

**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. 51 OF 2022**

**PARTIES:** Bhairab Nath Mukherjee  
**Vs.**  
Management of Manderboni Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Chandi Banerjee, Gen. Secy., Colliery Mazdoor Union.  
For the Management of ECL: Mr. Mani Padma Banerjee, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 13.02.2025

**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-22012/93/2022-IR(CM-II)** dated 31.10.2022 has been pleased to refer the following dispute between the employer, that is the Management of Manderboni Colliery under Pandaveswar Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**THE SCHEDULE**

*“ Whether the action of the management of Mandarboni Colliery of Pandaveswar Area, M/s. E.C.Ltd. in non-payment of arrear of wages and other consequential benefits such as q.m.b. Sunday Holidays etc. for the period of service as executive cadre reverted back to non-executive cadre to Sri B.N. Mukherjee is fair, legal and justified? If not, what relief the workman concerned is entitled to?”*

1. On receiving Order **No. L-22012/93/2022-IR(CM-II)** dated 31.10.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 01.11.2022 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 in support of their claims.

2. Management filed their written statement on 06.02.2023 contesting the Industrial Dispute raised by the General Secretary, Colliery Mazdoor Union (INTUC). Mr. Chandi Banerjee, Union representative filed written statement on 28.03.2023. Fact of the case disclosed in the written statement of the union is

that Bhairab Nath Mukherjee, Foreman In-charge posted at Manderboni Colliery under Pandaveswar Area of Eastern Coalfields Limited (hereinafter referred to as ECL) was promoted to the post of Subordinate Engineer (Electrical & Mechanical) vide Order No. ECL/C-5(D)/Upgradation(E1)/E&M/EE/925 dated 21.05.2011 and joined his promotional post on 01.06.2011. It is the contention of the workman that on his promotion he was receiving less wages in respect of Basic Pay, Dearness Allowance, wages for Sundays and Holidays, quarterly Bonus and yearly Puja Bonus. All the workmen upgraded to the post of Subordinate Engineer were suffering from financial loss and prayed for their reversion to the non-executive Grade for the purpose of protection of their Pay and Allowances. The management of ECL issued an Office Order bearing Ref. No. ECL/C-5(D)/Order/Revert Back/E&M/EE/2499 dated 18.10.2013 by which Bhairab Nath Mukherjee was reverted to his earlier non-executive post of Forman In-charge w.e.f. 01.11.2013. In the order of reversion, it was stated that upon reversion of Subordinate Engineers to the non-executive grade they would be treated as if they have not been upgraded and pay fixation will be done as per rule applicable for non-executive including benefits relating to National Coal Wage Agreement (hereinafter referred to as NCWA – IX) considering due increments. It is inter-alia stated in the written statement that the aggrieved workman is entitled to get difference of wages, Sunday and Holiday wages for the period while he was posted as a Subordinate Engineer as if he was not upgraded. It is the case of the union that Apurba Kumar Roy and Ushapati Samanta, who were also reverted to the post of Foreman In-charge, non-executive grade have been paid the difference of wages and Sunday wages at the time of calculation of arrear pay but the management did not consider the prayer of the aggrieved workman for payment of arrear of difference of wages for the period from 01.06.2011 to 31.10.2013. It is contended that on the basis of order passed by Coal India Limited (hereinafter referred to as CIL) bearing No. CIL/C5A(IV)/B-303 dated 06/12.09.2013 the status of workmen have been changed and in furtherance to such Order the

workmen are entitled to wages and benefit as non-executive grade employees and they would be treated as if they had never been upgraded to the post of Subordinate Engineers and Pay fixation would be done as applicable to non-executive grade as per rules with benefits and increments as per NCWA-IX.

3. Management contested the Industrial Dispute before this Tribunal. In their written statement it is admitted that as per order of CIL, Subordinate Engineers who have been reverted to non-executive cadre are to be paid consequential benefit as if they have not been upgraded. Regarding the claim for payment of difference of wage between non-executive and executive post during the period of his work in the executive post, it is contended that Bhairab Nath Mukherjee has drawn all the benefits / facilities / status as an executive of CIL and his claim is not maintainable. Further case of the management is that the concerned workman as an executive has drawn salary for thirty days in place of twenty-six days payable to non-executive. In this context it is further stated that Wage Board employees are deployed on Sundays or holidays as per quota or sanction of Sundays or holidays whereas the executives are deployed on Sundays or holidays without such quota. Therefore, the executives on reversion to non-executives are not entitled to any further benefit for their notional engagement on Sundays and holidays and deemed engagement on holidays or Sundays cannot earn them any benefit in Pay. It is inter-alia contended that Bhairab Nath Mukherjee along with co-worker appealed before the General Manager (EE), ECL, Headquarters for payment of performance related payment (PRP) in lieu of arrear / difference of wages for the period he worked in the executive cadre, which is under consideration as per Office Memorandum bearing Ref. No. CIL/GM (P)/B-163 dated 13.03.2018. The management urged that the workman is not entitled to any payment for Sundays / holidays on reversion and present Industrial Dispute is liable to be dismissed.

4. Bhairab Nath Mukherjee has been examined as Workman Witness No. 1. He has filed affidavit-in-chief citing order dated 21.05.2011 under which he was upgraded to the post of Subordinate Engineer and order dated 18.10.2013 by which he was reverted to the post of non-executive w.e.f. 01.11.2013. It is stated that in the order of reversion it has been clearly mentioned that upon reversion from the post of Subordinate Engineer to non-executive they will be treated as if they were not upgraded and pay fixation will be done as per rule applicable to non-executive, including benefits relating to NCWA-IX considering due increments. The witness referred to the cases of Apurba Kumar Roy and Ushapati Samanta who were paid arrear of wages on their reversion to non-executive cadre. An Order dated 25/27.05.2016 has been produced as Exhibit W-6 in support thereof. The workman also stated that the management of Bankola Area executed a Memorandum of Settlement with the five workmen before the Assistant Labour Commissioner (Central), Durgapur where difference of Basic, Sunday / Holiday wages have been paid. Reliance has been placed on the order of CIL bearing Ref. No. CIL/C5A(IV)/B-303 dated 06/12.09.2013 which assured that on reversion the Subordinate Engineers will be governed by the rules and regulations applicable to non-executive cadre employees and their pay in non-executive cadre will be fixed as per rules applicable in the earlier non-executive grade held by them prior to upgradation. The workman accordingly claimed arrear of difference of Basic and Dearness Allowance including wages for Sunday / holiday, quarterly bonus and puja bonus. In support of his case the workman witness has produced the following documents:

- (i) Copy of Office Order dated 18.10.2013 by which the workman along with others were reverted back to non-executive cadre has been produced as Exhibit W-1.
- (ii) Copy of Office Order dated 21/25.05.2011 by which the workman along with others were upgraded to the post of Subordinate Engineer (Electrical & Mechanical), as Exhibit W-2.

- (iii) Copy of Office Order dated 02.06.2011 by which Bhairab Nath Mukherjee was posted as Subordinate Engineer at Kendra Colliery, as Exhibit W-3.
- (iv) Copy of Pay Slip of Bhairab Nath Mukherjee after reversion, as Exhibit W-4.
- (v) Copy of Pay Slip of Bhairab Nath Mukherjee for the post of Subordinate Engineer, as Exhibit W-5.
- (vi) Copy of letter dated 25/27.05.2016 for payment of arrear due to Apurba Kumar Roy and Ushapati Samanta after their reversion, as Exhibit W-6.

5. Management examined Kishore Ram Ratan, Assistant Manager (Personnel), Manderboni Colliery, ECL as Management Witness No. 1. He has filed his affidavit-in-chief wherein it is sated that as per order of CIL Subordinate Engineers who were reverted back to non-executive are to be paid consequential benefits as if they have not been upgraded and pay fixation would be done as applicable to non-executive cadre as per NCWA-IX along with increments. In paragraph – (4) the management witness has refuted the claim for arrear of difference of wages as non-executive while he was posted in the executive cadre and further sated that he has drawn all benefits and facilities of an executive cadre. Only for the purpose of fixation of pay in the non-executive cadre on reversion NCWA-IX would be considered for granting him increments, benefits, and pay protection. It is denied that the workman is entitled to payment for Sundays / holidays as non-executive, during his posting in the executive cadre, as such deployment of non-executives are done as per quota / sanction whereas deployment of executives on Sundays / holidays are done without such quota and they are entitled to salary for thirty days. In support of management's case the following documents have been produced :

- (i) Copy of Office Order dated 06/12.09.2013 by which the workman along with others were reverted back to their original substantive posts in non-executive cadre has been produced as Exhibit M-1.
- (ii) Copy of Order dated 05.09.2013 by which reverted employees were paid all consequential benefits as per NCWA-IX, as Exhibit M-2.
- (iii) Copy of Office Memorandum dated 13.03.2018 for payment of Performance Related Pay for the period of work in executive cadre, as Exhibit M-3.

6. In cross-examination the management witness consistent to his earlier stand, denied that the petitioner has been paid on account of Sundays or holidays.

7. The moot point for consideration is whether on reversion to the post of Foreman in-charge, in non-executive cadre, the workman is entitled to any difference of wages in respect of Basic, Dearness Allowance, wages for Sundays / holidays, and quarterly and annual bonus from 01.06.2011 to 31.10.2013.

8. Mr. Chandi Banerjee, Union representative advancing his argument for the workman submitted that it is quaint that on promotion to a higher grade in executive cadre an employee would receive less wages than he was receiving in the non-executive cadre. It is submitted that eighteen employees in the post of Foreman In-charge (Electrical & Mechanical) in Technical and Supervisory Grade A/A-1 were promoted to the post of Subordinate Engineer (Electrical & Mechanical) in E-1 Grade by order dated 21/25.05.2011 (Exhibit W-2) and by order dated 02.06.2011 Bhairab Nath Mukherjee, the aggrieved workman on his upgradation was posted at Kendra Colliery under Pandaveswar Area w.e.f. 02.06.2011. Mr. Banerjee drew my attention to Office Order dated 18.10.2013 (Exhibit W-1) whereby Bhairab Nath Mukherjee was reverted to the non-executive

cadre w.e.f. 01.11.2013. Mr. Chandi Banerjee argued that on reversion in the non-executive cadre the workman who had suffered financial loss is entitled to fixation of pay as per rules applicable to non-executive cadre including benefits under provisions of NCWA-IX. It is further submitted that upon reversion to the non-executive cadre the workmen are to be treated as if they have not been upgraded and they are also entitled to receive difference of wages, less paid to them, along with payment for 119 Sundays and 18 holidays during the period of two years in executive cadre and further entitled to quarterly and annual bonus. In support of his claim the union representative relied upon Exhibit W-6, which is a copy of letter dated 25/27.05.2016 issued by the Chief Manager (Personnel), Sripur Area, ECL by which the management paid arrear dues to Apurba Kumar Roy and Ushapati Samanta of SSI Colliery under Sripur Area under similar circumstances on their reversion from Executive Grade -E to Technical and Supervisory Grade A-1.

9. Mr. Mani Padma Banerjee, learned advocate for the management, in reply, argued that in the order of reversion (Exhibit W-1) it is provided that upon reversion to non-executive cadre the workmen would be treated as if they were not upgraded and pay fixation would be done as per rule applicable to non-executive cadre prospectively from 01.11.2013. It is further argued that such workmen are not entitled to any difference of pay for the period during their posting in the executive cadre from 01.06.2011 to 31.10.2013. It is asserted that during the period the workman worked in the executive post he had drawn all his benefits and enjoyed the facilities as an executive and he drew salary for thirty days in a month as an executive. Therefore, he is not entitled to any payment of wages for Sundays and holidays on his reversion. Furthermore, it is argued that a non-executive employee receives Pay for twenty-six days and on his deployment as per quota / sanction during Sundays / holidays he receives additional Pay. In the instant case the workman has received pay for all thirty days in a month as executive and he is not entitled to any additional pay.

10. I have considered the argument advanced on behalf of the workman and for the management, the facts and circumstances of the case, pleadings of parties and evidence garnered on record. The admitted position in this case is that Bhairab Nath Mukherjee and seventeen other co-employees were promoted from the post of Foreman In-charge to the post of Subordinate Engineer. There was a general grievance of the employees that on their promotion to executive cadre they were incurring financial loss due to less payment made to them in comparison to the wage they used to receive in the non-executive cadre. It transpires from Order bearing Ref. No. CIL/C5A(IV)/B-303 dated 06/12.09.2013 (Exhibit M-1) issued by the General Manager (Personnel), CIL that two hundred and four number of Subordinate Engineer posted in subsidiary companies of CIL have been reverted to their original substantive post in the non-executive grade as per irrevocable option exercised by them pursuant to order dated 31.05.2013. It is further provided that on reversion they will be governed by the rules and regulation as applicable to the non-executive cadre employees and their Pay in non-executive grade would be fixed as per rules applicable in the earlier non-executive grade held by them prior to their upgradation. It is further gathered from Order bearing No. 2637 dated 05.09.2013 issued by the General Manager (Personnel), CIL (Exhibit M-2) that upon reversion from Subordinate Engineer to the substantive post in non-executive grade it will be treated as if they have not been upgraded and pay fixation would be done as applicable for non-executives as per rules with benefits relating to NCWA-IX. Taking into consideration the sum and substance of the clarification order of CIL dated 05.09.2013 (Exhibit M-2), I find that two conditions are required to be followed. Firstly, on reversion to the substantive post of non-executive grade the employee is to be paid as if he had not been upgraded and therefore, he is entitled to benefits and pay according to NCWA-IX. The terms and conditions of NCWA-IX is effective w.e.f. 01.07.2011 therefore, Bhairab Nath Mukherjee is entitled to receive the arrear of difference of wages towards his Basic Pay and Dearness Allowance for the period from 01.06.2011 to 31.10.2013 (i.e.,

Basic Pay and Dearness Allowance as non-executive, less the Basic Pay and Dearness Allowance as an executive). He is also entitled to his quarterly and annual bonus as financial benefits for the period he was posted as an executive. Secondly, the claim regarding payment of wages for 119 Sundays and 18 holidays during the period of his posting in the executive cadre, the workman having been paid for thirty days a month as an executive which includes 4 Sundays, he is not entitled to any additional pay for his deployment on Sundays and holidays. It needs to be reckoned that a workman in the non-executive cadre is not mandatorily employed on all Sundays and holidays but engaged / deployed only on the basis of necessity and sanction. Such preconditions have neither been proved nor brought on record.

11. In the instant case a general claim has been made that there was less payment of wages and bonus to the workman. The management in turn has only denied the claim of the workman without any fair and constructive proposal as to what are the bona fide dues of the workman on his reversion. In view of such circumstances, I find and hold that Bhairab Nath Mukherjee, who was posted as Foreman In-charge at Manderboni Colliery under Pandaveswar Area of ECL, is entitled to receive difference of Basic Pay and Dearness Allowance from the management of ECL for his posting in the executive cadre for the period from 01.06.2011 to 31.10.2013, according to the benefits and pay fixation under NCWA-IX. He will also be entitled to receive quarterly and annual bonus from the management of the company for the said period. The workman however is not entitled to extra payment of wages for Sundays and holidays. The management of the company is directed to calculate the dues within a period of three (3) months from the date of communication of the Award and disburse the same to Bhairab Nath Mukherjee (U.M. No. 391523).

Hence,

**ORDERED**

that the Industrial Dispute is allowed in part, on contest, against the management of Manderboni Colliery under Pandaveswar Area of Eastern Coalfields Limited. Bhairab Nath Mukherjee (U.M. No. 391523), Foreman In-charge, Manderboni Colliery is entitled to payment of arrear dues in respect of difference of Basic Pay and Dearness Allowance between Foreman In-charge and Subordinate Engineer for the period from 01.06.2011 to 31.10.2023 and quarterly and annual bonus for the said period. The management is directed to make payment of arrears of aforesaid dues to the workman within three (3) months from the date of communication of the Award. 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.