

**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. 81 OF 2007

PARTIES: Md. Ibrahim
Vs.
Management of Chora O.C.P., ECL

REPRESENTATIVES:

For the Union/Workman: Pradip Kumar Goswami, Advocate.
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 27.03.2025

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-22012/203/2007-IR(CM-II)** dated 28.09.2007 has been pleased to refer the following dispute between the employer, that is the Management of Chora O.C.P. under Kenda Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

THE SCHEDULE

“ Whether the demand of the Union for promotion of Md. Ibrahim to the post of Excavator A Grade Fitter is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/203/2007-IR(CM-II)** dated 28.09.2007 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 81 of 2007** was registered on 09.10.2007 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.

2. The Industrial Dispute having been raised by the Deputy President, Colliery Mazdoor Union, the union filed their written statement on 28.10.2009. Management of Chora Open Cast Project under Kenda Area of Eastern Coalfields Limited (hereinafter referred to as ECL) filed their written statement on 24.07.2012. In nutshell, the grievance of Md. Ibrahim, the workman is that he was appointed as General Mazdoor on 05.04.1978 at Ratibati Colliery of ECL.

After seven (7) years of continuous service he was dismissed from service in the year 1985. He raised an Industrial Dispute before the Assistant Labour Commissioner (Central), Asansol and on failure of conciliation proceeding the matter was referred to the Central Government Industrial Tribunal -cum- Labour Court, Kolkata under Reference No. 42 of 1988. On 08.05.1989. An order of reinstatement of the workman along with back wages was passed. ECL authority without implementing the order preferred an appeal before the Hon'ble High Court at Calcutta. The Hon'ble High Court did not interfere with the order. Thereafter, the management of ECL preferred a Special Leave Petition before the Hon'ble Supreme Court of India and the same was not allowed. The workman was reinstated on 07.01.2000 and back wages were paid. According to the workman he joined his service in the year 1978 and was illegally dismissed. On his reinstatement he did not get any promotion. It is claimed that during full term of service, a workman is entitled to four (4) promotions from the date of his initial appointment. The workman contended that since the dismissal was illegal it is to be presumed that he was in continuous service during the period of dismissal. Md. Ibrahim informed the matter to the Secretary, Colliery Mazdoor Union (INTUC) for which this Industrial Dispute has been raised. According to the workman management has acted in an illegal manner by denying promotion to him, which is unfair, whimsical and discriminatory. The workman claimed that he is entitled to get four (4) promotions since 05.04.1978 to 2007 and that at present he should be promoted to the post of Excavation 'A' Grade Fitter with all the facilities.

3. Management contested the Industrial Dispute and in their written statement it is stated that after reinstatement of Md. Ibrahim on 07.01.2000 as General Mazdoor, Category – I and on completing eight (8) years of service he was upgraded to Category – II as per Service Link Upgradation and that the claim of the workman for regularization in Excavation Grade 'A' Fitter is not tenable as per

the guidelines of National Coal Wage Agreement. It is stated that for being considered in the post of Excavation Grade 'A' Fitter, he should firstly be working as a E.P. Helper in Excavation Cadre and for that he is required to have four (4) years of experience in H.E.M.M. department. Selection for this purpose is made by the Departmental Promotion Committee subject to vacancy as per Manpower Budget. Management inter-alia contended that a workman cannot automatically claim regularization in a substantive post without fulfilling the norms stipulated in the National Coal Wage Agreement. It is the further case of the management that Md. Ibrahim was never posted in the Excavation Department as E.P. Helper in Grade 'E'. Therefore, his claim to be regularized in Excavation Grade 'A' does not arise and the Industrial Dispute is liable to be dismissed.

4. The short point for consideration is whether the demand of the union for promotion of Md. Ibrahim in Excavation Grade 'A' Fitter is legal and justified? If not to what relief the workman is entitled to?

5. In order to substantiate the case, the union examined Md. Ibrahim as Workman Witness No. 1. In his cross-examination on 11.04.2017 the witness deposed that his designation is General Mazdoor and after reinstatement he joined as General Mazdoor. It appears from his evidence that he is getting wages as per Category – II and he claimed promotion as Excavation Grade 'A' Fitter. It was suggested to the witness that he does not have required qualification for being posted as E.P. Fitter and he denied the same.

6. The union examined S. M. Ikbal as Workman Witness No. 2. In his evidence-in-chief the witness stated that since joining Md. Ibrahim is posted as General Mazdoor and he did not get any promotion till date. He further deposed that Md. Ibrahim is doing the Mechanical Job in Excavation Grade and is fit for getting promotion. In his cross-examination the Workman Witness No. 2 deposed

that promotion is granted to an employee by a Departmental Promotion Committee. It appears that he has no knowledge about the official records relating to promotion of Md. Ibrahim.

7. It appears from order dated 20.06.2018 the management did not adduce evidence in this case. The case was thereafter fixed for hearing of argument since 10.10.2018. Several opportunities were granted to the management but no evidence is adduced. The case has been specially fixed up in the Special Campaign for disposal of old cases. After Notice, no step has been taken up on behalf of the workman. The workman is not appearing since long. Union is unrepresented.

8. Mr. P. K. Das, learned advocate for management of ECL appeared accompanied by Mr. Ranjit Kumar, Assistant Manager (Personnel), Chora O.C.P., ECL. It is submitted before the Tribunal that Md. Ibrahim has superannuated from service of the company on 31.12.2017 and his prayer for promotion has been rendered infructuous.

9. I have considered the pleadings of the parties and evidence adduced by the workman witnesses. The workman in the Industrial Dispute has claimed for his promotion as Excavation Grade 'A' Fitter. In order to be promoted to Excavation Grade 'A' Fitter, a workman is required to establish that he has performed four (4) years of work as Excavation Grade 'B' Fitter and for this purpose he has been considered by the Departmental Promotion Committee. The workman in course of adducing evidence has not been able to prove that he fulfilled such requirement. Therefore, the workman cannot claim promotion to a substantive post as per Manpower Budget without fulfilling the eligibility criteria, only on the ground that he is entitled to four (4) promotions during full term of service.

10. It is also undisputed that the workman has superannuated from his service therefore, the Industrial Dispute, seeking promotion to a higher post,

anatomically becomes infructuous with superannuation of the workman. In such view of the matter, I hold that the workman is not entitled to any relief.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. The Md. Ibrahim, the workman is not entitled to any relief of promotion to the post of Excavation Grade 'A' Fitter. 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.