

**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. 28 OF 2018

PARTIES: Anshuman Maji
Vs.
Management of MIC Jhanjra Project Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Shabe Alam, Organizing Secretary, CMC (HMS).
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 29.01.2025.

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-22012/75/2017-IR(CM-II)** dated 29.10.2018 has been pleased to refer the following dispute between the employer, that is the Management of Main Industrial Complex, Jhanjra Project Colliery under Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Jhanjra Project Colliery, Jhanjra Area of M/s. E.C.Ltd. in reduction of pay on promotion of Sri Anshuman Majhi from Face Crew to Jr. Overman is justified or not. If not, to what relief Sri Anshuman Majhi is entitled.? ”

1. On receiving Order **No. L-22012/75/2017-IR(CM-II)** dated 29.10.2018 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 19.11.2018 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. Written statement has been filed by Anshuman Maji, the workman on 21.03.2023 through Mr. Bipul Banerjee his advocate. This Industrial Dispute has been raised by the General Secretary, Colliery Mazdoor Congress (HMS), alleging reduction of pay of the workman on his promotion. It is not raised by the workman in his individual capacity however after registration union did not take any step.

The management filed their written statement on 21.03.2023, denying the claim of the workman.

3. The Brief fact of the workman's case is that he is a permanent employee of Eastern Coalfields Limited (hereinafter referred to as ECL) and was appointed as Underground Mazdoor in Category-I under Land Loser Scheme. He was regularized to the post of Face Crew, Category-V in the year 2004 and was granted six increments for performing the job of Face Crew, as per Circular dated 17.09.1997 issued by the Deputy Chief Personnel Manager (Establishment). The Basic Pay of Anshuman Maji as Face Crew was Rs. 490.43/- (Rupees Four Hundred ninety and ninety-three paise only) per day. On his regularization to the post of Junior Overman in the year 2011 his Basic Pay was reduced to Rs. 427.81/- (Rupees Four Hundred twenty-seven and eighty-one paise only) per day and he received less Basic Pay of Rs. 62.62 (Rupees sixty-two and sixty-two paise only) per day, which is illegal. It is contended by the workman that the action of the management of Jhanjra Project 1 and 2 Incline under Jhanjra Area of ECL is not justified as his pay has not been properly fixed on his regularization to a promotional post in Technical and Supervisory Grade - 'C'. The workman has prayed for passing necessary Award, directing the management of Jhanjra Project 1 and 2 Incline under Jhanjra Area of ECL to fix his Basic Pay at Rs. 490.43/- per day retrospectively from the date of his regularization to the higher post.

4. The Agent, Jhanjra Project Colliery, ECL contested the case by filing written statement wherein it is admitted that Anshuman Maji was appointed as Time Rated Trainee (Underground) under Land Loser Scheme vide appointment letter dated 03.05.2000. He was absorbed as an Underground Mazdoor in Category-I as per order dated 03.04.2002. Anshuman Maji was thereafter regularized to the post of Face Crew, Category-V as per Office Order CGM/JNR/PER/05/2004/1002 dated 23.11.2004. As Face Crew, Anshuman Maji was getting a special Pay with six increments. Subsequently, by order dated

05/07.09.2011 Anshuman Maji was regularized to the post of Junior Overman in Technical and Supervisory Grade – 'C' on 14.04.2011. As he was no longer working as a Face Crew, the six special increments which were granted to him for his work as Face Crew have been withdrawn. It is further asserted that the job of a Junior Overman does not have any bearing with the job of Longwall Face Crew, as such he is not entitled to get special allowance. The management has claimed that the workman is not entitled to get any relief in this case and the Industrial Dispute is liable to be dismissed.

5. The point which arise for consideration as per the Schedule is whether the management of Jhanjra Project Colliery under Jhanjra Area of ECL has fixed the pay of Anshuman Maji in proper manner on his regularization to the post of Junior Overman? If not what relief the workman is entitled to?

6. Anshuman Maji has been examined as Workman Witness No. 1. He has reiterated his case in the written statement and in support of his case he produced the following documents :

- (i) Copy of the letter dated 17.09.1997 issued by the Competent Authority granting six incremental benefits to Anshuman Maji has been produced as Exhibit W-1.
- (ii) Copy of letter dated 14.10.2010 by which Anshuman Maji was deployed as Mining Sirdar -cum- Shot Firer (Trainee), as Exhibit W-2.
- (iii) Copy of Office Order dated 05/07.09.2011 by which Anshuman Maji was regularized as Junior Overman in Technical and Supervisory Grade – 'C' from the date of completion of training period, as Exhibit W-3.
- (iv) Copy of Pay Slip of Anshuman Maji for the post of Face Crew, as Exhibit W-4.

- (v) Copy of Pay Slip of Anshuman Maji for the post of Junior Overman, as Exhibit W-5.
- (vi) Copy of letter dated 27.05.2013 of union to the Agent of Jhanjra Project Colliery, as Exhibit W-6.
- (vii) Copy of letter dated 13.06.2013 issued by the General Manager (M), Jhanjra Project Colliery addressed to the Secretary of the Union, as Exhibit W-7.

7. In course of cross-examination the workman witness (WW-1) has deposed that he was regularized as Time Rated mazdoor in Category-I on 03.04.2002. Thereafter he was regularized to the post of Face Crew in Category-V on 23.11.2004. Subsequently, on 14.04.2011 he was regularized as Junior Overman in Technical and Supervisory Grade – 'C'. The witness stated that he received six increments in his Basic Pay while working as Longwall Face Crew and his Basic Pay was reduced by Rs. 62.62/- per day on his posting as Junior Overman. The witness denied the suggestion that six increments were deducted as it was not applicable to any other post except Longwall Face Crew. The witness also claimed that his pay was not fixed in proper manner.

8. Mr. Alaric Oneal Lyndem, Manager (Personnel), Jhanjra Project Colliery has been examined as Management Witness No. 1. He filed his affidavit-in-chief in support of management's case and has been cross-examined. The management produced the following documents in support of their case :

- (i) Copy of Office Order dated 23.11.2004 by which Anshuman Maji and other employees were regularized to the post of Face Crew in Category-V, has been produced as Exhibit M-1.
- (ii) Copy of Office Order dated 05/07.09.2011 by which Anshuman Maji was regularized as Junior Overman, in Technical and Supervisory Grade – 'C' from the date of completion of training period, as Exhibit M-2.

9. In course of cross-examination the witness deposed that the post of Face Crew is a special designation and at the time of promotion to the post of Face Crew the workman was given six increments in Pay. The witness also deposed that the term of posting as Face Crew is for twelve (12) years, which is considered as lock-in period. The witness denied that the management committed illegality by reducing the Basic Pay of the workman after his promotion to the post of Junior Overman. The management witness denied that pay of the workman has been reduced without fixation.

10. The question involved is whether there is justification in reducing the pay of the workman on his posting as Junior Overman from his earlier post of Longwall Face Crew. Mr. P. K. Das, learned advocate argued that a workman is required to perform hazardous job during his posting as a Face Crew, which is an underground work in the Mines. Workman who volunteered for such posting are granted the benefit of six increments to his Basic Pay. By Office Order dated 23.11.2004 (Exhibit M-1), Anshuman Maji along with other ten employees were regularized to the post of Face Crew in Category-V. A direction was issued in Order dated 23.11.2004 (Exhibit M-1) that the employee could not be diverted to any other job neither could they apply for their transfer to any other Areas nor change their designation at least for a period of twelve years and during this period, if the workman diverted to any job or transfer anywhere, the workman shall be demoted to the category from which he has been regularized as Face Crew. Learned advocate argued that the concerned workman agreed to the terms of order dated 23.11.2004 for his posting as Face Crew. He received his enhanced pay for the nature of job performed by him till he was regularized to the post of Junior Overman by order dated 05/07.09.2011 (Exhibit M-2). Learned advocate argued that the workman before completing twelve years as Face Crew obtained Overman's Certificate of competence and joined the work of Mining Sirdar -cum- Shot Firer (Trainee) and thereafter he was regularized to the post of Junior

Overman in Technical and Supervisory Grade – ‘C’ on completion of his training period of six months. As per the Office Order his Pay was fixed by the Associated Finance. Learned advocate argued that the workman has not been deprived of his basic payment as he is not entitled to receive higher Pay which he was receiving as a Face Crew.

11. Mr. Shabe Alam, Organizing Secretary of Colliery Mazdoor Congress (HMS), arguing the case on behalf of the workman submitted that after promotion to the post of Junior Overman in Technical and Supervisory Grade – ‘C’, the Pay of the workman cannot be reduced. It is submitted that the management has not denied the fact that the Basic Pay of the workman has been reduced by Rs. 62.62/- per day after his regularization to a higher post. The union representative urged that the Pay of Anshuman Maji, now in the post of Senior Overman, should be fixed with retrospective effect from the date of his completing six months’ training as per order dated 05/07.09.2011.

12. Considered the argument advanced by the learned advocate for the management and union representative, pleading of parties and evidence on record. The main grievance regarding the reduction of Basic Pay of Anshuman Maji on his regularization to the post of Junior Overman has not been denied. The workman has filed a copy of his Pay Slip as Face Crew for the month of January, 2011 (Exhibit W-4) wherein it appears that he received a Basic Pay of Rs. 12,751.18/- (Rupees twelve thousand seven hundred fifty-one and eighteen paise only). From a copy of Pay Slip for the month of November, 2011 (Exhibit W-5) it is gathered that as Junior Overman Anshuman Maji received a Basic Pay of Rs. 11,123.06/- (Rupees eleven thousand one hundred twenty-three and six paise only). It is clear that the pay of workman was reduced on his regularization to the post of Junior Overman in Technical and Supervisory Grade – ‘C’. The union representative, Mr. Shabe Alam submitted an application dated 27.05.2013

(Exhibit W-6) addressed to the Agent, Jhanjra Project Colliery, seeking proper fixation of Basic Pay of Anshuman Maji and also payment of arrears of difference of wages. The General Manager (M), Jhanjra Project Colliery, ECL in his reply dated 13.06.2013 (Exhibit W-7) addressed to the Secretary, UCMU, informed that difference of wages of Technical and Supervisory Grade – 'C' was paid to Anshuman Maji, Face Crew. It was further stated that the Basic pay of Anshuman Maji on regularization to the post of Junior Overman was fixed in the nearest in the Time Rated Scale without incremental benefit as per norms of fixation on regularization. The management further noted that Anshuman Maji was granted six increments for working as Longwall Face Crew and it was an additional benefit of Longwall Face Crew and such increments were not applicable to the other employee posted with other designations. From the facts and circumstances of the case it transpires that the work of a Longwall Face Crew, operating underground, is a hard and hazardous job and special pay in the form of six increments of the Basic is granted to the employees opting for such difficult nature of job. A person who readily opted for the job of Overman prior to completion of twelve years' lock-in period, as disclosed in the Office Order dated 23.11.2004 (Exhibit M-1), cannot be entitled to receive the same benefit. The management has considered the case of Anshuman Maji and on his posting as Junior Overman has fixed his pay, which incidentally is less than the Basic Pay of Longwall Face Crew. It is to be borne in mind that the change of designation of the workman was not due to promotion. The union representative has failed to produce any Circular or Agreement whereby an employee who was receiving any special Pay in hazardous posting was protected on his being regularized to some other post not by way of promotion. In such view of the matter, I hold that there is no illegality in reduction of Pay of Anshuman Maji, who discontinued the function of Face Crew and opted for the post of Junior Overman. In the present case the workman is not entitled to any difference of Pay. The Industrial Dispute is therefore dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. The workman on his posting as Junior Overman is not entitled to the Pay and benefits of Longwall Face Crew. 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, Government of India, New Delhi for information and Notification.

Sd/-

(ANANDA KUMAR MUKHERJEE)

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