

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR

CGIT/LC/R/84/2018

Present: P.K.Srivastava

H.J.S..(Retd)

**Mohd. Jamil,
EPGH, Gr. E, Chirimiri OCP, SECL,
Represented by, General Secretary,
Rashtriya Colliery Workers Federation,
Federation Office, CHIRIMIRI,
Distt- Korea (C.G.)**

Workman

Versues

**General Manager,
S.E.C.L., Chirimiri Area,
P.O. West Chirimiri,
Distt-Korea, (C.G.)**

Management

.....(Leading Case...)

With. CGIT/LC/R/84(A)/2018

**J.P. Verma,
Chief Pharmacist, SECL,
Chirimiri, Represented by. General Secretary,
Rashtriya Colliery Workers Federation,
Federation Office, CHIRIMIRI, Distt-Korea (C.G.)**

Workman

Versues

**General Manager,
S.E.C.L., Chirimiri Area,
P.O. West Chirimiri,
Distt-Korea, (C.G.)**

Management

CGIT/LC/R/84(B)/2018

**Jani Ram,
Cat. III Mazdoor, SECL,
Chirimiri U/G, Represented by,
General Secretary.
Rashtriya Colliery Workers Federation,
Federation Office, CHIRIMIRI, Distt-Korea (C.G.)**

WorkmanVersues

**General Manager,
S.E.C.L., Chirimiri Area,
P.O. West Chirimiri,
Distt-Korea, (C.G.)**

ManagementCGIT/LC/R/84(C)/2018

**Chandrika Prasad Chandra,
Cat- I, Mazdoor, SECL,
Bagdeva Sub Area of Korba Area,
Represented by, General Secretary,
Rashtriya Colliery Workers Federation,
Federation Office, CHIRIMIRI,
Distt- Korea (C.G.)**

WorkmanVersues

**General Manager,
S.E.C.L., Chirimiri Area,
P.O. West Chirimiri,
Distt-Korea, (C.G.)**

ManagementCGIT/LC/R/84(D)/2018

**Employees of SECL,
Represented by, General Secretary,
Rashtriya Colliery Workers Federation,
Federation Office, CHIRIMIRI,
Distt-Korea (C.G.)**

Workman

Versues

**Chairman-cum-Managing Director,
South Eastern Coalfields Ltd.,
Seepat Road, Bilaspur (C.G.)**

Management

JUDGMENT

(Passed on this 17th day of April, 2026)

The Government of India Ministry of Labour and Employment has made a composite reference by way of clubbing five Industrial Disputes of different nature, totally unrelated to each other and related to the different employees, by way of its notification No. L-22012/164/2018-IR(CM-II) dated 09.11.2018 which is as follows :-

"(1) Whether, the action on the part of management of OCP, Chirmiri in not regularising and not paying proper monetary benefits to Shri Mohd. Jamil in Clerk Grade-II in Chirmiri OCP at present working as Petrol Oil Lubricant Issuer is appropriate and justified? If not, what relief Shri Mohd. Jamil is entitled to?

(ii) Whether the action on the part of the management of Chirmiri in not fixing proper wages in respect of Shri J.P Verma, Chief Pharmacist and not maintaining uniformity as per cadre scheme and not giving notional seniority with back wages as per the instruction of SECL Head Quarter, Bilaspur and subsequently became junior to other pharmacists is appropriate and justified? If not, what relief Shri J.P.Verma is entitled to?

(iii) Whether it is appropriate on the part of management of SECL, Chirmiri Area to terminate the service of Shri Jani Ram, Cat-III Mazdoor of Chirmiri Underground Area on absenteeism ground for a period of 03 to 05 months is appropriate and justified? If not, what relief Shri Jani Ram is entitled to?

(iv) Whether the action on the part of management of SECL, Bagdeva Sub Area under Korba Area of SECL in Terminating the service of Shri Chandrika Prasad Chandra, Cat-1 Mazdoor on 28-02-2005 on the ground of poor attendance of 140 days in the year 2002, 135 days for the year 2003 and 22 days in the year 2004 and the enquiry conducted by the enquiry officer as ex-parte is appropriate and justified? If not, what relief Shri Chandrika Prasad Chandra is entitled to?"

(v) Whether the dispute raised is falling under the policy matter of Coal India as a whole as espoused by the union comes under Industrial Dispute? If yes, whether the action on the part of management of SECL Head Quarter, Bilaspur, a constituent of Coal India in not paying profit sharing bonus to its employees and instead paying PLRS since the formation of the SECL Company is appropriate and justified? If not, what relief all the working workmen are entitled to?"

A case R/84/2018 was registered on the basis of this composite reference. Later on, since all the disputes were different in nature relating to different employees, there was no commonality between them and evidences with respect to each of the dispute was also different, they were separated vide detailed order of this Tribunal dated 20.01.2026 and separate cases were registered on the basis of each dispute which are being mentioned as follows :-

In case No. R/84/2018-

As per letter dated 19/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as

per Notification No. L-22012/164/2018 (IR(CM-II))dt.19/11/2018. The dispute under reference relates to:

“(i) Whether the action on the part of management of OCP, Chirimiri in not regularizing and not paying proper monetary benefit to Shri Mohd. Jamil in clerk Grade-II in Chirimiri OCP at present working as Petrol Oil Lubricant Issuer is appropriate and justified? If not, what relief Shri Mohd. Jamil is entitled to ?”

In case No. R/84(A)/2018 –

As per letter dated 19/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. L-22012/164/2018 (IR(CM-II)) dt. 19/11/2018. The dispute under reference relates to:

“(ii) Whether the action on the part of management of Chirimiri in not fixing proper wages in respect of Shri J.P.Verma, Chief Pharmacist and not maintaining uniformity as per cadre scheme and not giving notional seniority with back wages as per the instruction of SECL Head Quarter, Bilaspur and subsequently became junior to other pharmacist is appropriate and justified? If not, what relief Shri J.P.Verma is entitled to?”

In case No. R/84(B)/2018 –

As per letter dated 19/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. L-22012/164/2018 (IR(CM-II)) dt. 19/11/2018. The dispute under reference relates to:

“(iii) Whether it is proper on the part of management of SECL, Chirimiri Area to terminate the service of Shri Jani Ram, Cat.III Mazdoor of Chirimiri Underground Area on absenteeism ground for a period of 03 to 05 months is appropriate and justified? If not, what relief Shri Jani Ram is entitled to?”

In case No. R/84(C)/2018 –

As per letter dated 19/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. L-22012/164/2018 (IR(CM-II)) dt. 19/11/2018. The dispute under reference relates to:

(iv) Whether the action on the part of management of SECL, Bagdeva Sub Area under Korba Area of SECL in Terminating the service of Shri Chandrika Prasad Chandra, Cat-I, Mazdoor on 28-02-2005 on the ground of poor attendance of 140 days in the year 2002, 135 days for the year 2003 and 22 days in the year 2004 and the enquiry conducted by enquiry officer as ex-parte is appropriate and justified? If not, what relief Shri Chandrika Prasad Chandra is entitled to ?”

In case No. R/84(D)/2018 –

As per letter dated 19/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. L-22012/164/2018 (IR(CM-II)) dt. 19/11/2018. The dispute under reference relates to:

“(v) Whether the dispute raised is falling under the policy matter of coal India as a whole as espoused by the union comes under Industrial Dispute? If year, whether the action on the part of management of SECL Head Quarter, Bilaspur a constituent of Coal India in not paying profit sharing bonus to its employees and instead paying PLSR since the formation of SECL is appropriate and justified? If not, what relief all the working workmen are entitled to ?”

In case R/84/2018,

The case of the Workman Union is that, its member Mohd. Jamil was first appointed as Category-I Mazdoor in Chirmiri Colliery on

24.03.1994. He was deputed to work as Petrol Oil Lubricator (POL) Insurer in the Store section of Excavation Unit of Chirmiri Colliery. The posting of Category-I Mazdoor is under unskilled category, defined as Unskilled Labour whereas, POL Insurer is of Category-I and of Clerical nature. Both have different pay structures and their duties are also different, the duties of POL Insurer have been detailed by the Union in Paragraph - 5 of its Statement of Claim. It is further the case of the Union that, Mohd. Jamil worked as POL Insurer from 06.06.1995 till 27.04.2001. There was a settlement between the Union and Management on 25/26/27.04.1978. One of the Clauses of Settlement was that, ***“Category-I Mazdoors, who were required to work on higher category jobs would be paid Officiating Allowance and if a Workman appointed is appointed on higher category job and continued to work on such higher category job for 190/240 days, he shall be regularized on that post.”*** Mohd. Jamil also made the claim for Officiating Allowances for his work as POL Insurer, which was a higher Category Job, for the period 17.06.1994 to 26.04.2010. Management arbitrarily refused to grant his claim, rather he was sent back to his original post of Category-I Mazdoor. He was promoted in Category-I Cadre during course of time. Again, Mohd. Jamil was engaged as POL Insurer by the Management of Chirmiri Area since 2012 to till date and he has not been paid any Officiating Allowances nor has been regularized on the said post. According the Workman Union, this action of Management is unjust, illegal and arbitrary. The Union has prayed that, Mohd. Jamil be held to be entitled to Officiating Allowances for his work as POL Insurer from 17.06.1994 to 26.04.2001 and from November, 2012 to till date and also be held entitled to be regularized as POL Insurer because he has completed more than 240 days on this post.

Case of the Management is mainly that, General Mazdoor and POL Insurer are posts of two different cadres, General Mazdoor is the post of the Mazdoor Category whereas POL Insurer is a post of Clerical Cadre. An employee of one cadre cannot be transferred to another cadre. He has to face recruitment process for getting selected in other cadre. Hence, he was not eligible to be regularized on a post in different cadre on the basis that he worked on that post or Officiating on that post on as and when required basis. It is further the case of the Management that, the Depot Officer who placed or deputed the Workman Mohd. Jamil to the post of POL insurer was not a Competent Authority and no approval from Competent Authority was taken by the Depot Officer for this, hence his officiation was not regular, rather he has been an employee of Mazdoor Cadre and has been promoted in that cadre in due course of time.

Management has requested that the reference be answered against the Workman.

Both the sides have filed their affidavits as their examination in chief. They have been cross-examined by their opposite parties. Photocopy representation of witness and documents have also been filed and proved to be referred to as and when require.

I have heard arguments of the Union Representative Mr. Bhagwat Prasad Dubey and Learned Counsel for the Management Mr. Neeraj Kewat. Both the sides have filed written arguments. I have gone through the written submission and the record as well.

The reference itself is the issue for determination in this matter.

Deployment of the Workman Mohd. Jamil on the post of POL Insurer is not disputed between the parties. Management disputes the claim of the Workman that he worked 240 days on the post of POL Insurer on which he was deputed to Officiate. Second objection by the Management is that, his deputation was not done by the Competent Officer and that these two posts belong to two different cadres.

It is not disputed that, post of General Mazdoor Category-I is unskilled Junior Level Post whereas post of POL Insurer is post of Clerical Nature and is a higher post than the post of General Mazdoor Category-I.

The Workman has specifically said in his affidavit that he officiated between the period 17.06.1994 to 24.04.2001 and November, 2012 till date i.e. more than Six years again on the post of POL Insurer. He has been cross-examined by Management on this statement. There is nothing on cross-examination to disbelieve him. To rebut this, there is on record statement of Management witness, who does not have the first knowledge in this respect, she stated that he officiated as POL Insurer for a period less than 240 days rather on as and when required basis.

Documents with respect to working of the Workman are with the Management. They were in a position to produce the documents to show that who in fact was working on the post of POL Insurer and in what slots of period the workman Jamil was Officiating on this post. They have not produced any such document. In such situation, drawing an adverse interference against Management on this point, the version of the Workman Jamil through the Union is held to be more reliable and trustworthy. **Accordingly, he is held to have proved that he officiated on the post of POL Insurer for the period mentioned earlier as claimed by him.**

It is of no doubt that these two posts belong to two different cadres. There is no provision of transfer of an employee from one cadre to another cadre. As such Mohd. Jamil could not be regularized on the post of POL Insurer, though he had officiated on this post for more than 240 days but since the settlement which entitles an employee to Officiating Allowances when he officiated on a higher post for 240 days or more entitles Mohd. Jamil also to get Officiating Allowances for Officiating on the post of POL Insurer for the period 17.06.1999 till 26.04.2001 and November, 2012 to the date the period he officiated on this post. Learned Counsel for Management has submitted that his deputation was not ordered by a Competent Officer but this argument cannot be accepted and Management is estopped from taking this plea because of long period of repeated deputations of Mohd. Jamil as stated above. The Management cannot be allowed to take benefits of its own mistakes.

Accordingly, the Workman Mohd. Jamil is held entitled to Officiating Allowances for Officiating on the post of POL Insurer for the period 17.06.1999 till 26.04.2001 and November, 2012 to the date the period he officiated on this post along with interest @6% per annum from the date of reference till payment to be paid to him by the Management.

The reference stands answered accordingly.

R/84(A)/2018 –

In this case, according to the Workman Union, J.P. Verma was appointed as a Compounder in Grade-E on 27.11.1977 by Western Coal Fields (W.C.L., Nagpur) and was posted in Chirmiri Area. He holds a Diploma in Pharmacy from Sagar University. There was a **Circular No. WCL/IR/CWF/82-A/321-28** dated 10.04.1980 by which Grade-E post

was abolished and all the Compounders on different deployment in Pharmacy, were posted in Grade-D from the date of their appointment. J.P.Verma was also appointed as Compounder Grade-D from the date of his appointment i.e. 27.01.1977. Later on, as it is the case of the Workman Union, cadre scheme of Paramedical Staff was formulated by JBCCI (Joint Bi-partite Committee for Coal Industry) in 1986, which was Implementation Instructions, 66 dated 02.09.1986 (I.I. – 66) under this scheme, designation of Compounder was renamed as Pharmacist and promotion channels as Pharmacists Grade-D, then Grade-C, then Senior Pharmacists Grade-B and then Chief Pharmacists Grade-A were provided. It was also provided in I.I. – 66 that all the Grade-D Pharmacists who were Diploma holders in Pharmacy and had worked for 2 years would be promoted to Pharmacist Grade-C. This cadre scheme was circulated to all the areas under the Control of the Headquarter, including Chirmiri Area, where J.P. Verma had been working. All the areas implemented this cadre scheme in 1987, whereas Chirmiri area implemented it in 1989 and thus J.P. Verma was promoted as Grade-C Pharmacists in the year 1989, though, he was entitled to be promoted since 1987 i.e. the date when I.I.-66 were implemented. This resulted into financial loss to him and also he lost seniority by 02 years. Consequently, 14 Pharmacists, who were Junior to him in Grade-D, became Senior to him in Grade-C and continued till his final promotion as Chief Pharmacists. It is further the case of the Workman Union that, appointment and promotion of Pharmacists/Compounders is made by the Company Headquarter and not at Area Level. Since, the other areas under the same Company implemented the I.I.-66 from July, 1987, the Pharmacists working in those areas become senior to J.P. Verma in Grade-C, earlier than J.P. Verma who was working in Chirmiri Area under the same Company which implemented the I.I. – 66 in 1989.

Consequently, he was placed junior to other Pharmacists working in the other area in the overall seniority list published by the Company though earlier he was senior to them. This action of Chirmiri Area is unjust, illegal and arbitrary. Late on, J.P. Verma was granted notional promotion without any back wages *firstly*, from July, 1987 in Grade-C and *secondly*, from 07.04.1994 in Senior Pharmacist Grade-B and in subsequent promotions. **He has prayed that,**

- (i) *that since 27-01-1977 Shri J.P. Verma was designated as Gr. 'D' Pharmacist and Cadre Scheme was implemented under I.I. No. 66 in July 1987, therefore J.P. Verma should have been upgraded with monetary benefit as Gr. 'C' Pharmacist at par with other since 02-07-1987 instead of 25-03-1989 because it was obligatory on the part of company head quarter to constitute DPC. It should not have been left upon Area Management,*
- (ii) *that the J.P. Verma should be promoted as Sr. Pharmacist Gr. 'B' since 07-04-1994 instead of 27-11-1999 with monetary benefit because 32 junior persons were given promotion,*
- (iii) *that Shri J.P. Verma should be promoted as Chief Pharmacist since 08-03-1999 instead of 27/29-03-2006 with monetary benefit because 29 junior persons were given promotion to this post, and*
- (iv) *that accordingly Shri J.P. Verma should be given promotion as Chief Pharmacist Gr. A+1 since 08-03-2006 with monetary benefit.*

Case of the Management is mainly that, since the date of his appointment is on 27.01.1977, J.P. Verma was designated as Pharmacist

Grade-D. The cadre scheme was implemented under I.I. – 66 on July, 1987 and was made effective in Chirmiri Area on 25.03.1989, J.P. Verma was placed as Pharmacist Grade-C by promoting him from Pharmacist Grade-D from 25.03.1989. He accepted his promotion and joined as Pharmacist Grade-C. Later on, he was granted notional seniority on his representation, but without back-wages in Pharmacist Grade-C w.e.f. 02.07.1987, which he accepted and the Company published consolidating seniority list which was prepared in the year 1993 with respect to Pharmacist Grade-C promoted from Grade -D. J.P. Verma did not make any objection with respect to his placement on that time and accepted the seniority list. J.P. Verma was again promoted as Senior Pharmacist Grade-B on 27.11.1999. On his representation he was granted notional promotion from 07.04.1994 but without monetary benefits vide letter of Management dated 20.02.2020 issued by the Deputy Chief Personnel Manager, Chirmiri Area, which he again accepted, hence he cannot dispute this action of Management at later stage. The Management has requested that the reference be answered against the Workman Union.

Both the sides have filed affidavits as their examination-in-chief. They have been cross-examined by their opposite parties. They have filed documents to be referred to as and when required.

I have heard argument of Union Representative Mr. Bhagwat Prasad Dubey and Learned Counsel for Management Mr. Neeraj Kewat. Both the sides have filed written submissions also, which are part of record and I have gone through the Written Submissions as well the records.

The reference stated above is itself the issue for determination in the case in hand.

It is undisputed that, the recruitment, promotion and postings of Pharmacists is done by the Headquarter. This is also not disputed that, the Company is divided into many areas and jointly worked under the supervision of the Headquarters. Different areas implemented the I.I. 66 schemes on different dates. This resulted into disparity with regard to seniority and promotion of the pharmacists which was to be done on the basis of a consolidated seniority list of Pharmacists working in all the areas under the Headquarter. The proper action should have been that the Headquarter would have implemented it from the date fixed by them because all the appointments, transfers and promotion of Pharmacists were to be done by the Headquarter itself and would not have allotted to the different areas who have nothing to do with Pharmacists except they have their local control on them i.e. they did not have power to appoint and promote the pharmacists but they could only place the pharmacists at different places under the area. Since, the Chirmiri area, where the Applicant Workman J.P. Verma was working implemented I.I.-66 in 1989, whereas in other area it was implemented in 1987, naturally it caused prejudice to J.P. Verma with respect to his date of placement in Pharmacists Grade-C and subsequent promotions in Senior Pharmacists Grade-B etc., which was done on the basis of consolidated list prepared by the headquarters. Two times J.P. Verma was put to list with regard to promotion which was corrected by the Management by way of granting him notional promotion but no monetary benefits. This happen for no fault of the Workman, his only misfortune was that he was placed in Chirmiri Area and was not fortunate enough to be posted in other areas where I.I.-66 was implemented two years earlier. Management submits that since he accepted this action, now he estopped from raising the dispute. I do not subscribe to this view. The Workman was not in a position to reject or disagree with the action of Management because he

was not in a position to bargain as he was not on equal footings with Management. He cannot be put to a loss on this ground.

Thus, Workman J.P. Verma is held entitled to the monetary benefits also from the date of his notional promotion on pharmacists Grade-C i.e. 02.07.1987 till 25.03.89 deeming him to be a Pharmacists Grade-C and also all the monetary benefits with respect to senior pharmacists Grade-B since 07.04.1999 instead of 27.11.1999, he is further held entitled to be placed in the consolidated seniority list deeming him to be promoted in Grade-C since 02.07.1987 and Grade-B since 07.04.1994 also further held entitled to subsequent promotions as Chief Pharmacists and other posts subject to suitability. The amount be calculated and be paid to J.P. Verma with 6% interest per annum from the date of reference till payment. The reference stands answered accordingly.

In case R/84(B)/2018

In this case, Jani Ram was appointed as General Mazdoor Grade-I on 26.10.1983, he went to his native village when he got to know about death of his daughter in April, 2006 and remained there for three months. When he came back and reported for duty, he was not allowed, rather he was served a charge sheet on 24.07.2006. An enquiry was conducted and he accepted the allegations and committed not to repeat the mistake in future. In spite of this, he was terminated from service by the Management vide its order dated 08/12.12.2006 which is unjust, arbitrary and illegal. The Workman Union has requested that setting aside his termination he be reinstated with back wages and benefits.

Case of Management is mainly that, Workman Jani Ram was generally found absent from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave and his attendance from

1987 to 1990 was very poor which was only 145 days in 1987, 129 days in 1988, 86 in 1989 and 07 days in 1990. He was issued a charge sheet with allegation and misconduct by way of unauthorizedly and willfully absenting himself from the workplace without getting any leave sanctioned or without informing to Management, which was misconduct under Clause 26.24 and 26.30 of Certified Standing Orders. He was issued a charge-sheet and a Departmental Enquiry was conducted, in which he admitted charges and requested for one more chance to serve. The Enquiry Officer found the charges proved and the Disciplinary Authority after finding his reply on show cause notice not sufficient, and keeping in view his previous absence for last 05 years which was 167 days in 2002, 84 days in 2003, 52 days in 2004, 53 days in 2005 and 08 days in 2006, passed the impugned order of termination, which is not disputed to the charges proved. According to Management, there was no illegality in the enquiry or punishment.

Both the sides have filed affidavits, which they have been cross-examined by their opposite parties. Documents regarding enquiry and punishment have also been filed and are on record. I have heard argument of Union Representative Mr. Bhagwat Prasad Dubey and Learned Counsel for Management Mr. Neeraj Kewat. Both the sides have filed written submissions also, which are part of record and I have gone through the record and the written submissions as well.

The reference itself is the issue for determination.

The charges have been mentioned earlier. It also comes out that the workman participated in the enquiry and admitted the charges. There is no pleading with respect to any irregularity in Departmental Enquiry. On perusal of enquiry report also, there is no debate with respect to procedure or substance in the enquiry, hence the enquiry is held just,

proper and legal. The charges are also held proved on the basis of admission as well the documents produced during the enquiry.

Keeping in view the above mentioned five presence of the Workman at his workplace, it is established that he is a habitual defaulter and in such a case, the punishment of his termination by the Management cannot be said to be disputed from any corner.

Hence, the punishment is also proportionate to the charges.

On the basis of above discussion and findings, the reference with respect to the Jani Ram stands answered against him.

Holding the punishment awarded just, proper and legal, he is held entitle to no relief.

R/84(C)/2018

In this case, Chandrika Prakash Chandra was a Category I Mazdoor. He was issued a charge sheet on 06.08.2004 with allegation of misconduct by way of habitual absenting himself from workplace willfully and unauthorizedly as well without intimating and getting any leave sanctioned. Departmental Enquiry was conducted and the charges were found proved and after finding his reply on the show cause notice issued by the Competent Authority not sufficient, he was terminated by service by way of punishment. According to the workman, though his presence was 195 days in the year 2000, 185 days in 2001, 190 days in 2002, 135 days in 2003 and 20 days in 2004, he was not a habitual absentee, he remained on leave and sick leave during this period, hence this action of Management is unjust and disproportionate to the charges, the workman has prayed that setting aside his termination, he be reinstated with back-wages and benefits.

The case of the Management is that, the workman was in the habit of absenting himself unauthorizedly and willfully without getting any leave prior sanctioned or without informing the Management. His presence for the last 05 year is already been disclosed by him. He was issued a charge sheet under Clause 26.24 and 26.30 of Certified Standing Orders. He did not appeared during the enquiry in spite of service. The enquiry proceeded against him. The Enquiry Officer filed an enquiry report holding the charges proved. He was issued a show cause notice, which was served on him and he did not filed any representation, hence his services were terminated. According to Management, he was a habitual absentee, punishment is also not disproportionate to the charges. Management has prayed that the reference be answered against him.

Both the sides have filed affidavit as their examination in chief and have been cross examined by their opposite parties.

I have heard arguments of the Union Representative Mr. Bhagwat Prasad Dubey and Learned Counsel for Management Mr. Neeraj Kewat. Both the sides have filed written submissions, which are part of record. I have gone through the written submissions and record as well.

Reference itself is the issue for determination.

As regards to the legality of enquiry, there is no pleading with regards to the allegation that enquiry is not just and legal.

On perusal of records, there is no illegality or material irregularity in the enquiry with regard to substance or procedure, hence rather the enquiry conducted is held just, legal and proper.

As regards the prove of charges, the charges have been rightly held proved by the Enquiry Officer, as it is established from the evidence on record, which is inform of his attendance sheet.

Since, the workman is in the habit of committing misconduct of same nature in the last 05 years, the punishment of dismissal is held to be proportionate to the charges proved.

On the basis of above discussion and findings, the reference stands answered against the workman, holding his termination just, legal and proper.

R/84(D)/2018 -

In this case, the Workman Union has put up a claim with respect to bonus with allegation that prior to payment of Bonus Act, 1965, bonus used to be paid under Coal Mines Bonus Scheme or through various Awards or Wage Board recommendations. The SECL has not paid bonus to its workmen since its inception instead, they are paying Productivity Linked Service Reward (PLSR) which is linked with the productivity whereas the bonus is linked with profit. According to the Workman Union, the Management of SECL is committing illegality by way of not paying bonus as per Section 8 of payment of Bonus Act of 1965. The Workman Union has thus prayed that treating the issue of non-payment of bonus as Industrial Dispute, the Management of SECL be directed to grant bonuses on the basis of profit earned by it under Payment of Bonus Act, 1965.

Case of Management is that *firstly*, since S.E.C.L. is a subsidiary of Coal India which has many other companies like W.C.L., N.C.L., C.C.L. etc. issue of bonus involves and effects all these organization situating various states, the reference should be decided of National Industrial Tribunal and not by this Tribunal. *Secondly*, they have taken

refuge of Section 20, 32 (Clause 5) and Section 2(13) of Payment of Bonus Act, 1965 and Bonus Amendment Act, 2015, they have pleaded that since the basic salary of every employees of company exceed the salary slip of Rs. 21000/- as provided by Payment of Bonus Amendment Act, 2015 it does not apply to the employees of the Management and **thirdly**, Management is barred under Section 20 and Section 32 (V) of the Bonus Act.

Both the sides have filed affidavits and documents be to as and when required.

I have argument of Union Representative Bhagwat Prasad Dubey and Learned Counsel for Management Mr. Neeraj Kewat. Both the sides have filed written documents submissions also which are part of record. I have gone through the record as well.

The reference itself is the issued for determination.

Section 2(k) defines Industrial Disputes which is being reproduced as follows –

2(k) “industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

Since payment of bonus is also an instant of dispute related to service, it qualifies to be an Industrial Disputes under the Act and is held excessive by this Tribunal.

Section 8, Section 20, Section 32 (4) of the Payment of Bonus Act, 1965 and Section 2(13) Payment of Bonus Amendment Act,

2015 referred to by Management, which is being reproduced as follows.

8. Eligibility for bonus.—Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

20. Application of Act to establishments in public sector in certain cases.-

(1) If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both less than twenty percent of the gross income of the establishment in public sector for that year, then, the provision of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

(2) Save as otherwise provided in sub-section (1), nothing in this Act shall apply to the employees employed by any establishment in public sector.

32. Act not to apply to certain classes of employees. – Nothing in this Act shall apply to –

(iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a Local authority;

Section 2(13) Payment of Bonus Amendment Act, 2015 -

In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words “ten thousand rupees”, the words “twenty-one thousand rupees” shall be substituted.

It is clear, on perusal of these provisions that, provisions of Payment of Bonus Act do not apply in the case in hand and *secondly*, since the employees of the Management, who are the members of the Union, get wages above wage limit eligible for getting bonus, they are held not entitled to get bonus under Payment of Bonus Act. It is not disputed that they are granted benefit as Productivity Linked Service Reward (PLSR).

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

The dispute in hand is held to be an Industrial Dispute. For the rest part, the reference is answered against the Workman Union.

DATE:-17/04/2026

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