

**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. 47 OF 2008

PARTIES: Bidhan Chandra Mitra
Vs.
Management of Kajora Area, 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: 26.05.2025

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-22012/45/2008-IR(CM-II)** dated 13.08.2008 has been pleased to refer the following dispute between the employer, that is the Management of Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the demand of the Union for regularizing Shri Bidhan Chandra Mitra in a suitable higher grade after completion of one year's training as per offer of appointment is legal and justified? To what relief is the workman concerned entitled? ”

1. On receiving Order **No. L-22012/45/2008-IR(CM-II)** dated 13.08.2008 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 27.08.2008 / 13.04.2009 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. The aggrieved person filed his written statement on 19.11.2009 through Mr. Rakesh Kumar, then General Secretary, Koyala Mazdoor Congress. Management contested the case by filing written statement on 04.11.2015. Brief fact of the workman's case as disclosed in the written statement is that Bidhan Chandra Mitra was appointed as a General Mazdoor under Eastern Coalfields

Limited (hereinafter referred to as ECL) on 04.07.1996. He possessed higher qualification of LL.B and B.Com. As per order of ECL Headquarters bearing No. ECL/CMD/C-6/WBE-3/555 dated 27.02.1997 the workman was deployed to work as a Trainee in the Land and Revenue Department at Kajora Area of ECL w.e.f. 11.04.1997. In the said order it was clearly mentioned that Bidhan Chandra Mitra would be placed and deployed in the Land and Revenue Department as a Trainee for one year to learn the related job of the department and after completion of one year from 11.04.1997 to 11.04.1998, he would be suitably placed in a higher grade. The concerned workman was posted in the Land and Revenue Department of Kajora Area vide order No. ECL/GM/Kaj/PM(Admn)/2/97/1648 dated 11.04.1997 and as per order of ECL Headquarters he would be regularized to a suitable higher post. It is further stated that Bidhan Chandra Mitra performed the job of a Revenue Inspector as well as a Clerk in the Land and Revenue Department with the full satisfaction of the higher authority but he was neither regularized as an Assistant Revenue Inspector nor as a Clerk in the Land and Revenue Department. The name of the workman was sent to ECL Headquarters for his regularization to the post of Clerk but ECL did not take any final decision for his regularization as a clerk. It is prayed that the workman should be paid the wages for higher grade from 11.04.1997 till date as he had been performing job of a higher category w.e.f. 11.04.1997. The union contended that the management of Kajora Area has received the service of the workman functioning in a higher capacity like Revenue Inspector and Clerk but he has been deprived of his entitled wages for the last twelve years. It is prayed that Bidhan Chandra Mitra working as a General Mazdoor, Category – I should be regularized to the post of Revenue Inspector or as a Clerk in the Land and Revenue Department and he should be paid the difference of wages of Clerk and General Mazdoor, Category – I w.e.f. 11.04.1998 i.e., the date from which he should have been regularized in the post of Revenue Inspector or as a Clerk.

3. Management contested the case by denying the claim of the workman. It is asserted that the concerned workman was deployed to work in the post of Provident Fund Clerk due to exigency and such engagement was purely temporary in nature and subsequently he has been regularized as Provident Fund Clerk in Grade – III. Management stated that the workman is not entitled to get difference of wages for performing the job of a Provident Fund Clerk and his claim for payment of difference of wages for the said period is not legally tenable. As per written statement of the management the workman has unnecessarily raised this dispute without justification and the same is liable to be dismissed.

4. The short point for consideration in this Industrial Dispute is whether Bidhan Chandra Mitra is entitled to be regularized to a higher grade after completion of one year's training as per the offer of appointment and is he entitled to difference of wages of a Clerk and a General Mazdoor w.e.f. 11.04.1998.

5. In support of his claim Bidhan Chandra Mitra has filed his affidavit-in-chief and examined himself as Workman Witness No. 1. The witness in his affidavit-in-chief has reiterated the claim disclosed in the written statement and during evidence produced the following documents in support of his case :

- (i) Copy of the Office Order dated 27.02.1997 has been produced as Exhibit W-1.
- (ii) Copy of the letter dated 11.04.1997, as Exhibit W-2.
- (iii) Copy of letter dated 08.08.1998 of the Personnel Manager (IC), Kajora Area, as Exhibit W-3.
- (iv) Copy of Note Sheet dated 10.07.1998 of the Senior Estate Officer, as Exhibit W-3/1.
- (v) Copy of letter dated 20.04.1999 of the Personnel Manager (IC), Kajora Area, as Exhibit W-4.

- (vi) Copy of letter dated 05.08.1999 of the Personnel Manager (IC), Kajora Area, as Exhibit W-5.
- (vii) Copy of letter dated 19.12.2000 issued by the Personnel Manager (IR), ECL, Sanctoria, as Exhibit W-6.
- (viii) Copy of letter dated 24.12.2001 of the Deputy Estate Manager (LR), Kajora Area, as Exhibit W-7.
- (ix) Copy of letter dated 11/14.06.2002 of the General Manager, Kajora Area, as Exhibit W-8.
- (x) Copy of letter dated 26/27.11.2003 issued by the Estate Manager (LRE), Kajora Area, as Exhibit W-9.
- (xi) Copy of letter dated 28.11.2003 of the Deputy Chief Personnel Manager, Kajora Area, as Exhibit W-10.
- (xii) Copy of letter dated 07.05.2004 of the Estate Manager, Kajora Area regarding Manpower Budget, 2004, as Exhibit W-11.
- (xiii) Copy of Charge assumption report of Bidhan Chandra Mitra dated 14.01.2011, as Exhibit W-12.
- (xiv) Copy of the Office Order dated 01.11.2014 regarding promotion from Clerk from Grade-III to Grade-II, as Exhibit W-13.

6. From the cross-examination of the witness it transpires that he was deputed in the Land and Revenue Department under Kajora Area on 27.02.1997 for undergoing training in respect of various jobs. He also stated that he passed the test held after undergoing his training and on the basis of the same a Note Sheet was prepared by the company recommending him for his promotion to the post of Assistant Revenue Inspector. The witness admitted that he did not produce any certificate issued by the State Government or any other authority to prove his claim that he completed any training as "Amin" (Surveyor) and did not have any certificate of passing the Amin's examination. In his further cross-examination the witness admitted that in 2005 he received a Service Linked

Upgradation (hereinafter referred to as SLU) from the post of General Mazdoor, Category – I to General Mazdoor, Category – II. He further deposed that he was regularized as Provident Fund Clerk in the same category in the year 2011 without any promotional benefits. In the year 2014 he was promoted from Clerk, Grade-III to Clerk, Grade-II and on 22.05.2022 he was promoted to the post of Clerk, Grade-I from Clerk, Grade-II with incremental promotional benefits. The witness admitted that he did not have the eligibility of being posted as an Assistant Revenue Inspector in the year 2008, at the time the dispute was raised. It is gathered from his cross-examination that due to the recommendation by the management for his regularization in the post of Assistant Revenue Inspector, he raised the dispute for not being regularized after completion of training. The witness is admittedly unaware of the conditions required to be fulfilled for his regularization to the post of Assistant Revenue Inspector and deposed that to the join the post of Assistant Revenue Inspector it is essential to have a certificate of “Amin” (Surveyor).

7. Management examined Mr. Ashish Mohan, Deputy Manager (Personnel), Madhabpur Colliery under Kajora Area of ECL as Management Witness No. 1. He filed his affidavit-in-chief and produced the following documents in support of management's case :

- (i) Copy of the Office Order dated 27.02.1997 has been produced as Exhibit M-1.
- (ii) Copy of letter dated 14.01.2011, as Exhibit M-2.
- (iii) Copy of Office Order dated 01.11.2014 regarding promotion as Clerk from Grade-III to Grade-II, as Exhibit M-3.

The witness deposed that Bidhan Chandra Mitra was appointed in the service of the company on 04.07.1996 as Mazdoor, Category – I (Underground). He was placed in the Land and Revenue Department under Kajora Area by Office Order dated 27.02.1997 as General Mazdoor. Thereafter suitability of the trainee was to

be decided after completion of one year's training and passing the test, like Electric helper, Fitter helper, Explosive carrier, Line mazdoor, Trammer. The trainee was also required to qualify in an examination for his placement in the supervisory post of "Amin". In course of examination-in-chief the management witness deposed that Service Linked Promotion is granted to the employee if management is unable to grant promotional benefit to a person working underground within seven year and within eight years to a person working on the surface of Mine. Witness further deposed that Bidhan Chandra Mitra was given Service Linke Upgradation from General Mazdoor, Category-I to General Mazdoor, Category-II w.e.f. 2005. The witness stated that the workman was not deprived from any service benefit or promotion in his carrier.

8. During cross-examination by the union representative, the management witness deposed that in the year 1998 the Personnel Manager (IC) of Kajora Area had issued a letter addressed to the General Manager (P&IR), ECL, Headquarters for regularization of Bidhan Chandra Mitra, Trainee, Land and Revenue Department, Kajora Area along with Note Sheet, Biodata, C.R., and Educational Qualification for necessary action. It transpires from his evidence that the proposal of the Personnel Manager (IC), Kajora Aea did not materialize as there was no response to his letters from ECL Headquarters.

9. Mr. Rakesh Kumar, Union representative advancing his argument on behalf of Bidhan Chandra Mitra submitted that the workman was appointed on 04.07.1996 as a General Mazdoor and an Office Order dated 27.02.1997 was issued by the Deputy Chief Personnel Manager (Establishment) (Exhibit W-1) whereby there was a direction that Bidhan Chandra Mitra, Mazdoor, Category-I will be placed as a Trainee in his existing category in the Land and Revenue Department to learn the related job and after completing one year's training and passing the test he would be placed in higher category. It is argued that the

concerned workman suffered till 2011 as he was not regularized to the post of Clerk though the management of Kajora Area received his service in a higher category in the Land and Revenue Department and paid him less wages as a General Mazdoor. Reference was made to Exhibit W-2, a letter dated 11.04.1997 issued by the Personnel Manager (Admin), Kajora Area, whereby the Deputy Chief Personnel Manager, Kajora Area, directed Bidhan Chandra Mitra, General Mazdoor, Category-I to report for his duty to the Senior Estate Officer, Kajora Area as per the advice of the Deputy Chief Personnel Manager, Kajora Area. It is argued that the orders and letters have been issued whereby Bidhan Chandra Mitra was placed as a trainee in the Land and Revenue Department and he was assured of a suitable job in a higher category consistent with his higher educational qualification but unfortunately, the management did not take any effective measure to regularize the workman to the post of a clerk on completion of his one year's training w.e.f. 11.04.1998. Mr. Rakesh Kumar submitted that the workman is entitled to get difference of pay between a General Mazdoor, Category-I and the pay he should have received as a Clerk in the Land and Revenue Department from 01.05.1998 till his regularization to the post of a Clerk.

10. The union representative took me through Exhibit W-7, a letter dated 24.12.2001 issued by the Deputy Estate Manager, Kajora Area, addressed to the Deputy Chief Personnel Manager, Kajora Area wherein he informed that Bidhan Chandra Mitra has been placed in the Land and Revenue Department to learn related job of the department and since then he has been performing his duty with related job as well as clerical and other works. Further reference has been made to Exhibit W-9, a letter dated 26/27.11.2003 issued by the Estate Manager (LRE), Kajora Area, addressed to the Deputy Chief Personnel Manager, Kajora Area, wherein he proposed for considering Bidhan Chandra Mitra for the post of Assistant Revenue Inspector in view of his educational qualification and for his regularization at the earliest. Concluding his argument Mr. Kumar submitted that

the workman has suffered financially for not being regularized to the post of clerk after successful completion of one year's training and urged that necessary order may be passed directing the management of company to pay him the difference of wages between Clerk Grade – III and General Mazdoor, Category-I from 11.04.1998.

11. Mr. P. K. Das, learned advocate for the management of ECL, in reply argued that in order No. 555 dated 27.02.1997 (Exhibit W-1/M-1), it is clearly mentioned that Bidhan Chandra Mitra was appointed as Mazdoor, Category-I and he was placed for training in his existing category in the Land and Revenue Department to learn related job and that after completion of one year's training and passing of examination he would be posted in a higher grade. Learned advocate argued that Bidhan Chandra Mitra in his cross-examination has admitted that he did not pass Amin's examination and also admitted that he did not have any eligibility of being posted as Assistant Revenue Inspector in the year 2008, at the time he raised the Industrial Dispute. Learned advocate for the management argued that provisions of Clause 2.11.1 of National Coal Wage Agreement – VI (hereinafter referred to as NCWA-VI) lays down that Daily rated and Monthly rated employees who have remained in the same category/grade for a period of seven years for underground job and eight years for surface job, would be upgraded in the next higher category/grade including Technical and Supervisory Grade A to A-1 and Piece Rate workers would also get the benefit of one SLU along with additional Special Piece-rated Allowance (hereinafter referred to as SPRA) on completion of seven and eight years respectively. It is submitted that the workman who joined in the year 1997 as a General Mazdoor, Category-I was granted the benefit of SLU in the year 2005 i.e., within the stipulated period thereafter he was upgraded to General Mazdoor, Category-II and the workman was regularized to the post of Provident Fund Clerk, Grade-III w.e.f. 14.01.2011. He was subsequently given one SLU on his regularization in the year 2011. Thereafter the workman was

promoted to Clerk, Grade-II w.e.f. 01.11.2014 (Exhibit M-3/W-13) with three percent (3%) increment. In the year 2022 the concerned workman received the benefit of another promotion to Clerk, Grade-I with three percent (3%) incremental benefit. Learned advocate contended that the management has acted according to the rules guiding career advancement and promotion of workman and Bidhan Chandra Mitra is not entitled to any relief in this case and he did not have the eligibility of being regularized to the post of Clerk simply after completion of one year of service.

12. I have considered the pleadings of the parties in the light of the referred Industrial Dispute, the evidence garnered on record and arguments advanced on behalf of the workman and management. The concerned workman admittedly joined as Mazdoor, Category-I. Since he had educational qualification like B.Com. and LL.B, he was referred for his training in the Land and Revenue Department of Kajora Area for a period of one year. By order No. ECL/CMD/C-6/WBE-3/555 dated 27.02.1997 (Exhibit W-1/M-1) the Competent Authority had stated that Bidhan Chandra Mitra would be placed as Trainee in his "existing category" in the Land and Revenue Department for receiving training for one year and on completing the training and passing the test he would be suitably placed in higher grade. The concerned workman in his evidence admitted that he did not pass the test of "Amin" and did not have any qualification or certificate in support of such specialized knowledge related to land matter. It would appear from letter dated 08.08.1998 (Exhibit W-3) of the Personnel Manager (IC), Kajora Area, Note Sheet dated 10.07.1998 (Exhibit W-3/1) issued by the Senior Estate Officer, Kajora Area, letter dated 20.04.1999 (Exhibit W-4) issued by the Personnel Manager (IC), Kajora Area, and letter dated 05.08.1999 (Exhibit W-5) issued by the Personnel Manager (IC), Kajora Area, that at different time proposals were forwarded for suitable placement of Bidhan Chandra Mitra but no approval was received from the Headquarters of ECL. It is gathered from Exhibit W-6, a letter dated

19.12.2000 that the Personnel Manager (IR), ECL Headquarters, Sanctoria requested the Deputy Chief Personnel Manager, Kajora Area to specifically recommend the 'cadre' in which Bidhan Chandra Mitra was required to be placed considering his qualification and nature of his job. In Exhibit W-10, the Deputy Chief Personnel Manager, Kajora Area in his letter dated 28.11.2003 replied that proposal for regularization of Bidhan Chandra Mitra were earlier forwarded by letters and requested the Chief Personnel Manager (P&IR), ECL Headquarters, Sanctoria to consider his case against vacancy available at Kajora Area. No clear recommendation has surfaced from such correspondence as to the post for which the concerned workman was found suitable for regularization.

13. According to provisions of Clause 2.11.1 of NCWA-VI, employees who remained in the same category for more than seven/eight years were provided the benefit of one SLU along with additional SPRA on completion of seven years for Underground workers and eight years for surface workers. The aggrieved workman in this case was appointed as a General Mazdoor in Category-I on 04.07.1996 and after completion of eight years in service he was granted the benefit of SLU in the year 2005 and was upgraded to General Mazdoor, Category-II. The workman thereafter received the benefit of regularization to Provident Fund Clerk, Grade-III on 14.01.2011, promoted to the Clerk, Grade-II on 01.11.2014 and Clerk, Grade-I in the year 2022. At no point of time any order was issued by the management assuring the workman that he would be posted as Clerk, Grade-III after completion of one year's training on 11.04.1998. Therefore, in my considered view the workman was not entitled to be regularized to the post of Clerk on completion of one years' training. In order to get any relief, the workman is required to prove that his substantial right created under the service rule has been violated. In the present case the union has failed to prove that the management of ECL had agreed to regularize a workman to a higher grade of a Clerk on completion of one year as a Mazdoor. The prevailing rule for upgradation

in case of stagnation of an employee in the same post has been laid down in NCWA-VI. A workman cannot claim special benefit on the ground that he has higher educational qualification or undergone training in any department for any particular time unless there is a clear violation of cadre scheme rules laid down for the purpose of upgradation and promotion, applicable to all the employees. In the instant case I find that the workman has received four benefits during the span of his service and he is presently posted as Clerk, Grade-I. The Industrial Dispute therefore has no merit and the same is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute has no merit and the same is dismissed on contest. 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.