

**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. 21 OF 2019

PARTIES: Supal Bouri
Son of late Sital Bouri
Vs.
Management of Nabo Kajora Colliery, Kajora Area of M/s. ECL

REPRESENTATIVES:

For the Workman: Mr. Milan Kumar Bandyopadhyay, Advocate
For the Management of ECL: Mr. P.K. Das, Advocate

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 22.07.2025

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A W A R D

On failure of conciliation proceeding, 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-22012/24/2019-IR(CM-II)** dated 19.03.2019 has been pleased to refer the following dispute between the employer, that is the Management of Ghanashyam Colliery of Eastern Coalfields Limited (hereinafter referred as ECL) and their workman for adjudication by this Tribunal.

THE SCHEDEULE

“ Whether the action of the management in denial of employment to Sri Supal Bouri Son of Late Sital Bouri, Ex-Looseman of Ghanashyam Colliery of M/s. Eastern Coalfields Ltd. is justified or nor? If not, what relief Sri Supal Bouri is entitled to? ”

1. On receiving Order **No. L-22012/24/2019-IR(CM-II)** dated 19.03.2019 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 21 of 2019** was registered on 02.04.2019 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 and a list of witnesses.
2. Supal Bouri, the dependent son of Sital Bouri, the deceased workman filed written statement on 13.06.2023. Management contested the case by filing this written statement on 21.12.2022. Fact of the case in brief is that Sital Bouri was employed as a Looseman, bearing U.M. No. – 564428 at Ghanashyam Colliery

under Kajora Area, ECL. Sital Bouri expired on 10.08.1990 at Kalla Central Hospital, Asansol while he was in the service of the company. According to the National Coal Wage Agreement (NCWA), the dependent son of the deceased workman is entitled to employment. Supal Bouri being the son of late Sital Bouri applied for employment under ECL, according to the provisions of clause 9.4.0 of NCWA. Management held screening test and pre-employment medical examination of the dependent son. Proposal for his employment was forwarded to the headquarters of ECL. However, the management regretted the claim for employment of Supal Bouri after 28 years from the death of his father by issuing letter No. ECL/CMD/C-6B/EMPL/ED-1507/18/95 dated 19.03.2018. According to the dependent son of the workman, the management of ECL delayed the matter by raising objection that Sital Bouri had two wives. Clarification sought for by ECL was submitted and screening test was conducted, where relevant documents were filed by the dependent son. Police verification was held at the instance of the management to establish the relationship between Sital Bouri and Supal Bouri. After being satisfied with claim for employment, a medical examination was held and Supal Bouri was declared fit for employment. Clarification was sought for by the authority through letter No. KA/Dy.CPM/C-6/35/1447 dated 10.11.2010 which was complied. The management asked for further clarification vide letter No. KA/GM(P)/C-6/35/2038 dated 21.02.2012 which was also complied. The management finally regretted the claim for employment on account of delay. The dependent son of Sital Bouri, by raising this Industrial Dispute, has claimed for his employment under the company as per NCWA and back wages from the date of submission of claim for employment.

3. The management of ECL filed this written statement through Agent, Ghanashyam Colliery wherein it is admitted that Sital Bouri was a permanent employee of ECL and posted at Ghanashyam Colliery as a looseman. The workman expired on 10.08.1990 in harness. According to the management, the

Industrial Dispute has been raised before the ALC in 2018 i.e. after lapse of twenty eight years from the death of Sital Bouri and the same having failed has been referred to this Tribunal twenty nine years after the death of employee. Relying upon a decision of M/s.Eastern Coalfields Limited vs. Anil Badyakar & Others (Civil Appeal No. 3597 of 2009), it is contended that Hon'ble Court disapproved employment to the dependents on compassionate ground after passage of long years and held that such dispute was a stale one and should not be considered for conciliation. According to the management of ECL, Supal Bouri applied for his employment for the first time on 10.09.1996, six years after the death of his father. Further case of ECL is that in the service record excerpt of Sital Bouri, name of his wives were recorded as Rati Bouri and Gedari Bouri. It is inter alia contended that Supal Bouri initially submitted an affidavit that Rati Bouri and Gedari Bouri are same and identical person and later he submitted documents where Gedari Bouri was mentioned as first wife and Rati Bouri as second wife. Despite confusion regarding the number of wives left behind by the deceased, the proposal for employment for Supal Bouri was processed and the dependents of Sital Bouri were directed to submit documents/clarifications regarding certain irregularities/shortcomings by issuance of letter dated 21.02.2012 and the reply was submitted by the dependents after lapse of five years on 07.04.2017, which indicates that dependents were not seriously interested with any employment on compassionate ground. Management contended that the action taken by management in not providing employment to the dependents of Sital Bouri is justified and the petitioner is not entitled to any relief.

4. The point for consideration in this case is whether Supal Bouri is entitled to employment as a dependent son of Sital Bouri and whether the action of the management in denying employment to Supal Bouri is proper and justified?

5. In order to substantiate his case, Supal Bouri has filed an affidavit-in-chief and has been cross examined by the management. Brief substance of his affidavit-in-chief is that his father expired on 10.08.1990 while he was in service of ECL and his mother Gedari Bouri expired on 17.04.2011. Sunil Bouri, the brother of Supal Bouri expired on 12.11.2006. He further stated that his name is recorded in Service Record Excerpt of the deceased employee. It is averred in paragraph six (6) of his affidavit that in the beginning Gedari Bouri applied for her employment but the headquarters of ECL issued a letter to her dated 29.12.1994 communicating their disability to provide her employment. Gedari Bouri thereafter applied on 15.09.1995 before the Agent, Ghanashyam Colliery to provide employment to Supal Bouri, the son as she was suffering from incurable disease. Supal Bouri also claimed employment in place of his father by submitting an application and a letter dated 07.12.1996 was issued where he was called for Initial Medical Examination by Area Medical Officer. The proposal for his employment was returned through letter dated 20.11.2007. Several queries were made to which he submitted his replies. Ultimately through letter dated 19.03.2018, the proposal for employment of Supal Bouri was regretted without any cogent reasons.

In course of his evidence, the workman witness produced the following documents:

- (i) Copy of death certificate of Sital Bouri is produced as Exhibit W-1.
- (ii) Copy of death certificate of Gedari Bouri is produced as Exhibit W-2.
- (iii) Copy of death certificate of Sunil Bouri is produced as Exhibit W-3.
- (iv) Copy of Service Record Excerpt of Sital Bouri is produced as Exhibit W-4.
- (v) Copy of Application dated 15.09.1995 submitted by Gedari Bouri is produced as Exhibit W-5.
- (vi) Copy of Application dated 07.12.1996 for holding an Initial Medical Examination of Supal Bouri is produced as Exhibit W-6.

(vii) Copy of letter dated 19.03.2018 regretting the claim for employment of Supal Bouri produced as Exhibit W-7.

In cross-examination, the workman witness deposed that Rita Bouri is second wife of Sital Bouri. During lifetime of Gedari Bouri, his father married Rati Bouri as the second wife. Witness denied that he is not entitled to employment as the dependent son.

6. Management examined Proloy Dasgupta as MW-1. An affidavit-in-chief is filed stating that Supal Bouri applied for his employment in 1996, six years after the death of his father. It is further stated that in the Service Record Excerpt of Sital Bouri, name of his two wives Gedari Bouri and Rati Bouri are mentioned. Initially, Sital Bouri submitted an Indemnity Bond and later in an affidavit he submitted that Gedari Bouri and Rati Bouri are the same and identical person. In paragraph six, the management witness averred that while the case for employment was under progress, a legal notice was served in the office by one of the dependents of Sital Bouri which showed that the dependents of Sital Bouri had a family dispute till 2011. Witness stated that some clarifications were sought for by the higher authority on 21.02.2012 and reply was submitted by the dependents after five years on 07.04.2017. Witness claimed that the Industrial Dispute has been raised twenty nine years after death of Sital Bouri and the action taken by the management in regretting the claim for employment is proper and justified.

During his examination-in-chief, the management witness produced the following documents:

- (i) Copy of death certificate of Sital Bouri is produced as Exhibit M-1.
- (ii) Copy of Service Record Excerpt of Sital Bouri is produced as Exhibit M-2.

- (iii) Copy of death certificate of Sital Bouri issued by Central Hospital, Kalla is produced as Exhibit M-3.
- (iv) Copy of Application dated 10.04.1996 submitted by Gedari Bouri for providing employment to Supal Bouri is produced as Exhibit M-4.
- (v) Copy of Application dated 10.04.1996 submitted by Supal Bouri is produced as Exhibit M-5.
- (vi) Copy of Indemnity Bond is produced as Exhibit M-6.
- (vii) Copy of screening report dated 07.09.1996 is produced as Exhibit M-7.
- (viii) Copy of Affidavit dated 25.07.2008 of Gedari Bouri stating that Gedari Bouri and Rati Bouri are one and same person is produced as Exhibit M-8.
- (ix) Copy of legal notice dated 12.08.2011 issued on behalf of Gedari Bouri is produced as Exhibit M-9.
- (x) Copy of Indemnity Bond dated 16.03.2017 submitted by Supal Bouri stating that Gedari Bouri and Rati Bouri are two different persons is produced as Exhibit M-10.
- (xi) Copy of letter issued by Manager (Pers.) (Empl.) dated 21.02.2012 seeking clarification is produced as Exhibit M-11.
- (xii) Copy of reply submitted by Rati Bouri, second wife of Sital Bouri dated 23.03.2017 is produced as Exhibit M-12.
- (xiii) Copy of letter issued by Sr. Manager (Personnel)/Empl (ED) to the Sr. Manager (Personnel)/IC, Kajora Area dated 19.03.2018 regretting the prayer for employment of Supal Bouri on the ground that the claim for employment by children of second wife cannot be considered after twenty eight years from the cause of action, is produced as Exhibit M-13.

In his cross-examination, the witness deposed that Gedari Bouri and Supal Bouri applied for employment of Supal Bouri on 10.04.1996. He further deposed that there is a clear finding in screening committee's report that Supal Bouri is the son of Sital Bouri and denied that Gedari Bouri had ever applied for her own employment. The witness denied that the management company deliberately denied employment to Supal Bouri or that Supal Bouri is entitled to get employment in place of his father.

7. Mr. Bandyopadhyay, learned advocate for the dependent son argued that after death of Sital Bouri on 10.08.1990, the dependent son submitted application for employment on 15.05.1995 (Exhibit W-5). He argued that the name of Supal Bouri appeared in Service Record Excerpt (Exhibit W-4) and management of ECL initiated the process for employment of the dependent holding Initial Medical Examination (IME) as per letter No. KA/PM/C-6/35/2829/7159 dated 07.12.1996 (Exhibit W-6). Learned advocate submitted that the dependent son was found fit for employment. The management accepted the indemnity bond from the dependent son, copy of which is produced as Exhibit M-10. The management after waiting for several years regretted the prayer for employment by issuing a letter dated 19.03.2018 issued by Sr. Manager (Personnel)/Empl (ED) where it is stated that while the process for employment was under process, a legal notice was served upon the office by one of dependents and it indicates that the dependents of ex-employee had a family dispute till 2011 and that the ex-employee had two wives namely Gedari Bouri and Rati Bouri and as per practice, the claim for employment of children of second wife could not be considered. It is argued that twenty eight years have passed and the prayer for employment has been regretted on the ground of factual misrepresentation by the dependents of the deceased. It is argued that management has failed to assign any cogent reason in their letter dated 19.03.2018 regretting claim for employment. It is prayed that Supal Bouri is entitled to employment as per provision of NCWA.

8. Mr. P.K. Das, learned advocate in his reply for the management of ECL argued that the deceased employee had two wives and during the lifetime of Gedari Bouri, the workman married Rati Bouri. After his death, a family dispute surfaced and the dependent son of the deceased delayed in submitting clarification to the management after five years as to whether the deceased had two wives. It is further argued that Supal Bouri submitted his application six years after the death of his father and the dependent son of the deceased workman is more than 53 years of age and the family has been able to overcome the imminent family crisis after the death of Sital Bouri and thereafter for more than twenty nine years. It is urged that the claim for employment has turned stale and the Industrial Dispute is liable to be dismissed, without any relief to the son of the deceased employee.

9. I have considered the arguments advanced on behalf of the workman and management in the light of the facts and circumstances of the case and the reliefs claimed in the written statement. I have also considered the evidence adduced by both parties as well as documents produced. Sital Bouri was a permanent employee of ECL and was posted at Ghanashyam Colliery at the time of his death on 10.08.1990. From paragraph six (6) of the affidavit-in-chief of Supal Bouri, I find that Gedari Bouri, the mother of the petitioner applied for her employment but her prayer was declined through letter dated 29.09.1994. It transpires from further averment in affidavit that Gedari Bouri was suffering from incurable disease and she submitted an application on 15.09.1995 for providing employment to her son. The copy of application by Gedari Bouri addressed to the Agent, Ghanashyam Colliery has been produced as Exhibit W-5. It is evident that the application for employment was made five years after the death of Sital Bouri. Supal Bouri himself submitted an application before the management on 10.04.1996 (Exhibit M-5). The dependents of the deceased employee appeared before the screening committee of the company on 07.09.1996 for the purpose of employment of Supal Bouri.

10. It is undisputed that a family dispute surfaced amongst the dependents of Sital Bouri which continued till 2011. It is also admitted that the management while considering prayer for employment issued a letter dated 21.02.2012 (Exhibit M-11) whereby the file for employment was returned with some queries regarding the two wives of Sital Bouri namely Gedari Bouri and Rati Bouri. The second wife, Rati Bouri replied to the queries only on 23.03.2017 (Exhibit M-12). Much time was consumed in sorting out the ambiguities. It also appears that there were laches on the part of dependent son in submitting his application after a long period, following a family dispute. The management of ECL declined the proposal for employment to the dependent son by issuing letter No. ECL/CMD/C-6B/EMPL/ED-1507/18/95 dated 19.03.2018 (Exhibit M-13). The Industrial Dispute has been raised after lapse of twenty eight years of death of the person. This is a clear case where the claim for employment is defeated due to inordinate delay in claiming employment. In his affidavit-in-chief he has disclosed his age as 53 years. Due to efflux of time, the claim for employment has failed miserably. It appears to me that no purpose would be served by providing employment to the son of the deceased employee who is very close to his age of superannuation. Therefore, I do not find any illegality in the action taken by the management by regretting the claim for employment of the dependent son which is a fallout of their own family dispute.

Hence,

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The Industrial Dispute is dismissed on contest. The son of deceased employee is not entitled to any relief in this case and I find no illegality in the action of the management. The management of ECL is directed to disburse the legal dues of Sital Bouri to the legal heirs along with consequential benefits within

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two months from the award. Let 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.