

**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. 163 OF 1999**

**PARTIES:** Maru Kole  
**Vs.**  
Management of Haripur Colliery, Kenda Area of M/s. ECL

**REPRESENTATIVES:**

For the Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress

For the Management of ECL: Mr. P.K. Goswami, Advocate

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 11.04.2025

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**A W A R D**

On failure of conciliation, the Government of India through the Ministry of Labour, 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), vide its Order **No. L-22012/145/99/IR(CM-II)** dated 22.11.1999 has been pleased to refer the following dispute between the employer, that is the Management of Haripur Colliery of Eastern Coalfields Limited (hereinafter referred as ECL) 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 either to wife or to son of Maru Kole is justified? If not, to what relief the ex-employees’s dependent is entitled ? ”*

1. On receiving Order **No. L-22012/145/99/IR(CM-II)** dated 22.11.1999 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 163 of 1999** was registered on 06.12.1999/09.10.2001 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 along with a list of witnesses.

2. Koyala Mazdoor Congress representing Maru Kole, the ex-employee of ECL filed their written statement on 13.12.2001. The management of ECL filed written statement on 03.04.2002. Brief fact of the case, as disclosed in written statement of union is that Maru Kole was a permanent employee of ECL and was posted as

U.G. Loader at Haripur Colliery under Kenda Area, ECL. Due to physical disability, Maru Kole applied for voluntary retirement under clause 9.4.0 (ii) of NCWA. The Medical Board constituted by the management declared him unfit for job and his service was terminated w.e.f. 11.05.1991. According to the terms of NCWA, one dependent of the workman who voluntarily retired from service on medical ground is entitled to an employment. Initially an application was made by Maru Kole for employment of his younger brother but he was found to be suffering from Leprosy. Fulia Devi, wife of Maru Kole then claimed employment. After proper screening at the Area Level, the file was forwarded to ECL Headquarter on 15.09.1994 but the same was returned seeking some clarification. No employment was provided to the wife of ex-employee. It is the case of the union that no effective steps has been taken by the management and the entire family is facing financial difficulty without any employment, having no source of income. It is contended that management of ECL deliberately delayed the process for providing employment to the wife. Union has claimed that the son of Maru Kole has attained the age of majority and the management should provide employment to the son of ex-employee. In the written statement union also claimed employment for the wife of Maru Kole and if management desires, they can provide employment to the dependent son with consequential benefits.

3. The management of ECL contested the Industrial Dispute and in their written statement stated that Maru Kole at first nominated his younger brother for providing employment. When the nominee was found medically unfit, Maru Kole changed the nomination for employment in favour of his wife. At the time of screening, the management found that the wife had crossed the age of 45 years and her claim for employment was regretted. According to the management, no application was submitted by Maru Kole for employment of his son and the benefit of employment cannot be kept reserved for indefinite period due to non-availability of capable person. It is urged that the refusal to grant employment to

the wife and son of Maru Kole by the management of Haripur Colliery is justified and they are not entitled to any relief.

4. The matter in controversy before this Tribunal is whether the management's refusal to provide employment to the wife or son of Maru Kole is justified? If not what relief the dependents are entitled to?

5. Union examined Doman Kole, son of late Maru Kole as WW-1. He filed his Examination-in-chief on affidavit. It is stated by the witness in his affidavit that his father Maru Kole was declared medically unfit under clause 9.4.3 (ii) and his service was terminated on 11.05.1991. His father nominated his younger brother for employment and the proposal was forwarded to the Area on 15.07.1991. As he was suffering from Leprosy, his uncle was not found fit for employment. Maru Kole thereafter nominated his wife for employment and the proposal was sent to Area by the Colliery on 11.06.1993. After screening at the Area level, the proposal was forwarded to ECL Headquarter for providing employment to his wife but till date nothing has been communicated. The witness further stated that at the time of his father's termination from service, he was below eighteen years and now after attaining majority, the management should provide him employment. It is gathered from affidavit-in-chief that Fulia Devi, the wife of Maru Kole is too old to work in ECL and the son should be provided employment under the company and monetary compensation be paid to his mother until the son is employed. The witness was re-examined on 06.06.2023 for admitting some documents which were not produced earlier. The witness produced the following documents:

- (i) A copy of letter dated 09.04.1991 by which his father Maru Kole was asked to appear before Area Medical Board is marked as Exhibit W-1.
- (ii) A copy of letter dated 11.05.1991 by which Maru Kole was terminated from service under voluntary retirement scheme on medical grounds,

is marked as Exhibit W-2.

- (iii) Copy of letter dated 20.05.1992 by which Modi Kole, brother of Maru Kole was asked to appear before the screening committee is produced as Exhibit W-3.
- (iv) Copy of letter dated 23.09.1993 issued to Fulia Devi for appearing before the screening committee for employment is produced as Exhibit W-4.
- (v) Copy of minutes of meeting in three pages informing that the prayer for employment of Fulia Devi was regretted in 1994, is produced as Exhibit W-5.
- (vi) Documents relating to the employment of Fulia Devi, wife of Maru Kole is produced as Exhibit W-6 collectively.
- (vii) Copy of Note Sheet dated 16.04.1996 which states that Doman Kole was not nominated for employment is produced as Exhibit W-7.

Witness stated that no monetary compensation was paid to his mother and no employment was provided to him as dependent of his medically unfit father, Maru Kole.

6. In his cross-examination, the witness stated that at the time his father was declared medically unfit, he was 18 to 19 years of age. He denied the suggestion that as he was below eighteen years of age at the time of voluntary retirement on medical ground, he was not considered for employment.

7. Several opportunities were granted to management to adduce evidence in this case. On 14.07.2015, Mr. P.K. Goswami, learned advocate for the management of ECL submitted that the management will not adduce any evidence and evidence of both sides was closed. After opportunity was given to

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workman witness for his re-examination and re-cross-examination, the management once again was granted opportunity to adduce evidence but on 21.05.2024, the management did not produce any witness and their evidence was closed.

8. In the backdrop of this case pending for three and a half decades, Mr. Rakesh Kumar, union representative arguing the case for the dependent of Maru Kole submitted that Maru Kole has died during pendency of this case and at present his widow is too old for employment and is not under the consideration zone of employment. It is submitted that according to the provisions of 9.4.0 (ii) in the case of disablement of employee out of general physical debility certified by the coal company, the employee concerned will be eligible for the benefit under this clause if he/she is upto age of 58 years. Referring to clause 9.5.0 (iii), it is submitted that one dependent of an employee is required to be provided with employment commensurating with his skill and qualifications and if the male dependent is 12 years and above in age, he will be kept on a live roster and on attaining the age of 18 years, he is required to be provided with employment. During the period the male dependent is on live roster, the female dependent has to be paid monetary compensation as per prevailing rates. Mr. Kumar argued that the brother of ex-employee was found medically unfit and after waiting for several years, the management did not provide employment to the wife of the ex-employee. In this case it is appropriate for the management of ECL to provide employment to Doman Kole, son of Maru Kole who was minor at the time of voluntary retirement of his father.

9. Mr. P.K. Goswami, learned advocate for the management of ECL refuted the claim of the union and argued that Maru Kole was medically unfit and Fulia Devi at the age of 46 was nominated for employment. On screening it was found that she had crossed the age for employment as provided in clause 9.5.0 (ii) where it is stated that in case of female dependent above 45 years of age, she will be

entitled monetary compensation and not employment. Regarding the claim for employment of son, learned advocate referred to Exhibit W-7 where screening of Maru Kole was held for the purpose of providing employment to his dependent wife. In that screening report, Maru Kole clearly stated that he has not nominated his son Doman Kole as he felt that his son would not be able to perform the job as under ground Loader as he is not physically capable. Learned advocate submitted that no application was made for the employment of Doman Kole, son of Maru Kole and the management did not commit any illegality by not providing employment to Fulia Devi or Doman Kole, as per provisions of NCWA.

10. I have considered the arguments advanced on behalf of the union and the management of ECL in the light of pleading filed by the parties and the evidence adduced. Admittedly, Maru Kole was an employee of ECL who was declared medically unfit and was granted voluntary retirement from service with an order of termination w.e.f. 11.05.1991. It appears from the screening report of Maru Kole that his date of birth as per Form-B register is 04.03.1933. He was declared medically unfit on 30.04.1991 and his loss of employment was only for one year and ten months. From the provisions of clause 9.4.0 (ii) of NCWA, it is gathered that an employee whose disablement arises from general physical debility will be eligible for the benefits under the clause if he/she is upto the age of 58 years. In the present case, workman Maru Kole had exceeded the age of 58 years on the date of his termination on 11.05.1991. Under such circumstances, the dependents of such workman cannot be entitled to any employment according to the provisions of NCWA.

11. In the instant case, the workman witness in his affidavit-in-chief has stated that his mother is too old to work in ECL. She was found more than 45 years of age at the time of voluntary retirement of her husband. At the time of screening,

Maru Kole clearly stated that he did not nominate his son Doman Kole for employment as he was not physically capable to take the work of UG loader. The screening took place on 16.04.1996 i.e. five years after the date of retirement. No formal application was filed for the employment of the son. Therefore, management did not have any occasion to consider the employment of son of an ex-employee. Even if for argument's sake, the nomination was made in favour of son for employment, I am of the view that the person would not have been entitled to get an employment in place of his father as the concerned employee had crossed the age of 58 years at the time of his being declared medically unfit.

12. In the instant case, I find from Exhibit W-6 that Maru Kole suffered loss of employment for a period of one year and ten months. The concerned employee has already died and it would be just and appropriate to grant a compensation to Fulia Devi, the dependent wife, equivalent to Maru Kole's salary for one year and ten months.

Hence,

**ORDERED**

The Industrial Dispute is allowed in part in favour of Fulia Devi, wife of Maru Kole. The management of ECL is directed to pay a monetary compensation to the wife of ex-employee equivalent to the last salary drawn by Maru Kole for a period of one year and ten months i.e. the period of loss of employment. The amount shall be paid within three months from communication of the Award. Let

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an Award be drawn up on the basis 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.