

**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. 62 OF 2000

PARTIES: Kashi Jana
(represented by the dependent son Gobinda Jana)

Vs.

Management of Parascole Colliery of 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: 21.05.2024

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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-22012/506/99/IR(CM-II)** dated 13.07.2000 has been pleased to refer the following dispute between the employer, that is the Management of Parascole 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 M/s. E.C.Ltd. in not providing employment to the dependent of Late Sh. Kashi Jena, U.G.L. is legal and justified? If not, to what relief the workman is entitled? ”

1. On receiving Order **No. L-22012/506/99/IR(CM-II)** dated 13.07.2000 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 62 of 2000** was registered on 01.08.2000 / 18.10.2001 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. The case is fixed up today for appearance of Gobinda Jana and hearing of argument. Mr. Rakesh Kumar, representing Gobinda Jana, the dependent son of Late Kashi Jana submitted that the petitioner on whose behalf this Industrial Dispute has been raised has not turned up after several communications made to him. Mr. P. K. Das, learned advocate for the management of Parascole colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL) is present.

3. The petitioner filed a written statement on 16.01.2002 through Mr. Rakesh Kumar, Union representative. Fact of the case in brief is that Kashi Jana was an employee of Parascole colliery under Kajora Area of ECL, having U.M. No. 602811 and was working as Underground Loader. Kashi Jana went to his native village on leave from 17.03.1994 to 23.03.1994 but due to his illness at his native place he was unable to report for duty. Period of his unauthorized absence was one month and twenty-seven days. After return he was placed in the 'Badli' list. Management wrongfully kept him in the 'Badli' list and in course of time Kashi Jana met with a railway accident on 10.02.1995 at Colliery Rail Siding. He died in course of his employment. Gobinda Jana being the eldest son prayed for providing employment as a dependent but the management of ECL did not provide him with employment on the pretext that his father was in the 'Badli' list and 'Badlis' are not entitled to the benefit of employment. Gobinda Jana thereafter raised an Industrial Dispute through Koyala Mazdoor Congress, Union, in which his father was a member.

4. The Management of ECL contested the case by filing written statement on 13.03.2002 through Dy. CME / Agent of Parascole Colliery. According to the management Kashi Jana was absent for a long time. After returning for work he was placed in the 'Badli' list of workers. There was no scope for providing employment to the dependent of 'Badli' workers. The Competent Authority expressed inability to consider the prayer for employment. ECL Head Quarters also communicated to Gobinda Jana about the inability by issuing letter No. KA/PM/C-6/35/4480/10405 dated 12.11.1998 through Manager (Personnel), Kajora Area. It is asserted that the dependents of 'Badli' workers cannot claim employment as legal right as the same is against the norms of the company.

5. In support of his case, Gobinda Jana examined himself as Workman Witness and filed affidavit-in-chief. He has produced a copy of his father's Identity Card issued by the management of the company which bears Man No. as 602811.

Copy of office order bearing No. PC/C-6/94-986 dated 19.05.1994 issued by Dy. CME of Parascole colliery has been produced, which is related to placement of Kashi Jana in 'Badli' List due to his unauthorized absence for more than ten days. Documents produced have not been marked as Exhibits but the same is relevant for consideration.

6. In cross-examination witness admitted that his father was in 'Badli' list. Witness stated that his father raised dispute challenging the decision of the management of placing him in the 'Badli' list but the witness was not able to produce any document to show that his father challenged his placement in the 'Badli' list during his lifetime.

7. Mr. Ashis Mohan, Assistant Manager (Personnel) of Parascole Colliery has been examined as Management Witness. He has placed copy of letter No. PC/C-6/94-986 dated 19.05.1994 by which Kashi Jana was placed under 'Badli' list. Witness further stated that there is no provision to provide employment to the dependent of 'Badli' workers. Witness faced cross-examination. He was unable to state as to who approved the decision of placing the workman in the 'Badli' list.

8. Mr. Rakesh Kumar, union representative argued the case for Gobinda Jana and submitted that his father was a permanent employee and died due to rail accident within the premises of the colliery while he was in the roll of the company. It is further argued that without approval of the competent authority, the Dy. CME/Agent of Parascole colliery had wrongfully placed him in 'Badli' list. It is argued that after returning from his native village, workman had to be considered as a regular employee of the company and the dependent son is entitled to get employment under the company.

9. Mr. P. K. Das, learned advocate for the management submitted that Gobinda Jana has not appeared before this Tribunal for several years and the

petitioner is not entitled to get employment as a dependent, as his father was treated as a 'Badli' worker and no dispute was raised against the change in nature of employment of his father. It is further contended that due to inordinate delay, prayer for employment of the dependent son cannot be considered.

10. I have considered facts and circumstances of the case and the argument advanced by both parties. Admittedly, Kashi Jana was a 'Badli' worker at the time of his death on 10.02.1995. There is no evidence to suggest that any dispute was raised by Kashi Jana against order of his placement the in 'Badli' list. Therefore, conduct of workman during his lifetime establishes that he has accepted being treated as a 'Badli' worker. Raising an Industrial Dispute for not providing employment to the dependent cannot ipso facto grant opportunity to the dependent son to challenge the order of placement of his father in the 'Badli' list. To my mind the management of ECL is bound by the guiding rules and the fact that Kashi Jana who was relegated to a 'Badli' worker for his unauthorized absence was never restored to his original post and position before his death.

11. Under such circumstances management of the company cannot be said to have committed illegality by not accepting the claim of the dependent son, Gobinda Jana. I also find that the petitioner is not diligent in proceeding with this Industrial Dispute for the purpose of securing an employment. In my view I find no merit in this case and the same is accordingly dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. An award be drawn up in the light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Govt. of India, New Delhi for information and Notification.

(ANANDA KUMAR MUKHERJEE)
Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.