

**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. 23 OF 2002**

**PARTIES:** Amal Majhi  
**Vs.**  
Management of Nimcha Colliery of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.  
For the Management of ECL: Mr. P. K. Goswami, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 21.06.2024

**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-22012/327/2001-IR(CM-II)** dated 30.07.2002 and Corrigendum **No. L-22012/327/2001-IR(C-II)** dated 13.09.2002 has been pleased to refer the following dispute between the employer, that is the Management of Nimcha Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**THE SCHEDULE**

*“ Whether the action of the management of ECL, Nimcha Colliery in not giving pay protection to Sh. Amal Majhi upon deployment in Category II from Cat. IV as consequence of employment related injury is just fair and legal? If not to what relief is the workman entitled? ”*

1. On receiving Order **No. L-22012/327/2001-IR(CM-II)** dated 30.07.2002 and Corrigendum **No. L-22012/327/2001-IR(C-II)** dated 13.09.2002 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 23 of 2002** was registered on 13.08.2002 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. Mr. Rakesh Kumar of Koyala Mazdoor Congress represented the case of Amal Majhi and filed a written statement in support of the Industrial Dispute raised by him. In gist, the facts leading to this Industrial Dispute is that Amal

Majhi was posted as a Fitter Helper at Nimcha Colliery under Satgram Area of Eastern Coalfields Limited (hereinafter referred as ECL) and appointed as Stone Cutter in Category – IV at Nimcha Colliery. He met with an accident while on duty of the company and suffered injury on 12.07.1990. Amal Majhi received medical treatment for his injury at Central Hospital at Kalla under ECL. He suffered permanent partial disability to the extent of ten percent (10%) and was advised for lighter job. The management of the company issued an order dated 21.02.1992 and posted him to perform the work of a Fitter Helper in Category – II at a basic wage of Rs. 51.24/- (Fifty-one rupees and twenty-four paise only) per day which is the initial basic wages in Category – II. Prior to the accident Amal Majhi was getting wages of Rs. 54.06/- (Fifty-four rupees and six paise only) in Category – IV. Even on his deployment as a Fitter Helper he continued to receive wages of Rs. 54.06/- till his regularization in the post of Fitter Helper. Being aggrieved with reduction of pay and his pay not being protected on his deployment from higher to lower category for no fault of his own, the workman has raised this Industrial Dispute claiming protection of pay as per his Basic in Category – IV. Initially the matter was raised before the management and Note Sheet dated 25.03.2000 was sent to the Area Office and again on 12.09.2001 but no action was taken by the management. The union has contended that the management deliberately deprived the workman of his legitimate protection of basic wages, causing financial loss to him. It has been prayed that Amal Majhi should be given wage protection at the time of his conversion to the post of Fitter Helper in Category – II and he should be paid arrears of difference of wages.

3. Management contested the case by filing written statement on 03.02.2015 and contested the claim raised on behalf of Amal Majhi. The specific case of the management is that the workman voluntarily applied for light job soon after recovery and the management deputed him as a Fitter Helper in Category – II from his earlier job of Stone Cutter in Category – IV. The workman was paid the basic wages available to Category – II workers and he is not entitled to the basic wages

under Category – IV as it is against the principle of Equality and the law. According to the management the nature of job allotted to the workman has changed and he is entitled to the wages commensurating with his nature of work.

4. In order to substantiate their case, the union examined Amal Majhi as Workman Witness – 1. He filed an affidavit-in-chief on 25.08.2016, wherein he stated that he met with an accident in the mines and was injured while on duty on 12.07.1990. The doctor advised the management to deploy him in any other lighter job and the Compensation Board declared that Amal Majhi has suffered ten percent (10%) permanent partial disability. He further stated that management regularized him in the post of Fitter Helper in Category – II and reduced his basic wages, which he was receiving in Category – IV. His basic was fixed at Rs. 51.24/- in Category – II while he was receiving basic of Rs. 54.06/- per day in Category – IV. The workman in his affidavit-in-chief has stated that according to the guidelines and the prevailing practice of the Company whenever management deployed worker from higher category to lower category, the wages paid to the workman in higher category and increment earned by the workman is protected, but in the present case the management has not followed such practice and guidelines. The workman witness was recalled for his evidence and production of documents on 26.06.2023. In course of his evidence on recall he has produced the following documents :

- (i) A copy of the Injury Report dated 12.07.1990 has been produced as Exhibit W-1.
- (ii) Copy of the Accident Report dated 17.07.1990, as Exhibit W-2.
- (iii) Copy of the Outdoor Patient Ticket relating to the treatment of Amal Majhi, commencing from 12.07.1990 beyond 10.09.1990, as Exhibit W-3 collectively.
- (iv) Copy of the Office Order dated 21.02.1992 directing Amal Majhi to work as a Fitter Helper in Category – II with a basic of Rs. 51.24/-, as Exhibit W-4.

5. In cross-examination workman witness – 1 has deposed that after his deployment in the post of Fitter Helper he was paid less basic wages of Rs. 51.24/- per day and he did not raise any objection. He also admitted that work of a Fitter Helper is a lighter job than the work performed by a Stone Cutter in Category – IV. The workman deposed that after the accident he sought for a lighter job.

6. Mr. Sumit Choudhary, Deputy Personnel Manager, Nimcha Colliery has been examined as Management Witness – 1. He filed an affidavit-in-chief in support of management's case. Witness stated that Amal Majhi voluntarily applied for lighter job soon after recovery from illness and after considering all aspects he was deployed as a Fitter Helper in Category – II from the job of a Stone Cutter in Category – IV. The witness further stated that he was paid the basic wages of Category – II as per National Coal Wage Agreement and the basic wages under Category – II was well protected. The management witness has produced a copy of the Office Order dated 21.02.1992 as Exhibit M-1 and a copy of the Report of Disablement Assessment Medical Board held at Central Hospital, Kalla on 27.11.1992, as Exhibit M-II. According to the management the workman is not entitled to the protection of pay which he was receiving in a higher category.

7. In course of cross-examination the witness stated that he was unable to produce any document to show that the workman agreed to the change in his category of employment. He also deposed that on request of the workman, the management converted him from Category – IV to Category – II due to his injuries.

8. The short question for consideration before this Tribunal is whether Amal Majhi is entitled to protection of pay on being deputed in Category – II from his earlier employment in Category – IV, which occurred due to the injury sustained by him.

9. Mr. Rakesh Kumar, Union representative advancing his argument

submitted that the workman was receiving a basic pay of Rs. 54.06/- while he was working as a Stone Cutter in Category – IV. He met with an accident in the mines on 12.07.1990 due to his employment and was under medical treatment at Central Hospital, Kalla. His treatment continued beyond 10.09.1990 (Exhibit W-3). The workman suffered ten percent permanent partial disability and a compound fracture in his left thumb. The Board members declared him fit for his designated job. Referring to Exhibit M-II, Mr. Rakesh Kumar argued that on joining his duty the management issued an order on 21.02.1992, whereby Amal Majhi was deputed to work as a Fitter Helper in Category – II with a basic wage of a Fitter Helper. It is submitted that there was no reflection in the office order that such arrangement had been made on the prayer of the workman and no such document has been produced. The union representative argued that when a workman suffers injury while at work, he does not deserve reduction of wages as this is done only in the case of imposition of punishment due to fault or misconduct on the part of the workman. The union representative vehemently argued that Amal Majhi who has now superannuated from his service is entitled to his difference of basic pay (Rs. 54.06 – Rs. 51.24) which he was receiving in Category – IV per day from the date of his regularization in the part of Fitter Helper in Category – II till his superannuation.

10. Mr. P. K. Goswami, learned advocate for the management refuting the claim of the union argued that the workman after his injury has recovered and found fit to work in Category – IV. It is submitted that the workman on his own made representation before the management of the company for providing him with a lighter job. Since he was granted such accommodation and was posted as a Fitter Helper in Category – II, by issuance of an Office Order dated 21.02.1992 he had been informed that his basic wage would be Rs. 51.24/- per day. At this stage the workman is not entitled to the pay attached to the post of Category – IV.

11. Having considered the materials on record and argument advanced on

behalf of the management and union, I find that there is no disagreement between the parties that Amal Majhi was deployed as a Stone Cutter in Category – IV at Nimcha Colliery where his Basic Wages was Rs. 54.06/- per day. It is also admitted that he met with an accident in the mines in course of his employment and suffered an injury, resulted in ten percent permanent partial disablement. On a perusal of the injury report (Exhibit W-1) and the report of Disablement Assessment Medical Board dated 27.11.1992 (Exhibit M-II) it is gathered that the workman has suffered compound fracture in his left thumb. The Outdoor Patient Ticket dated 12.07.1990 reveals that he suffered cut injury in his left thumb which affected his skin, muscle, tendon and bone. It goes without saying that a person suffering such injury in one of his hands would be rendered less effective in his workplace and also in his personal life. I cannot be unmindful of the fact that accidents are common features in the industrial establishment and in the present case the workman has suffered injury while he was engaged in work. The management of the company cannot shrug its responsibility in providing fair treatment to its workman who sustained loss while serving the employer company.

12. There is no material on record to determine if the workman made any prayer and application before the management to place him in an inferior category of work with less pay. The Office Order dated 21.02.1992 by which the workman was deployed to the post of Fitter Helper in Category – II from his earlier post of Stone Cutter in Category- IV does not bear any testimony to the fact that such arrangement was made on own seeking of the workman. Such arrangement has been made due to exigency arising out of certain circumstances. In such a situation it is illegal and unfair on the part of the management on reducing the Basic Wages of the workman from Rs. 54.06/- per day to Rs. 51.24/- per day. The workman has rendered service and achieved the increments attached to his earlier post of Stone Cutter in Category – IV which cannot be diluted. Therefore, it is just, appropriate and equitable to protect the Basic Pay of the workman when

he was deputed to a lower post of Fitter Helper in Category – II. In such view of the matter, I am of the considered view that the management of Nimcha Colliery has acted in an illegal manner by reducing the Basic Pay of the workman as if it was a punishment imposed upon him. In such a view of the matter the management of Nimcha Colliery under Satgram Area of ECL is directed to protect the Basic Wages of Amal Majhi with increment which he received during his deployment in Category – IV and pay him the difference of wages from the date of his regularization in the post of Fitter Helper in Category – II till the date of his superannuation. The Industrial Dispute is accordingly allowed on contest. The management is directed to pay the difference of wages to the workman within a period of two (2) months from the date of communication of the Award.

Hence,

**ORDERED**

that the Industrial Dispute is allowed on contest in favour of the workman. Management is directed to protect the Basic Pay along with increment of the workman, he was receiving at the time of his posting as a Stone Cutter in Category – IV for the period from his regularization in the post of Fitter Helper in Category – II till the date of his superannuation. Let an award be drawn up in light of my above findings in favour of the workman. 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.