

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR, (M.P.)

NO. CGIT/LC/ R/33/2017

Present: P.K.Srivastava

H.J.S..(Retd)

**1. Shri Dhirendra Singh,
S/o Late Chhedi Singh,
Ex-Sr. Operator-cum-Technician,
H. No. 398, Ward No. 22, Camp-1,
Bhilai, PO. Supela,
District Durg (C.G.) - 490023**

(Dead represented through its LR's)

**1/1. Nirmala Kumari Singh, age 60 years,
W/o late Dhirendra Singh
R/o- Shanti Nagar Bhilai-3,
Tehsil Patan, District Durg (C.G.)**

**1/2. Ranjit Singh, Age-43 years
S/o Late Dhirendra Singh
R/o- Sector-9, Bhilai,
District Durg (C.G.)**

**1/3. Mrs. Reena Mahato, age 41 years,
W/o Sant Kumar Mahato,
Jashpur Nagar, District Jashpur (C.G.)**

**1/4. Neelam Ashish Sutar, Age - 39 years,
W/o Ashish Mohan Lal Sutar
R/o- Andheri East, Mumbai (Maharashtra)**

**1/5. Rishi Kumar Singh
Age – 36 years
S/o- Late Dhirendra Singh
R/o- Shanti Nagar, Bhilai,
District Durg (C.G.)**

**1/6. Kamini Kumari Singh
Age- 34 years,
W/o- Rajeev Ranjan Singh,
R/o- Airport Road, Bangalore**

Workman

V/s

**1. The Chief Executive Director,
M/s Bhilai Steel Plant, SAIL,
P/o Bhilai, District Durg (C.G.)-490001**

Management

(JUDGMENT)**(Passed on this 04th day of February, 2026)**

As per letter dated **24/03/2017** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under **Section-10 of Industrial Disputes Act, 1947** (in short the 'Act') as per Notification **No. L-26012/12/2016-IR(M)** dt. **24/03/2017**. The dispute under reference relates to:-

"Whether the action of the management in 'Removal from service which does not disqualify for future employment' of the ex-employee is just, proper and legal? If not, to what relief the ex-employee is entitled to?"

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

The case of the workman is mainly that he was appointed by the Steel Authority of India on 26.12.1988 on the post of Senior Operator-cum-Technician and was working till he was issued a charge sheet by management on 15.06.2013 under clause 29(ii) and 29(iv) of Certified Standing Orders, he replied the charge sheet. The management conducted departmental enquiry and he was removed from service vide order dated 13.01.2015 with a note that this removal will not disqualify him for future employment. He submitted an Appeal before the Appellate Authority i.e. General Manager, which was dismissed vide his order dated 13.05.2015. Thereafter, he submitted a Second Appeal to the Chief Executive Officer on 30.05.2015 which remained pending with him. Then he raised a dispute before the concerned Assistant Labour Commissioner (Central) at Raipur on failure of conciliation, the reference was sent by Appropriate Government to this Tribunal.

According to the workman, his father was an employee of management who was declared unfit on medical grounds. As per rules, name of the workman as his dependant son, was sponsored by him for the appointment on compassionate basis on the ground of medical unfitness of his father and he was appointed thereafter by

management. Since then, he had been working diligently and honestly. According to the workman, the departmental enquiry was conducted hurriedly, he was only kept outside of the room where enquiry proceeded and was asked to sign papers without his knowledge. Charges were held wrongly proved against him and punishment is unjustified. He has prayed to set-aside his termination, he be reinstated with all back-wages and benefits.

Management has taken a case that the workman Dhirendra Singh was appointed as a Senior Technician on 26.12.1988 on compassionate basis on the ground of medical incapacity of his father who was an employee of management. He was regularized on 30.12.1989. He was issued a charge sheet on 15.06.2013 with following allegations of misconduct under clause 29(ii) and 29(iv) of standing order with following allegations:-

- I. Committing fraud or dishonesty with the business of the company.*
- II. Furnishing wrong details with respect to age at the time of appointment.*

According to management, the workman had disclosed his date of birth as 06.08.1964 whereas date of birth of his younger brother, Bahadur Singh was mentioned as 01.06.1957. Date of birth of the workman was found 01.08.1954 in different registers of schools. Also that the workman did not furnish information regarding the factum of employment of his younger brother, Bahadur Singh with the management in the Declaration of Family Members Form and other required documents. Further, Reena Singh who is the daughter of workman, Dhirendra Singh was married in 2008, the workman kept her name in the list of his dependants till June, 2012 in his service records. The workman submitted his reply dated 25.06.2013, management decided to conduct an enquiry with respect to charges vide order dated 06.07.2013. Thus, enquiry was conducted legally and properly, giving the workman full opportunity to defend himself. He cross-examined the management witness produced during the enquiry. He filed his evidence and examined witnesses . The Enquiry Officer submitted his enquiry report holding the charges proved vide his report dated 15.06.2013. A show cause notice dated 26.12.2014

was issued to the workman and after his reply on the show cause notice was found not satisfactory, the management passed the impugned order of his removal from service on 13.01.2015. Appeal against this order was also dismissed. It is the case of management that the charges were rightly held proved and the punishment is proportionate to the charges.

Following Issues were framed vide order dated 05.10.2021, on the basis of pleadings:-

- 1) *Whether the enquiry conducted is legal and proper?*
- 2) *Whether the charge is proved against workman on the basis of enquiry?*
- 3) *Whether punishment is proportionate to the charge?*

Issue No.1, was not pressed by workman hence, on the basis of record, it was decided in favour of management holding the departmental enquiry legal and proper. This order is part of this judgment.

The workman filed his affidavit and was cross-examined, he also examined his witness and proved documents Ex-W/1 to Ex-W/19, the management also examined its witness. The departmental enquiry papers were also filed by management. Parties have further filed documents, shall be referred to as and when require.

I have heard argument of Learned Counsel for workman Mr. Pranay Choubey and Mr. R.C. Shrivastava, Learned Counsel for management. Parties have preferred written submission also which is part of record. I have gone through the written submission and record as well.

It is pertinent to mention here that during proceedings, the workman died and his legal representatives have been brought on record.

Issue No. 2,

Learned Counsel for management has submitted that the settled proposition of law with respect to proof of charges in a departmental enquiry is that the charge need not be proved beyond reasonable

doubt as it is required in criminal trials. He further submits that workman was charged on three accounts **firstly**, misinformation with respect to his age and date of birth, **secondly**, concealing the factum of employment of his brother with the management for seeking compassionate appointment on the basis of medical unfitness of his father and **thirdly**, continuing the name of his daughter in the list of his dependant in his service record ever after her marriage. Learned Counsel further submits that all the charges have been held proved by the Enquiry Officer and this finding is supported by documents as well statements.

Learned Counsel for workman has submitted that management has only filed certain documents which has not been admitted by the workman with respect to charge No. 1 which is related to wrong information with respect to age and date of birth of workman, only filing of documents without getting them proved will not prove this charge as per law that too when such documents are disputed by the workman. He further submits that the Enquiry Officer himself had held this charge not proved but the Disciplinary Authority disagreed with this finding of Enquiry Officer without assigning any reason hence, this agreement of the Disciplinary Authority with the finding of Enquiry Officer when it is without reason has no force of law.

From perusal of record, it comes out that management filed certain documents relating to education of the workman in Chhattisgarh in which his date of birth was recorded as 01.08.1954, no witness has been examined by management to prove these documents which according to management, relate to his date of birth 01.08.1954. Case of the workman is that infact, his date of birth is 06.08.1964. It is not disputed between the parties that date of birth of his younger brother has been recorded 01.06.1957. It is quite natural that the date of birth of younger brother will be lesser than the date of birth of elder brother which is not in the case in hand, so there is some discrepancy with respect to date of birth of the workman when it is shown lesser then that of his younger brother. It is common knowledge that date of births are recorded in educational institutions on the basis of documents/information provided by guardians of students or children who get admitted in the institution has no role in this process. If we take into account the fact that naturally the

workman being elder brother would be older in date of birth with respect to date of birth of his younger brother which is 01.06.1957, it may be considered that there is some concealment or manipulation with respect to date of birth of workman. So, even the documents relating to date of birth of the workman as stated by management have not been proved according to law, it can safely be inferred that there is concealment on the part of the workman with regards to his date of birth. Hence, this charge is held proved and **finding of Enquiry Officer with respect to this charge cannot be held to be perverse.**

As regards, the **second charge**, non-mentioning of employment of his brother while seeking appointment on compassionate grounds due to medical unfitness of father is not disputed. The workman side has taken a case that the brother who was in employment at that time, had separated himself from the family and was ousted from family. Even if, it is assumed that the brother who was in employment ceased to be member of family as he had no relationship with the family, the workman was under obligation to mention this fact in his Application Form or inform the management at the time of seeking appointment. **Thus, finding of Enquiry Officer with respect to this charge cannot be held to be perverse.**

As regards, the **third charge**, which is continuing the name of his daughter by the workman in his service record even after she got married, this is the matter of record which is proved on record **hence, this charge has also been correctly held proved by the Enquiry Officer.**

Issue No. 2 is answered accordingly.

Issue No. 3,

As regard to punishment, the case of the workman is that punishment is excessive. Learned Counsel has submitted that there is nothing to show that the workman took any benefit with respect to his daughter after she became disentitled to be his dependant hence, it was a simple accidental mistake on the part of workman. The second submission is that even if, it is assumed that the workman furnished wrong information with respect to his age and date of birth, the

management is at liberty to superannuate him on the basis of date of birth which it finds correct, this cannot be a ground for dismissal from service or disqualified from getting service when there has no age bar with respect to appointment.

Learned Counsel has further submitted that the workman was appointed on compassionate basis in the year 1988 and has an otherwise unblemished service record till the date of his removal from service w.e.f. 13.01.2015. There have been incidents, where the management has granted appointment on compassionate basis on medical unfitness, in those cases also where one dependant of the unfit workman was already working with management at the time. Learned Counsel for workman has further submitted that the workman side has filed affidavit on 28.03.2025 in which he stated that his colleague Ramgati was appointed on compassionate basis as dependant of his medically unfit father whose employee number was 897515, though, his brother Ramkewal was already working with the management at that time, he has filed an order of management dated 22.10.1999 in this respect, where name of Ramgati is mentioned at S.No. 10 and the name of the workman is mentioned at S.No. 13, this copy list is annexure to the affidavit. It is further stated in the affidavit that the application under Right to Information Act seeking details of employment of Ramgati were turned down by management.

It comes out from record that management was directed to file employment document of Ramgati vide order of this Tribunal. The affidavit of one Sikander Indoria, Deputy Manager alongwith supplementary affidavit dated 03.05.2025 and 16.06.2025 were filed, in which it was stated that this Ramgati has superannuated and his document with respect to her employment are not available at present with the management. This affidavit of management does not deny the employment of Ramgati on compassionate basis as claimed by the workman and the fact alleged by workman that brother of Ramgati was already working with management when Ramgati was appointed on compassionate basis as dependant son of his medically unfit father.. It also states that this Ramgati has superannuated after completing the age of superannuation.

Learned Counsel for the workman has submitted that this workman is also entitled to parity with this Ramgati.

Learned Counsel for management has referred to judgment of ***Hon'ble Supreme Court in the case of Standard Chartered Bank v/s R.C. Shrivastava, (2021) 19 SCC 281***, in which it has been led down that when it is found that domestic enquiry was fair and proper, the Tribunal has very limited jurisdiction to interfere with unless there is apparent perversity in finding fact or violation of principles of natural justice or punishment proposed is disproportionate.

In my considered view, punishment of removal from service after unblemished service record of more than 25 years, on the ground of discrepancy in age or date of birth or failure in deletion of name of his daughter even after her marriage, when it is established that no punishment on the basis of dependency of the daughter was claimed by the workman, could not be sufficient for removal. In light of the fact that there was no age bar for applying appointment on compassionate basis, the management is always at liberty to superannuate the workman on the basis of his date of birth which it finds correct. As regards punishment with respect to the third charge which is concealment regarding information of employment of his brother by the workman while seeking appointment as dependant of medically unfit father. It is established that management has done this in other cases also and allowed such other workmen to continue in service during their superannuation hence, singling out the case of the present workman for punishment is against Rule of Parity.

Furthermore, Learned Counsel for management has referred to memorandum agreement dated 25.05.1983, Clause 7.16, provides that Employment would be provided to one ***dependant (emphasis supplied)*** of workers disabled permanently and those who meet with death. One dependant of the retiring employee would be provided employment, but in case of TISCO, the same would be subject to their certified Standing Orders. Learned Counsel for management has further referred to letter sent by Mr. M.R.R. Nair, Director (Personnel) on 14.08.1984 in which it has been mentioned that the rationale behind the provision of NJCS is that if an employee who has served the company meets with a work accident and becomes permanently

disabled or meet with death, he, after such permanent disability, or the family after his death, should not be left without assistance. This already met if one dependant of the employee is already in the employment of the company. It would not therefore be necessary to provide employment to an additional dependant. It further mentions that only the husband/wife or **dependant children** will be given such appointments.

Learned Counsel for workman has submitted that this Communication and Standing Order as mentioned above, does not fully disentitle a dependant son of a medically unfit employee to seek appointment on compassionate grounds even if, another son of the said employee is working and in this case, it is not disputed that the brother of the workman who was working at that time did not have any relation with the family of his father and hence was not dependent.

Learned Counsel for management has referred to a judgment of **Hon'ble Supreme Court, SAIL & Another v/s Awadesh Singh & Ors., (2001) 10 SCC 621**, paragraphs 4, 5, 6, 7 & 8 of the Judgment are being reproduced as follows:-

"4. Under the memorandum of agreement it appears the language used is: "In case of death or permanent total disablement due to accident arising out of and in course of employment, employment to one of his/her direct dependants will be provided." SAIL, on the of some (sic the same) issued a letter on 14-8-1984, clarifying the position that if any of the dependants (wife/husband or children) of the employee is already employed, no other dependant would be employed in case of death of the employee under such memorandum of agreement. The High Court appears to have taken the view that the language used in clause 3.4.5.1 of the memorandum of agreement is not susceptible of that construction and therefore even if the dependant of the deceased may be in service that would not debar any other dependant from claiming such compassionate appointment and would require the employer to give such appointment. SAIL, therefore assails the aforesaid view of the High Court in this batch of appeals.

5. It is contended by the counsel appearing for SAIL that the provision referred to in the memorandum of agreement read with the circular letter of SAIL dated 14-8-1984 makes it explicitly clear that the question of compassionate appointment would arise if none of the dependants of the deceased is already in service. The learned counsel appearing for the respondents, on the other hand, contended that if any of the dependants is already in service on his own merit, that should not be a bar for seeking relief by other dependants of the deceased under the Compassionate Employment

Scheme and as such the impugned decision of the High Court would remain unassailable.

*6. Having regard to the submissions made by the learned counsel for both parties, the only question that crops up for our consideration is whether under the memorandum of agreement it is permissible for a dependant of the deceased to claim an appointment on compassionate ground, even when some other dependant of the deceased is already in service. Be it stated that the memorandum of agreement in question is not a statutory scheme and therefore would be unenforceable in an application under Article 226 of the Constitution of India. The memorandum of agreement for appointment on compassionate ground had been evolved by the employer so that on the sudden death of an employee his dependants would not be on the road as destitutes and can maintain themselves if an appointment is given to any one of the dependants of the deceased. Such a Scheme cannot at all be conceived if some other dependant of the deceased is already in service. The very purpose for which such Scheme had been evolved would get frustrated if a claim on priority basis is made by a dependant of the deceased notwithstanding the fact that the other dependant of the deceased is already in service. In this view of the matter we are unable to sustain the decision of the Patna High Court in the impugned judgments. It may be stated that a Bench of this Court has already taken a similar view in the case of *S. Mohan v. Govt. of T.N.* with which we have our respectful concurrence.*

7. In the aforesaid premises, the impugned judgments of the Patna High Court stand set aside and these appeals are allowed.

8. In course of hearing, an apprehension was pointed out by the counsel appearing for the respondents that if some such compassionate appointments have already been made, the authority may take recourse to getting recovery of the salary that has been paid to such compassionate appointees. We make it clear that the employer would not be entitled to take resort to that course of action and no recovery would be made in such event."

This judgment itself speaks that an apprehension was pointed out by the counsel for the workman before Hon'ble Supreme Court at the time of hearing that the authority may take recourse to get recovery of salary, paid to such compassionate appointees, the Hon'ble Apex Court made it clear that employer would not be entitled to take resort to that course of action in such an event, these lines spell the spirit of the Judgment.

Hence, in the light of above discussion and findings, the punishment of dismissal awarded to the workman is held excessive and is liable to be set aside.

Issue No. 3 stands answered accordingly.

No other point was pressed.

In light of above discussion and findings, the reference is answered as follows.-

AWARD

"Holding the action of the management in 'Removal from service which does not disqualify for future employment' of the ex-employee is unjust and improper, the workman stands reinstated on the date of his removal with all benefits. The management is at liberty to superannuate him on the basis of date of birth of the workman which it finds correct."

No order as to cost.

DATE:- 04-02-2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER

