

**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. 14 OF 2019

PARTIES: Prakash Chandra Panda

Vs

Management of Patmohona Colliery, Sodepur Area, 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: 18/07/2025

:- 2 :-

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-22012/4/2019-IR(CM-II)** dated 13/02/2019 has been pleased to refer the following dispute between the employer, that is the Management of Patmohona Colliery, Sodepur 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 Patmohana Colliery under Sodepur Area in not considering promotion in respect of Sri Prakash Chandra Panda from Trammer Cat-III to Looseman Cat-IV w.e.f. 01-11-2011 along with consequential benefits is just and legal? If not, to what relief the workman is entitled to?”

1. On receiving Order **No. L-22012/4/2019-IR(CM-II)** dated **13/02/2019** from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 14 of 2019** was registered on 06/03/2019 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. Koyala Mazdoor Congress filed written statement on behalf of the aggrieved

Contd. Page - 3

:- 3 :-

workman on 11/11/2022. Management contested the Industrial Dispute by filing their written statement on 01/02/2023. Fact of the union's case in brief is that Prakash Chandra Panda was posted at Patmohona Colliery and was earlier regularized from PR UG Loader Group V-A to Timber Mazdoor, Cat-II on 02/05/2003 as a 'Time Rated' worker. During fixation of his pay in Time Rated category he was not granted any pay protection due to which he faced huge monetary loss to the extent of Rs. 69.83 per day. He was again regularized as Underground Trammer, Cat-III in the year 2006. In the year 2011, Prakash Chandra Panda was regularized to the post of Looseman, Cat-IV from the post of Underground Trammer, Cat-III instead of granting promotional benefit. According to the union, the stand taken by the management is totally wrong and illegal as the aggrieved workman has only been regularized from Cat-III to Cat-IV. He is entitled to get promotional benefit with one increment in his basic pay. Union prayed for providing direction upon the management of Patmohona Colliery, Sodepur Area to consider the case of Prakash Chandra Panda and grant him fitment of basic wages with pay protection from UG Loader to Timber Mazdoor and also give promotional benefit from UG Trammer Cat-III to Looseman, Cat-IV.

3. Management of ECL in written statement has claimed that the dispute raised on behalf of Prakash Chandra Panda is misconceived and the Industrial Dispute referred by the appropriate government is not maintainable. It is the case of the management that the workman was converted from 'Piece Rated' UG Loader to the post of Timber Mazdoor in the year 2003 and was paid his wages due to him as per his entitlement. Union raised the Industrial Dispute in the year 2018, after fifteen years from the date of conversion and during this period four wage agreements of Coal India Limited were implemented. According to the management, workman is not entitled to get promotional benefit from Trammer Cat-III to Looseman, Cat-IV as both designations i.e. Trammer, Cat-III and

:- 4 :-

Looseman, Cat-IV are in the same cadre and Sri Panda was regularized in the same cadre therefore, claim of union for giving benefits of promotion from Timber Mazdoor to Trammer in the year 2006 is not maintainable. It is asserted that management is justified in not giving one incremental benefit of promotion from Trammer to Looseman from the year 2011 and the concerned workman is not entitled to any relief.

4. Prakash Chandra Panda has been examined as Workman Witness-I. In his affidavit-in-chief the workman stated that he was regularized from UG Trammer, Cat-III to Looseman, Cat-IV in the year 2011 without granting him promotional benefits. It is further stated that regularization from Cat-III to Cat-IV is wrong and he is entitled to get promotional benefit by getting one incremental benefit with protection of basic pay. Documents produced by him have been admitted in evidence as follows:

- (i) copy of office order dated 02/05/2003 by which the workman was regularized as Timber Mazdoor is marked as Exhibit W-1.
- (ii) copies of pay statement for May, 2003 and June, 2003 are collectively marked as Exhibit W-2.
- (iii) copies of pay slips issued in his favour showing fixation of pay in July, 2006 and pay received by him in August, 2006 are collectively marked as Exhibit W-3.
- (iv) copies of pay slips showing that no promotional benefit was given on regularization to the post of Looseman, Catgory-IV is marked as Exhibit W-4.
- (v) copies of application and reminder submitted on 18/02/2012 and 04/08/2012 respectively to the Senior Manager, Patmohona Colliery for granting him promotional increment are marked as Exhibit W-5 and W-6 respectively.

:- 5 :-

During cross-examination witness deposed that he did not have any fixed pay at the time he worked as a UG Loader, Group V-A. He denied the suggestion that he is not entitled to any protection at the time of pay fixation during regularization to the post of Timber Mazdoor, Category-II. He also denied that there is no provision for payment of any promotional or incremental benefit on regularization of an employee from UG Trammer, Category-III to Looseman, Category-IV.

5. Mayuri Kar Verma, Asst. Manager (P) at Patmohona Colliery, Sodepur Area, ECL has deposed as Management Witness-I. In her examination-in-chief the witness stated that union's claim that Sri Panda is entitled to get promotional benefit on his regularization from Trammer, Cat-III to Looseman, Cat-IV is wrong as both designations are in the same cadre. According to the MW-I, action of the management is proper and justified in not granting incremental benefit in the same cadre. In course of examination, witness produced the following documents:-

- (i) Copy of office order dated 25/07/2006 whereby some employees of Patmohona Colliery were regularized to different posts and categories is marked as Exhibit M-1
- (ii) Copy of office order dated 23/12/2011 by which basic wage of Prakash Chandra Panda, UG Trammer was fixed on his regularization from Trammer to Looseman w.e.f. 01/11/2011 is marked as Exhibits M-2.

In cross-examination, witness deposed that Prakash Chandra Panda was not entitled to promotional benefits on his joining as Looseman from Trammer, Cat-III. Witness stated that in the present case there was no Notification for promotion. General Rule is that a person is converted to different post, his Service Linked Promotion is counted from the converted post and not from the original post. Witness denied that management committed any illegality by not providing promotional benefits to the workman on his

:- 6 :-

posting as Looseman, Cat-IV.

6. On a perusal of schedule, it appears that the dispute which needs to be adjudicated is whether posting of Prakash Chandra Panda from Trammer, Cat-III to Looseman, Cat-IV w.e.f. 01/11/2011 should be treated as promotion or regularization. It is apposite to note that in the present reference appropriate government has not raised the issue of regularization of Prakash Chandra Panda from PR UG Loader to the post of Timber Mazdoor, Cat-II in Time Rated category. Therefore, question which has been raised in Paragraph one of the union's written statement, needs no consideration at this stage.

7. Mr. Rakesh Kumar, union representative advancing his argument for the workman submitted that by order dated 23/12/2011 (Exhibit M-2) it was provided that UG Trammers were posted as Looseman at Patmohona Colliery w.e.f. 01/11/2011 as per recommendation of the Departmental Promotion Committee which took into consideration the Manpower Budget and vacancy arising in these posts. Mr. Kumar referred to guiding principle for promotion of employees provided in Implementation Instruction No. 34 under NCWA-VI. Taking me through the contents of Annexure-XXVII-7 of Implementation Instruction No. 34, Mr. Kumar argued that promotion channel for Trammings personnels has been laid down and it is clearly provided that for posting as Trammings Personnels in Cat-III mode of selection was followed and for the purpose of posting to Trammings Personnels Cat-IV, eligibility criteria was that the person should serve for four years in Cat-III and promotion would be held as per recommendation of Departmental Promotion Committee. Mr. Kumar ascertained that Prakash Chandra Panda, the aggrieved workman has not been granted promotional benefits of one increment in his pay @ three percent of basic pay. It is vehemently argued that a person moving upwards from Cat-III to Cat-IV on recommendation being made by Departmental

:- 7 :-

Promotion Committee on considering Manpower Budget and vacancy arising in the post, posting in Cat-IV should be treated as promotion and not regularization.

8. Mr. P. K. Das, learned advocate in reply argued that Looseman, Cat-IV is to be considered in Trammer category and for posting from Category-III to Cat-IV in the same cadre only amounts to regularization and not promotion. It is urged that the workman remained in the same cadre and he is not entitled to promotional benefits.

9. Having considered rival contentions and arguments advanced, it appears to me that Prakash Chandra Panda who was posted as Trammer, Cat-III at Patmohona Colliery, Sodepur Area was posted as Looseman, Cat-IV. From the appended notes in Annexure-XXVII-7 it may be gathered that persons posted as Pointsman, Banksman, clipman, Coupler/Signalman, Setrider, Setman and Looseman who are in Cat-IV would grow as per the cadre scheme beyond category-IV. It implies that persons designated under various posts mentioned above are included in the group of Trammings personnels. Chart provided in Implementation Instruction No. 34 reveals that mode of selection or promotion from Trammer, Cat-III to Trammer, Cat-IV would be on recommendation of Departmental Promotion Committee and the same provides for promotional channel for Trammings personnels. It can therefore be assumed that a person moving upwards in channel from Trammings personnels, Cat-III to Trammings Personnels, Cat-IV/Looseman, Cat-IV is a promotion effected on the recommendation of Departmental Promotion Committee and such posting to a higher category cannot be termed as regularization. In my considered opinion the concerned workman appearing against serial No. ten (10) of Exhibit M-1 has not been provided with any increment in his basic pay while fixing his pay, which usually accompanies a promotion. Since posting to a higher category is a promotion of an employee, he is entitled to receive promotional benefits by way of grant of increment @

:- 8 :-

three percent of basic pay. Therefore, the aggrieved workman is entitled to a promotional benefit of three percent of basic pay w.e.f. 01/11/2011. Management of the company is directed to pay arrears of incremental benefits which accrued to Prakash Chandra Panda from 01/11/2011. I further hold that the management of ECL acted in an arbitrary and illegal manner by not granting promotional benefits to the incumbent and by fixing pay without change of any basic by treating such change of designation as regularization instead of promotion.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest. Management of Patmohona Colliery, Sodepur Area, ECL is directed to fix the pay of Prakash Chandra Panda by granting one additional increment @ three percent in basic w.e.f. 01/11/2011 by treating his posting to the post of Looseman, Cat-IV as promotion instead of regularization. Arrears of the incremental benefit be paid within three months from the date of communication of order. Let an Award be drawn up in the light of my above discussion. Let copies of Award be communicated to the Ministry for information and Notification.

Sd/-

(Ananda Kumar Mukherjee)

Presiding Officer

CGIT-cum-LC, Asansol