

**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. 11 OF 2016**

**PARTIES:** Bikram Yadav  
(dependant son of Ajhola Devi)  
**Vs.**  
Management of S.S.I. 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:** 24.12.2024.

**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-22012/16/2016-IR(CM-II)** dated 03.05.2016 has been pleased to refer the following dispute between the employer, that is the Management of S.S.I. Colliery under Ningah Group of Mines, Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**THE SCHEDULE**

*“ Whether the action of the management of S.S.I. Colliery under Sripur Area of M/s ECL in denying to provide employment to Shri Bikram Yadav, dependent son of Late Ajhola Devi, Ex-Kamin, who died while on employment, is legal and or justified? If not, what relief Shri Bikram Yadav is entitled to? ”*

1. On receiving Order **No. L-22012/16/2016-IR(CM-II)** dated 03.05.2016 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2016** was registered on 13.05.2016 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. Mr. Rakesh Kumar, Union representative filed a written statement on behalf of Bikram Yadav on 13.07.2016. Management contested the case by filing written statement on 14.12.2016. Brief fact of the case as disclosed in the written statement of the union is that Ajhola Devi, Ex-Kamin, U.M. No. 259383 was a permanent employee of S.S.I. Colliery under Sripur Area of Eastern Coalfields

Limited (hereinafter referred to as ECL). She died in harness on 18.01.2006 and was survived by Bikram Yadav, adopted son. According to provision of National Coal Wage Agreement (hereinafter referred to as NCWA) one dependant of the deceased employee is entitled to get compassionate employment under the employer company. Bikram Yadav, filed an application on 03.06.2008 before the management, claiming employment as an adopted son of Ajhola Devi. After scrutiny at Colliery and Area level and after holding screening the claim of Bikram Yadav was found genuine and all required documents were found in order. Medical examination of Bikram Yadav was held by the Initial Medical Examination (hereinafter referred to as IME) Board, which declared him fit for employment. After completing all formalities, the Area management forwarded the employment proposal to the ECL Headquarters for approval. Examining the proposal for employment ECL Headquarters directed Police Verification to find out genuineness of the relation between Ajhola Devi and Bikram Yadav and also obtained legal opinion from the learned advocate about the legality of the Adoption Deed. Police Verification Report was submitted, in which the Police Authority confirmed the relationship between Bikram Yadav and Ajhola Devi, wife of late Ratan Yadav. Legal opinion submitted by the learned advocate of the company confirmed the genuineness of the Adoption Deed. After completion of the entire procedure the Headquarters of ECL has kept the proposal for employment pending. Neither the employment was provided to the dependant son nor was the claim for employment regretted. It is further stated that Ajhola Devi had included the name of Bikram Yadav as her adopted son in all the records of the company, namely Service Record, PS-3, PS-4 and she also availed LTC and LLTC in the name of Bikram Yadav during her service tenure. Management accepted Bikram Yadav as the adopted son and granted necessary benefits on account of LTC and LLTC to Ajhola Devi and no question has been raised doubting the relationship. The Provident Fund and Gratuity amount lying in the credit of Ajhola Devi has been paid to Bikram Yadav, treating him as the son of deceased employee, which

supports the claim of Bikram Yadav, that the management of ECL has already accepted him as the son of Ajhola Devi. It is inter-alia contended that in the Voter Identity Card, PAN Card and Aadhaar Card of Bikram Yadav the name of his father is recorded as Ratan Yadav, who is the husband of Ajhola Devi. It is the case of the union that Bikram Yadav is facing starvation and has no employment till date. It is prayed that management of ECL should provide employment to the dependant of the deceased employee as per provision of NCWA.

3. The management in the written statement has denied that Bikram Yadav is the adopted son of Ajhola Devi, the deceased employee. It is contended that the Industrial Dispute has been raised more than seven years after the death of Ajhola Devi and the same is stale one. In paragraph - (4) it is stated that Ajhola Devi died on 18.01.2006, while she was working at S.S.I. Colliery and was survived by one Bikram Yadav, son and Kumari Dayamati, daughter. Referring to the National Coal Wage Agreement (hereinafter referred to as NCWA) it is pleaded that one dependant of the deceased employee is entitled to compassionate appointment for sustaining the family due to stoppage of regular income of the earning member. It is also stated that Bikram Yadav submitted application on 03.06.2008, claiming employment as adopted son of Ajhola Devi. The management after examining the prayer is of the impression that the alleged adoption has been contrived by manufacturing of documents and it would be evident from facts that though Bikram Yadav claimed to have been adopted on 28.12.1994 by Ajhola Devi, he is carrying the name of his biological father Ram Chandra Paswan @ Das in several documents including the Voters' List of the year 2014 and 2015. Photocopies of the same have been enclosed. It is contended that adoption deed submitted by Bikram Yadav is mere paperwork and there was no actual giving and taking between the biological and adoptive family for severing his relationship from the biological family. It is claimed that even after twenty-one years of the alleged adoption the relationship of Bikram Yadav with his biological father is subsisting

and the alleged adoption is not valid. The management alternatively asserted that more than nine years have passed after the death of Ajhola Devi and there is no scope for providing compassionate appointment to the claimant to tide over the financial crisis. The management relied upon a decision of the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [Civil Appeal No. 3597 of 2009]**, and submitted that employment on compassionate ground was disapproved after passage of long years and Reference of such stale dispute for adjudication is bad in law. The management urged that the petitioner claiming to be adopted son is not entitled to any relief and the Industrial Dispute is liable to be dismissed.

4. The union filed affidavit-in-chief of Bikram Yadav, the person claiming employment and examined him as Workman Witness No. 1. It is stated in the affidavit-in-chief that Ajhola Devi has no issue and she has adopted Bikram Yadav by executing a deed of adoption. The adopted son claimed employment as per provisions of NCWA as a dependant of the deceased employee. It is asserted that his name is included in the Service Record of his mother and his application was referred to the ECL Headquarters after screening and medical examination, in which he was found fit for employment. Police verification was conducted for finding out the relationship between Bikram Yadav and Ajhola Devi. Legal opinion was obtained from advocates who also confirmed the genuineness of the adoption. Following documents have been produced by the union in course of his evidence :

- (i) Copy of Identity Card of Ajhola Devi issued by the management of ECL has been produced as Exhibit W-1.
- (ii) Copy of the Death Certificate of Ajhola Devi, as Exhibit W-2.
- (iii) Copy of application of Bikram Yadav dated 03.06.2008 to the Manager, S.S.I. Colliery, as Exhibit W-3.
- (iv) Copy of letter dated 26.12.2008 issued by Deputy Chief Personnel Manager, Sripur Area to Bikram Yadav for holding his IME, as Exhibit W-4.

- (v) Copy of the Form PS-4, as Exhibit W-5.
- (vi) Copy of the Form 'F', as Exhibit W-6.
- (vii) Copy of Form relating to details of family for availing LTC benefits, as Exhibit W-7.
- (viii) Copy of letter issued by the Assistant Labour Commissioner (Central), Asansol forwarding Demand Draft towards payment of Gratuity to Bikram Yadav has been produced as Exhibit W-8.
- (ix) Copy of the Deed of Adoption, as Exhibit W-9.
- (x) Copy of letter dated 14/16.04.2008 issued by the Manager, Sripur Seam Incline to Bikram Yadav, as Exhibit W-10.
- (xi) Copy of letter dated 30.12.2008 of Area Medical Officer, Sripur Area to the Chief Medical Officer (I/C), Central Hospital Kalla for Audiometry test of Bikram Yadav, as Exhibit W-11.
- (xii) Copy of letter dated 30.12.2008 of Area Medical Officer, Sripur Area to the P.M.E. (I/C), P.M.E. Unit, Ningah for X-ray and pathological investigation of Bikram Yadav, as Exhibit W-11/1.
- (xiii) Copy of report of Audiometry test of Bikram Yadav dated 30.12.2008, as Exhibit W-11/2.
- (xiv) Copy of letter dated 29.11.2010/06.12.2010 issued by the Senior Personnel Officer, S.S.I. Colliery to Bikram Yadav, as Exhibit W-12.
- (xv) Copy of letter dated 05/23.07.2011 issued by the Personnel Manager (I/C), Sripur Area to the Manager (Personnel) (Empl./Hq.), ECL, Headquarters, as Exhibit W-13.
- (xvi) Copy of letter dated 25/27.08.2012 issued by the Senior Manager Personnel (I/C), Sripur Area to the Manager Personnel (Empl.), ECL, as Exhibit W-14.
- (xvii) Copy of letter dated 07/19.02.2013 issued by the Manager, SSI Colliery to Bikram Yadav, as Exhibit W-15.
- (xviii) Copy of letter dated 25.02.2013 of Bikram Yadav addressed to the Manager, SSI Colliery, as Exhibit W-16.

- (xix) Copy of letter dated 10.11.2009 issued by the Agent, Ningah Group of Mines to the Superintendent of Police, Lakhisarai, Bihar, as Exhibit W-17.
- (xx) Copy of the Police Verification Report dated 05.02.2010, as Exhibit W-18.
- (xxi) Copy of PAN Card of Bikram Yadav, as Exhibit W-19.
- (xxii) Copy of Voter's Identity Card of Bikram Yadav, as Exhibit W-20.
- (xxiii) Copy of Aadhaar Card of Bikram Yadav, as Exhibit W-21.
- (xxiv) Copy of Driving License of Bikram Yadav, as Exhibit W-22.
- (xxv) Copy of Voter's Identity Card of Ajhola Devi, as Exhibit W-23.
- (xxvi) Copy of the Voters List of Jamuria Constituency (279), as Exhibit W-24.

5. In his cross-examination dated 26.03.2018 the witness stated that he is unable to state his actual age at the time of adoption. The witness claimed to have studied up to Class-VIII and deposed that he was unable to find his School Certificate. Witness also stated that his biological mother and father are alive and they are not going to adduce any evidence regarding their giving in adoption. he went to the extent of deposing that his natural parents are not ready to give evidence. The witness failed to state in whose presence the adoption took place. Suggestion was given to the witness that the entries in the service record of Ajhola Devi, disclosing Bikram Yadav as her son were incorrect, the witness denied the same.

6. Since relevant documents were not admitted in the evidence recorded on earlier occasion, the workman was recalled by the union and was re-examined on 22.02.2023. In course of his re-cross-examination Bikram Yadav deposed that he was adopted by Ajhola Devi in the year 1994 and also stated that Ram Jatan Nunia and Ram Jatan Kanu were present at the time of adoption. He also deposed

that the persons who were present at the time of his adoption have expired. It may be gathered from the cross-examination of WW-1 that the adoption was made by execution of adoption deed only, which was prepared by Mr. Mahendar Shaw, advocate. The witness deposed that he studied up to Class-VIII in Mahavir Vidyalay at Ningah and he was continuing his education at the time of his adoption. No document relating to his education has been filed to show whether the School Certificates were bearing the name of his biological father or adoptive father. The witness admitted that the School Admission Register bears the name of his father and Ramchandra Das of Jamuria is his natural father. In unguarded moments the witness during his re-cross-examination admitted that in the Voters List of the year 2015, the name of his father appears as Ramchandra Das. He went further to deposed that till 2013 he was known as Bikram Das, son of Ramchandra Das. At times the witness stated that he was adopted in the year 2014 and later on stated that he was adopted in the year 1994.

7. Mr. Ajit Kumar Mazumdar, Deputy Manager (Personnel), SSI Colliery has been examined as Management Witness No. 1. He filed his affidavit-in-chief, dismissing the claim of Bikram Yadav, that he is the adoptive son of Ajhola Devi. The specific case of the management is that though Bikram Yadav is said to have been adopted on 28.12.1994, he is carrying the surname of his biological father Ram Chandra Paswan @ Das in several records including the Voters' List of the year 2014 and 2015 of Jamuria Constituency. It is claimed that the relationship of Bikram Yadav has not been severed from the biological father and the Industrial Dispute raised nine years after the death of Ajhola Devi does not entitle the claimant to any compassionate employment as per provision of NCWA. In course of his examination-in-chief the witness has produced the following documents :

- (i) Copy of the Service Register of Ajhola Devi has been produced as Exhibit M-1.
- (ii) Copy of the Form PS-3 of Ajhola Devi, as Exhibit M-2.
- (iii) Copy of the Form PS-4 of Ajhola Devi, as Exhibit M-3.



- (iv) Copy of the Voters' List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency, as Exhibit M-4.
- (v) Copy of the Voters' List of the year 2014 of Jamuria (General) Vidhan Sabha Constituency, as Exhibit M-5.
- (vi) Copy of the IME Report, as Exhibit M-6.

It is stated by the witness that the name of Bikram Yadav appears against Sl. No. 74 of the Voters List of the year 2014 of Jamuria (General) Vidhan Sabha Constituency where his father's name has been recorded as Ramchandra Das (Exhibit M-5). It is also deposed that in the Voters List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency the name of Bikram Yadav appeared against Sl. No. 73 and his father's name was recorded as Ramchandra Das, who is the biological father (Exhibit M-4). The witness deposed that as the adoption of Bikram Yadav is doubtful, the management did not approve his employment in the capacity of an adopted son of the deceased employee.

8. In course of cross-examination, the witness deposed that the name of Bikram Yadav has been recorded as son of Ajhola Devi on the basis of documents submitted by Ajhola Devi during her lifetime. The name of Bikram Yadav is also recorded in the Form PS-3 and PS-4 as the son of Ajhola Devi. Witness admitted that Death Gratuity of Ajhola Devi was paid to Bikram Yadav under order of the Competent Authority and the management did not take any final decision regarding employment. The IME Report has been produced as Exhibit M-6. Management witness denied the suggestion that the management of the company acted illegally by not providing employment to the dependant during seventeen years from 2006 to 2023.

9. Mr. Rakesh Kumar, Union representative argued that Bikram Yadav is the adopted son of Ajhola Devi, who died in herness in 2006. The name of Bikram Yadav is recorded in the Service Record of Ajhola Devi before her death and the

name of Bikram Yadav also appeared in the Service Register (Exhibit M-1), Form PS-3 (Exhibit M-2) and Form PS-4 (Exhibit M-3). A details of family members receiving LTC benefit has been produced as Exhibit W-7, where the name of the son appeared as Bikram Yadav. It is submitted that soon after the death, application was submitted by the dependant on 03.06.2008, claiming employment as per the provisions of NCWA. Management held Screening and medical examination but withheld their decision of providing employment to Bikram Yadav. It is further submitted that police verification was done by the management to find out the genuineness of the claimant. The Agent, Ningah Group of Mines issued a letter dated 10.11.2009 addressed to the Superintendent of Police, Lakhisarai, Bihar for Police Verification (Exhibit W-17). After holding police verification, a report was submitted by the Superintendent of Police, Lakhisarai, Bihar addressed to the Agent, Ningah Group of Mines along with a report in support of genuineness of such relationship (Exhibit W-18). It is claimed by the union that Bikram Yadav is entitled to employment as a dependant son, as per the provisions of NCWA without further delay.

10. Mr. P. K. Das, learned advocate for the management refuted the claim, arguing that Bikram Yadav is not the adopted son of Ajhola Devi and his name has been incorporated by Ajhola Devi for the purpose of obtaining benefits which she was not entitled to. Referring to the affidavit-in-chief of Bikram Yadav it is argued that the claimant did not hesitate to make false statement before the Tribunal, wherein in Paragraph No. 2 he stated that the mother was not having any issue so she adopted him as son, as per the law and an Adoption Deed was prepared. It is pointed out that in the Service Register the name of daughter of Ajhola Devi is recorded as Dayamanti. Even in the Form PS-3 and PS-4 the name of daughter has been recorded as Nitu Kumari. Referring to the deed of adoption registered on 28.12.1994 before the Additional District Sub-Registrar, Asansol, (Exhibit W-9), learned advocate for the management submitted that Bikram @

Tanku Paswan, son of Sri Ram Chandra Paswan of Bhatapara, Ningah has been adopted on 28.12.1985 in presence of relatives and friends and other persons of locality with the consent of her husband Ratan Yadav, who died in 1987. Learned advocate referred to the recital of the adoption deed and submitted that Ram Chandra Paswan, the father and Smt. Sushila Devi, the mother of Bikram @ Tanku Paswan have consented to take Bikram @ Tanku Paswan in adoption and since then Bikram Yadav has no connection with his biological parents and he is treated as the son of Ajhola Devi. Learned advocate argued that the deed has been manufactured for the purpose of procuring employment and pointed out that Bikram Yadav himself has contradicted the contents of the adoption deed by deposing that he was adopted by Ajhola Devi in the year 1994 and did not mention that he was given in adoption in the year 1985 as mentioned in the adoption deed. Learned advocate further argued that the name of Bikram Yadav actually is Bikram Das and in the Voters List of Jamuria (General) Vidhan Sabha Constituency of the year 2014 the name of Bikram Das son of Ramchandra Das appeared against Sl. No. 74 (Exhibit M-5) and in the Voters List of the year 2015 of Jamuria (General) Vidhan Sabha Constituency the name of Bikram Das son of Ramchandra Das has been recorded in Sl. No. 73 (Exhibit M-4). It is argued that the witness himself has admitted in his cross-examination dated 17.10.2023 that till 2013 he was known as Bikram Das son of Ramchandra Das.

11. Laying emphasis on such evidence Management's Advocate argued that the relationship of Bikram Das was never severed from his biological family for which his parents were not examined in this case. No School Leaving Certificate or Education Certificate has been produced by Bikram Das, which would have been proved that his father's name is Ramchandra Das and not Ratan Yadav. It is argued that the union has miserably failed to prove that Bikram Yadav fulfilled the conditions under Clause 9.3.3 of NCWA to claim employment as a legally adopted son, especially when there is no evidence to prove that he was residing

with the deceased and almost wholly dependent on the earning of the deceased employee. It is urged that the Industrial Dispute is liable to be dismissed.

12. I have considered the materials on record, evidence adduced by the parties and argument advanced by the union representative on behalf of the claimant and learned advocate for the management. The undisputed fact emerging from the pleadings of the parties need not be repeated. Bikram Yadav claimed employment in the capacity of a dependant son of Ajhola Devi. After the death of Ajhola Devi on 18.01.2006 Bikram Yadav submitted an application before the management of the company representing himself to be the adopted son of the deceased employee. The application of Bikram Yadav dated 03.06.2008 has been produced as Exhibit W-3. There is no delay in filing the application. Management swung into action, initiated necessary proceeding to examine his prayer. IME was held. The claimant appeared for his screening. After holding medical examination on 02.01.2009 Bikram Yadav was found fit for job (Exhibit M-6). Subsequently, management issued a letter dated 29.11.2010 / 06.12.2010 addressed to Bikram Yadav (Exhibit W-12) whereby it was communicated to him that there was difference of name in respect of name of husband of Ajhola Devi and sought for some explanation regarding difference of name of Ratan Yadav along with attestation by two responsible persons. The proposal for employment along with relevant documents and indemnity bond and affidavit were forwarded to the ECL Headquarters for necessary action through letter dated 05/23.07.2011 (Exhibit W-13). By issuing a letter dated 07/19.02.2013 the management of SSI Colliery informed Bikram Yadav to submit fresh and original deed of adoption for the purpose of comparing the same and also sought for clarification under what circumstances two applications were made by him. In one of his applications, he described himself as the son of Ajhola Devi and in the other application he claimed himself to be the adopted son of Ajhola Devi. On considering Exhibit M-4 and M-5, which are documents prepared after the death of Ajhola Devi, in the year 2015

and 2014, it would appear that Bikram Das, claiming himself to be Bikram Yadav has been described as the son of Ramchandra Das and not the son of Ratan Yadav. Bikram Yadav in his cross-examination has admitted that till the year 2013 he was known as Bikram Das, son of Ramchandra Das. There is no evidence on record to suggest that Bikram Yadav @ Bikram Das was residing with the deceased or was dependant on the earning of the deceased. So far as the question of adoption is concerned no plausible evidence has been adduced to establish that there was compliance of relevant condition of Hindu Adoptions and Maintenance Act, 1956. I find that the deed was prepared in the year 1994 (Exhibit W-9), stating therein that the adoption took place in the year 1985. If there was a valid adoption in the year 1985, the claimant would have dissociated from his biological parents and would have carried the surname of his adoptive parents. In my considered view Bikram Yadav @ Bikram Das has failed to prove that he is the adopted son of Ajhola Devi or he was residing with the deceased employee and dependent upon the earning of the deceased. I therefore hold that Bikram Yadav is not entitled to any employment as a dependant under Eastern Coalfields Limited on the basis of his claim of being the adopted son of Ajhola Devi. The Industrial Dispute is therefore dismissed on contest.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on contest. Bikram Yadav @ Bikram Das is not entitled to any employment on compassionate ground against the death of Ajhola Devi under the provision of NCWA. 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, Govt. of India, New Delhi for information and Notification.

*Sd/-*

**(ANANDA KUMAR MUKHERJEE)**

Presiding Officer,  
C.G.I.T.-cum-L.C., Asansol.