

**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. 16 OF 2020

PARTIES: Khiru Bhuia
(dependent son of Late Lakhan Bhuia)
Vs.
Management of Bahula Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Basudev Choudhury, Advocate.
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 16.09.2025

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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-22012/98/2019-IR(CM-II)** dated 20.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Bahula Colliery under Kenda Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the demand raised by the United Koila Mazdoor Sangh (U.T.U.C.) for providing employment on compassionate ground to Sh. Khiru Bhuiya dependent son of Late Lakhan Bhuia, Ex-employee of Bahula Colliery, Kenda Area, M/s. E.C.Ltd. who expired on 21-02-1999 while in service, by the management of M/s. Eastern Coalfields Ltd. is justified? If so, what relief Sh. Khiru Bhuiya dependent son of Late Lakhan Bhuia is entitled to and to what extent? ”

1. On receiving Order **No. L-22012/98/2019-IR(CM-II)** dated 20.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 25.02.2020 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. General Secretary, United Koila Mazdoor Sangh (UTUC), filed written statemen on 14.02.2023 on behalf of Khiru Bhuia, dependent son of Lakhan

Bhuiya, ex-employee of Bahula Colliery under Kenda Area of Eastern Coalfields Limited (hereinafter referred to as ECL). Facts of the case as disclosed in the written statement is that Lakhan Bhuiya was working as a Depot Trammer bearing U.M. No. 522242 at Bahula Colliery. He died in harness on 21.02.1999 at Central Hospital, Kalla, ECL, leaving behind Fulwanti Devi his wife and Khiru Bhuia his dependent son. On 10.08.2000, Khiru Bhuia, the son submitted an application before the management of ECL, praying for providing him employment under the employer company as per provisions of Clause 9.3.2 of National Coal Wage Agreement (hereinafter referred to as NCWA). On 31.08.2000 management of ECL refused to provide employment on the pretext that the application for employment was not submitted within six months from the date of death of the employee and in the instant case there has been delay of one year and six months in submitting the application.

3. The dependent son made several representations for providing him employment. The management of ECL thereafter held screening on 06.10.2010 and Initial Medical Examination (hereinafter referred to as IME) of Khiru Bhuia at ECL Hospital. After observing the above formalities, management kept quite without any communication to Khiru Bhuia. United Koila Mazdoor Sangh, representing the deceased employee raised an Industrial Dispute before the Assistant Labour Commissioner (C), Asansol and a case bearing No. 1(72)/2018 was initiated. The management of ECL refused to provide employment only on the ground that the application, seeking employment was made after passing of one year and six months. On failure of conciliation before the Assistant Labour Commissioner (C), Asansol, the Central Government has referred this dispute to this Tribunal for adjudication. The concerned union in their written statement has claimed for providing employment of the dependent son as per provision of NCWA applicable to the employer company and their employees.

4. Management of Bahula Colliery, Kenda Area contested the Industrial Dispute by filing their written statement on the same date i.e., 14.02.2023. The main contention of the employer company is that after the death of Lakhan Bhuiya on 21.02.1999, his son Khiru Bhuia applied for employment after lapse of one year and nine months from the date of death of his father. The claimant was directed to appear before the Apex Medical Board and his IME was held on 14.02.2002 where his age was assessed as 17 to 22 years as on 14.02.2002. The date of birth of the dependent son was accordingly calculated as 11.08.1982 and it was found that his age was below 17 years at the time of death of his father. Therefore, the claim for employment could not be processed by the management. It is asserted that the action of the management is totally justified in not providing employment to the dependent son and he is not entitled to any relief in this case.

5. Point for consideration is whether Khiru Bhuia, the dependent son of Lakhan Bhuiya is entitled to any employment under ECL as per provisions of NCWA.

6. Khiru Bhuia has been examined as Workman Witness No. 1. He has filed his affidavit-in-chief on 20.09.2023. In the affidavit-in-chief the witness stated that he claimed for employment on 10.08.2000 after passage of one year and six months. He appeared before the Screening Committee on 06.10.2010. Since the management did not inform him about the IME Report, he filed an application under Right to Information Act, 2005 on 14.01.2020 but the management did not provide him any information. The witness asserted that his claim for employment is just and valid and as per the existing rules of ECL. During his evidence he produced the following documents in support of his case :

- (i) Copy of letter dated 31.08.2000 issued by the Personnel Manager, Bahula Colliery, addressed to Khiru Bhuia, rejecting his claim for employment on the ground of delay has been produced as Exhibit W-1.

- (ii) Copy of letter dated 06.12.2001 issued by the Personnel Manager, Bahula Colliery, addressed to Khiru Bhuia, for submission of some documents, as Exhibit W-2.
- (iii) Copy of letter dated 04.10.2010 of the Personnel Manager, Bahula Colliery to Khiru Bhuia for his appearance before the Screening Committee on 06.10.2010, as Exhibit W-3.
- (iv) Copy of the Memorandum of Settlement dated 22.05.2007, as Exhibit W-4 (formal proof dispensed with).

7. In course of cross-examination the witness stated that he was referred for his medical examination on two occasions. Initially, the medical examination was held at the Area Office and thereafter by the Apex Medical Board. Witness deposed that on 14.02.2002 his age was assessed as 17 to 22 years. The medical report dated 14.02.2002 has been admitted as Exhibit M-1. The witness denied that he is not entitled to employment as the dependent of his deceased father.

8. Management examined Mr. Rakesh Kumar Basant as Management Witness No. 1. In his affidavit-in-chief the witness stated that on medical examination by the IME Board on 14.02.2002, the age of the claimant was assessed as 17 to 22 years as on 14.02.2002 and on the date of death of Lakhan Bhuiya the age of the claimant was sixteen years and six months. As the dependent was less than seventeen years of age on the date of death his father the claim for employment of the minor was not considered as per the provisions of NCWA. During his evidence the management witness produced the following documents :

- (i) Copy of the application of Khiru Bhuia, seeking employment has been produced as Exhibit M-1.
- (ii) Copy of the Application Form for employment of Khiru Bhuia in prescribed form of the management, as Exhibit M-2.
- (iii) Copy of the Note Sheet dated 06.10.2010 of the Screening Committee, recommending employment to the dependent son, as Exhibit M-3.

- (iv) Copy of the letter dated 04.10.2010 issued by the Personnel Manager, Bahula Colliery addressed to Khiru Bhuia for his appearance before the Screening Committee on 06.10.2010, as Exhibit M-4.
- (v) Copy of the IME Report dated 14.02.2002, as Exhibit M-5.
- (vi) Copy of the letter dated 22.11.2010 issued by the Personnel Manager (I/C), Kenda Area addressed to the Personnel Manager, Bahula Colliery, regarding some irregularities in the employment proposal of Khiru Bhuia, as Exhibit M-6.

Witness fairly admitted that no communication was made to Khiru Bhuia regarding the fate of his claim for employment.

9. In course of cross-examination the witness denied that the dependent of the workman is entitled to get employment as per provisions of NCWA.

10. Mr. Basudev Choudhury, learned advocate for the union argued that according to the provisions of Clause 9.3.2 of NCWA-VI, one dependent of the workman who dies while in service is entitled to employment. According to Clause 9.3.4 of NCWA-VI, the male dependent to be considered for employment should be physically fit and suitable for employment and he should not be more than thirty-five (35) years of age at the time of submitting his claim for employment. Learned advocate argued that there is no dispute that Lakhan Bhuiya, the father of Khiru Bhuia died in harness on 21.02.1999. The dependent son on attaining majority submitted the application for his employment on 10.08.2000 i.e., one year and six months from the date of death of his father. Learned advocate referring to Exhibit W-1, a letter dated 31.08.2000 issued by the Personnel Manager, Bahula Colliery addressed to Khiru Bhuia wherein it is stated that the application for employment dated 10.08.2000 is a belated claim and could not be entertained, argued that under NCWA there is no specific time period for a dependent to lay his claim for employment. At the time of death of Lakhan Bhuiya,

Khiru Bhuia was a minor and the employee having expired at Central Hospital, Kalla, owned and controlled by the management, the employer company was duty bound to maintain the name of the minor son in the Live Roster and to provide him employment on his attaining majority. In the instant case the management to the contrary is bent upon to deny the claim of the dependent son by disputing that the application claiming employment was submitted at a belated stage and argued that such contention has no foundation. Learned advocate pointed out that IME of Khiru Bhuia was held on 14.02.2002 (Exhibit M-5) and after a long delay of more than eight (8) years, Khiru Bhuia was referred before the Area Screening Committee on 06.10.2010 (Exhibit M-4). Therefore, the management of ECL cannot be allowed to refuse employment to the dependent son when he was found physically fit for his employment.

11. Mr. P. K. Das, learned advocate for the management argued that the dependent son of the workman is not entitled to employment as he submitted his application for employment after long delay of one and a half years (1½ years). In reply to the argument of learned advocate for the workman that there is no specific time period for submitting application for employment, Mr. Das failed to give any satisfactory answer and to the contended that there is a Circular of the Personnel Department of ECL that the application should be submitted within six months from the date of death of the workman. It is argued that the Industrial Dispute has no merit and is liable to be dismissed.

12. I have carefully considered the pleadings of the parties, assessed the evidence adduced and argument advanced on behalf of both parties. The admitted fact of this case is that Khiru Bhuia is the dependent son of Lakhan Bhuiya, an employee of ECL who died in harness on 21.02.1999. In course of evidence the management produced an application for employment submitted by Khiru Bhuia, received on 08.11.2000 by the management. From the pleadings of the

management, it appears that the application was submitted one year and nine months after the date of death of the workman. Union has produced a copy of Memorandum of Settlement under Section 12(3) of the Industrial Disputes Act, 1947, executed before the Regional Labour Commissioner (C), Asansol on 22.05.2007 wherein in Point No. 2 the management agreed to clear all those employment cases prior to 01.07.1996 without any time bar and for cases received after 01.07.1996, the existing time limit of one year shall be continued, but the management contended that they will approach the ECL Board in the next Board meeting for waiver of time limit for consideration of employment to the dependent as no time bar exists in the NCWA. From the contents of Memorandum of Settlement in Point No. 2 it may be derived that there is no time limit for consideration of claims for employment in the NCWA. In the case of **Sukumoni Hembram alias Sukumoni Mejhan Vs. Union of India and Others [MAT 27 of 2024]** the Hon'ble High Court at Calcutta observed :

“ NCWA is a negotiated agreement that has been arrived at between the employer and the employees. It is a settlement under section 2 (p) of the Industrial Disputes Act, 1947 and has binding effect on the parties thereto under section 18 (3) of the Act of 1947. NCWA has made provisions for compassionate appointment for the dependents of the deceased employee. ”

Clause 9.3.2 of NCWA-VI provides that employment would be provided to one dependent of the workman who dies while in service. Furthermore, Clause 9.3.4 provides that the dependents to be considered for employment should be physically fit and suitable for employment and their age should not be more than thirty-five (35) years provided that the age limit for a female spouse would be forty-five (45) years as given in Clause 9.5.0. Though there is no indication in the NCWA as to the date of reckoning the age of dependent for considering him for the purpose of employment, a Circular has been issued by the management of ECL bearing No. CIL/C-5B/JBCCI/9.4.3/163 dated 25.07.2003 wherein it has been laid down that the age on the date of submitting the application would be

reckoned for offering employment on compassionate ground. In the instant case the dependent son submitted his application for employment on 08.11.2000. At the time of holding medical examination by the IME Board on 14.02.2002 the age of Khiru Bhuia was assessed as 17 to 22 years (Exhibit M-5). Therefore, his age was nineteen years and six months on the date of assessment and he was well within the eligible age limit for employment. It is found that the minor son has attained majority at the time of submitting his application for employment on 08.11.2000, as his age was assessed as nineteen years and six months on 14.02.2002. I find from the Note Sheet dated 06.10.2010 (Exhibit M-3) that the Screening Committee found the case of Khiru Bhuia in order and recommended for employment of the dependent son. On 22.11.2010 the Personnel Manager (I/C), Kenda Area issued a letter addressed to the Personnel Manager, Bahula Colliery (Exhibit M-6), informing that the sureties in the Indemnity Bond and Declaration in respect of employment of the dependent son of Lakhan Bhuiya had less than five years of service left and sought for fresh Indemnity Bond and Declaration. I do not find any justification for management in delaying the matter in granting employment to the dependent son for such a long time on such flimsy ground which speaks volume about the object of the management in frustrating the claim for employment of the dependent. In course of medical examination, the IME Board in Column No. 9 on Page No. 2 of the report found that Khiru Bhuia was mentally and physically sound, capable of bearing fatigue and exposure, fit to work under Coal India Limited and no disqualification for appointment was found. Having considered the attending fact and circumstances, evidence on record and the provisions of NCWA I hold that there is no time frame under NCWA for submitting application claiming employment for dependent of the deceased employee. Khiru Bhuia, the dependent son has satisfied all the conditions for grant of employment by the management of ECL. The Industrial Dispute is therefore allowed in favour of the union.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Bahula Colliery under Kenda Area of Eastern Coalfields Limited. The management of Eastern Coalfields Limited is directed to provide employment to Khiru Bhuia, the dependent son of the deceased employee Lakhan Bhuiya, within two (2) months from the date of communication of the Award after completing necessary formalities. 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.