

**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. 157 OF 1999

PARTIES: Bhaskar Swain and Seven Others.
Vs.
Management of Bahula 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: 27.03.2025

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-22012/122/99/IR(CM-II)** dated 31.08.1999 / 08.09.1999 has been pleased to refer the following dispute between the employer, that is the Management of Bahula Colliery under Kenda Area of Mines of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Kenda Area of M/s. ECL in not fixing the pay of Sh. Bhaskar Swain 7 others (list enclosed) properly at the time of conversion from piece rate to time rate is legal and justified? if not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/122/99/IR(CM-II)** dated 31.08.1999 / 08.09.1999 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 23.09.1999 / 09.10.2001 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. Koyala Mazdoor Congress, the representing union filed written statement for the aggrieved workmen on 13.12.2001. Mr. P. K. Das, learned advocate for the management of Bahula Colliery under Kenda Area of Eastern Coalfields Limited (hereinafter referred to as ECL) filed written statement on 03.04.2002. In brief, the fact of the case disclosed in the written statement of the union is that Bhaskar

Swain and seven others workmen namely, (1) Munilal Majhi, (2) Nilmoni Dora, (3) Kabi Goura, (4) Ranka Mahankura, (5) Purushottam Goura, (6) Sakhichand Majhi, and (7) Jairam Bhuia, were initially posted at Mugma Area of ECL as Piece Rated workers. They were declared surplus workers at Mugma Area and the management of ECL decided to transfer them along with other workers to different areas of ECL. On the basis of Transfer Order bearing No. ECL/CMD/C-6B/TRF/2471 dated 19.12.1992 the eight workmen were converted from Piece Rate category to Time Rate category and were transferred to Kenda Area. On their transfer they reported to Kenda Area along with others and the management posted them at West Kenda Open Cast Project and Chora Colliery. After conversion to Time Rate category management of ECL started paying initial Basic wages of Time Rate Category – I instead of protecting their wages they were receiving as Piece Rate workers, Group VA along with Special Piece Rate Allowance (hereinafter referred to as SPRA) at Mugma Area. The prevailing rules provide that on conversion to Time Rate category the workman is entitled to protection of his Piece Rate wages along with SPRA, which is a kind of increment paid to Piece Rated workers annually. On several occasions the workmen made representation before the management for protection of their pay and payment of arrears but the management paid no heed. The union of Koyala Mazdoor Congress raised the issue before the management of ECL and on the direction of ECL Headquarters, the Personnel Manager (In-charge) Kenda Area wrote to Personnel Manager (In-charge), Mugma Area to inform whether the workmen were given written undertaking about accepting the initial wages of Category – I. Confirmation was received from Mugma Area that no such undertaking was given by the workmen at the time of transfer to Kenda Area. Management of Kenda Area initiated the proposal for granting wage protection but the aggrieved workmen were not informed about the final outcome. The workmen in their written statement have prayed for protection of their wages from the date of their conversion from Piece Rate category to Time Rate category i.e., from 19.12.1992 and for payment of arrear amount arising out of fixation of wages after conversion.

3. Management contested the case by filing written statement. According to the management the concerned workmen were transferred from Mugma Area to Kenda Area of ECL in the year 1992 on conversion from Piece Rate category to Time Rate category as per the order of ECL Headquarters. They were posted at different Collieries under Kenda Area in different categories and were paid the initial Basic pay of Time Rate category workers. Further case of the management is that all the workmen accepted the terms and conditions of the management voluntarily and joined their duties without raising any objection or dispute. All the workmen were regularized to the post in which they were engaged and they accepted the pay fixation made in their favour. Management contended that there is no scope of promotion in the job of a Under Ground Loader or in Piece Rate category due to which they preferred conversion to Time Rate category so that they could get the benefit of promotion. It is inter-alia contended that workmen have raised the dispute after lapse of five years and their demand for pay protection is not sustainable. It is urged that the Industrial Dispute referred by the Government is not maintainable and the management is totally justified in not fixing the pay of Bhaskar Swain and seven others and they are not entitled to any relief as prayed for.

4. The short question for consideration is whether the workmen who were converted from Piece Rate category to Time Rate category are entitled to protection of pay at the time of Fixation of pay and what are the reliefs the workmen are entitled to?

5. During pendency of the case four (4) workmen namely, Munilal Majhi, Ranka Mahankura, Purushottam Gouda, and Sakhichand Majhi have expired. Dhobuni Mahankura, Tarini Gouda, Jyotsna Gouda, Simanchal Gouda, and Chhabhi Rani Gouda, the legal heirs of Ranka Mahankura and Radha Gouda, Rajendra Gouda, Tukuna Gouda, Jagat Kumar Gouda, Kumari Mahankura, and

Lakshmi Mahankuda the legal heirs of Purushottam Goura were substituted by order dated 25.09.2023. No substitution petitions have been filed in respect of Munilal Majhi and Sakhichand Majhi.

6. In order to prove their case Bhaskar Swain has been examined as Workman Witness No. 1. He filed an affidavit-in-chief wherein he stated that he along with seven other workmen were transferred to Kenda Area vide order No. ECL/CMD/C-6B/TRF/2471 dated 19.12.1992, on conversion from Piece Rate category to Time Rate category. He stated that the management of Kenda Area was paying them the initial wages of Time Rate Category – I instead of protecting their wages of Piece Rate Group VA along with SPRA which they were receiving at their previous place of posting. After representation made before the management of Kenda Area proposal for granting wage protection was initiated but the management did not communicate the outcome. The witness stated that management should fix their pay according to the prevailing practice, by extending pay protection and also pay them arrears of wages. In course of his examination-in-chief the workman witness produced the following documents :

- (i) Copy of the Application dated 20.08.1996 submitted by the workmen before the Agent of Chora Colliery for re-fixation of pay is marked as Exhibit W-1.
- (ii) Copy of the Application of Munilal Majhi before the Agent of Chora Colliery for re-fixation of pay is marked as Exhibit W-2.
- (iii) Copy of the letter dated 25.09.1996 / 08.10.1996 issued by the Senior Personnel Officer, Chora Colliery to the Personnel Manager (In-charge), Kenda Area, seeking instruction for fixation of pay in respect of six workmen, as Exhibit W-3.
- (iv) Copy of the letter dated 14/16.12.1996 of the Personnel Manager (IC), Kenda Area addressed to Personnel Manager (IC) Mugma Area, as Exhibit W-4.

- (v) Copy of the letter dated 06/07.02.1998 of the Deputy Chief Personnel Manager, Kajora Area in connection with wage protection of eight workmen, as Exhibit W-5.
- (vi) Copy of communication dated 03/05.08.2000 of the Personnel Manager, New Kenda, as Exhibit W-6.
- (vii) Copy of Office Order dated 25.11.2014 regarding protection of wages, as Exhibit W-7.

7. In cross-examination the witness deposed that out of eight applicants only four are alive and four of them have died. It is also stated that the deceased persons have left with their legal heirs. The witness admitted that the Industrial Dispute has been raised after eight to ten years after their transfer.

8. Management examined Mr. Guru Charan Nikhandia as Management Witness No. 1 and filed affidavit-in-chief. In course of his evidence management witness admitted the letter bearing No. KA/PM/C-6/24/317 dated 26.04.2003 issued by the Dy. Chief Personnel Manager, Kajora Area, wherein he has referred to a letter of ELC Headquarters bearing No. 10998 dated 23.04.2003 of Director (Personnel), ECL, Sanctoria, relating fixation of pay on conversion from Piece Rate category to Time Rate as Exhibit W-8. In course of evidence management witness has produced a copy of order bearing No. Pers/KND/26/1079 dated 03/05.08.2000 which has been marked as Exhibit M-1.

9. Mr. Guru Charan Nikhandia in his cross-examination admitted that during pendency of the case there has been re-fixation of wages of the concerned workmen on the basis of letter No. ECL/CMD/C-6/WBE-23/1150 dated 27.07.2000 of the Personnel Manager (E&IR), ECL whereby the Competent Authority accorded approval for re-fixation of basic wages of Time Rate workers on their conversion by taking into account their respective Group Wages and SPRA which they were getting prior to their diversion / conversion.

10. Mr. Rakesh Kumar, Union representative argued that the workmen were transferred from Mugma Area to Kenda Area of ECL in the year 1992 after their conversion from Piece Rate category to Time Rate category. The workmen were not paid their legitimate dues and fixation of pay at their place of transfer was made in illegal manner by not granting pay protection to the workmen and not paying the amount of SPRA which they earned as annual increment while they were working as Piece Rated workers. Mr. Kumar referring to a letter dated 25.09.1996 / 08.10.1996 (Exhibit W-3) argued that the Senior Personnel Officer, Chora Colliery informed the Personnel Manager (In-charge), Kenda Area that on transfer workmen have applied for their pay protection on conversion to Time Rate category and it was further informed that only initial Basic pay of Category-I was being paid without any pay protection. Referring to Exhibit W-6/M-1, it is submitted that it would appear from the letter issued by the Personnel Manager, New Kenda Area that the Competent Authority had approved re-fixation of the Basic pay of Time Rated workers by taking into account their respective Group Wages and SPRA which they were getting prior to conversion. It is argued that management has granted the benefit to the eight workmen and refixed the wages on the basis of the order of the Personnel Manager (E&IR), ECL dated 27.07.2000, communicated by the Personnel Manager, New Kenda Area in his letter dated 03/05.08.2000 but the workmen and the legal heirs of remaining four deceased workmen have not received the arrears of pay, due after their conversion. It is urged that necessary order may be passed directing the management to pay arrear of wages from the date of conversion i.e., 19.12.1992 till the date when the refixation was given effect to.

11. Mr. P. K. Das, learned advocate argued that the Industrial Dispute is liable to be dismissed as the workmen raised the Industrial Dispute after seven years from their date of conversion. It is further argued that on conversion from Piece Rate category to Time Rate category workmen are entitled to get the initial basic

pay of Time Rate Category workers and they are not entitled to any SPRA. According to learned advocate for the management the conversion from Piece Rate category to Time Rate is not a promotion. Therefore, the workmen are not entitled to any promotional increment. Referring to their own document Exhibit M-1, learned advocate argued that on the basis of order passed by the Competent Authority management has re-fixed pay of the workmen from the year 2000 and their respective Group Wages and SPRA were taken into consideration for that purpose. It is argued that the workmen had undertaken to abide by the terms and conditions of their transfer and they are not entitled to any arrear of back wages.

12. I have considered the pleadings of the parties, evidence adduced and the arguments advanced on behalf of the workmen and learned advocate for the management. It transpires from Exhibit W-4, a letter dated 14/16.12.1996, that the Personnel Manager (In-charge), Kenda Area had written to his counterpart at Mugma Area, informing that the workmen transferred to Kenda Area by Order dated 19.12.1992 on conversion from Piece Rate category to Time Rate were regularized and they were paid wages of Category-I workers. They have claimed protection of wages i.e., Group Wages and SPRA from their date of conversion. It is further communicated that if no written undertaking was given by the workman to accept initial wages of Time Rate category, then according to the circular received from the Headquarters their wages should be protected. The Kenda Area management requested Mugma Area to confirm whether the workmen had submitted any undertakings. Management failed to produce any written undertaking, submitted by the workmen to receive initial pay of Category – I after their conversion. It transpires from Office Order of Coal India Limited bearing No. CIL/C-5B/JBCCI/50 dated 25.11.2014 (Exhibit W-7) that pay protection was provided to Piece Rated employees while converting into Monthly / Daily Rated employees. It is laid down that a standard formula for deriving wages in cases of

conversion of Piece Rated employees to Time Rated employees by protecting Group Wages, SPRA and Compensatory MGB was formulated and their pay would be fixed ensuring pay protection. It was also agreed that past cases are also be dealt with in this line.

13. In view of such decision taken in the meeting on 15.09.2014 and the Office Order passed on 25.11.2014 (Exhibit W-7) it is explicit and admitted fact that the management has conceded the demand of five Central Trade Unions operating in the Coal Industry to grant pay protection to the employees on conversion. Exhibit W-6 which is an order passed much earlier also reveals that management acceded the claim of the workmen by re-fixing their pay on their conversion by taking into account their Group Wages and SPRA which they are getting prior to their conversion.

14. The other point for determination is whether the workmen are entitled to arrears of pay on their conversion, in Exhibit W-6 i.e., a Memorandum bearing No. Pers/KND/26/1079 dated 03/05.08.2000 management stated that no financial benefits for the back period would be given to the workmen. It appears from the Office Order of Coal India Limited dated 25.11.2014 (Exhibit W-7) that the management has principally accepted the formula for fixing wages of the employees on their conversion and for those who are selected in higher grade or category, it has clearly spelt out that fixation of pay would be done ensuring pay protection and also the past cases may be dealt with in the same line. The aggrieved workmen in this case have been converted to Time Rated workers on the basis of order Dated 19.12.1992. No undertakings were given by them to accept the initial pay of Category – I on their conversion. Under such facts and circumstances all the eight workmen are entitled to receive arrears of pay from the date of their conversion i.e., 19.12.1992 till the date from which re-fixation of pay was given effect to. Management of Chora Colliery under Kenda Area of Eastern Coalfields

Limited is directed to make arrangement for making payment of arrears of difference of pay to the concerned workmen or their legal heirs, as the case may be within two (2) months from the date of communication of the Award.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Chora Colliery under Kenda Area of Eastern Coalfields Limited. Management of Chora Colliery is directed to make arrangement for making payment of arrears of difference of pay to the concerned workmen or their legal heirs, as the case may be, from the date of conversion i.e., 19.12.1992 till the date of re-fixation by providing pay protection, that is by granting Group Wages along with SPRA. The amount be calculated and disbursed to the concerned workmen or their legal heirs, as the case may be, within two (2) months from the date of communication of the Award. 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.