

**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. 13 OF 2003

PARTIES:

1. Bidyut Sarkar,
2. Mithu Prasad,
3. Manas Kumar Mohanta,
4. Satyendra Kumar Singh.

Vs.

Management of Madhusudanpur Colliery, ECL.

REPRESENTATIVES:

For the Union/Workmen: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 04.06.2025

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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-22012/355/2002-IR(CM-II)** dated 11.07.2003 has been pleased to refer the following dispute between the employer, that is the Management of Madhusudanpur Colliery under Kajora Area of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Madhusudanpur Colliery under Kajora Area of M/s. ECL in denying placement of S/Sh. S.K. Singh, M.K. Mahanta, B.K. Sarkar and M. Prasad, Fitter Helpers in Cat-IV Fitter/Excv. Gr.D w.e.f. the date of passing N.C.T.V.T Tests is legal and justified? If not, to what relief the workmen are entitled? ”

1. On receiving Order **No. L-22012/355/2002-IR(CM-II)** dated 11.07.2003 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 21.07.2003 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.

2. The aggrieved workmen named above are represented by Mr. Rakesh Kumar, President, Koyala Mazdoor Congress, who filed written statement on their behalf on 22.08.2005. In a nutshell, the fact of the case disclosed in the written

statement is that Satyendra Kumar Singh, Manas Kumar Mohanta, Bidyut Sarkar and Mithu Prasad of Madhusudanpur Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL) were appointed in the service of the company on 24.10.1990, 23.02.2001, 23.02.1991 and 23.02.1991 respectively as M.M. Trainees on the basis of National Council for Vocational Training (hereinafter referred to as NCVT) under the Apprentices Act, 1961. In their letter of appointment, it was stated that after completion of three years of service they would be regularized / promoted to the post of Mechanical Fitter in Excavation Category - D / Category – IV. It is the grievance of the workmen that after completing their training and completion of three years as Mechanical Helper, the management of Madhusudanpur Colliery did not regularize / promote them as Mechanical Fitter in Excavation Category - D / Category – IV. In similar cases other workmen have been placed in Mechanical (M.M.) Excavation Grade - D and in Category -IV. The union has urged that all four workmen should be regularized to the post of Mechanical Fitter in Excavation Category - D / Category – IV, as per their trade with effect from the date of completion of three years' training period and arrear wages should be paid to them from the date of their regularization till the date of next promotion, which should be granted to them taking into account their seniority in Category - D / Category – IV with retrospective effect.

3. Management filed their written statement on 25.02.2016, contending that promotion is governed as per rules applicable for promotion and the Departmental Promotion Committee (hereinafter referred to as DPC) is constituted for considering the entitlement for promotion to the next higher post. The aggrieved workmen were never recommended by DPC, as such they are not entitled to receive promotion from the date they have claimed their promotion. The action of the management is justified and the workmen are not entitled to any relief.

4. In support of their claim Satyendra Kumar Singh, Manas Kumar Mohanta, Bidyut Sarkar and Mithu Prasad have filed their affidavit-in-chiefs and faced cross-examination. Workman witnesses have also filed copy of their Certificate issued by NCVT.

5. Management examined Mr. Proloy Dasgupta, Manager (Personnel), Madhusudanpur Colliery as Management Witness No. 1. It is averred in the affidavit-in-chief that concerned employees of Madhusudanpur Colliery passed the All India Trade Test Final Examination, held in the year 1994 and subsequently they applied for their placement in Category – IV from Fitter Helper, Category – II. It is stated that the four employees were previously regularized as Fitter Helper, Category – II vide Order No. MSP/P&IR/95/5/6/437 dated 27.05.1995. Witness further deposed that their claim for promotion from Fitter Helper, Category – II to Category – IV was not considered at that time as there was no vacancy of Fitter at Madhusudanpur Colliery as per Manpower Budget 2001-02 and 2002-03 which were applicable for their for promotion. The witness further stated that promotion to next higher category / grade is governed by certain norms and rules of the company and the first point to be consider for promotion of a workman is availability of vacancy in the concerned designation / grade / category, so the management was unable to promote the concerned employees from Fitter Helper, Category – II to Category – IV. It further transpires from affidavit-in-chief of the management witness that three out of four employees i.e., Manas Kumar Mohanta, Bidyut Sarkar and Mithu Prasad had been transferred from Madhusudanpur Colliery to Porascole Colliery in the year 2009. Therefore, the question of placing them as Fitter Helper, Category – IV at Madhusudanpur Colliery does not arise. It is further stated that Mithu Prasad and Bidyut Sarkar have already superannuated from service of the company on 28.02.2021 and 28.02.2022 respectively. According to the management witness all four workmen were granted promotion as Fitter as and when vacancy was

available under approved Manpower Budget. He filed affidavit-in-chief and following documents :

- (i) Copy of the Office Order dated 14.07.2009 by which Satyendra Kumar Singh was promoted from Fitter Category – IV to Category – V has been marked as Exhibit M-1.
- (ii) Copy of the Office Order dated 27.09.2013 by which Mithu Prasad and Bidyut Kumar Sarkar were promoted from Category – III to Category – IV, as Exhibit M-2.
- (iii) Copy of the Office Order dated 08.01.2013 by which Manas Kumar Mohanta was promoted from Fitter Category – II to Category – IV, as Exhibit M-3.
- (iv) Copy of the Office Order dated 01.12.2003 by which Satyendra Kumar Singh was promoted from Fitter Category – II to Category – IV, as Exhibit M-4.

6. In cross-examination the management witness deposed that in the year 2009, three of the employees who were not promoted to Mechanical Category – IV went on to transfer to Porascole Colliery. During the period from 2003 to 2009 there was no promotion in the post Mechanical Fitter in Madhusudanpur Colliery. In the year 2010 four workmen were promoted to the post of Mechanical Fitter from Category – II at Madhusudanpur Colliery. All these four workmen were working at Madhusudanpur Colliery from earlier time. The witness further deposed that these four workmen promoted in 2010 were not senior to the three workmen who were transferred to Porascole Colliery. Witness denied the suggestion that management of ECL has promoted employees who have qualified NCVT Examination in the year 1994 on pick and choose basis and not following the rule of seniority.

7. Mr. Rakesh Kumar, Union representative, advancing his argument submitted that out of four employees only Manas Kumar Mahanta is in service and other three have already been superannuated. It is argued that the said four workmen underwent training imparted by NCVT and completed their training of three years on 31.03.1994. According to the policy of the company the said workmen after completion of three years' training, are eligible and entitled to be posted as Fitter in Category – IV but the management did not fulfill its assurance and posted them as Fitter in Category – II. It is submitted that Satyendra Kumar Singh was promoted as Fitter in Category – IV w.e.f. 18.09.2003, Manas Kumar Mahanta was promoted as Fitter in Category – IV on 08.01.2013 and Bidyut Sarkar and Mithu Prasad were promoted as Fitter in Category – IV on 27.09.2013. Mr. Rakesh Kumar argued that the workmen have been deprived from the rightful promotion and career advancement due to denial of their placement as Fitter, Category – IV. It is urged that all four workmen should be notionally placed in Fitter, Category – IV on completion of their training on 31.03.1994.

8. Mr. P. K. Das, learned advocate for ECL, in reply, argued that promotion is granted to the candidates on the basis of available vacancy in the post and such promotion took place on the basis of recommendation made by the DPC of the company. It is submitted that in the instant case no vacant post was available for accommodating these four aggrieved workmen for their promotion at Madhusudanpur Colliery. It is further argued that all four workmen have been granted promotion to post of Mechanical Fitter, Category – IV according to their seniority and on the basis of available vacancy. It is argued that there is no merit in the case and the Industrial Dispute is liable to be dismissed.

9. Having considered the argument advanced on behalf of the management and union and the facts and circumstances of this case, I find that the workmen who were appointed in the service of the company as Trade Apprentice under the

Apprentices Act, 1961 received training under NCVT from 23.02.1991 to 31.03.1994, have claimed placement in the post of Mechanical Fitter in Excavation Category - D / Category – IV on the strength of having undergone training for three years. It transpires from the evidence of management witness that all four employees were regularized as Fitter Helper in Category – II by Office Order No. MSP/P&IR/95/5/6/437 dated 27.05.1995. For the purpose of promotion to the post of Mechanical Fitter in Excavation Category - D / Category – IV the eligibility criteria is that a person should have three years' experience as Helper in Category – II. The concerned workmen were on training till 1994 and were regularized to the post Fitter Helper, Category – II only on 27.05.1995. Therefore, they did not fulfill the criteria for being considered for their promotion and placement in the post of Mechanical Fitter in Category – IV just with the completion of three years' training. The first and foremost consideration for promotion is arising of vacancy in a particular post. The DPC is vested with the authority to consider the seniority of existing employees and thereafter proposed promotions for the employees on roll of the company. In the instant case Mr. Rakesh Kumar was unable to produce any rule or circular by virtue of which the four employees are said to be entitled to their placement in the post of Mechanical Fitter in Category – IV, soon after completion of their three years' training. It is gathered from the argument that three of the workmen have already been superannuated and all four of them have been promoted / placed in the Mechanical Fitter in Category – IV on different dates, depending on their seniority in service. Under such facts and circumstances, I hold that the contention of the union that the four workmen were not granted their due promotion on completion of their three years' training, does not have any merit and they are not entitled to any relief in this case. The Industrial Dispute raised on behalf of the workmen is dismissed on contest.

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Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. The concerned workmen are not entitled to any relief in this case. 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.

Sd/-

(ANANDA KUMAR MUKHERJEE)

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