

**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. 41 OF 1999

PARTIES: Ramanand Nonia
(represented by Ramrati Devi, widow of the workman)
Vs.
Management of Porascole 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: 29.08.2025

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-22012/243/98/IR(CM-II)** dated 04.05.1999 has been pleased to refer the following dispute between the employer, that is the Management of Porascole 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 Parascole Colliery of Kajora Area of M/s. ECL in dismissing the services of Sh. Ramanand Nonia, Pump Khalasi is legal and justified? If not, to what relief is the workman is entitled? ”

1. On receiving Order **No. L-22012/243/98/IR(CM-II)** dated 04.05.1999 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 07.06.1999 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. Koyala Mazdoor Congress, representing the aggrieved workman filed written statement on 22.01.2002. The fact of the case in brief is that Ramanand Nonia was posted as Pump Khalasi at Porascole Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL), bearing U.M. No. 537427. Due to unauthorized absence from duty from 10.07.1994 a Charge Sheet

was issued against the workman after seven (7) months. The workman did not receive any Charge Sheet nor any Notice of enquiry due to which he was unable to submit any reply. The workman being unaware about the domestic enquiry did not participate and the enquiry was held ex-parte against the workman. The management of ECL in utter violation of the principles of natural justice held a domestic enquiry against the workman and issued an order of dismissal behind his back. No second Show Cause Notice was issued to the workman and the order of dismissal passed against the workman is disproportionate for being absent from duty for only seven (7) months. The union in their written statement has prayed for setting aside the order of illegal dismissal and reinstatement of Ramanand Nonia along with payment of back wages and other consequential benefits.

3. Management filed their written statement on 26.03.2002. According to the management the concerned workman was posted as Pump Khalasi at Porascole Colliery of ECL. He remained absent from 10.07.1994 for more than ten (10) days without any intimation and a Charge Sheet dated 11.02.1995 was issued against him under Clause 17(i)(n) of the Model Standing Orders. The workman failed to submit any reply to the Charge Sheet as a result a domestic enquiry was held against him. The Enquiry Officer issued Notice of enquiry to the chargesheeted workman but the workman failed to appear in the enquiry proceeding. The enquiry was held ex-parte and the Enquiry Officer submitted his report holding the workman guilty. The Disciplinary Authority after careful consideration of the Charge Sheet, Enquiry Proceeding, Report of enquiry and other connected papers awarded punishment of dismissal of Ramanand Nonia from service. It is the case of the management that a fair enquiry proceeding was held in a proper manner and the punishment awarded is proportionate to the nature of misconduct. Management urged that the Industrial Dispute is liable to be dismissed.

4. The point for consideration is whether the action of the management in dismissing Ramanand Nonia from service is justified, if not, to what relief the workman is entitled to.

5. During pendency of the proceeding Ramanand Nonia died on 25.12.2000. By order dated 17.09.2015, five legal heirs of Ramanand Nonia were substituted. Smt. Ramrati Devi, wife of Ramanand Nonia was examined as Workman Witness No. 1. She filed an affidavit-in-chief in support of her husband's case, stating therein that her husband could not attend his duty due to illness for which he was issued a Charge Sheet on 11.02.1995 for his absence from duty from 10.07.1994 to 10.02.1995. As Charge Sheet was not received by Ramanand Nonia, he could not submit any reply to the Charge Sheet and an ex-parte enquiry was conducted. In later part of her statement witness averred that her husband became ill due to hazardous condition of work. After recovery from illness, he reported for his duty but was not allowed by the management to join his duty and they issued an order of dismissal. It may be gathered from her affidavit-in-chief that the workman remained absent for seven months and claimed that for his absence only for six months order of dismissal should not be passed against him. The wife of the deceased workman stated that the order of dismissal of her husband is illegal and unjustified and the management should treat him in service till the date of his death and he should be paid all benefits under National Coal Wage Agreement and one dependent of her husband should be provided with employment. Furthermore, back wages should be paid for the period from the date of his dismissal till the date of his death, on 25.12.2000.

6. In course of cross-examination the workman witness stated that she had no paper to produce regarding treatment of her husband. She also could not state the nature of disease from which her husband was suffered.

7. Ganesh Nonia, Umesh Nonia, Suraj Nonia, the three sons and Manorama Devi, married daughter of Ramanand Nonia filed affidavit-in-chief and were cross-examined. Ganesh Nonia as well as Umesh Nonia were unable to state the nature of illness from which their father suffered during the period for his illness. Ganesh Nonia, Umesh Nonia, Suraj Nonia and Manorama Devi in their affidavit-in-chief stated that they authorized their mother, Ramrati Devi to represent the case and to receive all the benefits as per the order of the Hon'ble Court. None of these witnesses could state the nature of illness Ramanand Nonia suffered during the period of his absence. Cross-examinations of Suraj Nonia and Manorama Devi were declined by ECL.

8. Mr. Ashish Mohan, Senior Personnel Manager, Porascole Colliery, ECL was examined as Management Witness No. 1. He filed affidavit-in-chief, wherein it is stated that a Charge Sheet dated 11.02.1995 under Clause 17(i)(n) of the Model Standing Order was issued against the workman for his unauthorized absence from duty from 10.07.1994. The management witness stated that a domestic enquiry was held in respect of the Charge Sheet and Mr. D. P. Mukherjee was appointed as the Enquiry Officer. Two Notice of enquiry were issued to the workman. Since the workman failed to appear during enquiry, proceeding was conducted ex-parte and the charge was fully established. Enquiry Officer submitted his report and considering the gravity of misconduct an order was passed by the General Manager dismissing the workman on 17/20.06.1995. It is averred that the punishment imposed against the workman is justified. In course of evidence management has produced the following documents :

- (i) Copy of the Charge Sheet dated 11.02.1995 has been produced as Exhibit M-1.
- (ii) Copy of the Letter of appointment of the Enquiry Officer dated 21.03.1995, as Exhibit M-2.
- (iii) Copy of the Notice of enquiry dated 21.03.1995, as Exhibit M-3.

- (iv) Copy of the Notice of enquiry dated 07.04.1995, as Exhibit M-4.
- (v) Copy of the Enquiry Proceeding, as Exhibit M-5.
- (vi) Copy of the Attendance sheet of the workman for the year 1993, 1994 and 1995, as Exhibit M-6.
- (vii) Copy of the Note sheet prepared by the Agent, Porascole Colliery, proposing dismissal of Ramanand Nonia from service, as Exhibit M-7.
- (viii) Copy of the Letter of dismissal dated 17/20.06.1995, as Exhibit M-8.

9. During cross-examination the witness deposed that after enquiry, the Agent of the colliery proposed dismissal of the workman. The General Manager, Kajora Area decided the quantum of punishment by issuing an order of dismissal through his letter, marked as Exhibit M-8. The witness stated that the workman remained absent for about one (1) year without any information which amounted to serious misconduct.

10. Mr. Rakesh Kumar, union representative, arguing the case for dismissed workman submitted that the management has illegally dismissed the workman without serving copy of Charge Sheet and Notice of enquiry. The workman was deprived from participating and proving his case that he was suffering from illness. The union representative further submitted that since the workman died on 25.12.2000 the order of dismissal may be set aside and the legal heirs of the workman be paid all legal dues and back wages of Ramanand Nonia.

11. Mr. P. K. Das, learned advocate for the management of ECL, in reply argued that the workman acted in an indiscipline manner by not informing the management about his absence from duty. His long and continuous absence for more than seven (7) months gave rise to a domestic enquiry and Charge Sheet as

well as Notice of enquiry were sent to the postal address of Ramanand Nonia. The workman did not participate in the enquiry for which an ex-parte domestic enquiry was held and on the basis of findings the Disciplinary Authority dismissed the workman by letter dated 17/20.06.1995 (Exhibit M-8). It is urged that the order of dismissal is proportionate to the charge levelled against him. Learned advocate further argued that the workman was fully aware about his unauthorized absence and is not entitled to any relief.

12. I have considered the argument advanced on behalf of the union and management, the materials on record and facts and circumstances of this case. Undisputedly, Ramanand Nonia, a Pump Khalasi, posted at Porascole Colliery under Kajora Area of ECL, absented his duty from 10.07.1994 without information to the employer company. A Charge Sheet dated 11.02.1995 was issued after seven months. During these seven months the workman did not inform the Competent Authority about the reason of his absence nor did he turn up for resuming his duty. The witnesses produced by the union are none other than the widow, three sons and a married daughter of the chargesheeted workman, but none of them could disclose the nature of illness suffered by Ramanand Nonia and no document of medical treatment was produced. Unfortunately, the dismissed workman died on 25.12.2000, during pendency of the Industrial Dispute before this Tribunal. Neither the family members of the deceased nor the union could establish that the unauthorized absence of the workman from duty was beyond his control. Therefore, the facts and circumstances of the case do not establish that the dismissed workman is entitled to any benefit for his dismissal. On the other hand, the converse story of the management is that the Charge Sheet and Notice of enquiry were served upon the workman but the same cannot be accepted as there is no evidence of service of Charge Sheet or Notice of enquiry dated 21.03.1995 and 07.04.1995, which were said to have been issued by the Enquiry Officer. On a perusal of the Charge Sheet

as well as Notice of enquiry I find that the same were addressed to Ramanand Nonia at Village: Chaitalakhan Bigha, PO: Oribisunpur, District: Gaya (Bihar). No postal receipt or A/D card has been produced in support of effective service of these documents upon the workman. The management has produced a copy of Enquiry Proceeding as Exhibit M-5. It appears from the Enquiry Proceeding that the Enquiry Officer did not record his satisfaction about service of Notice upon the charged employee before proceeding with the ex-parte hearing of the case. In the report it is stated that sufficient time and opportunity was extended to the workman to defend himself in the enquiry proceeding but he did not appear. The charged employee was found guilty for unauthorized absence and proposed to be dismissed from his service. No second Show Cause Notice was issued to the workman and order of dismissal was passed against him on 20.06.1995 for violation of Clause 17(i)(n) of the Model Standing Orders for continuous absence without permission for more than ten days. It appears to me that the enquiry proceeding was held without ensuring service of Charge Sheet and Notice of enquiry upon the workman. Thus, it is a clear violation of principles of natural justice. Had the workman not participated after receipt of the Notice, it would have been justified for the Enquiry Officer to hold the domestic enquiry ex-parte. In the instant case it cannot be said that the Enquiry Officer held a fair enquiry proceeding. It further appears that the copy of Enquiry Proceeding was not supplied to the workman and no second Show Cause Notice was issued to him for his response to the findings of the Enquiry Officer before the Disciplinary Authority passed the final order of dismissal from service. The action of the management appears to be contrary to the law laid down by the Hon'ble Supreme Court of India in the case of **Union of India and Others Vs. Mohd. Ramzan Khan [AIR (1991) SC 471]**. In the case cited above, it was held :

“ When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the inquiry officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him.

A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice."

The management also did not take adequate care to comply the policy of the Coal India Limited issued through their Circular bearing No. CIL C-5A(vi)/50774/28 dated 12.05.1994, wherein it has been clearly laid down that the charged employee had to be supplied with Enquiry Proceeding and Enquiry Report and a 2nd Show Cause Notice had to be issued to him before taking any final decision of removing him from service. There is a clear non-compliance of the direction. In such view of the matter the order of dismissal against Ramanand Nonia is not tenable under the facts and circumstances of the case and for non-observance of principles of natural justice. I therefore, hold that the order dated 17/20.06.1995, dismissing Ramanand Nonia from service is arbitrary, illegal and liable to be set aside.

13. The concerned workman was continuously absented from service without any information for more than seven (7) months from 10.07.1994 till issuance of Charge Sheet on 11.02.1995. Since the workman did not participate in the enquiry it can be assumed that he remained absent from duty without information for much longer period. Long unauthorized absence of a workman speaks volume about his indiscipline nature which serves as a retrograde to the interest of the employer. Therefore, the workman having absented for a long period cannot be entitled to any back wages. The workman died on 25.12.2000, therefore there is no scope for his reinstatement in service. The only relief which is appropriate in the instant case for illegal dismissal of the workman can be meted out by granting a lump sum compensation of Rs. 2,00,000/- (Rupees two lakhs only) to the widow / legal heirs of the deceased employee. The legal heirs are also entitled to consequential relief arising out of past service of the deceased workman.

Hence,

ORDERED

that Industrial Dispute is allowed on contest in part. The order dated 17/20.06.1995 issued by the General Manager, Karora Area of Eastern Coalfields Limited, dismissing Ramanand Nonia from service of the company on the charge under Clause 17(i)(n) of the Model Standing Orders is not sustainable and the same is set aside. The workman having expired on 25.12.2000, the management of Eastern Coalfields Limited is directed to pay a lump sum compensation of Rs. 2,00,000/- (Rupees two lakhs only) to the widow / legal heirs of the deceased employee for illegal termination of the workman. The management of Eastern Coalfields Limited is also directed to pay the dues of the deceased workman for his past service to the legal heirs. 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.