass a no-dispute order.

6. In the light of the prayer made by the 2nd party-workman to drop the proceedings the applicant workman is permitted to drop and withdraw his application filed under section 2-A(2) of the I.D. Act.

7. Hence the case is dismissed as withdrawn.

8. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 22 जनवरी, 2025

का.आ. 124.—केंद्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन तारीखों को, जिनको कार्यान्वयन के लिए क्षेत्रों को पहले ही अधिसूचित किया गया था उस तारीख के रूप में नियत करती है जिनको उक्त अधिनियम के अध्याय 4 (धारा 44 और धारा 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और अध्याय 6 (धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध तेलंगाना राज्य में निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात:-

क्रम संख्यांक	जिला	क्षेत्र	अधिसूचना संख्यांक	अधिसूचना की तारीख
1	जयशंकर	जिले का संपूर्ण क्षेत्र। यह राज्य में जिलों के पुनर्गठन से पहले तत्कालीन वारंगल जिले और करीमनगर जिले का भाग था।	का.आ. सं 1617, तारीख 26 जुलाई, 2016 का.आ. 884, तारीख 28 मई, 2018	01.08.2016
2	महबूबनगर	जिले का संपूर्ण क्षेत्र	का.आ. 1213, तारीख 18 जून, 2016.	01.07.2016

ये उपबंध ऊपर यथा उल्लखित पूर्ववर्ती दो पूर्णतः अधिसूचित जिलों से पुनर्गठित निम्नलिखित दो जिलों में, उन तारीखों से विस्तारित हो जाएंगे, जिन तारीखों को उनके क्षेत्र पहले से अधिसूचित थे: -

क्रम संख्यांक	जिले का नाम
1	मुलुग
2	नारायणपेट

[सं. एस-38013/08/2024-एसएस-I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 124.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the dates on which the areas were already notified for implementation as the date on which the provisions of Chapter IV (except section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Telangana, namely:-

Serial Number	Districts	Areas	Notification Number	Date of notification.
1	Jayashankar	Entire area of the district. It was a part of the erstwhile Warangal district and Karimnagar district prior to the re-organisation of districts in the state.	S.O. No. 1617, dated the 26th July, 2016. S.O. 884, dated the 28th May, 2018.	01.08.2016
2	Mahabubnagar	Entire area of the district.	S.O. 1213, dated the 18th June, 2016.	01.07.2016

The provisions shall stand extended in the following two districts reorganised from earlier two fully notified districts as mentioned above, from the dates in which their areas were already notified.

Serial Number	Name of the district
1	Mulugu
2	Narayanapet

[No. S-38013/08/2024-SS-I]

RUPESH KUMAR THAKUR, Jt. Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 125.—केंद्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कार्यान्वयन के लिए क्षेत्रों को अधिसूचित किए जाने की तारीखों को उस तारीख के रूप में नियत करती है, जिससे उक्त अधिनियम के अध्याय 4 (पहले से ही प्रवृत्त धारा 44 और 45 के सिवाय) और अध्याय-5 और 6 (पहले से ही प्रवृत्त धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय) के उपबंध कर्नाटक राज्य में निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात:-

क्रम संख्या	जिला	क्षेत्र	अधिसूचना संख्या	अधिसूचना की तारीख
1	बागलकोट, बल्लारी, बेलगावी, बेंगुलुरु ग्रामीण, बेंगलुरु शहरी, चामराजनगर, चित्रदुर्ग, दक्षिण कन्नड़, दावणगेरे, धारवाड़, गडग, हसन, हावेरी, कालाबुरागी, कोलार, कोप्पल, मांड्या, मैसूरु, रायचूर, रामानगर, शिवमोग्गा, तुमकुरु, उडुपी, उत्तर कन्नड़, विजयपुरा, यादगीर	जिलों का सम्पूर्ण क्षेत्र	का.आ. 833, तारीख 28 अप्रैल, 2016	01.05.2016

उपबंध, जैसा कि ऊपर उल्लिखित है, पूर्णतः अधिसूचित बेल्लारी जिले से पुनर्गठित विजयनगर जिले में, उन तारीखों से लागू होंगे, जिन तारीखों को उनके क्षेत्र पहले से अधिसूचित थे।

[सं. एस-38013/06/2024-एसएस-I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 125.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the date on which the areas were already notified for implementation as the date on which the provisions of Chapter IV (except section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Karnataka, namely:-

Serial Number	Districts	Areas	Notification Number	Date of notification.
1	Bagalkot, Ballari, Belagavi, Bengaluru Rural, Bengaluru Urban, Chamarajnagar, Chitradurga, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kolar, Koppal, Mandya, Mysuru, Raichur, Ramanagara, Shivamogga, Tumakuru, Udupi, Uttara Kannada, Vijayapura, Yadgir	Entire area of the districts	S.O.833 dated the 28th April, 2016	01.05.2016

The provisions shall stand extended in the Vijayanagara district reorganised from the fully notified Bellary district as mentioned above, from the dates in which their areas were already notified.

[No. S-38013/06/2024-SS-I]

RUPESH KUMAR THAKUR, Jt Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 126.—केंद्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कार्यान्वयन के लिए क्षेत्रों को अधिसूचित किए जाने की तारीखों को उस तारीख के रूप में नियत करती है, जिससे उक्त अधिनियम के अध्याय 4 (पहले से ही प्रवृत्त धारा 44 और 45 के सिवाय) और अध्याय 5 और 6 (पहले से ही प्रवृत्त धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय) के उपबंध मध्य प्रदेश राज्य में निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

क्रम संख्यांक	जिला	क्षेत्र	अधिसूचना संख्या	अधिसूचना की तारीख
1.	रीवा	जिले का सम्पूर्ण क्षेत्र	का.आ.. 1705	09.08.2016
2	सतना	जिले का सम्पूर्ण क्षेत्र	का.आ.. 1705	09.08.2016
3	छिंदवाड़ा	जिले का सम्पूर्ण क्षेत्र	का.आ.. 384 (ई)	24.01.2023

उपबंध उपर्युक्त तीन पूर्णतः अधिसूचित जिलों से पुनर्गठित निम्नलिखित तीन जिलों में, उन तारीखों से लागू होंगे, जिन तारीखों को उनके क्षेत्र पहले से अधिसूचित थे: -

क्रम संख्यांक	जिले का नाम
1.	मऊगंज
2.	मैहर
3.	पांढुर्णा

[सं. एस-38013/02/2024-एसएस -I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 126.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the dates on which the areas were already notified for implementation as the date on which the provisions of Chapter IV (except section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Madhya Pradesh, namely:-

Serial Number	Districts	Areas	Notification Number	Date of notification.
1.	Rewa	Entire area of the district	S.O. 1705	09.08.2016
2	Satna	Entire area of the district	S.O. 1705	09.08.2016
3	Chhindwara	Entire area of the district	S.O. 384 (E)	24.01.2023

The provisions shall stand extended in the following three districts reorganised from above three fully notified districts, from the dates in which their respective areas were already notified: -

Serial Number	Name of districts
1.	Mauganj
2.	Maihar
3.	Pandhurna

[No. S-38013/02/2024-SS-I]

RUPESH KUMAR THAKUR, Jt. Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 127.—केंद्रीय सरकार, कर्मचारी राज्य बीमा निगम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन तारीखों को जिनको कार्यान्वयन के लिए क्षेत्रों को पहले ही अधिसूचित किया गया था उस तारीख के रूप में नियत करती है जिनको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध सिक्किम राज्य में निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

क्रम संख्यांक	ज़िलों के नाम	अधिसूचित क्षेत्र	अधिसूचना संख्यांक	अधिसूचना की तारीख
1.	पूर्वी सिक्किम और दक्षिणी सिक्किम	ज़िलों का समग्र क्षेत्र	का.आ. 1840	17.12.2018

यह उपबंध पूर्णत: अधिसूचित ज़िलों अर्थात् पूर्वी सिक्किम और दक्षिणी सिक्किम में से पुनर्नामित/पुनर्गठित निम्नलिखित तीन ज़िलों में उस तारीख से विस्तारित हो जाएंगे जिसमें उनके क्षेत्रों को पहले से अधिसूचित किया गया था।

क्रम संख्यांक	पुनर्गठित ज़िलों के नाम	पूर्णत: अधिसूचित ज़िले
1.	गंगटोक	पूर्वी सिक्किम
2.	नामची	दक्षिणी सिक्किम
3.	पकयोंग	पूर्वी सिक्किम

[सं. एस-38013/05/2024-एसएस-I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 127.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the date on which the areas were already notified for implementation as the date on which the provisions of Chapter IV (except section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Sikkim, namely:-

Serial Number	Name of districts	Areas notified	Notification Number	Date of notification.
1.	East Sikkim and South Sikkim	Entire area of the districts	SO. 1840	17.12.2018

The provisions shall stand extended in the following three districts renamed/reorganised from the fully notified districts, namely the East Sikkim and South Sikkim districts, from the dates in which their areas were already notified.

Serial Number	Name of reorganised districts	Fully notified districts
1.	Gangtok	East Sikkim
2.	Namchi	South Sikkim
3.	Pakyong	East Sikkim

[No. S-38013/05/2024-SS-I]

RUPESH KUMAR THAKUR, Jt. Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 128.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस तारीख को जिस पर क्षेत्रों के कार्यान्वयन के लिए पहले ही अधिसूचित किया गया था, उस तारीख के रूप में, जिस पर उक्त अधिनियम के अध्याय 4 (धारा 44 और धारा 45 के सिवाय जो पहले से ही प्रवृत्त है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय जो पहले से ही प्रवृत्त है) के उपबंध असम राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, नियत करती है, अर्थात:-

क्रम संख्या	जिला	क्षेत्र	अधिसूचना संख्या	अधिसूचना की तारीख
1	बक्सा, चराइदेव, दीमा हसाओ, हैलाकांडी, होजाई और कोकराझार	जिलों का सम्पूर्ण क्षेत्र	का.आ. 3946 (अ) तारीख 24 सितम्बर, 2021	24.09.2021

यह उपबंध तामुलपुर जिले में, जो पूर्णतया अधिसूचित जिला बक्सा से पुनर्गठित हुआ है, उन तारीखों से जिन में उनके क्षेत्र पहले से अधिसूचित थे, विस्तारित माने जाएंगे।

[सं. एस-38013/10/2024-एस एस-I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 128.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the dates on which the areas were already

notified for implementation as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) Chapter V and VI [except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Assam, namely:-

Serial Number	Districts	Areas	Notification Number	Date of notification.
1	Baksa, Charaideo, Dima Hasao, Hailakandi, Hojai and Kokrajhar	Entire area of the districts	S.O.3946 (E) dated the 24th September, 2021.	24.09.2021

The provisions shall stand extended in the Tamulpur district, reorganized from the fully notified district of Baksa, from the dates in which their areas were already notified.

[No. S-38013/10/2024-SS-I]
RUPESH KUMAR THAKUR, Jt. Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 129.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा निगम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन तारीखों को, जिनको कार्यान्वयन के लिए क्षेत्रों को पहले ही अधिसूचित किया गया था, उस तारीख के रूप में नियत करती है जिनको उक्त अधिनियम के अध्याय 4 जिनको (धारा 44 और धारा 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और अध्याय-6 (धारा 76 की उपधारा (1) और धारा 77, धारा 78, धारा 79 और धारा 81 के सिवाय जो पहले ही प्रवृत्त हो चुकी है) के उपबंध राजस्थान राज्य में निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात:-

क्र.सं.	जिला	क्षेत्र	अधिसूचना संख्याक	अधिसूचना की तारीख
1 से 28	अजमेर, अलवर, बांसवाड़ा, बाड़मेर, भरतपुर, भीलवाड़ा, बीकानेर, बूंदी, चित्तौड़गढ़, दौसा, धौलपुर, डूंगरपुर, हनुमानगढ़, जयपुर, जैसलमेर, झालावाड़, झुंझुनू, जोधपुर, कोटा, नागौर, पाली, राजसमंद, सवाईमाधोपुर, सीकर, सिरोही, श्री गंगानगर, टोंक, उदयपुर	जिलों का सम्पूर्ण क्षेत्र	का.आ.1563	20.07.2016
29 से 33	करौली, जालौर, चूरू, प्रतापगढ़, बारां	जिलों का सम्पूर्ण क्षेत्र	का.आ.1702	09.08.2016

ये उपबंध पूर्ववर्ती तैंतीस पूर्णतः अधिसूचित जिलों से पुनर्गठित निम्नलिखित पचास जिलों पर उस तारीख से विस्तारित हो जाएंगे, जिन तारीखों से उनके संबंधित क्षेत्र पहले से अधिसूचित थे: -

क्र.सं.	जिला का नाम
1 से 50	अजमेर, अलवर, अनुपगढ़, बालोतरा, बांसवाड़ा, बाड़मेर, बारां, ब्यावर, भरतपुर, भीलवाड़ा, बीकानेर, बूंदी, चित्तौड़गढ़, चूरू, दौसा, डीग, डीडवाना-कुचामन, धौलपुर, दूदू, डूंगरपुर, गंगापुर, हनुमानगढ़, जयपुर, जयपुर ग्रामीण, जालौर, जैसलमेर, झालावाड़, झुंझुनू, जोधपुर, जोधपुर ग्रामीण, करौली, केकड़ी, खैरताल तिजारा, कोटपूतली-बेहरोड़, कोटा, नागौर, नीम का थाना, पाली, फलोदी, प्रतापगढ़, राजसमंद, सांचौर, सलूम्बर, सवाईमाधोपुर, शाहपुरा, सीकर, सिरोही, श्री गंगानगर, टोंक, उदयपुर।

[सं. एस-38013/09/2024-एसएस-I]

रूपेश कुमार ठाकुर, संयुक्त सचिव

New Delhi, the 22nd January, 2025

S.O. 129.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the dates on which the areas were already notified for implementation as the date on which the provisions of Chapter IV (except section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of section 76 and sections 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan, namely:-

Serial Number	Districts	Areas	Notification Number	Date of notification.
1 to 28	AJMER, ALWAR, BANSWARA, BARMER, BHARATPUR, BHILWARA, BIKANER, BUNDI, CHITTAURGARH, DAUSA, DHOLPUR, DUNGARPUR, HANUMANGARH, JAIPUR, JAISALMER, JHALAWAR, JHUNJHUNU, JODHPUR KOTA NAGAUR, PALI, RAJASAMAND, SAWAIMADHOPUR, SIKAR, SIROHI, SRI GANGANAGAR, TONK, UDAIPUR	Entire area of the districts	S.O. 1563	20.07.2016
29 to 33	KARAULI, JALORE, CHURU, PRATAPGARH, BARAN	Entire area of the districts	S.O. 1702	09.08.2016

The provisions shall stand extended in the following fifty districts reorganised from earlier thirty three fully notified districts, from the dates in which their respective areas were already notified: -

Serial Number	Name of Districts
1 to 50	AJMER, ALWAR, ANUPGARH, BALOTRA, BANSWARA, BARMER, BARAN, BEAWAR, BHARATPUR, BHILWARA, BIKANER, BUNDI, CHITTAURGARH, CHURU, DAUSA, DEEG, DIDWANA-KUCHAMAN, DHOLPUR, DUDU, DUNGARPUR, GANGAPUR, HANUMANGARH, JAIPUR, JAIPUR RURAL, JALORE, JAISALMER, JHALAWAR, JHUNJHUNU, JODHPUR, JODHPUR RURAL, KARAULI, KEKRI, KHAIRTAL TIJARA, KOTPUTLI-BEHROR, KOTA, NAGAUR, NEEM KA THANA, PALI, PHALODI, PRATAPGARH, RAJASAMAND, SANCHORE, SALUMBAR, SAWAIMADHOPUR, SHAHPURA, SIKAR, SIROHI, SRI GANGANAGAR, TONK, UDAIPUR.

[No. S-38013/09/2024-SS-I]

RUPESH KUMAR THAKUR, Jt. Secy.

नई दिल्ली, 22 जनवरी, 2025

का.आ. 130.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **जूट कॉर्पोरेशन ऑफ इंडिया लिमिटेड,** के प्रबंधतंत्र के संबद्ध नियोजकों और **भारतीय जूट निगम फील्ड श्रमिक यूनियन,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय,कोलकाता, पंचाट (संदर्भ संख्या **REF. NO. 04 OF 2012**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 22.01.2025को प्राप्त हुआ था।

[सं. एल-42011/202/2011-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 22nd January, 2025

S.O. 130.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. **NO.04 OF 2012**) of the **Central Government Industrial Tribunal cum Labour Court, Kolkata,** as shown in the Annexure, in the Industrial dispute between the employers

in relation to **Jute Corporation of India Ltd., and The Jute Corporation of India Field Workers Union,** which was received along with soft copy of the award by the Central Government on 22.01.2025.

[No. L-42011/202/2011– IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO.04 OF 2012

Parties : Employers in relation to the management of

Jute Corporation of India Ltd.

Versus

The Jute Corporation of India Field Workers Union.

Appearance :

On behalf of the Management: Mr. Ranjay De, Ld. Advocate.

On behalf of the Union: Mr. Madhusudan Dutta, Ld. Advocate.

Dated: 2nd July, 2024

AWARD

By order No. L-42011/202/2011 (IR(DU)) dated 24-02-2012, the Govt. of India, Ministry of Labour in exercise of power conferred under section 10(1) (d) and sub-section (2A) of the Industrial Dispute Act, 1947 has referred the following issues for determination:-

"1) Whether the action of the management of Jute Corporation of India Ltd. in denying the regularisation of service of its 400 casual workers is legal or justified? What relief the workmen are entitled to?

2) Whether the management of Jute Corporation of India Ltd. in denying the demand of casual workers for extending medical allowance, house rent allowance and conveyance allowance in line with permanent employees is legal and justified? What relief the workmen are entitled to?

The facts that are necessary for determination of the present reference in brief are that Jute Corporation of India Ltd. is a Govt. of India enterprises established for the purpose of procurement of jute from the farmers/cultivators through its 171 Departmental Purchase Centres under the control of 16 Regional Offices, spread over 7 states of the country including the State of West Bengal.

The Jute Corporation of India, has engaged 400 persons as casual employees under three groups namely:-

Group-A casual employees who were/are to perform watch and ward duties as also duties of Peon cum Messenger and other jobs as may be allotted to them from time to time.

Group-B casual employees who were/are to perform jobs related to correct weighment /re-weighment of raw jute/assorted loose and/or bailed jute as also to perform duties of Group A casual, if and when required strictly on need basis, arise in the region.

Group-C casual employees who were/are to perform duties related to assortment of loose jute, bailing of assorted jute at standard weight, checking of raw jute purchased and its supervision and also to perform duties assigned to Group A as and when required.

They have been performing their duties and jobs continuously and uninterruptedly from different dates since 1980. The jobs performed by them is perennial in nature which is otherwise rendered by the employees posted in permanent posts.

Those casual employees were/are brought under the purview of benefits under various Pay Commissions, constituted by Govt. of India. They were/are granted only 16 days leave with pay, gratuity on retirement at the age of 58 years, festival advance etc. But the management denied them regular pay scale with increment, group insurance, Dearness Allowance, which is otherwise paid to the Group-D staff of the Govt. Departments. They were/are paid through vouchers on daily rate but paid monthly.

The union made several representations before the management for regularisation of the service of those casual workmen who rendered perennial nature of job and their service is indispensable for proper procurement of jute from farmers and cultivators situated throughout the State.

When the management did not pay any heed to their representations then the Union raised an industrial dispute before the Labour Commissioner. On failure of conciliation, the Labour Commissioner referred the matter to the Ministry of Labour, Govt. of India and who in turn referred the dispute to this Tribunal for adjudication.

The Union has also alleged the management has indulged in unfair labour practice by retaining them as casual but getting perennial nature of job done by them. Thus, the Union has prayed for regularisation of those 400 casual workmen and to grant them all the financial benefits to which a regular Group-D employee of a Govt. Deptt. are entitled to.

The management of Jute Corporation of India Ltd. in its written statement has stated that the Corporation is a Govt. company. The company is subsidised by the Central Govt. The subsidy amount is decreasing every year and the Corporation has no financial capability to bear extra financial burden in regularisation of the casual employees. Those persons are casual employees but were given temporary status for carrying out field operation pertaining to the minimum support price.

The nature of job of the workmen is seasonal in nature and they are employed seasonally. MSP operation generally begins in the month of late July or early August and continue up to December. For the rest of the other months they remain idle. However, the Corporation on humanitarian ground pay them retention wages throughout the year and time to time extend various facilities to them. All the casual employees are covered under Provident Fund, and enjoy D.A. and basic wage scale. As per recommendation of 6th Pay Commission, they enjoy 16 days leave with pay every year. Their retirement age is 58 years and they are also entitled to gratuity like a permanent employee. They are also entitled to pension and further enjoy 50% merger of the Dearness Allowance like permanent employee. They get festival allowance and also covered under Group Insurance Scheme.

The management alleged the concerned workmen being casual workmen class by itself cannot be equated with the permanent Class-IV employees of the Corporation and as such they are not entitled to equal pay for equal work, as law envisages equality amongst equals and not equality amongst unequal.

The regularisation cannot be the mode of recruitment when the appointment of those casual employees was not as per provision of Constitution or their entry to the casual employment was not legal and the question of confirmation or regularisation may not arise.

There is no sanctioned post in the establishment of the Jute Corporation of India Ltd. to absorb those 400 employees. Even if there is vacancy the same has to be filled up as per recruitment rules and regulations.

Further, it has been contended that the Jute Corporation of India Ltd. is a loss making enterprise and question of absorption does not arise. Jute Corporation of India Ltd. has no financial capacity to absorb 400 casual workmen in permanent posts. Therefore, it is prayed for dismissal of the reference.

The Union to prove its case has examined its General Secretary Sri Santipada Karmakar as W.W. 1.

That from the side of the union following documents have been produced :-

1. Details of casual staff of different regions namely Head Office, Sheoraphully region, Barasat region, Krishnanagar region, Bethuadahari region, Berhampore region, Malda region, Siliguri region, Coochbehar region, Dhubri region, Guwahati region, Nagoan region, Agartala region, Purnia region, Sahrsa region, Cuttak region and Vizangaram region and which have been marked as Exb.W-1 to W-1/22.

2. Copy of union's letter dt. 18-06-2009 in four pages addressed to Labour Commissioner (Central), Kolkata with regards to its charter of demands and those pages have been marked as Exb.W-2 to 2/3.

3. Copy of letter dt. 28-12-1987 of Regional Manager, Barasat in respect of extension of P.F. benefit to the eligible casual workmen and which has been marked as Exb.W-3.

4. Copy of incomplete letter dt. 19-10-1989 of J.C.I., Regional Office Kolkata to the union and which has been marked as Exb. W-3/1.

5. Copy of office order dt. 17-08-1989 with regards to enhancement in the rate of daily wages of different group of casuals and which has been marked as Exb. 3/2.

6. Copy of letter dt. 26-07-1989 of Personnel Manager, J.C.I. to the union, informing the matter about increase in wages based on increase of D.A. annually and appointment of dependent of any casual on compassionate ground and which has been marked as Exb.3/3.

7. Copy of circular of J.C.I. dt. 03-09-1993 with regards to extension of entitlement of 16 days paid leave in every calendar year to its casual workmen and which has been marked as Exb.W-3/4.

8. Copy of circular of J.C.I. dt.03-09-1999 with regards to extension of benefit of gratuity to its casual employees who have rendered not less than five years continuous service on death /disablement/ resignation/ retrenchment and on superannuation and which has been marked as Exb.W-3/5.

9. Copy of office order dt.24-11-1994 of J.C.I. with regards to the age of superannuation of its casual employees on attaining the age of 58 and which has been marked as Exb.W-3/6.

10. Copy of office order dt. 12-07-2006 of J.C.I. with regards to revision of wages of its different categories of casual employees and which has been marked as Exb.W-3/7.

11. Copy of letter dt. 21-08-2006 of Marketing Manager of J.C.I. to all Regional Managers of J.C.I. with regard to issuance of I.D. cards to its casual workers and which has been marked as Exb.W-3/8.

12. Copy of circular dt. 15-09-2006 of J.C.I. with regards payment of interest free festival advance to its casual workers and which has been marked as Exb.W-3/9.

13. Copy of office order dt. 19-05-2008 with regards to payment of Rs.62,000/- to one Smt. Renuka Mondal, wife of Late Ashwini Mondal, ex-Group-B casual posted under Barasat region towards gratuity and which has been marked as Exb.W-3/10.

14. Copy of union's letter dt. 30-06-2008 to the Minister of Textiles, for absorption of 491 casual staff working under Jute Corpn. of India and which has been marked as Exb.W-4.

15. Copy of Ministry of Textiles's acknowledgement letter dt.31-08-2007 addressed to one Sri Santasri Chatterjee, M.P. and which has been marked as Exb.W-5.

16. Copy of letter dt. 29-08-208 of union to the Ministry of Textiles and which has been marked as Exb.-W-6.

17. Copy of pay slip of casual staff of Berhampore Regional Office for the month of April, 2012 and which has been marked as Exb.W-7.

On the other hand management has examined one Smt. Sandipa Sen Dutta, Sr. Manager, H.R, as M.W-1. The management has exhibited following documents through M.W. 1:-

1. Copy of letter of authority dt. 16-12-2019 issued by Chairman and Managing Director, J.C.I. in favour of Smt. Sandipa Sen Dutta and which has been marked as Exb.M-1.,

2. Copy of I.D. Card of Smt. Sandipa Sen Dutta and which has been marked as Exb.M-2.

3. Copy of list of total 25 casual employees of J.C.I. as on 14-02-2023 and which has been marked as Exb.M-3.

4. Copy of Memorandum and Article of Association of J.C.I. and which has been marked as Exb.M-4.

5. Copy of letter dt. 17-08-2021 of Ministry of Textiles to the Managing Director of J.C.I. with regard to grant of subsidy to J.C.I. from the year 2021 to 2026 and which has been marked as Exb.M-5.

6. The Annual Report of J.C.I. for the year 2021-2022 and which has been marked as Exb.M-6.

7. Copy of Appointment Letters/Memorandums dt.23-06-1988, 01-06-1988, 07-02-1980 and 07-04-1988 of J.C.I. issued in favour of Sri Baijnath Lala, Sri Rajkumar Saha, Sri Gopal Singh and Sri Arun Das and which have been marked as Exb.M-7 to 7/C.

8. Copy of Ministry of Textiles's letter dt.26-06-1992 to M.D., JCI, regarding ban on recruitment against vacant post till further order due to financial constraint and which has been marked as Exb.M-8.

9. Copy of letter of Mr. A. N. Sanyal to Mr. Kausik dt. 03-07-1992 with regard to complete ban on recruitment in JCI till further order from Govt. of India and which has been marked as Exb.M-8/A.

10. Copy of JCI Service Regulations, 1980 and which has been marked as Exb.M-9.

11. Copy of JCI Employee's Conduct, Discipline and Appeals Rules, 1980 and which has been marked as Exb.M-10.

12. Copy of circular of JCI dt. 03-12-1980 regarding implementation of JCI Service Regulations, 1980 and JCI Employee's Conduct, Discipline and Appeals Rules, 1980 and which has been marked as Exb.M-11.

13. Copy of extract of Minutes of 241 Meeting of Board of Director of JCI held on 21-12-2016 for approval of recruitment and promotion rules proposed by M/s. Deloitte and which has been marked as Exb. M-12.

14. Copy of extract of Minutes of 241 Meeting of Board of Director of JCI held on 21-12-2016 for implementation of Deloitte's report on restructuring of man power and which has been marked as Exb. M-12/A.

15. Copy of order dt.14-06-2017 of JCI with regards to revision of rate of wages of casual labours and which has been marked as Exb.M-13.

16. Copy of wages slips of casual staff of Calcutta RLD for the month of January, 2023 in eight pages and which has been marked as Exb.M-14 (Collectively).

17. Copy of payment of gratuity to casuals at the time of retirement and which has been marked as Exb.M-15.

18. Copy of payment of leave salary to casuals at the time of retirement and which has been marked as Exb.M - 15/A.

19. Copy of payment of wages as per recommendations of 6th and 7th Pay Commission to the casuals and which has been marked as Exb.M-15/B.

20. Copy of Ministry of Textile's office memorandum dt. 23-05-2018 with regard to grant of subsidy to JCI to maintain its infrastructure w.e.f. 01-04-2018 to 31-03-2020 and which has been marked as Exb.M-16.

21. Copy of extract of Minutes of 213 Meeting of Board of Director of JCI held on 23-06-2011 with regards to request of DLC (Central) for regularisation of 435 casual employees of the JCI and which has been marked as Exb. M-17.

The Ld. Counsel for the Union along with written notes of argument has placed reliance on the following decisions:-

1. AGE Carapite –vs- AY Derderian, AIR 1961, Calcutta, 359.

2. Sankar Chakraborty –vs- Britania Biscuits Co. & Anrs., 1979 (II) LLJ 194.

3. Shib Sankar Chakraborty & Ors. –vs- State of West Bengal & Ors., 1994, LAB, IC, 1357.

4. Chief Conservator of Forest and Industry-vs- Jagannath Maruti Kondhari 1996 (1) LLJ, 1223.

5. Urmila Gram Panchayet –vs- Secretary, Municipal Employees Union & Ors. 2015, LAB IC 3765.

6. ONGC Ltd. –vs- Petroleum Coal Labour Unions & Ors., 2015-II-LLJ-257 SC.

7. Nihal Singh & Ors. –vs- State of Punjab & Ors. with Bhupendra Singh & Ors. –vs- State of Punjab & Ors. (2013) 14 SCC, 65.

8. Bihar School Examination Board –vs- Suresh Prasad Sinha (2009) 8 SCC 483 and

9. Sarva Shramik Sangh, Bombay –vs- Indian Hume Pipe Co. Ltd. & Anrs., (1993) 2 SCC 386.

On the other hand the management of Jute Corporation of India Ltd. too has filed written notes of argument and has cited following decisions:-

1. Upendra Singh –vs- State of Bihar & Ors. (2018) 3 SCC 680.

2. Chairman cum Managing Director, Ennore Port Trust Ltd. –vs- V. Monoharan & Ors. (2018) 3 SCC 612.

3. Union of India & Anrs –vs- Arulmozhi Iniarasu & Ors. (2011) 7 SCC 397.

4. Secretary, State of Karnataka & Ors. –vs- Uma Debi & Ors. 2006 (4) SCC 1.

5. State of Rajasthan & Ors. –vs- Daya Lal & Ors. (2011) 2 SCC 429.

6. Hari Nandan Prasad & Ors.–vs- Employers IR to Management of Food Corporation of India & Anr. (2014) 7 SCC 190.

7. MMTC Ltd –vs- 4th Industrial Tribunal, Laws (Cal) 2014- 9-46.

8. University of Rajasthan & Anrs –vs- Premlata Agarwal with other 4 cases (2013) 3 SCC 705.

9. A.K. Bindal & Anr. -vs Union of India & Ors. (2003) 5 SCC 163.

10. Punjab State Co-operative Milk Producers Federation Ltd. & Anrs. –vs- Balbir Kumar Walia & Ors. (2021) 8 SCC 784.

11. Oil and Natural Gas Corporation –vs- Krishan Gopal & Ors., 2020 SCC Online SC 150.

12. Maharashtra State Road Transport Corporation & Anr- vs – Casteribe Rajya Parivahan Karmachari Sangathan, (2009) 8 SCC 556 and

13. Punjab State Power Corporation Ltd. –vs – Rajesh Kumar Jindal & Ors., (2019) 3 SCC 547.

First and foremost this Tribunal is of view that present case has to be decided on its own merit as facts and circumstances of the present case being entirely different from those relied and cited by the parties as above, this Tribunal is not inclined to discuss the above cited decisions for determination of the present dispute. More so, Hon'ble Supreme Court in Union of India & Anrs. –vs – Arulmozhi Iniarsu & Ors., (2011) 7 SCC 397 has held, court should not place reliance on decisions without discussing as to how fact situation of case before it fits in with fact situation of decision on which reliance is placed. Observation of Courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. They must be read in context in which they appear

to have been stated. Disposal of cases by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases.

Be that as it may, let me discuss the oral evidence which have come on record. The union has examined Sri Santipada Karmakar, its General Secretary as W.W.1 and who in his evidence in chief has categorically stated J.C.I., a Govt. of India Enterprise, established by an Act of the Parliament, for the purpose of procurement of jute from the farmers/ cultivators through its 171 departmental purchase centres under the control of 16 Regional Offices, spreading all over seven States of the Country, including the State of West Bengal, has engaged casual workers to perform perennial nature of job at par with the permanent employees of the J.C.I. of the same category in the year 1980. Those casual employees have been categorised in three groups "A", "B" and "C" and assigned different nature of jobs, but all related with procurement, sorting, weighing, bailing ,storing till the same is delivered. That they have been extended with all the benefits such as recommendation under various pay commissions, paid leave, pension, gratuity, P.F., group insurance, festival advance and fixed their age of superannuation at 58 years, but despite doing perennial nature of jobs which are necessary for the existence of JCI as a nodal agency for carrying out minimum support price operations in raw jute, they have been deprived of grade and scale pays with V.D.A., medical allowance, H.R.A. and conveyance allowance which are otherwise paid to regular permanent Class-IV employees of JCI. That they have invariably placed their demand for regularisation before different authorities but of no avail.

During cross examination of W.W. 1 on 18-09-2018, has admitted that the number of the casual employees has come down to 170 from 400 or 443 as most of the casual workers have retired on attaining the age of superannuation. However, he has stated that JCI purchase jute throughout the year as purchasable jute is available throughout the year. That they discharge some other works apart from procuring jute throughout the year and denied the suggestions that they do not work for JCI throughout the year.

Thus, nothing has come during his cross examination to show that the job rendered by them is casual in nature based on need basis or intermittent, or sporadic or extent for a short period, rather it has come they were/are engaged by JCI till they attained the age of 58 years and which prima facie prove that they are made to work perennial nature of job and they are indispensable.

That M.W.1 Smt. Sandipa Sen Dutta, Sr. Manager, Human Resource of Jute Corporation of India has admitted that JCI was brought into existence by the Govt. of India in the year 1971. The prime object of formation of JCI was to discharge the role of the nodal agency for carrying out minimum support price operation in raw jute. JCI was formed to procure raw jute from farmers at the Govt. declared MSP when the market price of raw jute falls below the MSP. The responsibility of JCI is to ensure the interest of the farmers is protected under all circumstances so they may not be compelled to resort to distress sale. That JCI is required to maintain infrastructure, manpower and godowns to handle any eventuality of MSP situation and as such it receives annual grant of subsidy from the Govt. of India. That it maintain such infrastructures with sale proceeds of raw jute, jute seeds and jute diversified products also. However, she has stated that grant of subsidy from the Govt. is decreasing year by year and for which it is not possible to provide financial benefits to those casuals at par with that of Class-IV regular employees of JCI or regularise them.

She has further stated that there are only 25 casual employees on the day she has filed her evidence in chief on affidavit on 17-02-2023. She has also stated that JCI, as a onetime measure with the approval of the Board, 114 posts were created for Watchman-cum-Peon and gradually those casual workers were absorbed, but due to Ministry of Textile, Govt. of India letter dt. 26-06-1992 and letter dt. 03-07-1992 of Chairman cum Managing Director of JCI, there was a ban on recruitment until further order from the Govt. That Jute Corporation of India cannot recruit any person in violation of its Service Regulations, 1980 and Recruitment and Promotion Policy/Rules, 2016. She has also stated those casual employees do not work throughout the year but they were/are paid retention allowance out of sympathy. That Corporation has no capacity to bear additional financial liability for regularisation of 400 casual employees.

However, during cross examination she has admitted those casual workmen have been given the status of temporary employees for carrying out out-field works and operations. That they have been paid wages for 12 months and they have been extended benefits of 7th Pay Commission with revision in their basic pay. She has admitted that those casual workmen are not paid HRA, conveyance allowance, increment and DA.

Thus, from the evidence of the witnesses recorded under oath and the documentary evidence which have come on record, the following facts remain undisputed.

(1) Those 400 casual workmen were engaged by JCI directly sometime in the year 1980 for the purpose of procurement of raw jute, for weighing the jute, for sorting out the jute, bailing the jute, storing the jute in warehouse till it reaches the ultimate customers.

(2) That those casual workmen are paid throughout the year. That no Govt. establishment will pay to any person wages or salary on sympathetic ground for doing nothing as the money involved in payment of retention wages is that of a tax payer and for which Govt. is answerable. The Govt. organisation/

establishment i.e. JCI is not a philanthropic organisation, and it cannot do the philanthropic activity at the cost of the public exchequer only to a selected class of employees by granting retention wages on sympathetic and humanitarian ground.

(3) That those casual workers were/are given the benefits of 6th and 7th Pay Commission, may be in respect of the basic pay.

(4) That those casual workmen were/are paid pension and gratuity at the time of their superannuation and gratuity to those who have put five years continuous service on their demise to their legal heirs or on leaving the job.

(5) That they were/are entitled 16 days paid leave in a year.

(6) That they have been extended P.F. benefits, group insurance and interest free festival advance.

(7) That their superannuation age has been fixed at 58 years.

That apart, the salary slips or wage slips produced by both sides which have been exhibited show that proportionate Professional Tax was/is deducted from their salary/wages. That they were/are paid field allowance, HRA, traveling allowance, Interim D.A. as per 6th and 7th Pay Commission.

Having regards to such admitted facts a question arises in the mind of the Tribunal, whether an employee who has been provided with all the facilities mentioned above can still be termed as "casual"?

Generally, the term 'casual employee' means a person who is offered a job and which does not include commitment that the work will continue indefinitely with an agreed pattern of work. Those persons accept the offer knowing that there is no firm advance commitment and became an employee.

Further, casual employee means, an individual who is hired by the employer as and when the employer requires him to do the work i.e. on need based or casual employee whose employment is intermittent, sporadic or extent for a short period. Casual employment is offered to those persons when their services are needed. Basically casual employees are paid on daily rated basis, generally, applicable minimum wage is paid to the casual workman. Casual workman is generally not paid pension, gratuity, DA, Group Insurance, Provident Fund and 16 days paid leave in a year, festival advance and they are not paid retention wages like in the present case and there is no superannuation age for casual workers. So, the present workmen cannot be termed as 'casual' as used by JCI for its own benefit. In fact, it appears those are indispensable employees of JCI and without whom itwill not be able to discharge the object for which it was established by the Act of Parliament i.e. to act as a Nodal Agency for carrying out Minimum Support Price Operation in raw jute and for the purpose of which it is required to procure raw jute from farmers scattered throughout the country, for lifting raw jute from farmers and bringing them to the warehouse or to such place where the same is weighed, sorted, bailed, stored and ultimately despatched to those purchasers or to the manufacturers of the jute products or ultimate customers.

Prima facie, it appears JCI, a Govt. of India Undertaking, has indulged in unfair labour practice by levelling those employees as casual just to deprive them the status of a regular employees in the cadre of Class-IV and consequently all the benefits to which a regular Class-IV employees of JCI is otherwise entitled.

It appears work performed by those casuals were/are necessary for Jute Corporation of India and without whom it was/is unable to operate. It appears those employees were engaged to do work incidental and connected with the main work of the JCI. That those employees were not engaged or hired as casual hands to work in place of permanent workmen. That payment of retention allowance and fixing their age of superannuation at 58 years itself prove that they have worked for more than 240 days in each year and in view of provisions of section 25-B of the I.D. Act, they are deemed to be in continuous service and for which they are entitled to regularisation.

It is true a question may arise without sanctioned posts how those casual employees who were 400 in numbers in the year 2012 the reference was made and which has come down to 25 in the year 2023 can be regularised.

The facts and circumstance of the case and the admitted facts mentioned above, prove that JCI without creating any permanent posts for the purpose of its perennial nature of work which involve procurement of raw jute from the farmers till the same is delivered to the ultimate purchasers or the consumers, got the work done by engaging the concerned workmen and which is not expected from a Govt. of India undertaking, who is supposed to be an ideal employer. Unfortunately, it is seen that JCI has indulged in exploitation of human labourers and involved in unfair labour practice by retaining 400 indispensable employees as casual since 1980 till they attained the age of superannuation at 58 years. Therefore, Jute Corporation of India ought to have created posts for those 400 employees exclusively engaged by it to discharge its role as Nodal Agency for carrying out Minimum Support Price operation in raw jute or ought to have absorbed them in the regular vacant sanctioned posts in phased manner and which it has failed to do so. So, it appears those concerned employees have been arbitrarily considered as casual labourers in spite of being engaged in work of permanent or perennial nature. Therefore, this Tribunal is of view such workers should not be deprived of the opportunity of job regularization. The spirit of the

labour legislations which are regarded as welfare legislations, by ensuring that the workers are not discriminated and deprived of their statutory rights.

Further, it is settled law workers who perform any work whichis permanent or perennial in nature would not be considered as casual worker and therefore, the relief which they are entitled is regularization.

In view of above, the action of the management of Jute Corporation of India in denying the regularisation of service to its 400 so called casual workers is held not justified.

Having regards to the above discussion, Jute Corporation of India is hereby directed to regularise those remaining 25 casual workmen still working for it in the posts of Class-IV cadre employees immediately. Further, Jute Corporation of India is directed to pay compensation of Rs.5,00,000/- each to the remaining employees who have already superannuated from the job of so called casual employees for depriving them the benefit of regularisation in the permanent post of Class-IV cadre service in JCI.

Accordingly, Reference No. 04 of 2012 is allowed.

Justice K. D. BHUTIA, Presiding Officer

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