

**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. 18 OF 2013**

**PARTIES:** Pabitra Baratia,  
(Dependent son of Late Antarjami Baratia)

**Vs**

Management of Nimcha Colliery, Satgram Area, 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:** 24/06/2025

### **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-22012/132/2013-IR(CM-II)** dated 03/10/2013 has been pleased to refer the following dispute between the employer, that is the Management of Nimcha Colliery, Satgram Area of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

### **THE SCHEDULE**

*“Whether the action of the management of Nimcha Colliery under Satgram Area of M/s. E.C. Limited to dismiss from service to Sri Antarijami Baratia was proper, fair and proportionate judgement only on ground of absenteeism which was due to his illness. If not, so what relief management can provide to him?”*

1. On receiving Order **No. L-22012/132/2013-IR(CM-II)** dated **03/10/2013** from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 18 of 2013** was registered on 14/02/2014 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. H. L. Soni, Assistant General Secretary of Koyala Mazdoor Congress filed written statement on 07/10/2015 on behalf of Antarijami Baratia, dismissed workman. Management contested the case by filing written statement on 15/03/2017. Brief fact of

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the case, as disclosed in the written statement of the union is that Antarjami Baratia was posted as Underground Loader at Nimcha Colliery under Satgram Area of ECL and he did not attend duty from 31/05/2008 to 05/09/2008 due to his illness and due to torture by money lenders. Workman reported for his duty with medical certificate of his illness but he was not allowed to resume duty. A charge sheet No. AGENT/NIM/PD/08/165 dated 06/09/2008 was issued to him. A domestic enquiry was initiated. Workman had no information about the enquiry and he was unable to attend the same. Charged workman was not informed about appointment of the Enquiry Officer, Management Representatives and the date fixed for enquiry. After lapse of about three years management again issued another charge sheet bearing No. NIM/AGT/CS/2011/473 dated 09/15.04.2011. It is contended that second charge sheet was illegal, vague, motivated and had no binding effect upon the workman after issuance of first charge sheet. Workman participated in the second enquiry and during enquiry proceeding he explained reasons of his absence from duty and he also submitted medical certificates. Without considering the reply of the workman, Enquiry Officer concluded the enquiry in perfunctory manner and the workman was dismissed. Workman raised an Industrial Dispute before the Assistant Labour Commissioner (C), Asansol praying for resumption of duty on 22/06/2011. Workman was dismissed from service of the company during pendency of Industrial Dispute and a letter of termination was issued to him by the General Manager bearing No. SAT/PER/GM/Termination/11/3094 dated 29.09.2011/07.10.2011. It is asserted on behalf of the workman that past record of the workman is good. His attendance in work during the year 2005 was 246 days, during the year 2006 was 206 days and during the year 2007 was 257 days. It is only due to torture by money lenders workman was unable to attend the duty. It is inter alia contended that dismissal of the workman from service due to his absence from duty is harsh and disproportionate punishment to the nature of offence. It is further stated that during

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pendency of the proceeding Antarijami Barati expired on 08/07/2014 and his son, Pabitra Baratia was substituted in his place. Union prayed for providing direction upon the management to provide benefits to the dependent son of the employee.

**3.** Management of ECL in written statement disclosed that Antarjami Baratia was found absent from duty from 31/05/2008 without any sanctioned leave and charge sheet was issued against him bearing No. AGENT/NIM/PD/08/165 dated 06/09/2008. The workman did not participate in the enquiry and continued to remain absent. Subsequently a fresh charge sheet was issued bearing No. NIM/AGT/CS/2011/473 dated 09/15.04.2011 under clause 26.29 of certified standing order of the company. A departmental enquiry was held on 11/08/2011 and charged employee participated in the enquiry. Enquiry Officer after concluding enquiry submitted his report on 27/08/2011, where he found the workman guilty of the charge. A letter No. SAT/GM/PER/LAB-C/2011/2858 dated 10/14.09.2011 was issued to the charged workman seeking explanation. Management after considering all materials, terminated the workman from service and communicated the same to him through letter No. SAT/PER/GM/Termination/11/3094 dated 29.09.2011/07.10.2011. Koyala Mazdoor Congress by letter No. KMC/ID/2011/712 dated 21/06/2011 raised the Industrial Dispute. Manager further stated that during pendency of the Industrial Dispute, Antarjami Baratia died and his legal heirs have no authority to continue the proceeding. According to the management full opportunity was given to the workman in the domestic enquiry. Therefore, Industrial Dispute raised by the union is liable to be dismissed.

**4.** Union examined Pabitra Baratia, dependent son of Late Antarjami Baratia as Workman Witness-I. He filed his affidavit-in-chief and was cross-examined for the first time on 07/02/2018. Witness was re-examined on recall on 06/12/2022 and was re-cross-examined by the management. Pabitra Baratia thereafter did not appear to put his signature on evidence recorded on recall on 06/12/2022. Documents produced by him

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have been admitted in evidence as follows:

- (i) copy of Enquiry Notice dated 15/17.04.2009 is marked as Exhibit W-1.
- (ii) copy of second Notice of enquiry dated 11/07/2009 is marked as Exhibit W-2.
- (iii) copies of document related to his father's departmental enquiry, mercy petition, charge sheet and medical treatment papers are collectively marked as Exhibit W-3.

5. Management examined Sh. Sumit Choudhary as Management Witness-I. He filed his affidavit-in-chief wherein it is stated that workman was a habitual absentee and remained absent without information or sufficient reasons. On the last occasion workman was absent from duty from 31/05/2008 to 15/04/2011. Workman was charge sheeted on 15/04/2011. Agent appointed the Enquiry Officer by his letter No. AGENT/NIM/PD/556 dated 26/27.07.2011. Notice of enquiry was served upon the workman vide letter No. AGENT/NIM/PD/2011/ENQ255 dated 05/08/2011. Workman appeared and participated in the enquiry. Management has filed copy of enquiry proceeding in four pages and enquiry report in two pages which have been admitted in evidence. A second show cause Notice dated 10/14.09.2011 was issued by the General Manager addressed to the workman. Workman replied to the second show cause Notice and finally the General Manager dismissed the workman from service vide his letter dated 29.09.2011/07.10.2011. According to the management, dismissal of the workman is justified. In course of examination, witness produced the following documents:-

- (i) Copy of Charge Sheet dated 09/15.04.2011 issued to the workman for his unauthorized absence from duty is produced as Exhibit M-1
- (ii) Copy of letter dated 26/27.07.2011 for appointment of the Enquiry Officer is produced as Exhibits M-2.
- (iii) Copy of Notice of enquiry dated 05/08/2011 fixing 11/08/2011 for enquiry is

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produced as Exhibit M-3.

(iv) Copy of Enquiry proceeding in four pages is collectively produced as Exhibit M-4.

(v) Copy of Enquiry report in two pages is collectively produced as Exhibit M-5.

(vi) Copy of second show cause Notice dated 10/14.09.2011 issued to the charged employee is produced as Exhibit M-6.

(vii) Copy of reply dated 26/09/2011 submitted by the workman against the second show cause Notice is produced as Exhibit M-7.

(viii) Copy of letter of termination dated 29.09.2011/07.10.2011 issued by the General Manager, Satgram Area is produced as Exhibit M-8.

(ix) Copy of medical certificate issued by a private practicing doctor submitted by the concerned workman during course of enquiry, is produced as Exhibit M-9.

In cross-examination, management witness stated that charge levelled against the workman was only due to long unauthorized absence and no charge of habitual absence was arraigned against him. Witness admitted that on earlier occasion a charge sheet was issued for absenting from duty w.e.f. 31/05/2008. The first departmental enquiry was initiated against the workman but it was not completed and a second charge sheet was issued on 15/04/2011 covering entire period of unauthorized absence of the workman from 31/05/2008 till 15/04/2011. It further transpires that no final order was passed in respect of the earlier enquiry proceeding. Witness denied that it was illegal and improper to issue a second charge sheet for the purpose of computing the entire period of unauthorized absence.

**6.** Heard argument advanced by Mr. Rakesh Kumar, union representative on behalf of Koyala Mazdoor Congress. It is argued that management of ECL committed illegality by

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issuing two charge sheets against the workman. First charge sheet was dated 06/09/2008 and a domestic enquiry was initiated against the workman but without concluding the same, a second charge sheet was issued on 15/04/2011 which is illegal. Union representative further argued that workman participated in the second enquiry and he had disclosed that he was suffering from illness and he could not attend duty due to torture by moneylenders. It is argued that there were sufficient reasons for the absence of the workman. Therefore, the order of dismissal passed against him is required to be set aside and management shall pay back wages and all consequential reliefs to Pabitra Baratia, the dependent son.

7. Mr. P. K. Das, learned advocate for the management in reply argued that workman remained absent from duty without leave or permission of the competent authority for three years. A charge sheet was issued against the workman and enquiry was initiated but the workman did not participate in the enquiry and the enquiry proceeding was discontinued. As workman continued to remain absent, management issued a fresh charge sheet against the workman disclosing a charge of unauthorized absence from duty from 31/05/2008 till date of issue of charge sheet i.e. 15/04/2011. On the second occasion, charge sheet was served upon the workman. An enquiry proceeding was initiated and workman participated in the enquiry. After concluding of the enquiry workman was found guilty of charge under clause 26.29 of certified standing order for his absence from duty for more than ten days without information. Enquiry proceeding and findings of the Enquiry Officer were supplied to the charged employee. A second show cause Notice (Exhibit M-6) was issued to the workman. He submitted reply (Exhibit M-7) against the second show cause Notice and finally after considering all materials on record and enquiry proceeding, General Manager, Satgram Area dismissed the workman from service by issuing a letter dated 29.09.2011/07.10.2011 (Exhibit M-8). Learned advocate submitted that order of dismissal issued against the workman is appropriate, proper and

consistent with the nature of misconduct.

8. Having considered the arguments advanced by the union representative and learned advocate for the management, it appears to me that union is harping upon facts that initially charge sheet was issued to the workman for his unauthorized absence on 06/09/2008 but without completing the enquiry another charge sheet was issued to the workman on 15/04/2011. According to the union, second charge sheet could not have been issued during pendency of the first charge sheet. I have considered facts and circumstances and evidence adduced by parties. In the written statement, union stated that workman did not receive any Notice of the first charge sheet and also, he did not participate in the enquiry proceeding. I find that neither any final decision was taken in respect of the first charge sheet nor did the Enquiry Officer submit his report. The concerned workman continued to remain absent and it would appear that he had practically fled his place of work by remaining away for more than two years and eleven months. In view of long unauthorized absence, management is always in a position to take appropriate action. Management accordingly issued a fresh charge sheet disclosing charge of unauthorized absence for a longer period from 31/05/2008. Copy of charge sheet is produced as Exhibit M-1/Exhibit W-3/3. On the second occasion workman participated in the enquiry proceeding. Notice of enquiry was issued to him (Exhibit M-3). An enquiry proceeding was conducted on 11/08/2011. Copy of the Enquiry proceeding produced has been admitted in evidence as Exhibit M-4. It disclosed that charge was proved by the two management representatives, namely Tathagata Gupta and S. Tapadar and the charged employee was also present during the enquiry. In the Enquiry report, the workman was found guilty of charge. Second show cause Notice was issued and in reply to the same, workman reiterated that he was absent due to illness and in fear of torture by the moneylenders. Management did not consider such plea as sufficient and plausible reasons for the workman to remain absent from duty for such a long period



and found it fit to dismiss the workman from service.

9. I find from the record that Enquiry officer held enquiry in a fair manner by providing opportunity to the charged employee to cross-examine the management representatives. Principles of Natural Justice were also duly followed. It is unusual and unacceptable that a workman would leave his place of work without any information or authorization from the employer and disrupt work by long absence. If the presence of the workman is unpredictable in his workplace, management cannot place reliance upon such workman for his participation and contribution in his work. He also failed to prove his illness.

10. In view of my above discussion, I find no illegality in the order of dismissal of workman from service. Workman who remained absent for such a long period without proper grounds is detrimental to the interest of the employer company. Punishment of dismissal of the workman is accordingly found to be proportionate to the nature of misconduct of long absence, without justified cause. To my mind, workman was not justified in remaining absent from duty without tenable reasons. I find no merit in the Industrial Dispute and hold that legal heirs of the dismissed workman are not entitled to any relief except the dues due to past service. Industrial Dispute is accordingly dismissed.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on contest. Legal heirs of the dismissed workman are not entitled to any relief except the legal dues arising out of service already rendered by Antarjami Baratia. Let an Award be drawn up in the light of my above discussion. Let copies of Award be communicated to the Ministry for information and Notification.

Sd/-

**(Ananda Kumar Mukherjee)**

Presiding Officer

CGIT-cum-LC, Asansol

