

**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. 141 OF 1999**

**PARTIES:** Fuleshwar Khaira  
(son-in-law of Late Jago Khaira)  
**Vs.**  
Management of Haripur Colliery, ECL

**REPRESENTATIVES:**

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

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 30.01.2025

**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-22012/179/99/IR(CM-II)** dated 30/31.08.1999 has been pleased to refer the scheduled dispute between the employer, that is the Management of Haripur Colliery under Kenda Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**THE SCHEDULE**

*“ Whether the action of the management of Haripur Colliery under Kenda Area of M/s. ECL in not providing employment to son-in-law of late Sh. Jago Khaira is justified? If not, to what relief the workman is entitled? ”*

1. On receiving Order **No. L-22012/179/99/IR(CM-II)** dated 30/31.08.1999 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 14.09.1999 / 05.10.2001 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. Mr. Rakesh Kumar as the General Secretary of Koyala Mazdoor Congress filed written statement on 09.01.2002 on behalf of Fuleshwar Khaira, the dependant son-in-law of Jago Khaira. Management of Eastern Coalfields Limited (hereinafter referred to as ECL) filed their written statement on 13.10.2004. The fact of the case as disclosed in the written statement of the union is that Jago

Khaira was a permanent employee of ECL and was posted as a Dresser at Haripur Colliery. He applied for voluntary retirement under Clause 9.4.3 of National Coal Wage Agreement (hereinafter referred to as NCWA) – III. The Apex Medical Board found him unfit for job and terminated from service w.e.f. 20.11.1989. Jago Khaira applied for providing employment to Fuleshwar Khaira, his son-in-law. Management examined the proposal. The Screening Committee of the management at the Area Level held necessary enquiry and police verification was also done by the management for ascertaining the relationship of Fuleshwar Khaira with Jago Khaira. The file was then forwarded to ECL Headquarters but the management did not consider the proposal for employment of the dependant son-in-law for which the union has raised the Industrial Dispute praying for employment to the dependant son-in-law of the terminated employee as per provision of NCWA.

3. Management of ECL in their written statement stated that Jago Khaira applied for voluntary retirement on medical ground under Clause 9.4.3 (ii) of NCWA-IV under the debility scheme and the workman was declared medically unfit on 25.10.1989 by a duly constituted Medical Board. The service of the workman was terminated w.e.f. 20.11.1989. It is the case of the management that the proposal for employment of Fuleshwar Khaira was examined by the Area Screening Committee on 09.02.1990 and after observing necessary formalities and after Initial Medical Examination (hereinafter referred to as IME) of Fuleshwar Khaira, the proposal for employment was referred to the Competent Authority at ECL Headquarters. It is contended that after verification it was found that the relationship of Fuleshwar Khaira with Jago Khaira was not established and the proposal for employment was not considered by the management as he failed to establish that he was a dependant son-in-law of Jago Khaira as required under the mandatory provision of Clause 9.4.3 (ii) of NCWA-IV. It is contended that Fuleshwar Khaira is not entitled to get any relief in this case and the Industrial Dispute is liable to be dismissed.

4. The moot point for consideration is whether Fuleshwar Khaira is the dependant son-in-law of Jago Khaira, the ex-employee of ECL and whether he is entitled to get an employment as a dependant of Jago Khaira.

5. Fuleshwar Khaira has filed an affidavit-in-chief wherein he stated that Jago Khaira a permanent employee of Haripur Colliery was his father-in-law, who applied for voluntary retirement on medical ground under the provision of Clause 9.4.3 of NCWA-III. He was terminated from service on 20.11.1989 and Jago Khaira nominated Fuleshwar Khaira as his son-in-law for providing employment to him. After screening at the Colliery level, the proposal for employment of Fuleshwar Khaira was forwarded to the Area level. Management at the area level verified the relationship between Fuleshwar Khaira and Jago Khaira through police verification and forwarded the File to the ECL Headquarters. Jago Khaira died on 22.09.1992 and the wife of Jago Khaira predeceased him on 07.03.1992. It is further stated in the affidavit-in-chief that Jago Khaira left behind him three daughters and no son. Fuleshwar Khaira lived with his father-in-law and mother-in-law until their death and was dependent upon them. The retiral dues like Gratuity and Coal Mines Provident Fund (hereinafter referred to as CMPF) of his father-in-law have not been paid till date and the dependant son-in-law is in a state of starvation.

6. In his cross-examination the Workman Witness stated that he had no document regarding his marriage. Zama Devi is the name of his wife. The name of the daughters of Jago Khaira are recorded in the Service Record. Witness further deposed that he used to live with Jago Khaira at Haripur Colliery. It further transpires from his cross-examination that his name was not recorded in the Voters' List of Haripur, on the other hand his name appeared in the Voters' List of Village Banjama, Jamui. He further deposed that he had no Ration Card at Haripur Colliery. It is suggested on behalf of the management that he did not

reside with Jago Khaira at Haripur as his dependant and denied that he was the dependant son-in-law of Jago Khaira. Witness stated that he has not submit any application for payment of Gratuity and CMPF.

7. Management has examined Md. Zeya, Dy. Manager (Personnel), Haripur Group of Mines under Kenda Area as Management Witness No. 1. In his affidavit-in-chief the witness stated that Fuleshwar Khaira applied for his employment but his relationship with Jago Khaira was not established and Fuleshwar Khaira was not the son-in-law of Jago Khaira. He further deposed that the relationship between the petitioner and Jago Khaira could not be proved for which the application for employment was rejected. The witness produced a copy of letter of termination of Jago Khaira dated 19/21.11.1989 under which the workman was terminated from service on the ground of physical debility, as Exhibit M-1. No other document has been produced on behalf of the management and the witness stated that the employment file of Jago Khaira could not be traced out.

8. In cross-examination witness the management stated that he had no document to show that any screening or medical examination of dependant of workman was carried out. He was also unable to produce any document in support of his statement that relation of Fuleshwar Khaira with Jago Khaira was not established.

9. Mr. Rakesh Kumar, Union representative argued that Fuleshwar Khaira being the dependant son-in-law of the ex-employee is entitled to get employment as per terms of Clause 9.4.3 of NCWA-IV.

10. Mr. P. K. Goswami, learned advocate for the management refuting the claim of the union argued that Jago Khaira and his wife have expired in the year 1992. Fuleshwar Khaira in his evidence has not been able to substantiate his claim that

he is the dependant son-in-law of Jago Khaira which is necessary for the purpose of providing employment as per provision of NCWA. Drawing my attention to the cross-examination of Fuleshwar Khaira, learned advocate argued that though the witness claimed to reside with Jago Khaira and his wife at Haripur Colliery his name was admittedly not recorded in the Voters' List of Haripur Colliery on the other hand he is a voter at his native place at Village Banjama, Jamui. It is argued that a person who is residing at a place for a long time would also have a Ration Card in the locality but Fuleshwar Khaira did not have any Ration Card issued at Haripur Collier. Therefore, he did not fulfill the basic requirement of being son-in-law of retired employee nor did he reside with them as dependant. It is contended that the claim of the union for providing employment to Fuleshwar Khaira cannot succeed and the Industrial Dispute is liable to be dismissed.

11. Having considered the argument advanced on behalf of the union and management and on assessing the evidence on record, it appears to me that Fuleshwar Khaira could not provide any document which would prima facie establish that he is the son-in-law of Jago Khaira. In his affidavit-in-chief the witness has stated his residential address as Vill: Banjama, PO: Sahia, PS: Jhajha, Dist: Jamui, Bihar. Documents like Ration Card and Voters' List of Haripur Colliery does not bear the name of Fuleshwar Khaira. The evidence on record goes to establish that the person claiming employment as a dependant son-in-law was actually not residing with the family of Jago Khaira. The witness stated that he married Zama Devi, the eldest daughter of Jago Khaira, whose name appeared in the Service Record of the company. No document has been produced by the union nor by the management from where it could be derived that Zama Devi, the wife of Fuleshwar Khaira was the daughter of Jago Khaira. In this case Zama Devi filed, an affidavit-in-chief before the Tribunal on 29.04.2015 but she did not turn up to face cross-examination by the management. In the event the witness does not turn up to face cross-examination,

the statements made in the affidavit-in-chief cannot be relied upon as sacrosanct. I am therefore unable to place reliance upon the affidavit of Zama Devi that her marriage was solemnized with Fuleshwar Khaira during the lifetime of Jago Khaira or Fuleshwar Khaira has residing as "Gharjamai". In the present case the burden of proof lies upon the union representing the interest of the workman. The union ought to have adduce evidence to prove that Fuleshwar Khaira was married to the dependant daughter of Jago Khaira and at the time of termination of the workman on medical ground the dependant son-in-law was residing with the employee and almost wholly dependent on the earing of the employee. None of the family members of Jago Khaira has been examined in the case to prove the relationship of the claimant with the ex-employee. Under such circumstances I am constrained to hold that Fuleshwar Khaira is not entitled to get any employment as dependant son-in-law of Jago Khaira. It appears from the pleadings as well as evidence of Workman Witness No. 1 that the legal dues of Jago Khaira has not been disbursed to his legal heirs. The management of the company is directed to ascertain the legal heirs of Jago Khaira and disburse the legal dues to them on verifying their identity.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on contest. 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.