

**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. 24 OF 2022

PARTIES: Rupchand Kora
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: 19.09.2025

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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-22012/52/2022-IR(CM-II)** dated 27.05.2022 has been pleased to refer the scheduled dispute between the employer, that is the Management of Nabo Kajora 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 Nabo Kajora Colliery, Kajora Area of M/s. E.C.Ltd. for non-reinstatement in service of Sri Rupchand Kora, Ex- U.G Trammer, U.M.No. 129604, who was terminated from his services by the said management vide letter No. ECL/KA/APM/C-6/2019/10/1785 dated 18/22-06-2019, is justified or not? If not, what relief the workman is entitled to? ”

1. On receiving Order **No. L-22012/52/2022-IR(CM-II)** dated 27.05.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 24 of 2022** was registered on 31.05/01.07.2022 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 and a list of witnesses in support of their claims.
2. Mr. Niren Chandra Das, President of Bharatiya Mazdoor Sangh representing Rupchand Kora filed written statement on behalf of the union on

on 30.08.2022. The fact of the case which unfolds from the written statement of the union is that Rupchand Kora was posted as UG Trammer, bearing U.M. No. 129604, at Naba Kajora Colliery, Kajora Area under ECL. The workman was chargesheeted on 18.07.2018 for his unauthorized absence from duty from 13.09.2017 to 17.07.2018 and for habitual absence. Copy of chargesheet was served upon the workman and he replied to the same. The management not being satisfied with the reply initiated a domestic enquiry. The workman participated in the enquiry proceeding but he was not allowed to have the assistance of any co-worker and to produce defense witness. The union alleged that it was a sham proceeding and signatures of the workman were obtained on the printed papers without explaining the contents to him. The workman suffered stoppage of six annual increments on earlier occasion. After completion of enquiry, a second Show Cause Notice was issued to him on 04.02.2019. The workman having been found guilty of charge submitted his explanation to the second Show Cause Notice on 23.02.2019. Without considering the submission, the General Manager, Kajora Area dismissed the workman from service by issuing a letter dated 18/22.06.2019 and the copy of letter was served upon him by the Agent on 25.06.2019. According to the union, Rupchand Kora is the only earning member of the family and is facing extreme financial crisis. He preferred an appeal before the Director (Personnel) in July 2020 praying for his reinstatement but management did not consider his appeal. In the written statement, the union has prayed for reinstatement of the workman and payment of full back wages by setting aside the order of termination.

3. The management of ECL contested the Industrial Dispute by filing written statement on 27.01.2023. Details apart, management's case is that Rupchand Kora absented from his duty on 13.09.2017 without any information or permission of the competent authority. It is further case of the management that the workman is a habitual absentee and his past attendance before issuance of

chargesheet was bad. Out of 305 normal working days, the workman attended 76 days of work in 2014, 40 days in 2015, 30 days in 2016, 17 days in 2017 and Nil in the year 2018. According to the management, absenteeism is a serious misconduct as it hampers the work of the employer and the production process. It is urged that management cannot be expected to maintain the name of a defaulting workman in the roll of the company for an indefinite period. Referring to various decisions of the Hon'ble Supreme Court of India, it is contended that habitual absenteeism means gross violation of discipline and it establishes lack of interest of the employee in the work. Further contention of the management is that the petitioner acted in a very casual and cavalier manner. He did not take his duty seriously in disciplined manner. By such a long unauthorized absence, the workman actually deserted his job without sufficient reason. It is urged that the action of the management in dismissing the workman is just and proper. The industrial dispute raised has no merit and the instant case is liable to be dismissed.

4. The question for adjudication is whether the action of the management in not reinstating Rupchand Kora in service after his termination is justified?
5. It appears to me that the question of non-reinstatement has overshadowed the actual issue regarding propriety of the Enquiry Proceedings and the decision of the management in dismissing the workman on the charge of unauthorized and habitual absence. In order to substantiate the case of workman, union has examined Rupchand Kora as WW-1. In his affidavit-in-chief. The workman admitted receipt of chargesheet dated 18.07.2018 for unauthorized absence from 13.09.2017. He further stated that the management did not consider the explanation submitted by him along with medical papers. There is no mention of his participation in the Enquiry Proceedings. However, the workman stated that second Show Cause Notice was issued to him on 04.02.2019 and he submitted

his explanation on 23.02.2019. It is averred that he was illegally dismissed from service on 25.06.2019. There is no whisper in the affidavit as to why the workman was absent for 10 months and what prevented him from informing the management about his compulsions for remaining absent from duty without information. In his examination-in-chief, the workman produced the following documents:

- (i) Copy of chargesheet dated 18.07.2018 is produced as Exhibit W-1.
- (ii) Copy of reply against chargesheet is produced as Exhibit W-2.
- (iii) Copy of Enquiry Proceedings in seven pages is produced as Exhibit W-3.
- (iv) Copy of second Show Cause Notice is produced as Exhibit W-4.
- (v) Copy of reply to second Show Cause Notice is produced as Exhibit W-5.
- (vi) Copy of letter issued by General Manager dated 22.06.2019 dismissing him from service is produced as Exhibit W-6.
- (vii) Copy of letter of communication by Agent dated 25.06.2019 is produced as Exhibit W-7.

In cross-examination, the witness admitted that on previous occasions he was found guilty for his unauthorized absence from duty. No penalty was imposed against him. He further deposed that during his absence, he underwent medical treatment under a private practitioner but failed to file any prescription in support of his illness. The witness was unable to give out the name of the doctor who treated him. In his examination-in-chief, the witness disclosed that he suffered from tuberculosis during his absence and denied that he did not submit documents relating to medical treatment before the management.

6. Mr. Ramjee Tripathi has been examined as MW-1. He filed an affidavit-in-chief in support of the management's case stating therein that chargesheet was issued against the workman under clause 26.23 of the certified standing order for habitual absence from duty without sufficient reason and under clause 26.29 for unauthorized absence for more than 10 days without sanctioned leave. In the affidavit, the management witness stated that the workman submitted his reply but the reply was not found satisfactory, as such a domestic enquiry was held by the Enquiry Officer duly appointed by the Appointing Authority. Notice of enquiry was duly issued to the workman who participated in the enquiry and he was given reasonable opportunity to defend his case. The Enquiry Officer after conclusion of Enquiry Proceedings submitted his Enquiry Report before the Appointing Authority, holding that the charge was fully established against the workman. The evidence disclose that second Show Cause Notice was issued and after observing the principles of natural justice, the workman was dismissed from his service. During his examination-in-chief, the management witness produced the following documents:

- (i) Copy of death chargesheet dated 18.07.2018 is produced as Exhibit M-1.
- (ii) Copy of reply submitted by workman is produced as Exhibit M-2.
- (iii) Copies of two notices of enquiry dated 25.10.2018 and 20.12.2018 are produced as Exhibit M-3 and Exhibit M-4 respectively.
- (iv) Copy of Enquiry Proceedings along with report and finding is produced collectively as Exhibit M-5.
- (v) Copy of second Show Cause Notice is produced as Exhibit M-6.
- (vi) Copy of reply to second Show Cause Notice is produced as Exhibit M-7.
- (vii) Copy of order of dismissal issued by General Manager dated 18/22.06.2019 is produced as Exhibit M-8.

In his cross-examination, the management witness deposed that during enquiry, the workman did not state that he was suffering from tuberculosis. No suggestion was put to the management witness that documents relating to the medical treatment of the workman were produced before the Enquiry Officer or that they were not considered.

7. Mr. Milan Kumar Bandyopadhyay, learned advocate appearing for the dismissed workman argued that the workman was absent from duty as he was suffering from tuberculosis. Medical documents were submitted before the management but the same was not considered, as a result a disproportionate punishment was imposed upon the workman for no fault of his. It is also argued that the workman was not allowed to take any help from any co-worker to defend his case which violated the principles of natural justice. Mr. Bandopadhyay urged that the order of dismissal issued by the General Manager is arbitrary and illegal and same is liable to be set aside. It is urged that the workman should be reinstated in the service with full back wages and consequential benefits.

8. Mr. P.K. Das, learned advocate in his reply for the management of ECL argued that the workman is a habitual absentee and on previous occasions between 2014 and 2016, six chargesheets were issued against him. Warning letters were issued and on three occasions, his increments were stopped with cumulative effect. The workman did not rectify his conduct and on the last occasion, he unauthorizedly remained absent for more than ten months without sufficient grounds. The workman failed to establish that he was suffering from any illness. It is argued that chargesheet was issued against the workman and he participated in the Enquiry Proceedings and availed the opportunity to produce evidence in his support of his defence but as he failed to make out any cogent ground for his long absence, management has been compelled to dismiss him from his service for disruption of work caused by him. It is argued that there is

no reason for any interference with the dismissal and the punishment awarded to him is just and fair.

9. I have perused the pleadings of the parties, evidence adduced and documents produced by the management as well as the dismissed workman. Having considered the arguments advanced by the respective parties, it is quite clear that the workman has admitted his unauthorized absence from 13.09.2017 to 18.07.2018. as well as his previous unauthorized absence on a number of occasions when he was found guilty. In this reference, the point for consideration is whether non-reinstatement of the workman after his termination is justified? The workman in a roundabout manner has challenged the order of dismissal and if non-reinstatement is justified. At this juncture, it is necessary to examine whether the procedure adopted by the management is consistent with the principles of natural justice or the dismissal of the workman was an arbitrary act. After issuance of chargesheet on 18.07.2018 (Exhibit W-1), the workman submitted his reply on 01.11.2018 (Exhibit W-2). On perusal of reply, it appears that the workman disclosed about his suffering from tuberculosis due to which he was unable to attend his duty. In the written statement of the union there is no reference to any medical treatment received by him. No document relating to his medical treatment was submitted. A simple claim of suffering from illness without supporting evidence cannot be a ground for prolonged absence. The Enquiry Proceedings started from 25.12.2018. The contents of the charge were stated in Bengali to the workman which he understood he was also given opportunity to take assistance of a co-worker or representative of trade union but the workman declined. The workman in course of his examination accepted the charge levelled against him. Management witnesses were examined, who supported the charge of previous punishment meted out to the workman for his habitual absence in past and also his unauthorized absence from 13.07.2019. It also appears from the evidence that six chargesheet were issued to him from

05.06.2014 to 17.12.2016 and three warning letters were issued from 10.06.2013 to 05.11.2015. It appears from the Enquiry Proceedings that the employee admitted the charge and submitted that he was suffering from tuberculosis since 13.07.2019 and was under treatment of Dr. B.D. Ghosh due to which he was unable to send any information to the Colliery management or attend his duty. No document is produced in support of his statement of undergoing medical treatment from 13.07.2019. The workman was admitted that he did not send any information to the Colliery management regarding his absence. It is beyond contemplation that a person suffering from ailment for ten months could not be able to inform his place of work about his inability to attend duty. In his report, the Enquiry Officer stated that the charge sheeted employee and the management representative participated in the enquiry and the principles of natural justice were followed providing opportunities to the concerned employee to defend himself. The workman was found guilty of charge and the report of enquiry was submitted before the Manager of the Colliery. A second Show Cause Notice was issued to the workman by the Agent, Naba Kajora Colliery on 04.02.2019 and a copy of Enquiry Proceedings was furnished to the workman for submitting his explanation within 15 days. The workman submitted his explanation which has been produced as Exhibit W-5. The Disciplinary Authority finally issued an order of dismissal of the workman dated 18/22.06.2019 (Exhibit W-6) citing the reasons. I find that the workman having absented for such a long period was unable to justify his absence, coupled with the facts that proper medical documents were not produced by him. The approach of the charged employee was very cavalier and casual in nature. Several opportunities were given to him on earlier occasions but he did not rectify himself and disrupted the work process of the management. Under such circumstances, I do not find any reason to interfere with the order of dismissal of the workman. Accordingly, non-reinstatement of workman after his dismissal does not suffer from any illegality. I find no merit in the Industrial Dispute and the same merits dismissal.

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Hence,

OR D E R E D

The Industrial Dispute is dismissed on contest against the union. Rupchand Kora is not entitled to any relief in this case. 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.