

**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 2011

PARTIES: Dipak Karmakar
Vs.
Management of Bejdih Colliery of M/s. ECL

REPRESENTATIVES:

For the Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress

For the Management of ECL: Mr. P.K. Das, Advocate

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 23.05.2025

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A W A R D

On failure of conciliation proceeding, the Government of India through the Ministry of Labour, 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), vide its Order **No. L-22012/75/2011-IR(CM-II)** dated 11.07.2011 has been pleased to refer the following dispute between the employer, that is the Management of Bejdih Colliery of Eastern Coalfields Limited (hereinafter referred as ECL) and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Bejdih Colliery of M/s. ECL in discontinuation of HRA to Shri Dipak Karmakar, Mech. Fitter is legal and justified? To what relief the workman concerned is entitled to? ”

1. On receiving Order **No. L-22012/75/2011-IR(CM-II)** dated 11.07.2011 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 13 of 2011** was registered on 25.07.2011/09.12.2011 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. The workman was initially represented by Chief Organising Secretary, Koyala Mazdoor Congress and written statement was filed on 28.03.2012. Management contested the case by filing their written statement on 02.11.2016.

In a nutshell, the fact of the case disclosed by the union is that Dipak Karmakar, Mechanical Fitter is a permanent employee of ECL and is posted at Bejdih Colliery. Qtr. No. NHS/36/359 was initially allotted to Dipak Karmakar. After he surrendered the quarters, the same was allotted to one Mustafa Mia, Haulage Khalasi under Office Order No. Bej/C-6/23/07/188 dated 15.02.2007. The workman having vacated the quarters is entitled to House Rent Allowance but the management of ECL has not paid him any House Rent Allowance. In the beginning, the management paid Rs. 100/- as House Rent Allowance for three months and thereafter stopped paying House Rent Allowance in an illegal manner. It is stated that management has issued an internal circular bearing number ECL/CMD/C-6/WBE-1/498 dated 28.06.2006 which is extraneous to the decision of JBCCI, reflected in the National Coal Wages Agreement (NCWA) between the union and the management. It is contended that there is no settlement between the union and management regarding stoppage of House Rent Allowance to the employees on vacating their quarters. It is prayed that the management of Bejdih Colliery under Sodepur Area may be directed to make payment of 10% of basic as House Rent Allowance to the employees w.e.f. March 2007 as he is not occupying any quarters of the company since 15.02.2007.

3. The management denying the claim of the workman has contended in the written statement that a notification relating to payment of House Rent Allowance to non-executive @ 10% of basic pay has been circulated by letter No. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006 with certain guidelines which clearly laid down that in the event of vacation of standard quarters by the employees concerned, they will not be entitled to House Rent Allowance. It is further stated that such circular was issued with the due consideration of the provisions of NCWA-VII and for proper utilization of a large number of company's quarters and further to discourage vacating of allotted quarters by the employees

for getting 10% House Rent Allowance. It is inter alia contended that no employee of BMP Group has been granted 10% House Rent Allowance after vacating their standard quarter. Management further stated that due to clerical mistake, Rs. 100/- per month was paid to Dipak Karmakar which has been subsequently recovered. Management accordingly prayed for dismissing the Industrial Dispute raised on behalf of the workman.

4. The point for consideration before this Tribunal is whether discontinuation of House Rent Allowance to Dipak Karmakar is justified and whether the workman is entitled to any relief.

5. In support of his case, Dipak Karmakar is examined as Workman Witness-1 (WW-1). He has filed an affidavit-in-chief reiterating his case in the pleading. The workman has been cross-examined. In course of his evidence, the workman has produced the following documents:

- (i) A copy of allotment letter of quarters in favour of one Mustafa Mia is produced as Exhibit W-1.
- (ii) A copy of Memorandum of Settlement dated 05.07.2016 relating to terms of payment of House Rent Allowance to another employee namely Purnendu Sarkar has been produced as Exhibit W-2.
- (iii) Copies of five pay slips from April, 2007 to December, 2008 whereby the workman received Rs. 100/- per month as House Rent Allowance are collectively produced as Exhibit W-3.

6. Management in support of the case has examined Mr. Rahul Panwar as Management Witness-1 (MW-1). The witness filed his affidavit-in-chief and faced cross-examination by the union representative. In course of his evidence, management witness produced a copy of circular No. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006 issued by Dy. Chief Personnel Manager (Estd./MP) as

Exhibit M-1. In his cross-examination, the witness deposed that a provision has been made for payment of House Rent Allowance in the NCWA. He also admitted that the circular dated 28.06.2006 is a unilateral decision of employer company. It transpires from his cross-examination that the circular is not an outcome of a collective decision or an agreement. According to the witness, the said circular is applicable only to the employees of Kulti and Jamuria municipalities. It transpires from his cross-examination that this circular was issued to debar non-executive employees of three areas namely Sodepur, Sripur and Satgram from getting House Rent Allowance and the circular is not applicable to entire workforce of ECL. In his further cross-examination, the witness stated that there is no mention in NCWA VI that a workman will be disentitled to House Rent Allowance even on vacating the accommodation of the company.

7. Mr. Rakesh Kumar, union representative arguing the case on behalf of the workman submitted that Dipak Karmakar, who had been allotted quarter no. NHS-36/339 at Ranisayer surrendered the same and the quarter was reallocated to Mustafa Mia on 15.02.2007. It is argued that the circular dated 28.06.2006 relating to the payment of House Rent Allowance to non-executive employees @ 10% of basic has been issued by Dy. Chief Personnel Manager (Estd./MP) only with the object of depriving payment of House Rent Allowance to non-executives by setting certain terms and conditions whereupon they would be disentitled to House Rent Allowance. It is pointed out in clause (1) of the circular it is stated the employees who are living in the company's accommodation shall not be granted /sanctioned House Rent Allowance even in the event of vacating of company's accommodation. Mr. Kumar argued that this condition is arbitrary in nature and it is contrary to the provisions of NCWA. The union representative asserted that the concerned workman is entitled to receive House Rent Allowance from March 2007.

8. Mr. P.K. Das, learned advocate for the management of ECL argued that the non-executive employees of ECL were vacating their official accommodation only for the purpose of claiming large amount of House Rent Allowance in the urban areas. In order to stop the trend of surrendering the company quarters for House Rent Allowance, after due deliberation, the management issued circular No. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006. On the strength of such circular, the concerned workman is not entitled to any House Rent Allowance as he vacated the quarters after the same was allotted to him.

9. I have considered the arguments advanced on behalf of union and management in the light of pleadings of the parties and evidence on record. Dipak Karmakar, the aggrieved workman is admittedly an employee of ECL at Bejdih Colliery. Quarter No. NHS-36/339 was allotted to him which was subsequently vacated and same quarter was allotted to on Mustafa Mia on 15.02.2007. A copy of the allotment order has been produced as Exhibit W-1. Clause 8.1.3 of NCWA-VII provides that House Rent Allowance shall be paid to the employees in urban areas as per Government notification/clarification on the subject as followed in the previous agreement and other related issues would be discussed and decided in the standardization committee. The provisions clearly disclose that payment of House Rent Allowance to an employee of the company is his basic right. He is entitled to exercise his right if the management in any manner withholds the payment of House Rent Allowance without arriving at any understanding or agreement affecting such right. Learned advocate for the management denying the right to house rent allowance argued that on strength of Circular No. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006, the workman is not entitled to receive House Rent Allowance if the employee who was living in the company's accommodation vacates the quarters. In this context, it may be pointed out that rights and liabilities of employees working under ECL flows from the decision

taken in the Joint Bipartite agreement between the representative of management and the union. In the clause 8.1.1 of chapter VIII in NCWA, it is provided that HRA would be paid to the employees who have not been provided with any residential accommodation. Clause 8.1.3 lays down that House Rent Allowance to the employees in urban areas shall be paid as per Government notification/clarification as provided in earlier agreements and shall be applicable from 01.01.2009 on revised basic. In the present case, the workman after allotment of quarters in his favour surrendered the same. The circular issued by the management on 28.06.2006 amounts to recession and alteration of the terms of the previous agreement for the Coal Industry (JBCCI), which is contrary to the terms laid down in such bipartite agreement. The decision taken by the management and reflected in their circular is a unilateral decision and cannot be said to have any binding force on the employees unless such terms are introduced as a result of a collective decision of union representative as well as management.

10. It would be pertinent to consider Exhibit W-2 which is a Memorandum of Settlement in Form 'H' dated 05.07.2016 wherein Purnendu Sarkar, an employee of Bejdih Colliery was extended the benefits of House Rent Allowance as per company's rules applicable to other employees of ECL Headquarters. This settlement has taken place after issuance of circular dated 28.06.2006 and the benefit of House Rent Allowance has been extended to Purnendu Sarkar. Dipak Karmakar who was posted at Bejdih Colliery at the relevant time is therefore entitled to House Rent Allowance according to the company's rule and it may be clarified that the circular issued by the company unilaterally will not have any adverse effect on his right for House Rent Allowance from March 2007 till his superannuation. Management of ECL is directed to assess the amount of House Rent Allowance payable to the aggrieved employee within a period of three months

from the communication of the Award. The Industrial Dispute is accordingly allowed on contest in favour of the workman.

Hence,

ORDERED

The Industrial Dispute is allowed on contest in favour of Dipak Karmakar, the aggrieved workman. The management of Bejdih Colliery, Sodepur Area, ECL is directed to pay House Rent Allowance to the workman from 01.03.2007 till his superannuation. The arrears of House Rent Allowance shall be paid within three months from communication of the Award. Let an Award be drawn up on the basis 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.