

**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 2023**

**PARTIES:** Kartick Bhuia  
(Son of Late Basdeo Bhuia)

**Vs**

Management of Bansra Colliery, Kunustoria Area, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyal 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 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-20012/21/2023-IR(CM-II)** dated 14/03/2023 has been pleased to refer the following dispute between the employer, that is the Management of Bansra Colliery, Kunustoria Area of Eastern Coalfields Limited and their workmen for adjudication by this Tribunal.

THE SCHEDULE

*“Whether the action of the Management of Bansra Colliery under Kunustoria Area of M/s. Eastern Coalfields Ltd. in regretting the claim for employment of Shri Kartick Bhuia, S/o Late Basdeo Bhuia, Ex-Dresser, U.M. No. 451057 of Bansra Colliery of M/s. ECL is proper, legal and justified? If not, to what relief the dependent son of the aforesaid deceased workman is entitled?”*

1. On receiving Order **No. L-20012/21/2023-IR(CM-II)** dated 14/03/2023 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 18 of 2023** was registered on 17/03/2023 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. R. K. Tripahi, General Secretary, Koyala Mazdoor Congress filed written statement on 24/01/2024 on behalf of the dependent son of Late Basdeo Bhuia, deceased employee. Fact of the case as disclosed in the written statement of the union is that,

Basdeo Bhuia was a permanent employee of ECL and was posted as Underground Dresserbearing U. M. No. 451057 at Bansra Colliery under Kunustoria Area. He died in harness on 24/05/2010. Kartick Bhuia, son of the deceased was nominated by his family members and other dependents of the deceased for providing compassionate employment against death of his father. Kartick Bhuia submitted his application for employment along with relevant documents before the colliery management within one year from death of his father. After several correspondences with the management, a letter No. ECL/B/Per/15-16/325 dated 07/05/2015 was issued by the Agent, Bansra Colliery addressed to Kartick Bhuia seeking his point wise reply to the letter. Dependent son submitted point wise reply to the letter but till date management has not responded to his claim for employment. Instant Industrial Dispute has been raised seeking a direction to the management of Bansra Colliery, ECL to consider the claim for employment of Kartick Bhuia.

3. Management contested the Industrial Dispute by filing written statement on 14/06/2023. Gist of the management's case is that Basdeo Bhuia was an employee of ECL. His last working day was 20/10/2008 and after his unauthorized absence he expired on 24/05/2010. Almost after four years of death of the employee, one Kartick Majhi claimed for employment on compassionate ground as dependent son of the deceased employee by submitting an application on 18/02/2014. His application was incomplete. Management of Bansra Colliery issued several letters to Kartick Bhuia for submitting his documents. Later on, documents were filed in irregular manner and the requirements were not fulfilled. Dependent did not reply to the letters of management in time for which his claim was not processed. Due to inordinate delay in submitting claim for compassionate employment, file was not processed by the management. After lapse of seven to eight years, in the year 2021, the dependent son raised an Industrial Dispute giving rise to the present case. According to the management, in the case of **Nemat Kumar**

**Vs. CIL and Ors,** Hon'ble Calcutta High Court has noted that "an application for appointment on compassionate ground cannot be pursued more than five years after death of the concerned employee, since the petitioner has been able to survive without an appointment for more than ten years now.." Management has prayed before the Tribunal that the case is liable to be dismissed as there was inordinate delay on the part of the claimant.

4. Kartick Bhuia has been examined as Workman Witness-I. He filed an affidavit-in-chief in support of his case wherein he has stated that his father died on 24/05/2010 and he was nominated by other family members for employment. He submitted all requisite documents before the management within one year. Kartick Bhuia claimed to have resubmitted all documents along with an application dated 18/02/2014 for the purpose of getting employment. He also visited office of the Agent, Bansra Colliery and received a letter dated 07/05/2015 seeking point wise reply. Dependent son claims to have submitted point wise reply to such letter. He has averred that till date his payer for employment has not been processed by the colliery management. During his examination, witness produced the following documents:-

- (i) Copy of an application dated 29/10/2010 informing the company about death of his father is produced as Exhibit W-1
- (ii) Copy of his attestation form in two sheets submitted before the company is collectively produced as Exhibit W-2
- (iii) Copy of an application dated 17/02/2014 submitted before the company along with documents is produced as Exhibit W-3.
- (iv) Copy of letter dated 06/10.05.2014 issued by the management regarding providing employment to the dependent of Basdeo Bhuia is produced as Exhibit W-4.

(v) Copies of his two letters issued on 02/04/2015 and 12/04/2015 in response to Agent's letter dated 10/05/2014 are produced as Exhibits W-5 and W-6 respectively.

Witness deposed that he was never referred before the screening committee or medical examination by the management and no regret letter has been issued to him.

In cross-examination, witness deposed that his mother predeceased his father, in the year 2007. He stated that Gobind Bhuia, Sarju Bhuia and Gopi Bhuia are his brothers and that Babiya Bhuia is his sister. It transpires from evidence of workman witness-I that he submitted an application for employment for the first time on 17/02/2014 and the company issued a letter to him on 10/05/2014 asking for submission of certain documents and to rectify discrepancies. Witness claims to have submitted all documents. It is denied by the workman witness that due to delay in submitting such application, management was unable to provide employment to him.

5. Mr. Pratik V Sathe, Asst. Manager (Pers) of Basnra Colliery was examined as Management Witness-I in favour of the management of ECL. Witness filed an affidavit-in-chief wherein he has stated that Basdeo Bhuiya expired on 24/05/2010 and after four years of his death, one Kartick Majhi claimed for employment on compassionate ground by submitting his application on 18/02/2014. According to the witness, the application was incomplete. Management issued several letters to Kartick Bhuiya for filing documents but all requirements were not fulfilled. According to the management, dependent did not submit reply to the letters of the management in time. It is claimed that there was inordinate delay in submitting application. Further case of the management as disclosed is that after a gap of seven to eight years, in the year 2021, an Industrial Dispute was raised which gave rise to the present case as Industrial Dispute ended in Failure of Conciliation. Management contended that the claim for employment was rightly considered and it might be held that management was justified in not providing employment to the

dependent of the deceased employee. In course of adducing evidence Management Witness produced the following documents in support of his case:-

- (i) Copy of an application submitted by Kartick Bhuiya dated 29/10/2010 is produced as Exhibit M-1
- (ii) Copy of a letter dated 06/10.05.2014 issued by the Agent, Bansra Colliery addressed to Kartick Bhuiya is produced as Exhibit M-2.
- (iii) Copy of an application dated 17/02/2014 submitted by Kartick Bhuiya prior to issuance of letter dated 06/10.05.2014 is produced as Exhibit M-3.
- (iv) Copy of a letter dated 22/24.12.2014 issued by the Agent, Bansra Colliery addressed to Kartick Bhuiya for submitting documents specified in his earlier letter dated 10/05/2014 is produced as Exhibit M-4.
- (v) Copy of a letter dated 06/07.05.2015 issued by the Agent, Bansra Colliery addressed to Kartik Bhuiya for submitting pointwise reply in respect of letter dated 06/10.05.2014 is produced as Exhibit M-5.

Witness deposed that the management did not communicate anything to the dependent of the deceased after issuance of letter dated 06.05.2014. On 06/07.05.2015 management issued a letter addressed to Kartik Bhuiya informing that no affidavit relating to difference in name and surname was attached with his earlier letter and he was requested to submit point wise reply. In the affidavit-in-chief management witness stated that prayer of the dependent employee was not turned down and the management did not issue any letter informing that his claim for employment would not be considered. In course of cross-examination witness deposed that the management did not issue any letter to the dependents of the deceased employee to submit any document or letter for processing the claim of employment. It is admitted that on 12/04/2015, Kartick Bhuiya

submitted an application to the Agent, Bansra Colliery wherein he submitted point wise reply to the letter dated 10/05/2014. Management Witness also deposed that affidavit filed by the dependent was not in order as they found that there was some difference, specially a difference in the name and surname of Kartick Bhua. Witness categorically stated that difference was in spelling of the name and surname of Kartick Bhua and the management did not issue any regret letter to the dependent. On being questioned on behalf of the dependent, Management Witness admitted that there can be difference in the spelling in proper noun. On traversing the testimony of MW-I, I find that management did not call Kartick Bhua for his screening to find out his identity. It is stated that as per service record name of the dependent son was spelt as 'Kartik Bhuiya' but in his application for employment he spelt his name as 'Kartick Bhua'. Witness admitted that in the service record name and surname of the dependent son of Basdeo Bhua was written as 'Kartik Bhuiya' by the employees of the management and neither by Basdeo Bhua nor by Kartick Bhua himself.

6. Mr. Rakesh Kumar argued that after death of Basdeo Bhua on 24/05/2010 his dependent son submitted death information before the Manager, Bansra Colliery on 29/10/2010 (Exhibit W-1). A prayer for employment was made by Kartick Bhua by submitting his attestation form (Exhibit W-2) and an application for employment dated 17/02/2014 (Exhibit W-3). In reply Agent, Bansra Colliery issued a letter dated 06/10.05.2014 addressed to Kartick Bhuiya (Exhibit W-4) asking him to rectify certain discrepancies like surname and designation of Basdeo Bhua and for submission of No Objection Certificate from other dependents, application of information of death, dependency certificate, attestation from in four copies in original and that name of the applicant in Indemnity Bond and affidavit were found wrongly mentioned and were required to be corrected. Union representative argued that Kartick Bhuiya in letter dated 02/04/2015 (Exhibit W-5) requested the Agent, Bansra Colliery to return the employment

file containing originals for the purpose of clarifying irregularities as mentioned in letter dated 10/05/2014. Thereafter on 12/04/2015, Kartik Bhuia submitted point wise reply to the letter dated 10/05/2014. It is argued that dependent son is entitled to get employment under the clause 9.3.0 of NCWA. Management has neither regretted the prayer for employment nor did they communicate to him the reasons for not considering him for employment. It is argued that Management has taken plea in the written statement that due to discrepancies in the spelling of name and surname of the dependent son between the service record of his father and the application submitted by him, management was unable to consider the case. It is argued that management should be directed to consider the pending application of Kartick Bhuia for providing him employment without further delay.

7. Mr. P. K. Das, learned advocate for the management refuting the claim of employment to the dependent argued that there was difference in spelling in the name and surname of the dependent appearing in his application for employment and that in service record of his father, lying with the company.

8. I have considered the arguments advanced in light of the facts and circumstances of the case and evidence adduced by parties. Undisputedly, Kartick Bhuia submitted his application and attestation form for the purpose of getting employment against the death of his father. From the Relationship certificate issued by the Member of Legislative Assembly (West Bengal) I find that Kartik Bhuia has been described as the son of Late Basdeo Bhuia. In the attestation form for employment, name of the dependent son has been spelt as Kartick Bhuia (Exhibit W-2). Management has filed the service record of Basdeo Bhuia wherfrom it appears that name of Kartick Bhuia has been spelt as 'Kartik Bhuiya'. Management Witness in cross-examination admitted that name and surname of Kartick Bhuia was filled up by the employees of the management and neither by Basdeo

Bhuia nor by Kartik Bhuiya himself. On the basis of such evidence, it is explicitly clear that neither the dependent son nor his father entered his name in the service record. Therefore, dependent of the workman if otherwise eligible for employment as the dependent son under the provision of clause 9.4.0 (iv) of NCWA, there is no justification on the part of the management of ECL in keeping the matter pending and frustrating the claim of dependent son without communicating anything to him. Discrepancies regarding name and surname would have been tenable if such name and surname was totally different. In the present case, Management of ECL has taken a very feeble plea that there was difference in spelling in name and surname of the dependent son, being fully aware that there can be difference in spelling in proper noun and for such reason management cannot delay the process of screening or holding medical examination of the dependent son.

**9.** In the case of **Smt. Putul Rabidas Vs. Eastern Coalfields Limited and Others [2017 Volume 6 West Bengal Law Reporter (Cal) 255]**, the special bench held that since NCWA is a settlement arrived at between the parties after protracted deliberations, the same is binding on the parties governed thereby in view of section 18 of the Industrial Disputes Act, 1947, no departure from the assurance in NCWA is warranted and that, various terms of the NCWA have to be read and the meaning of the words used herein gathered from the context. It therefore appears that a settlement under section 2(p) of the Industrial Disputes Act, 1947 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. Nature of employment is an exception to the general rule of merit-based recruitment under the Article 14 of the Constitution of India and it is provided to the family of deceased in order to tide over financial penury.

**10.** In the case under consideration, management of ECL has to consider that the difference in spelling in name and surname of the dependent son, due to entries in

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service record of his father and his application for employment cannot serve as impediment in providing employment to a dependent son of deceased as per provisions of NCWA. Management is therefore directed to arrange for screening and medical examination of Kartick Bhuia for the purpose of considering his prayer for employment. It is to be borne in mind that age of the dependent son has to be reckoned as on the date of submitting his application for employment. Under such facts and circumstances the Industrial Dispute is allowed on contest against the management of ECL.

Hence,

**O R D E R E D**

that the Industrial Dispute is allowed on contest against the management of Bansra Colliery, ECL. Management is directed to complete necessary procedures for providing employment to Kartick Bhuia commensurating with his skill and qualification. The entire procedure has to be completed within two months from the date of communication of the Award. In the event of delay on the part of management to comply the order, the management shall be liable to pay a compensation equivalent to the monthly pay of an Underground Loader every month till completion of the process. Let an Award be drawn up in 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