

**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 2022

PARTIES: 1. Jaibindra Pandit (dependent son of Late Rambachan Pandit),
2. Kunti Devi (dependent wife of Late Rambachan Pandit)

Vs.

Management of Lachipur Colliery, 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: 27.05.2025

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-22012/41/2022-IR(CM-II)** dated 29.04.2022 has been pleased to refer the following dispute between the employer, that is the Management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the Management of Lachipur Colliery, Kajora Area of M/s. E.C.Ltd. not providing employment to Sri Jainbindra Pandit son of Late Rambachan Pandit and not giving monetary compensation to Smt. Kunti devi wife of Late Rambachan Pandit is justified or not, what relief the workman is entitled to? ”

1. On receiving Order **No. L-22012/41/2022-IR(CM-II)** dated 29.04.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 10.05.2022 / 01.07.2022 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. President, Koyala Mazdoor Congress filed written statement on 15.11.2022 on behalf of the dependent son and widow of the deceased employee Rambachan Pandit. Management filed their written statement on 31.01.2023. The facts

disclosed in the written statement of the workman is that Rambachan Pandit was posted as a Driller at Lachipur Colliery under Kajora Area of Eastern Coalfields Limited, having U.M. No. 57609. He died in harness on 04.11.2001. Kunti Devi, the widow submitted an application before the management well within time from the death of her husband for providing employment to her son after attaining the age of 18 years and for payment of monthly compensation to her. Jaibindra Pandit submitted necessary documents and claimed employment on compassionate ground on 29.05.2002. According to the workman date of birth of the dependent son was recorded as 11.02.1986. On the date of death of his father, Jaibindra Pandit, the minor son was 15 years 8 months and 23 days old. According to the provisions of National Coal Wage Agreement (hereinafter referred to as NCWA) it was agreed that the name of the minor son would be maintained in the Live Roster of the company and on his attaining 18 years of age employment would be provided to him. The management of the colliery initiated the process for keeping the name of the minor son in the Live Roster of the company and payment of monetary compensation to the widow of the deceased employee according to the provisions of Clause 9.5.0 of NCWA. The management of the Area Office made some queries and returned the file to the Colliery Office vide Letter No. KA/PM/C-6/35/1985/5340 dated 29.10.2002. The dependent son, in reply, submitted necessary documents and the file was sent to the Area Office. Kunti Devi was asked to appear before the Initial Medical Examination Board (hereinafter referred to as IME Board) at Kajora Area vide letter No. ECL/LAC/P&IR/C-6/2003/627 dated 29.05.2003. The minor son in the meantime attained majority and the wife applied for employment of the son once again on 23.04.2004 along with documents. The management of ECL directed the son to appear before the IME Board vide letter KA/PM/C-6/35/1604/8701 dated 28.09.2004. Jaibindra Pandit appeared before the IME Board. He was found fit for duty and the file was sent to ECL Headquarters for approval. It is contended by the union that management did not keep the name of the dependent son in the Live Roster and

no monetary compensation has been paid to the wife till date. It is prayed that management be directed to provide employment to the son under the provision of Clause 9.5.0 of NCWA and to pay monetary compensation to the wife from the date of death of the employee till employment was granted to the dependent son.

3. Management contested the Industrial Dispute by filing their written statement wherein it is stated that Jaibindra Pandit applied for employment on 29.05.2002 but was a minor at the relevant time and according to the Service Record Excerpt of Rambachan Pandit the date of birth of Jaibindra Pandit is 11.02.1986. Subsequently, the claim for employment of Jaibindra Pandit was processed and the Competent Authority approved payment of monetary compensation to Kunti Devi, the widow of Rambachan Pandit till the age of 60 years / re-marriage / death, whichever is earlier. However, Kunti Devi did not submit any claim for monetary compensation. Further case of the management is that the Industrial Dispute has been raised before the Assistant Labour Commissioner (Central) in the year 2019, after passage of more than 17 years from the date of death of Rambachan Pandit. Hence, the Industrial Dispute referred before this Tribunal is a stale one. Referring to the decision of the Hon'ble Supreme Court of India in the case of **Eastern Coalfields Limited Vs. Anil Badyakar and Others [Civil Appeal No. 3597 of 2009]**, it is contended that the employment on compassionate ground was disapproved by the Apex Court due to passage of long period. According to the management compassionate employment is not a vested right as such cannot be agitated at any point of time. Management prayed for dismissal of the Industrial Dispute.

4. In support of their case union has examined Jaibindra Pandit as Workman Witness No. 1 and Kunti Devi as Workman Witness No. 2. Both the witnesses have supported the case disclosed by the union in the written statement.

5. Jaibindra Pandit, the son of the deceased employee in his affidavit-in-chief stated that as per provisions of Clause 9.5.0 the name of the dependent son had to be kept in the Live Roster of the company and the wife of the deceased employee was entitled to monetary compensation till the son attained the age of 18 year or was provided with employment. The witness averred that Kunti Devi informed the management that her son was below 18 years of age on the date of death of her husband and monetary compensation should be provided to her till employment was granted to the son. Screening of both, Kunti Devi and the Jaibindra Pandit was held and thereafter medical examination of Kunti Devi was held by IME Board. The age of the son as well as his fitness was decided by the IME Board. After completing all formalities, the General Manager of the Area recommended the proposal for keeping name of Jaibindra Pandit in the Live Roster and to pay monetary compensation to the wife of the deceased employee, but the management only approved payment of monetary compensation to the wife and the name of the minor son was not kept in the Live Roster as per NCWA. The witness challenged the decision of the management on the ground that it was contrary to Clause 9.5.0 of NCWA and the management acted in an illegal and unjust manner by not providing employment and not paying monetary compensation. The witness stated that he claimed employment on 29.05.2002, after the death of his father. In course of examination-in-chief the witness produced the following documents :

- (i) Copy of Identity Card of Rambachan Pandit issued by the management has been marked as Exhibit W-1.
- (ii) Copy of Service Record Excerpt of Rambachan Pandit, as Exhibit W-2.
- (iii) Copy of Death Certificate of Rambachan Pandit, as Exhibit W-3.
- (iv) Copy of Application submitted by Kunti Devi seeking monetary compensation and requesting to maintain the name of the dependent son in the Live Roaster for his employment after attaining majority, as Exhibit W-4.

- (v) Copy of Letter dated 29.10.2002 of the Personnel Manager, Kajora Area addressed to the Agent, Lachipur Colliery pointing some irregularities, as Exhibit W-5.
- (vi) Copy of Letter dated 29.05.2003 issued by the Senior Personnel Officer, Lachipur Colliery asking Kunti Devi to appear for her medical examination, as Exhibit W-6.
- (vii) Copy of Letter dated 06.06.2003 of the Area Medical Officer, Kajora Area for audiometry test of Kunti Devi, as Exhibit W-7
- (viii) Copy of the Application of Kunti Devi dated 23.04.2004 seeking employment for her son and monetary compensation for herself, as Exhibit W-8.
- (ix) Copies of the documents seeking employment of Jaibindra Pandit have been marked as Exhibit W-9 series.
- (x) Copy of Reply dated 02.04.2010 in response to R.T.I. Application of Kunti Devi, as Exhibit W-10.
- (xi) Copy of the Birth Certificate of Jaibindra Pandit, as Exhibit W-11.
- (xii) Copy of the Aadhaar Card of Jaibindra Pandit, as Exhibit W-12.
- (xiii) Copy of the 'No Objection' Certificate in favour of Jaibindra Pandit issued by the other legal heirs of Rambachan Pandit, as Exhibit W-13 and W-14.

6. In cross-examination witness denied the suggestion that his mother had submitted application only for monetary compensation. Witness admitted that he did not have any document to show that his mother submitted any application for keeping his name in the Live Roster of the company.

7. In the affidavit-in-chief of Kunti Devi (Workman Witness No. 2), it is stated that Rambachan Pandit, ex-employee of ECL died due to Train accident at Dhanbad (Jharkhand) in the year 2001 while he was in the service of the

company. She applied for monetary compensation for herself till her son Jaibindra Pandit attained the age of 18 years and for keeping the name of the son in the Live Roster of the company for providing employment. The proposal was processed by the colliery management. Screening was done at the Colliery and Area level and documents were submitted replying all the queries raised. Jaibindra Pandit also appeared before the IME Board for his medical examination. It is gathered from the affidavit-in-chief that the management instead of recording name of the dependent son in the Live Roster only offered to pay monetary compensation to the wife of the deceased employee. Kunti Devi objected against the proposal of the company to pay monetary compensation only and not to consider the case employment for her son. Kunti Devi claimed that all conditions under Clause 9.5.0 of NCWA have been fulfilled on their part and at the time of death of her husband, her son was 16 years old. She also stated that she has no source of income to maintain her livelihood.

8. During cross-examination Kunti Devi deposed that she did not remember when the application for employment was submitted by her son. She also stated that the company has rejected the proposal for employment of the son and in the year 2003 her son attained the age of 18 years. After becoming major the dependent son filed application for employment against the death of his father. In reply to the suggestion on behalf of the management, she replied that there has been no delay in filing application before the Regional Labour Commissioner (Central) regarding this dispute.

9. Management examined Mr. Proloy Dasgupta, Manager (Personnel), Lachipur Colliery as Management Witness No. 1. He filed his affidavit-in-chief. In paragraph no. 4 of his affidavit-in-chief the witness has averred that when Jaibindra Pandit applied for employment his age was under 18 years and according to the Service Record Excerpt of Rambachan Pandit, date of birth of

Jaibindra Pandit is 11.02.1986. The witness further stated that the Competent Authority approved monetary compensation to Kunti Devi, wife of Rambachan Pandit till she attained 60 years of age but Kunti Devi did not submitted her claim for monetary compensation. Witness further stated that the action of the management is justified in not providing employment to the dependent son of the deceased employee and he is not entitled to any relief. During his examination-in-chief the witness produced the following documents :

- (i) Copy of Application of Kunti Devi seeking monetary compensation and requesting to maintain the name of the dependent son in the Live Roaster for his employment after attaining majority has been marked as Exhibit M-1.
- (ii) Copy of Application of Jaibindra Pandit seeking employment against death of his father, as Exhibit M-2.
- (iii) Copy of Service Record Excerpt of Rambachan Pandit, as Exhibit M-3.
- (iv) Copy of the Death Certificate of Rambachan Pandit, as Exhibit M-4.
- (v) Copy of Reply dated 02.04.2010 in response to R.T.I. Application of Kunti Devi, as Exhibit M-5.

10. During cross-examination the witness stated that Kunti Devi was medically examined by the IME Board but no medical examination of Jaibindra Pandit was held. Witness also stated that at the time of death of the employee, the dependent son was minor and according to the provision of Clause 9.5.0 of NCWA his name was required to be maintained in the Live Roster of the company till he attained majority for providing employment. The witness further deposed that the letter dated 02.04.2010 (Exhibit M-5) was issued to Kunti Devi on the basis of her application under R.T.I. Act, 2005, informing her that she was entitled to monetary compensation and that the Competent Authority did not approve the proposal for employment of the dependent son.

11. Mr. Rakesh Kumar, Union representative argued that the terms and conditions laid down in NCWA bind the employer and employee as it is a settlement enforceable under Section 18(3) of the Industrial Disputes Act, 1947. It is argued that the terms for providing employment to the dependent of the deceased employee and providing monetary compensation to the spouse or female dependent are strictly based upon collective decision of the employer and employees and the management has no option but to follow the same. It is argued that in the case of **Smt. Putul Rabidas Vs. Eastern Coalfields Limited and Others [WP 4290 (W) of 2016]**, the learned Special Bench of the Hon'ble High Court at Calcutta has held that since NCWA is a settlement arrived at between the parties after protected deliberations, the same is binding on the parties governed thereby in view of Section 18 of the I.D. Act, 1947. He argued that no departure from such provisions of NCWA is warranted. It is argued that at the time of death of the employee on 04.11.2001 Jaibindra Pandit was a minor. The wife of the deceased had submitted an application claiming monetary compensation for herself and to provide employment to her son, when the son attained 18 years of age. Kunti Devi submitted another application dated 23.04.2004 (Exhibit W-8) addressed to the Agent, Lachipur Colliery for employment of her son as well as providing monetary compensation to her. In their letter dated 29.09.2004 (Exhibit W-9) the Senior Personnel Officer, Lachipur Colliery, referring to letter dated 25/30.08.2004 and 20.09.2004 observed that the file has been processed by the Deputy Personnel Manager, Kajora Area vide his letter dated 20.08.2003 for payment of maintenance allowance till her son Jaibindra Pandit attained the age of 18 years. It was stated in the letter that the proposal was sent for keeping the name of the son in the Live Roster. Mr. Rakesh Kumar argued that from the very beginning, soon after the death of the employee management was fully aware about the claim for monetary compensation of the wife of the deceased till employment was granted to the dependent son but for reasons best known to the management things were delayed and the lawful

claim of the dependants of the deceased employee were frustrated by not reaching any finality on the issue of employment. Mr. Kumar argued that necessary order may be passed directing the management of employer company to provide employment to the son and monetary compensation to the witness.

12. Mr. P. K. Das, learned advocate admitted that at the time of death of employee the dependent son was minor but his name was not maintained in the Live Roster of the company and till date the wife of the deceased employee has not been paid any monetary compensation. Only argument advanced on behalf of the management is that the Industrial Dispute has been raised before Assistant Labour Commissioner (Central) in the year 2019, after lapse of 17 years from the time of death of the employee. Due to delay in raising the Industrial Dispute, the claim of the dependants through the concerned union has turned stale and the same is liable to be dismissed.

13. I have considered the argument advanced on behalf of the union and management in the light of the facts and circumstances of the case and evidence adduced by the parties. The short question which needs to be considered is whether the claim for employment of the dependent son and monetary compensation of the wife are within the ambit of the provision of NCWA. It is a settled principle of law that the dispute of this nature is fully governed by the provisions of NCWA which has been agreed between the parties and has taken the shape of a settlement. It transpired from Exhibit M-1 that Kunti Devi, the wife of the deceased employee applied for monetary compensation and it is gathered from paragraph no. 3 of the affidavit-in-chief of the management witness that Jaibindra Pandit, the son submitted his claim for employment against the death of his father, in his application for employment dated 29.05.2002 before the Agent, Lachipur Colliery. The employee expired on 04.11.2001. It goes without saying that the application claiming

employment was submitted within reasonable time, which is less than one year from the date of death. The management of ECL is duty bound to maintain the name of the dependent son in the Live Roster as per clause 9.5.0 (iii) of NCWA-VII and process the proposal for his employment on his attaining majority. The wife of the deceased employee is also entitled to monetary compensation at the rate of Rupees three thousand (Rs. 3,000/-) per month, till employment was granted to her son.

14. It is well settled that NCWA is an agreement arrived at between employer and employee and it has the force of settlement under Section 2(p) of the I.D. Act, 1947 having a binding effect on the parties under Section 18(3) of the I.D. Act, 1947. It appears from Exhibit W-9 a document of the management of Lachipur Colliery dated 29.09.2004 that while considering the employment proposal of the dependent of Rambachan Pandit, it was observed by the Senior Personnel Officer, Lachipur Colliery that the Deputy Personnel Manager, Kajora Area had processed a file for payment of maintenance allowance to Kunti Devi till her son Jaibindra Pandit turned 18 years of age. A proposal was also made for keeping the name of her son in the Live Roster. It appears from available evidence that management did not maintain the name of minor son in the Live Roster and acted contrary to their communication in letter dated 29.09.2004 (Exhibit W-9). It is only on 02.04.2010 the Deputy Chief Personnel Manager, Kajora Area in his letter addressed to Kunti Devi in reply to the R.T.I. application informed that as per Letter No. ECL/CMD/C-6B/Empl/3/890 dated 11/14.04.2006 of the Personnel Manager (Empl), ECL Headquarters, monetary compensation had been approved only without keeping the name of her son in the Live Roster. It is evident from such facts and circumstances and communication made to Kunti Devi (Exhibit M-5) that the management having full knowledge and opportunity to consider the case for employment and monetary compensation, did not act in terms of the provisions of NCWA and thereby acted in an arbitrary and illegal manner with an

object to deprive the dependent son of his employment and the widow of the deceased from monetary compensation. It transpires from the evidence on record that the management did not communicate their final decision of not maintaining the name of the dependent son in the Live Roster of the company and their intention of not providing employment to him on compassionate ground, until an application under R.T.I. Act was submitted by Kunti Devi. The reply dated 02.04.2010, disclosing their stand came to light after eight years from the date of death of the employee. The delay and negligence in not processing the prayer for employment of the dependent son and not paying monetary compensation in time is attributable to the inaction of the management of ECL. I have no reason to hold that the claim made by the dependants of the deceased employee is stale or the same has no merit. The ratio of the decision in the case of **Eastern Coalfields Limited Vs. Anil Badyakar and Others (Supra.)**, relied upon by ECL, is distinguishable from the present case and is not in pari materia with the facts of the present case. In view of my above discussion, I hold that the management of ECL is dutybound to grant employment to Jaibindra Pandit, the son of deceased employee after completing necessary formalities within a period of 3 (three) months. Management is also directed to pay monetary compensation to Kunti Devi, the wife of the deceased employee from the date of death of the employment (MMCC) till employee is granted to the dependent son or she attains 60 years of age, whichever is earlier.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest. The management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited is directed to grant employment to Jaibindra Pandit, the son of Late Rambachan Pandit within a period of 3 (three) months from the date of communication of the Award,

on completing necessary formalities within specified time. Management is further directed to pay monetary compensation to Kunti Devi, the wife of Late Rambachan Pandit at the prevailing rate, as may be applicable to her, from the date of death of her husband till employment is granted to the son or she reached 60 years of age. 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.