

**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. 04 OF 2022

PARTIES: Ranjit Kumar Mahato
(dependant son of Ram Chandra Mahato)
Vs.
Management of Modern Satgram 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: 26.11.2024

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-22012/19/2022-IR(CM-II)** dated 24.02.2022 has been pleased to refer the following dispute between the employer, that is the Management of Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the Management of M/s. Eastern Coalfields Ltd. in relation to its Modern Satgram Colliery (under Satgram Area) in delaying / denying the Employment claim of Shri Ranjit Kumar Mahato, dependent son of Late Ram Chandra Mahato, Ex-Surface Looseman, UM No. 373979 is just and legal? If not, to what relief Shri Ranjit Kumar Mahato is entitled to? ”

1. On receiving Order **No. L-22012/19/2022-IR(CM-II)** dated 24.02.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 04 of 2022** was registered on 14.03.2022 / 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. Written statement was filed by the President of Koyala Mazdoor Congress on 10.08.2022 on behalf of Ranjit Kumar Mahato. Brief fact of the case as disclosed in the written statement is that Ram Chandra Mahato worked as

a Looseman at Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited (hereinafter referred to as ECL) as a permanent employee bearing UM No. 373979. He died in herness on 28.10.1994. According to the provision of Clause 9.3.2 of National Coal Wage Agreement – V (hereinafter referred to as NCWA-V) one dependant of the workman, who died while in service is entitled to employment. Accordingly, Ranjit Kumar Mahato, dependant son of Ram Chandra Mahato applied for his employment under ECL but the management did not accept the request. Initially on the plea that his father was dismissed from the service of the company on the charge of unauthorized absence. Ram Chandra Mahato was suffering from Tuberculosis and was admitted at Tuberculosis Hospital, Searsole which was informed to the management of the colliery and there was no communication to the workman before his death about dismissal. The Competent Authority of ECL, on intervention by the union treated Ram Chandra Mahato to be in the roll of the company at the time of death and processed the proposal for employment of his dependant son. After proper screening at colliery and Area level, medical examination was held by the Initial Medical Examination (hereinafter referred to as IME) Board, which found the dependant son fit for employment. The General Manager of Area recommended the proposal for employment and sent the same to the Eastern Coalfields Limited Headquarters. Some queries were made regarding discrepancies in the name of the applicant. The management of the colliery after completing verification and all formalities again forwarded the proposal for employment to the ECL Headquarters. Some clarifications were sought by the ECL Headquarters through letter bearing no. Ref: ECL/CMD/C-6B/EMPL/WD-2230/11/387 dated 05.08.2011, which was replied by the dependant son. It is the contention by the union that till date the management of ECL has not taken any final decision on the prayer for employment and no communication was made to him. It is urged that there is an inordinate delay on the part of the management and the dependant son is suffering due to delay and inaction of the management. The

union has prayed for providing employment to the dependant son and all other consequential benefits which he is entitled to.

3. In support of its case the union has examined Ranjit Kumar Mahato as Workman Witness – 1 and Smt. Siya Devi, wife of Ram Chandra Mahato as Workman Witness – 2. Documents produced have been admitted in evidence as follows:

- (i) Copy of the Death Certificate of Ram Chandra Mahato has been marked as Exhibit W-1.
- (ii) Copy of the Service Record Excerpt of Ram Chandra Mahato, as Exhibit W-2.
- (iii) Copy of the Application dated 13.12.1994 submitted by the wife of Ram Chandra Mahato for providing employment to the dependant son, as Exhibit W-3.
- (iv) Copy of the Application dated 31.10.1994 submitted by the wife of Ram Chandra Mahato, claiming employment and other benefits, as Exhibit W-4.
- (v) Copy of the Letter 13.05.1997 issued by Dy. Chief Personnel Manager of Satgram Area addressed to the Agent, Jemehari Colliery, as Exhibit W-5.
- (vi) Copy of the Letter dated 27.09.1997 informing Ranjit Kumar Mahato to appear before the Area Medical Officer, Satgram Area, as Exhibit W-6.
- (vii) Copy of the Letter dated 31.03.1998 issued by the Manager, Jemehari (R) Colliery, as Exhibit W-7.
- (viii) Copy of Letter dated 24/28.04.1998 issued by the Deputy Personnel Manager, Satgram Area, relating to some discrepancies in the name of the applicant in the school certificates, as Exhibit W-8.

- (ix) Copy of the Letter dated 05.08.2011 issued by the Manager (Personnel)/Empl. WD addressed to the Chief Manager (Personnel) proposing a discreet screening and resubmission of all documents in the form of a Note Sheet along with reports of two men committee and police verification has been produced as Exhibit W-9.
- (x) Copy of letter dated 17.12.2011 issued by Senior Manager (Personnel) seeking submission of some documents like Voter Identity Card and Ration Card, as Exhibit W-10.
- (xi) Copy of letter dated 07.03.2011 proposing IME of some dependents for providing employment, as Exhibit W-11.
- (xii) Copy of the Application dated 13.09.2018 addressed to Sr. Manager (Personnel) requesting the status of employment proceeding, as Exhibit W-12.
- (xiii) Copy of the letter dated 05.11.2018 issued by Sr. Manager (Personnel), Jemehari Colliery regarding submission of clarification, documents and employment file of Ranjit Kumar Mahato, as Exhibit W-13.
- (xiv) Copies of the Applications dated 21.11.2019, 04.03.2021 and 26.10.2022, submitted by Ranjit Kumar Mahato from time to time as reminder for providing employment have been collectively marked as Exhibit W-14.
- (xv) Copy of the Aadhaar Card of Ranjit Kumar, as Exhibit W-15.
- (xvi) Copy of the Voter Identity Card, as Exhibit W-16.
- (xvii) Copy of BPL card of the year 2010 of Siya Devi, as Exhibit W-17.

4. In course of cross-examination of Ranjit Kumar Mahato (WW-1) deposed in the School Final Certificate that his father's name appears as Ram Chandra Singh and in the Service Record the name of the deceased employee appeared as Ram

Chandra Mahato and his son's name appeared as Ranjit Kumar Mahato. The witness further admitted that after submission of his application for providing employment, the management of ECL wanted to know his actual name and asked for other documents like Voter Identity Card and Aadhaar Card where his name appeared as Ranjit Kumar and not Ranjit Kumar Mahato. The witness stated that he is unaware if Sia Devi and other lady by the name of Lakshmi Devi laid claim over Gratuity amount in respect of Ram Chandra Mahato. The witness also denied the suggestion that his name is Ranjit Kumar and not Ranjit Kumar Mahato. It is pertinent to note that the witness claimed to have complied the direction of the management in their letter dated 17.12.2011 by submitting all documents. However, no such copy of reply has been placed before the Tribunal.

5. In course of cross-examination of Sia Devi (WW-2) denied that the name of Ranjit Kumar, son of Ram Chandra Singh appears in Bihar Vidyalaya Pariksha Samiti Certificate and Ranjit Kumar Mahato, son of Ram Chandra Mahato and Ranjit Kumar, son of Ram Chandra Singh are different persons.

6. The management contested the Industrial Dispute by filing their written statement on 01.11.2022. The specific case of the management as disclosed in their written statement is that Ram Chandra Mahato was absenting from duty from 28.01.1994 and he was chargesheeted. Subsequently, a Domestic Enquiry was held and he was dismissed from service w.e.f. 25/26.10.1994. Meanwhile, it was reported that the concerned employee expired on 28.10.1994, before communication of the order of dismissal. Waiving the order of dismissal, the Competent Authority was pleased to process the claim for employment of the dependant son. Ranjit Kumar Mahato submitted an application claiming employment against the death of his father on 25.06.1997 after lapse of approximate three years. Necessary formalities were complied at Colliery and Area level, IME of the claimant was held and the proposal for employment was

forwarded to the ECL Headquarters for scrutiny and approval of the Competent Authority. The employment proposal was returned to Satgram Area Office due to some irregularity and discrepancies observed at ECL Headquarters. There was mismatch in the name of the claimant in the application and his educational certificates. The question of genuineness of relationship cropped up. Fresh declaration of witness and Indemnity Bond were sought for. Police verification was done at his native place. Explanation was sought for regarding reasons for delay in submitting the application. Letter bearing Ref. No. ECL/CMD/C-6B/EMPL/WD-2230/11/387 dated 05.08.2011 was issued by the Manager (Personnel)/Empl. WD, ECL Headquarters, returning the proposal for employment, pointing out some discrepancies and sought for clarification as well as necessary documents. The unit management issued a letter dated 17.12.2011 to Ranjit Kumar Mahato @ Ranjit Kumar, seeking clarification about the discrepancies pointed out by the ECL Headquarters and advised him to submit relevant documents. It is the case of the management that instead of forwarding necessary documents the claimant initiated the Industrial Dispute before this Tribunal. It is contended that the management committed no illegality or impropriety in denying the proposal for employment and the Industrial Dispute is fit to be dismissed.

7. In support of their case management examined Mr. Amit Kumar, Manager (Personnel) as Management Witness – 1. Affidavit-in-chief has been filed wherein it is stated that Ranjit Kumar Mahato, son of Ram Chandra Mahato submitted application for claim of employment on 25.06.1997, claiming employment after lapse of three years from the death of the employee. The proposal for employment was returned to Satgram Area Office due to some irregularities and discrepancies over mismatch in the name of the claimant in his educational certificate and genuineness of relationship. Further particulars and explanations were sought for from the claimant but Ranjit Kumar Mahato, the claimant neither submitted

the requisite documents nor sent any information. The management produced copies of letter dated 05.08.2011, which is marked as Exhibit M-1 and letter dated 30.11.2011 / 17.12.2011 addressed to Ranjit Kumar Mahato asking him to submit certain documents as Exhibit M-2.

8. In course of cross-examination the management witness denied that Siya Devi submitted applications on 13.12.1994 and 31.10.1994, seeking employment for her son Ranjit Kumar Mahato. The witness admitted that IME and screening of Ranjit Kumar Mahato were held. He also admitted that some queries were made but the concerned applicant did not comply the same. The witness admitted letter dated 05.11.2018 issued by the Senior Manager (Personnel), Jemehari Colliery addressed to the Senior Manager (Personnel)/IC, Satgram Area, whereby clarification and documents along with original file were forwarded to the Area for needful action. The witness admitted that no communication was made to the person regarding the reason for refusal of the proposal for employment.

9. Mr. Rakesh Kumar, Union representative arguing the case on behalf of the dependant son of Ram Chandra Mahato submitted that the workman died in harness on 28.10.1994 at the age of 49 years, leaving behind his wife, three sons and one daughter. The Service Record Excerpt has been produced as Exhibit W-2. It is submitted by the union representative that immediately after the death of the workman, Siya Devi submitted two applications dated 13.12.1994 and 31.10.1994, claiming employment for her elder son, Ranjit Kumar Mahato produced as Exhibit W-3 and W-4. The employment process was initiated on the basis of letter dated 13.05.1997 (Exhibit W-5). Thereafter, Ranjit Kumar Mahato was referred to Satgram Area Hospital by letter dated 27.09.1997 (Exhibit W-6) for his medical examination. The management issued a letter dated 31.03.1998 addressed to Ranjit Kumar Mahato asking him to produce his original educational certificate before Mr. T. B. Raju, Deputy Personnel Manager, Satgram Area. Copy

of the letter has been produced as Exhibit W-7. Mr. Rakesh Kumar argued that in the school certificate the name of Ranjit Kumar Mahato was recorded as Ranjit Kumar and the name of his father was recorded as Ram Chandra Singh. Due to discrepancies the management issued a letter bearing Ref. No. SAT/PER/EMPL/6026/98/4037 dated 24/28.04.1998 (Exhibit W-8) to the Agent, Jemehari (R) Colliery, seeking clarification and re-examination of relationship and to send a report. Mr. Rakesh Kumar argued that the dependant son has submitted all his documents before the management for dispelling the doubt regarding the identity but till date no employment has been provided to the dependant son. Referring to Exhibit W-13 a letter dated 05.11.2018 issued by the Senior Manager (Personnel)/IC, Satgram Area, it is submitted that clarification and documents along with original file of Ranjit Kumar Mahato were sent for necessary action. The claimant waited for several years, issued reminder to the management for his employment, the same have been marked as Exhibit W-14 collectively. It is urged that even after satisfying necessary queries and producing documents there is inordinate delay on the part of the management for not finalizing the claim for employment.

10. Mr. P. K. Das, learned advocate for the management drew my attention to Exhibit M-1, a letter dated 05.08.2011, issued by the Manager (Personnel)/Empl. WD, addressed to the Chief Manager (Personnel), Satgram Area, wherein it is stated that in the educational certificate which has been enclosed in the file name of the candidate has been recorded as Ranjit Kumar, son of Ram Chandra Singh but the claimant submitted his application as Ranjit Kumar Mahato, son of Ram Chandra Mahato. It is argued that such discrepancy could not be reconciled by the claimant. The claimant was therefore requested to submit some documents as stated in letter dated 30.11.2011 / 17.12.2011 (Exhibit M-2), but till date no such compliance has been made.

11. Considered the argument advanced by the union representative and learned advocate for the management, in the back drop of the facts and circumstances of this case. The rights and liabilities in respect of the Industrial Dispute arose on the death of an employee in harness and a claim made by the dependant son for employment. According to the provisions in Clause 9.3.2. of NCWA-V, one dependant of the workman, who died while in service is entitled to employment. The conditions for employment laid down in Clause 9.3.4 is that the dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years on the date of submitting his claim for employment. In the instant case the union has produced copies of two letters as Exhibit W-2 and W-3, purportedly submitted in the year 1994, claiming employment for Ranjit Kumar Mahato. Management has denied receipt of the letters. However, it is admitted that the first application was submitted by the claimant in the year 1997, nearly three years after the death of the workman. Be that as it may, it appears from Exhibit W-5, a letter dated 13.05.1997 that after several discussion with union regarding employment to the dependant of the ex-workman, the General Manager (Personnel), ECL, Sanctoria had advised to process the employment proposal of the dependant of Ram Chandra Mahato, who expired on 28.10.1994. This decision on the part of management of ECL amounts to waiver of delay on the part of the claimant in filing the application. It is gathered from Exhibit W-6 and W-7 that the process of employment was initiated and the claimant was referred for his medical examination at Sanctoria Area Hospital and was asked to produce original school certificate. Thereafter, some discrepancies arose regarding the name of the claimant which appeared as Ranjit Kumar in his school certificate and his father's name appeared as Ram Chandra Singh instead of Ram Chandra Mahato. In course of evidence the School Certificate has not been produced for consideration. It looms large from such record is that there was some error and discrepancy in the name of the claimant appearing in the Service Record

of Ram Chandra Mahato and School Certificate of the claimant. From examination-in-chief of Management Witness -1, it appears in paragraph – 7 that the employment proposal was returned back to Satgram Area Office several times due to some irregularities / discrepancies found during scrutiny at ECL Headquarters and due to mismatch in the name of the claimant, appearing in the educational certificates. In order to ascertain the identity of the claimant, the management had sought for Police Verification Report from his native place but did not come out fairly consider the report, which was submitted by the police. There is no specific case of the management that Police Verification Report is not correct or Ranjit Kumar and Ranjit Kumar Mahato are not the same person or the claimant is not the son of Ram Chandra Mahato. The management of the ECL is therefore duty bound to consider the identity of the petitioner claimant and genuineness of the relationship between the claimant and the deceased employee without any further delay and conclusively determine the right to employment as per NCWA. In my considered view, though there has been substantial delay in finalizing the process for employment, it appears from letter dated 05.11.2018 (Exhibit W-13) that the management has misplaced the file of Ranjit Kumar Mahato, sometime in the year 2012. The delay is therefore attributable to the inaction and negligence on the part of the management and the dependant son cannot suffer due to inaction and negligence of the management. The management is duty bound to comply the terms of NCWA instead of delaying the process to frustrate the claim for employment. The Industrial Dispute is accordingly decided in favour of the union on contest against Management. The management of ECL is directed to consider the proposal for employment of Ranjit Kumar @ Ranjit Kumar Mahato within a period of two (2) months from the date of communication of the Award.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest in favour of the union and against the management of Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited. The management of employer company is directed to process the prayer for employment within two (2) months from the date of communication of the Award and inform the finality of the decision to Ranjit Kumar Mahato, the claimant within fifteen (15) days. 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,
C.G.I.T.-cum-L.C., Asansol.