

**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. 77 OF 2005

PARTIES: Bipin Bihari Tiwary
Vs.
Management of Gourandi Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Bipin Bihari Tiwary (in person).
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 24.03.2025

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-22012/234/2004-IR(CM-II)** dated 29.06.2005 has been pleased to refer the following dispute between the employer, that is the Management of Gourandi Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the action of the management of Gourandi Colliery of M/s. ECL in not regularizing Shri B.B.Tewary, General Mazdoor as Store Clerk is legal and justified? if not, to what relief the workman is entitled and from which date? ”

1. On receiving Order **No. L-22012/234/2004-IR(CM-II)** dated 29.06.2005 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 17.08.2005 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. Mr. S. K. Pandey, as General Secretary of Koyala Mazdoor Congress filed written statement on behalf of the workman on 26.10.2005. Management contested the case and filed their written statement on 15.07.2009. Fact of the case disclosed in the written statement of the union is that Bipin Bihari Tiwary, General Mazdoor having U. M. No. 167430 was appointed on 09.05.1983 at Dabor

Colliery and he was deployed as a Tripman / Loading Clerk in the year 1984 till 1990. Thereafter, the workman was authorized to work as Store Clerk vide authorization dated 15.06.1991. He was then transferred to Gourandi Colliery in the same capacity and rendered continuous service in the post of Store Clerk. It is contended by the union that as per Standing Order of the company a workman is entitled to be regularized in the post after performing continuous duty for one year. Accordingly, union prayed for regularization of Bipin Bihari Tiwary as Store Clerk from the year he was deployed as a Clerk i.e., 1984.

3. Management contested the Industrial Dispute by filing their written statement. It is stated that the dispute raised by the union is not maintainable and the workman is not a member of the union. It is inter-alia contended that the workman is performing the job of a General Mazdoor at the Store of the Colliery. According to the management regularization of an employee to a particular post is based upon number of vacancies as well as satisfying requisite qualification of the claimant. It is the case of the management that at the relevant time there was no vacancy of Clerk and lot of senior workers were in the queue at different collieries who were required to be regularized to the post of clerk as per law. It is urged on behalf of the management that claim for regularization of Bipin Bihari Tiwary in the post of Clerk is not justified and the case is liable to be dismissed.

4. In order to establish their case Bipin Bihari Tiwary has been examined as Workman Witness No. 1. He filed an affidavit-in-chief, wherein he stated that he was appointed as a General Mazdoor at Dabor Colliery in the year 1983. He was deployed to work as Tripman / Loading Clerk in the year 1984 and continued to work in such post uninterruptedly till 1990. He stated that thereafter he was authorized to work as a Store Clerk by authorization dated 15.06.1991. The workman was transferred from Dabor Colliery to Gourandi Colliery in the same capacity and he continued to work as Store Clerk. The workman denied that he was performing the work of General Mazdoor at the Colliery Store. The workman

is silent about his having necessary qualification for selection / regularization in the post of Clerk. The workman has neither produced any document in support of his claim that he was deployed to work as Tripman / Loading Clerk at Dabor Colliery in the year 1984 nor did he produce any order of transfer to support his claim that he was transferred from Dabor to Gourandi Colliery in the capacity of a Store Clerk.

5. In course of cross-examination the claim of the workman that he was authorized to function as Clerk in the year 1990 and 1991 had been refuted but the concerned workman did not produce any letter of authorization. It transpires from his cross-examination that the workman claimed that his documents were stolen from his house in the year 1987/1988 and admitted that the story related to theft has been stated for the first time in his cross-examination. The workman also stated that at the time of joining he filed certificates in support of educational qualification to show that he passed High School.

6. Management examined Mr. Devendra Kumar, Assistant Manager (Personnel), Gourandi-Begunia Group of Collieries, as Management Witness No. 1. He has filed his affidavit-in-chief and produced some documents in support of the management's case as follows :

- (i) Copy of the Form 'B' Register has been marked as Exhibit M-1.
- (ii) Copy of the Notice of Superannuation, as Exhibit M-2.
- (iii) Copy of the Service Record Book of the workman, as Exhibit M-3.
- (iv) Copy of the Cadre Scheme for Ministerial Staff maintained and followed at ECL for regularization or promotion as Clerk has been produced as Exhibit M-4.

7. In cross-examination of MW-1 the workman, in person, suggested that the workman had produced the Matriculation Certificate before the management in support of his claim for regularization but the witness denied the same.

8. The stage is now set for consideration the as to whether the workman was entitled to be regularized as a Clerk under the management of ECL.

9. In the written statement the union is silent about the educational qualification of the workman. In Paragraph No. 6 of the written statement, union has asserted that according to the Standing Order of the company a person becomes entitled to regularization in a post after rendering continuous service for one year. Nowhere did the union claim that the workman is a matriculate or he had fulfilled the educational qualification required for the purpose of selection of a person for promotion to the post of clerk. In this case Mr. P. K. Das, learned advocate appearing for the management of ECL vehemently argued that the workman has already superannuated from service in the year 2020 and his claim for regularization is not sustainable not only for his superannuation but as he did not possess necessary qualification for selection to the post of clerk. Learned advocate referred to Exhibit M-3, which is the Service Record Book of Salanpur Area and submitted that under Column No. 10 of the Service Record Book at the place providing for recording General & Technical Educational Qualification of a person no entry has been made against the Examination passed by the person. It is further submitted that there is a clear instruction in the Service Record Book for keeping an attested copy of the certificate in support of educational qualification of the employee but in the instant case no such certificate was furnished by the workman. Therefore, he is not entitled to be regularized in the post of Clerk.

10. The workman argued that he had placed his certificate of Matriculation examination before the management on several occasions but the management did not consider the same. The workman further claimed that he should be regularized to the post of Clerk from 1984 and should be paid difference of wages from 1984 till the date of his superannuation.

11. For the purpose of adjudicating the simple question as to whether the workman had the eligibility to fill up a post of Clerk, it is worthwhile to consider the contents of Exhibit M-4, which is the accepted and prevailing Cadre Scheme for Ministerial Staff and Store Personnel Cadre. It appears from the document that the minimum educational qualification necessary for eligibility to the post of Clerk is Matriculation or equivalent examination from any recognized Board of Examination and three years working experience in the company. The mode of promotion is by way of selection or test. In the footnote it is stated that educational qualification is not a bar for promotion of the existing employees up to the post of Store Keeper Clerical Grade – I from Store Issue Clerk Grade – III, if otherwise suitable. From the materials on record there is no iota of evidence to show that Bipin Bihari Tiwary had acquired educational qualification necessary for being considered for the post of Store Issue Clerk. At the time of his appointment on 09.05.1983 he did not disclose about his educational qualification in Column No. 10 of the Service Record Book. The workman failed to produce any authorization to show that he served as a Store Issue Clerk Grade – III for any duration of time, which could have exempted him from fulfilling the educational qualification otherwise necessary. He has not produced any certificate in support of his educational qualification even at the time of hearing of this case before the Tribunal. The record also reveals that the workman did not pursue the proceeding of this Industrial Dispute in diligent manner prior to his superannuation in the year 2020.

12. Considering the attending facts and circumstances, I find and hold that the workman and union have failed to prove that Bipin Bihari Tiwary is entitled to be regularized in the post of Clerk under the management of Eastern Coalfields Limited. The Industrial Dispute is therefore dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is therefore dismissed on contest against the workman / union. Bipin Bihari Tiwary is not entitled to any relief of regularization in the post of Clerk under the management of Eastern Coalfields Limited. 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.