

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM  
LABOUR COURT, JABALPUR**

**NO. CGIT/LC/C/02/2015**

**Present: P.K.Srivastava**

**H.J.S..(Retd)**

**1. Mahesh Kumar Gupta**

**S/o. Suddhu Lal Gupta (died during pendency  
& represented through legal representatives)**

**1/1. Smt. Sunanda Gupta**

**Wife**

**1/2. Ashish Kumar Gupta**

**Son**

**1/3. Ankit Kumar Gupta**

**Son**

**All R/o. West Chirimiri Colliery**

**SECL, District-Korea (CG)**

**Workman**

**Versus**

**1. Chairman cum Managing Director**

**SECL, Seapat Road, Bilaspur (CG)**

**2. General Manager**

**Chirimiri Area, SECL**

**3. Sub Area Manager**

**SECL**

**Both at West Chirimiri, Korea (CG)**

**Management**

**ORDER**

**(Passed on this 18<sup>th</sup> day of September-2024)**

1. This case has come up on the basis of an application Under Section 33-C(2) of the Industrial Disputes Act 1947, hereinafter referred to by the word 'Act', filed by the appellant wherein he has taken a case that he was illegally retrenched from services on 18.01.1988. He raised a dispute which was referred to this

Tribunal and Award dated 05.02.2010 was passed holding the action of management in retrenching the appellant illegal and also holding the appellant entitled to reinstatement with back wages. This Award was altered by Hon'ble High Court of C.G. in Writ Petition No. 2170/2010, on the basis of a settlement between the workman and the management on 28.10.2010, wherein the management agreed to reinstate the workman with 40% of back wages. The case of the workman is further that though he was reinstated according to the settlement but the back wages which were paid by management to him did not include the underground allowance which was admissible to him and was being paid to him by management at the time of his dismissal, in the light of Clause-6.4.1 of NCWA II. According to the workman, this action of management is breach of settlement reached at between the parties as mentioned above and is arbitrary. He has prayed for a direction to management to pay him underground allowance from the date of dismissal i.e., 18.01.1988 to 05.11.2010 i.e., the date of his reinstatement with interest.

2. The workman has filed a copy of Award and order of Hon'ble High Court.
3. The management has defended its action with a case that underground allowance is admissible only to the employees who worked underground. After reinstatement the workman was deployed as Mines Time Keeper on over ground duty, hence not entitled to underground allowance.
4. I have heard arguments of learned Counsel for applicant/workman Mr. Vijay Tripathi and Mr. Neeraj Kewat for management and have perused the record as well.
5. On perusal of record in the light of rival arguments, the only point which arises for consideration is whether back wages includes the underground allowance which the workman was getting at the time of his dismissal. Reference of Clause 6.4.1 of NCWA II is required which is being reproduced as follows :-

**The underground allowance shall be treated as wages hitherto and will be taken into account the following purposes -**

- a. Calculation of earned/ annual leave wages.
  - b. Payment of National/ Festival Holidays.
  - c. Sick leave.
  - d. Overtime allowance.
  - e. Gratuity.
  - f. CMPF Contribution.
6. This makes it clear that the underground allowance is part of wages though admissible to those who worked underground. Since, the workman was getting underground allowance on at the time of dismissal, as he was working underground and was reinstated in same capacity, hence, only by posting over ground by management after reinstatement, he cannot be deprived of this benefit after his reinstatement. Thus holding the action of management in not paying underground allowance to the workman from the date of his dismissal from service, till the date of his reinstatement arbitrary and unjustified in law, the workman is held entitled to get this allowance with interest @ of 8% p.a. from the date of his reinstatement till payment.
7. No other point was pressed.
8. The petition is disposed by following order in the light of above findings.

### ORDER

The petition under Section 33-C(2) of the Industrial Disputes Act 1947 is allowed. The management of SECL is directed to pay the applicants who are the legal representatives of the deceased workman underground allowance from the date of his dismissal from service till the date of his reinstatement by management with interest @ 8% p.a. from the date of reinstatement, till payment. No order as to cost.

**DATE:- 18/09/2024**

**(P.K.SRIVASTAVA)  
PRESIDING OFFICER**