

**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. 59 OF 2006

PARTIES: Surajlal Pasi

Vs.

General Manager (Personnel), Sanctoria of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: General Secretary, Coal Mines Security Guard Association.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

DATED: 03.02.2023

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A W A R D

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order No. **L-22012/252/2005-IR(CM-II)** dated 24.08.2006 has been pleased to refer the following dispute between the employer, that is the Management of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the Management of ECL in not protecting the pay being drawn by Shri Surajlal Pasi as Underground Loader consequent upon his being appointed as Security Guard in Cat.I in Grade ‘C’ is just and legal? If not, to what relief is the workman entitled? ”

1. After receiving Order **L-22012/252/2005-IR(CM-II)** dated 24.08.2006 of the aforesaid Reference framed by the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 59 of 2006** was registered on 18.09.2006, and an order was passed 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. Both parties appeared before the Tribunal through their authorized representatives.

2. The case is fixed up today for appearance of Surajlal Pasi and hearing of argument, in default the case shall be disposed of in accordance with law and materials available on record. Mr. P. K. Das, learned advocate for the Management is preset. Surajlal Pasi is found absent on call. The Notice issued to Surajlal Pasi under registered post has been returned with an endorsement of the Postman dated 24.11.2023 that the addressee could not be located at the given address. General Secretary, Coal Mines Security Guard Association who had been conducting this case on behalf of the workman is also found absent on call. It is 01:00 PM now. The record is taken up for final disposal.

3. The Government of India, Ministry of Labour and Employment has referred this industrial dispute under clause (d) of sub-section (1) and sub-section (2A) of section 10 of Industrial Disputes Act, 1947 for adjudication of the issue as to whether the action of the Management of ECL in not protecting the pay being drawn by Shri Surajlal Pasi as Underground Loader consequent upon his being appointed as Security Guard in Category -I in Grade 'C' is just and legal? If not, to what relief is the workman entitled?

4. Surajlal Pasi has filed his Affidavit-in-chief and was also cross-examined. It appeared from his evidence that in the year 1990 he met with an accident in Mines and was given some light job up to 20.02.1993 and thereafter regularised as a Security Guard (Trainee) from 01.03.1993 in the initial basic of Category-I. According to the workman he was getting less wages after his regularisation. On his representation before the Management of M/s. Eastern Coalfields Limited he was transferred to Kenda Colliery under Kenda Area to M/s. Eastern Coalfields Limited, Headquarters. The contention of the workman is that in similar cases

pay protection is given to the workmen in terms of letter no. ECL/CMD/C-6/WBE-7/2364 dated 22.09.1994 and letter no. ECL/CMD/C-6/WB-42/184 dated 13.01.1998. The workman accordingly applied before the Assistant Labour Commissioner (Central), Apcar Garden, Asansol for redressal. The workman categorically denied that he made any application before the Management of the company for change of his designation during the course of his service and had asserted that he never gave any undertaking that he would accept lower wages than what he was getting at the time of his service as a Under Ground Loader in Group -V. Further contention is that the Management deployed him as a Security Guard, as per their own requirement. Therefore, he is entitled to protection of wages due to such conversion from Piece Rate, Group -VA to Time Rate (Security Guard Trainee, Category -I).

5. In course of his cross-examination the workman deposed that he did not get any compensation due to the accident. He also denied that he prayed for any light work. The Management of the company did not confront the workman with any document that it was at the instance of the workman his nature of work was converted from Piece Rate to Time Rate.

6. In this case Management was given opportunity to adduce evidence but they have not come out with any clarification as to why the pay of the workman has not been protected or was reduced. It is also not the case of the Management that the pay of the workman has not been reduced. Under such circumstances the Reference case is decided in favour of the workman Surajlal Pasi. He is entitled to get pay protection w.e.f. 01.03.1993 i.e. from the date of his regularization as Security Guard (Trainee). The Reference is accordingly disposed of.

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Hence,

ORDERED

The Reference case is disposed of in favour of Surajlal Pasi. An Award be drawn up directing the General Manager (Personnel), Sanctoria of M/s. Eastern Coalfields Limited to grant pay protection to the workman w.e.f. 01.03.1993 on his being regularized to the post of Security Guard (Trainee). The dues be paid to the workman within two months from the date of Notification of the Award. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

(ANANDA KUMAR MUKHERJEE)

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