

**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. 32 OF 2003**

**PARTIES:** Naresh Mahato  
**Vs.**  
Management of Central Kajora Colliery of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.  
For the Management: Mr. P. K. Das, learned advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 06.07.2023

**Contd. Page - 2**



*Handwritten signature of Mr. P. K. Das*



**A W A R D**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/266/2002-IR(CM-II)** dated 08.08.2003 has been pleased to refer the following dispute between the employer, that is the Management of Central Kajora Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**THE SCHEDULE**

*“Whether the action of the Management of Central Kajora Colliery in not regularizing Shri Naresh Mahato as Pit Clerk Grade-II. w.e.f. 21.8.1994 is legal and justified? If not, to what relief the workman is entitled?”*

1. On receiving Order **No. L-22012/266/2002-IR(CM-II)** dated 08.08.2003 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 32 of 2003** was registered on 27.05.2004 and an order was passed 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. In the instant case written statement has been filed by the workman through Mr. Rakesh Kumar, Union representative on 17.09.2004. The main contention of the workman is that after his appointment as a General Mazdoor under Eastern Coalfields Limited (hereinafter referred to as ECL) on 27.07.1990, he was regularized to the post of Timber Mazdoor on 01.09.1990. Naresh Mahato



*Dr. Mukherjee*

**Contd. Page - 3**

was then deployed as a Clerk Grade – II since February, 1991. He worked as a Pit Clerk Grade – II from February, 1991 till his regularization as Clerk on 21.08.1994 but he was not paid the difference of wages. The contention of the workman is that if a workman worked regularly in a particular post for more than 190 days in case of underground work and 240 days on surface, then he should be regularized to the same post. In the case of Naresh Mahato Management took more than three years for his regularization to the post of Clerk. It is the further case of the workman that he was regularize as a Pit Clerk Grade – III in the year 1994 instead of Pit Clerk Grade – II and the Management of Kajora Area thereafter issued an Order vide letter no. 492 dated 13.05.1997 for promotion of Naresh Mahato from Clerk Grade – III to Clerk Grade – II as Pit Clerk but subsequently the letter was changed and word “promotion” was replaced by the term “regularization”. For such act on the part of the Management Naresh Mahato was deprived of the benefit of promotion and sustained financial loss. The workman claimed for payment of different of wages to him for the period from September, 1991 till September, 1992 and for regularization as Pit Clerk Grade – II w.e.f. 1992.

3. Management of Central Kajora Colliery of ECL filed their written statement on 02.11.2016 wherein they have categorically stated that Naresh Mahato was appointed as General Mazdoor in Category – I on 27.07.1990 and was regularized as Timber Mazdoor on 01.09.1990. The Management for exigencies deployed Naresh Mahato to work as Pit Clerk sometime in 1991 and was subsequently regularized as Clerk Grade – III w.e.f. 21.08.1994. It is asserted that the post of Pit Clerk as per job nomenclature and Cadre Scheme of the company is a post in Grade – III and he was regularized to that post w.e.f. 21.08.1994. According to the Management of ECL the claim of the Union for regularization of Naresh Mahato in Grade – II as Pit Clerk is not legally tenable and the dispute raised by the Union is misleading and confusing as the post of Pit Clerk is in Grade – III.



*Dr. Mukherjee*

Contd. Page - 4



4. The point for determination before this Tribunal is whether non-regularization of Naresh Mahato as Clerk in Grade – II w.e.f. 21.08.1994 is legal and justified and whether the workman is entitled to difference of wages of Clerk from February, 1991 to 21.08.1994.

5. Naresh Mahato was examined as workman witness – 1. The Management examined Mr. Proloy Dasgupta, Manager (Personnel), Central Kajora Colliery as Management witness – 1.

6. The workman relied upon a few documents such as a copy of Note Sheet related to the promotion of Naresh Mahato from Clerk Grade – III to Pit Clerk Grade – II dated 25/30.12.1996 (Exhibit W-1), a copy of letter dated 20/23.12.1994 issued by the Agent of Central Kajora Colliery addressed to the Personnel Manager Kajora Area for regularizing him as Clerk Grade – II instead of Clerk Grade – III (Exhibit W-2), a copy of office order No. KA:PM:C-6:6:/492 dated 13.05.1997 whereby Naresh Mahato, Clerk Grade – III was promoted to Pit Clerk Grade – II (Exhibit W-3).

7. The petitioner workman has claimed that he worked as a Pit Clerk from 1991 until he was regularized as Clerk in Grade – III w.e.f. 21.08.1994. The concise case of the workman is that since he has served as a Pit Clerk which is a post in Grade – II category, he should have been regularized in Grade – II from 1994 and not in Grade – III. The related claim of the workman is that he is also entitled to the difference of wages for the said period.

8. The counter case of the Management is that the workman was appointed in the service as a General Mazdoor on 27.07.1990 and regularized as a Timber Mazdoor on 01.09.1990. Mr. Proloy Dasgupta (MW-1) in his affidavit-in-chief stated that Naresh Mahato was deployed as a Pit Clerk during 1991 due to



*Dr. Mukherjee*

Contd. Page - 5



exigency of work and the workman was regularized in Clerk Grade – III w.e.f. 21.08.1994. The workman witness in his cross-examination admitted that he was verbally asked to perform duty of Pit Clerk w.e.f. 21.08.1994. The workman failed to produce any formal order by which he was deputed to the post of Pit Clerk Grade – II at any point of time.

9. Management has produced photocopy of Cadre Scheme of Ministerial Staff of General Clerical Grade which was circulated vide Implementation Instruction No. 34 dated 17.07.1984. I find from the undisputed Cadre Scheme that a person can be given a designation of Clerk Grade – III if he has rendered service in the company for three (3) years. Again, as per serial no. 2A an employee can be placed in Clerical Grade – II after he has rendered service for at least three (3) years in the post of Clerk Grade – III. Naresh Mahato was appointed as General Mazdoor under ECL. Therefore, he became eligible for his promotion to Clerk Grade – III only after completion of three years of service under the company. The aggrieved workman could not produce any copy of order from which it could be gathered that he was deployed as Clerk from February, 1991. In September, 1993 the workman completed three years of service under the company and became eligible for his posting as a Clerk in Grade – III. It appears from Exhibit W-2, which is a letter dated 20/23.12.1994 issued by the Agent of Central Kajora Colliery addressed to the Personnel Manager Kajora Area that Naresh Mahato was regularized to the post of Clerk Grade – III w.e.f. 21.08.1994 from his post of Timber Mazdoor. The workman cannot claim regularization to the post of Clerk Grade – II without completing six (6) years in service, which is the minimum eligibility period for promotion. The Office Order dated 13.05.1997 (Exhibit W-3) referring to the Note Sheet dated 30.12.1996 (Exhibit W-1) reveals that the General Manager, Kajora Area has approved the promotion of Naresh Mahato, Clerk Grade – III to Pit Clerk Grade – II with immediate effect. Therefore, Naresh Mahato has received his promotional benefit to Clerical Grade – II in accordance



*Dr. Mukherjee*

Contd. Page - 6

with the provisions of Implementation Instruction No. 34 dated 17.07.1984, after having rendered service for required number of years.

10. I therefore find and hold the Management of Central Kajora Colliery, ECL is justified in not regularizing Naresh Mahato as Clerk Grade – II w.e.f. 21.08.1994 as he had not performed three years' minimum period of service in Clerk Grade – III. The claim of the workman for payment of difference of wages for serving as Pit Clerk from 1991 to 1994 due to exigency is not tenable. The Industrial Dispute raised by the Union is accordingly dismissed on contest against the workman.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on contest. Let an award be passed in terms of my above findings. 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*

**(ANANDA KUMAR MUKHERJEE)**  
Presiding Officer,  
C.G.I.T.-cum-L.C., Asansol.

Presiding Officer  
Central Govt. Industrial  
Tribunal-cum-Labour Court  
Asansol-3