

**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. 75 OF 2007

PARTIES: Ch. Kalam Khan
Vs.
Management of Mines Rescue Station of M/s. ECL

REPRESENTATIVES:

For the Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress
For the Management of ECL: Mr. P.K. Das, Advocate

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 18.08.2025

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A W A R D

On failure of conciliation proceeding, the Government of India through the Ministry of Labour, 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), vide its Order **No. L-22012/102/2007-IR(CM-II)** dated 18.09.2007 has referred the following dispute between the employer, that is the Management of Mines Rescue Station of M/s. Eastern Coalfields Limited (hereinafter referred as ECL) and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of M/s. ECL in not correcting the date of birth Sh. Ch. Kalam Khan, which resulted in to his superannuation prematurely w.e.f. 01.07.2007, is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/102/2007-IR(CM-II) dated 18.09.2007** from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 75 of 2007** was registered on 01.10.2007 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. Mr. R.K. Tripathi, union representative filed written statement on behalf of Ch. Kalam Khan, ex-employee of Mines Rescue Station, ECL on 05.11.2007. Management filed their written statement on 03.12.2009. Fact of the case as disclosed in the written statement of the union is that Ch. Kalam Khan was

Employed as a Security Guard at Mines Rescue Station. He was appointed at Bejdih Colliery, ECL on 18.03.1974 and his father Hamid Khan was also employed at Bejdih Colliery at the relevant time. The workman was transferred to Poidi Colliery in the year 1979. According to the workman, his date of birth was recorded as 15.04.7956 at the time of his appointment as well as at the time of his transfer to Poidi Colliery. The discontent arose when after his transfer from Poidi Colliery to Mines Rescue Station at Sitarampur, in place of date of birth of the workman, only the year of birth of the workman was wrongly recorded as 1947 in the 'B' Form Register. The workman made various representation before the management for correcting his date of birth but the management of ECL did not pay any heed. It also contended that in the 'B' Form Register, the year of birth of Hamid Khan, his father is recorded as 1934 which implies that difference of age of the father and son is only thirteen years which is not possible. It is contended that the year of birth of Ch. Kalam Khan is wrongly recorded as 1947 due to which Ch. Kalam Khan has been superannuated from his service in unjust and premature manner. The workman raised an Industrial Dispute through the union after the conciliation had failed.

3. The management of ECL contested the case and in their written statement it is stated that Ch. Kalam Khan was posted at Mines Rescue Station on his transfer from Poidi Colliery on the basis of LPC issued from Poidi Colliery, the year of birth of the workman was recorded as 1947. The LPC was issued on 21.01.1997. According to the management, the same year of birth is recorded in the service register and the workman has put his signature in the register prepared in the year 1986. At Bejdih Colliery, the year of birth of the workman was also recorded as 1947. At the time of his joining service, the workman did not submit any document. The Chief Organising Secretary of the union issued a letter on 20.08.2005 and raised the age dispute for the first time. Management of ECL contended that the workman has already superannuated from his service on 01.07.2007 and at this stage, the workman is not entitled to any relief. It is urged

that the action of management is justified and the dispute raised by the workman is liable to be dismissed.

4. The short question which arose for consideration is whether management of ECL committed any illegality by not correcting the date of birth of Ch. Kalam Khan on the basis of his claim and whether the workman was superannuated in premature manner on 01.07.2007? If so, to what relief the workman is entitled?

5. In order to substantiate the case of the workman, union examined Ch. Kalam Khan who filed an affidavit-in-chief. In his affidavit, the workman stated that his date of birth was recorded in 'B' Form Register in both Bejdih Colliery and Poidi Colliery as 15.04.1956. On the last occasion when he was transferred to Mines Rescue Station at Sitarampur, his year of birth was wrongly recorded as 1947 instead of 1956. It is averred that he applied several times for correction of his year of birth in the service record but the higher authority and the local management did not consider his claim. The workman witness was cross-examined at length where he deposed that he had documents in support of his date of birth. In support of his statement WW-1 did not produce any document but stated that his date of birth is recorded in the voter identity card which he has already filed. From his cross-examination, it transpires that he himself did not disclose his date of birth to the officials preparing his voter card and basis of his date of birth in the voter card is what has been mentioned by the officials themselves. The workman witness further stated that no appointment letter was issued to him and a list of employees appointed at that time was published. The workman has already superannuated from his service of the company in the year 2007. He denied the suggestion that 1956 is not his year of birth.

6. Management examined Debasish Chakraborty as MW-1 who filed an affidavit-in-chief and was cross-examined on behalf of the workman. In his examination-in-chief, the witness deposed that the year of birth of Ch. Kalam Khan was recorded as 1947 in the original 'B' Form Register of the company. The entry in the 'B' Form Register against S.No. 336 has been marked as Exhibit M-1. The witness stated that 15.04.1956 is not the date of birth of Ch. Kalam Khan as claimed by him. In course of further examination-in-chief, the witness deposed that in the original 'B' Form Register of Bejdih Colliery under Sitarampur Area (currently Sodepur Area), entries in respect of Ch. Kalam Khan has been made against S.No. 680 and his year of birth has been recorded as 1947. The relevant entry of Ch. Kalam Khan has been marked as Exhibit M-2. In cross-examination the witness deposed that the Industrial Dispute has been raised after his retirement and the workman never raised any dispute regarding his age mentioned in the service record. It is denied that the age of the workman was wrongly changed or his age was increased at the time of his transfer to other Colliery.

7. Mr. Rakesh Kumar, union representative, arguing the case on behalf of Koyal Mazdoor Congress submitted that the date of birth of the workman was all through recorded as 15.04.1956, from the time of his appointment at Bejdih Colliery and at the time of his transfer from Bejdih to Poidi Colliery. It is at the later stage of service that his year of birth was wrongly recorded as 1947 instead of his actual date of birth which is 15.04.1956. It is argued that after several representations by the workman, the management did not assess the age of the workman as per II-76 under NCWA. Due to such illegal act on the part of ECL, the workman has been superannuated from the service in a premature manner, about nine years prior to his actual time of superannuation. It is argued that since the workman was entitled to remain in service until 30.04.2016, the workman should be compensated by the management equivalent to his pay he

he would have received if he was not prematurely retired in illegal manner.

8. In his reply, Mr. P.K. Das, learned advocate for ECL argued that the year of birth of the workman is recorded as 1947 in all records of the company and the workman was fully aware of all entries. The workman was aware about his year of birth at the time of his transfer to Mines Rescue Station in the year in the year 1997. It is only at the time of his superannuation the workman raised dispute without any supporting documents to prove that his year of birth was 1956.

9. I have considered the arguments advanced on behalf of the workman and management and also perused their respective pleadings and evidence adduced. The dispute revolves round the date of birth of Ch. Kalam Khan entered in his service record at Mines Rescue Station, Sitarampur. The workman was appointed in the service of the company in the year 1974 at Bejdih Colliery. He has already rendered service for more than thirty three years. According to his claim, his date of birth was recorded as 15.04.1956 in 'B' Form Register of Bejdih Colliery and Poidi Colliery, the next place of his transfer. The workman however failed to produce any document to prove that his date of birth is 15.04.1956. During his cross-examination, the workman witness stated that his date of birth was recorded on basis of his voter identity card. Even if for argument sake this statement is considered correct, then the workman should have been a voter on the date of his appointment on 18.03.1974. If his date of birth is considered to be 15.04.1956 as claimed by him, the workman would have been less than 21 years and certainly would not have been allowed to vote. In the cross-examination which followed, the witness deposed that he did not disclose his date of birth to officials preparing his voter card and they themselves mentioned the date of birth in his voter ID Card. This statement would reveal that the workman did not have

any supportive document for the entries made in the voter ID card. He failed to produce his appointment letter or any other document which bears his date of birth. The management witness on the other hand produced the original 'B' Form Register of Bejdih Colliery where the entries made against S.No. 680 have been marked as Exhibit M-2. It appears from the entries made against S.No. 336 of the 'B' Form Register of Poidi Colliery that his year of birth was recorded as 1947 and he put his signature on the register after being satisfied with the entry. Similarly, Exhibit M-2 which is the original 'B' Form Register of Bejdih Colliery, the place of his first appointment, also reveals that his year of birth was recorded as 1947 and the date of birth did not appear as 15.04.1956. On considering the materials placed before this Tribunal, I have no hesitation to hold that the workman failed to produce any document in support of his date of birth claimed in the petition.

10. The Industrial Dispute has been raised in the concluding years of his service. The workman did not raise any dispute relating to the year of birth recorded as 1947. It is only after his superannuation that the Industrial Dispute has been raised in the year 2007. On a perusal of the written statement of the management, it appears from paragraph (7) that the union through their Chief Organising Secretary raised the dispute for the first time through a letter dated 20.08.2005, which is about two years prior to his retirement. It is a well settled law that the date of birth should be rectified at the earliest point of time and the workman should not be allowed to seek relief in respect of his date of birth at the end of his service. In the case of **Guddappa Ningappa Kolaji vs The Management Of Grasim Industries (WP No. 146666 of 2020)**, the Hon'ble High Court of Karnataka relying upon a decision of Hon'ble Supreme Court of India in the case of **Bharat Coking Coal Limited and Others Vs. Shyam Kishore Singh (AIR 2020) SC 940** held that the employee cannot be permitted to seek change in date

of birth after his retirement. In the present case, the workman did not raise any dispute to seek rectification in his year of birth/date of birth in the year 1997. He remained silent for eight years till 2005 and thereafter disputed his year of birth in the service record without being able to prove to the contrary. Under such circumstances, I hold that the claim of the union for rectification of the year of birth has no merit. It appears to me that management of ECL did not commit any illegality by considering the year of birth of Ch. Kalam Khan as 1947 or by his superannuation on the basis of such service record.

Hence,

ORDERED

The Industrial Dispute is dismissed on contest. Let an Award be drawn up on the basis 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.