

**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. 26 OF 2001

PARTIES: Rajkumar Singh
Vs.
Management of Madhabpur Colliery, 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: 18.06.2025

A W A R D

In exercise of power 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-22012/318/2000-IR(C-II)** dated 02.08.2001 has been pleased to refer the following dispute between the employer, that is the Management of Madhabpur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Madhavpur Colliery of M/s. ECL in dismissing Sh. Rajkumar Singh, Pit Clerk from services w.e.f. 15.5.93 is legal and justified? If not, to what relief the workman is entitled to ? ”

1. On receiving Order **No. L-22012/318/2000-IR(C-II)** dated 02.08.2001 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 10.09.2001 / 19.11.2001 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. Rakesh Kumar, the then General Secretary of Koyala Mazdoor Congress filed written statement on 20.02.2002 on behalf of Rajkumar Singh, the dismissed workman of Madhabpur Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL). In brief, the fact of the case disclosed in the written statement of the union is that Rajkumar Singh was a permanent employee of ECL and was working as an Attendance Clerk at Madhabpur Colliery. On

15.05.1993 he was dismissed from his service without observing necessary formalities as per standing orders of the company and without holding any enquiry. Further case of the union is that on 14.05.1993 an incident took place in connection with which he was charged by the management but no Charge Sheet was issued and without holding any domestic enquiry the workman was dismissed from his service on the basis of a prima facie enquiry. No second Show Cause Notice was issued to the workman which is a mandatory requirement as per a decision of the Hon'ble Supreme Court of India. It is contended that Rajkumar Singh has no involvement in the case for which he was dismissed and urged that the order of dismissal issued against him is illegal and the same is liable to be set aside. Union has prayed for re-instatement of the workman with full back wages.

3. Management initially did not file any written statement and the case was fixed up for ex-parte hearing. Thereafter management filed written statement on 25.03.2003. According to the management of ECL, Rajkumar Singh while on duty had taken a Dumper bearing No. WB39-1501 loaded with eight tons of coal from Madhabpur Colliery and he himself drove the Dumper towards the railway crossing of Kajoragram where he was caught by the security guard of railway site. For the aforesaid act of misconduct Rajkumar Singh was chargesheeted by the management under Clause 17(i)(a), 17(i)(i) and 17(i)(q) of the Model Standing Orders applicable to the Mine. The workman submitted reply to the Charge Sheet but as the reply was not satisfactory a domestic enquiry was ordered against him and the Enquiry Officer held the enquiry in which the workman participated. Reasonable opportunity was given to the workman to defend himself. The Enquiry Officer observed the principles of natural justice and after concluding the enquiry proceeding submitted his report before the Appointing Authority. The charge of misconduct was duly proved against Rajkumar Singh. After careful consideration of the Charge Sheet, Enquiry Proceeding, Enquiry Report and other connected

papers, the Disciplinary Authority dismissed the workman from service. Management contended that the contents of paragraph no. 3 of the written statement filed by the union is incorrect and that the workman was not dismissed without holding any enquiry. Management denied that the workman was dismissed from service without service of Charge Sheet and without holding any domestic enquiry. According to the management dismissal of the workman is totally justified and the workman is not entitled to any relief.

4. Rajkumar Singh has been examined as Workman Witness No. 1. He has filed affidavit-in-chief wherein he stated that on 14.05.1993 he was on duty in the second shift from 04.00 PM to 12.00 AM at Madhabpur Colliery. After completing his duty, he was proceeding towards his quarters at Khas Kajora Colliery, Madhabpur Railway siding on the way to his quarter at Khas Kajora Colliery. At about 12 at night when he reached the Railway Crossing at Kajoram he saw a Dumper was intercepted. He was held up at that place without knowing the fact and was handed over to the police and subsequently forwarded to the Jail. It is contended that the management did not take any action against the driver who was on duty and drove the Dumper, leaving it at the Railway Crossing. Further case of the workman is that the management decided to dismiss him on the same date i.e., on 15.05.1993 without holding any enquiry and without giving him any opportunity to defend his case before the Enquiry Officer. The dismissed workman contended that management dismissed him from service on the basis of prejudice and no second Show Cause Notice was issued to him as per guidelines issued by the Coal India Limited. The workman averred that the order of dismissal passed against him is illegal and unjustified.

5. Management cross-examined the witness where he deposed that Police lodged an FIR against him and submitted Charge Sheet after investigation and the case is pending before the Court at Durgapur. Witness further deposed that

since he was in custody he never appeared in any Domestic Enquiry. It transpires from the evidence that he received Charge Sheet from the management through the Jail Authority and after his release from jail he submitted an application before the management regarding non-supply of Charge Sheet and other documents. Witness denied that he has been rightly dismissed by the management and volunteered that he was dismissed while he was in custody.

6. From the record as well as order dated 02.07.2013 it appears that management did not adduce any evidence in this case after several opportunity granted to them. On the date of hearing of argument, the order of dismissal dated 15.05.1993 has been admitted by both parties and marked as Exhibit W-1.

7. The moot question in this case is whether the dismissal of workman from service under ECL is sustainable under the law. If not, what relief the workman is entitled to?

8. Mr. Rakesh Kumar, Union representative argued that the workman has been dismissed from service without holding any enquiry. The allegation against him was theft of 8 tonnes of coal, taken away by the workman with the help of a Dumper on 14.05.1993. The workman was arrested and was kept in jail custody for about a month till he was released on bail. The management without issuing any Charge Sheet and without holding any enquiry against him dismissed him from service on the very next date vide order dated 15.05.1993 (Exhibit W-1). The union representative urged that such act of dismissal of workman is arbitrary, violative of the principles of natural justice and the same is liable to be set aside.

9. Mr. P. K. Das, learned advocate for the management of ECL admitted that the management is unable to produce any Charge Sheet or Enquiry Proceeding on the basis on which the order of dismissal was passed by the General Manager.

It is submitted that the workman committed theft in respect of the employer's property and he was found guilty of the charge under Clause 17(i)(a) of Model Standing Orders. It is argued that the workman is not entitled to any relief in this case as he has committed a criminal offence.

10. I have considered the facts and circumstances of the case and arguments advanced by the union representative and learned advocate of the management. It is undisputed that Rajkumar Singh was working as Attendance Clerk at Madhabpur Colliery and he was dismissed from his service by order dated 15.05.1993, issued by the General Manager, Kajora Area bearing No. KA:PM:C-6:10/387/2188, in which he has stated that Rajkumar Singh had allegedly taken Dumper No. WB39-1501 loaded with 8 tonnes of coal from Pit No. 2 of Madhabpur Colliery and drove towards the Railway Crossing of Kajoram and that he was caught with the Dumper by Security Guard Mr. Rajdeo Ahir and Md. Daud Khan of Madhabpur Colliery who were on duty at Madhabpur Colliery Siding. On receipt to the report, the Agent, Madhabpur Colliery appointed an Enquiry Officer to conduct the enquiry into the alleged misconduct. It is further stated in the order of dismissal that the enquiry was conducted in presence of Rajkumar Singh and statements were recorded. The Enquiry Officer thereafter submitted his report and after going through the Enquiry Report it was found that Rajkumar Singh committed the misconduct under Clause 17(i)(a), 17(i)(i) and 17(i)(q) of the Model Standing Orders applicable to the company. It is further stated that after careful consideration of the report of the Enquiry Officer, connected papers and gravity of misconduct, the General Manager dismissed the workman. No Charge Sheet, Enquiry Proceeding has been produced by the management to establish that a proper enquiry proceeding was held before the workman was found guilty of the charge. There is no iota of evidence to indicate that the workman had opportunity to represent his case. Under such facts and circumstances, I hold that the dismissal of Rajkumar Singh on the strength of letter KA:PM:C-6:10/387/2188

dated 15.05.1993, issued by the General Manager, Kajora Area is arbitrary and found unsustainable under the law and in violation of principles of natural justice. The workman having been dismissed in an illegal manner is entitled to be reinstated. It is appropriate to set aside the order of dismissal dated 15.05.1993. The workman is entitled to be reinstated in service within two (2) months from the date of communication of the Award, if has not attained the age of superannuation till date. It transpires from the materials in record and admission of the workman that he was in jail custody and a criminal case is pending against him. The workman has not rendered service to the employer company since 15.05.1993. Therefore, I am not inclined to grant him full back wages for the period he remained idle. It is found appropriate to grant him twenty percent (20%) of his back wages from 15.05.1993 till his reinstatement in service or superannuation, whichever is earlier.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Madhabpur Colliery under Kajora Area of Eastern Coalfields Limited. The order of dismissal of Rajkumar Singh, Pit Clerk of Madhabpur Colliery is set aside. Management of ECL is directed to reinstate the workman within two (2) months from the date of communication of the Award, if the workman has not attained the age of superannuation in the meantime. The management shall also pay back wages to the workman at the rate of twenty percent (20%) from 15.05.1993 till his reinstatement or superannuation whichever is earlier. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Govt. of India, New Delhi for information and Notification.

Sd/-

(ANANDA KUMAR MUKHERJEE)

Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.