

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, JABALPUR**

CGIT/LC/R/83/2023

Present: P.K.Srivastava

H.J.S..(Retd)

**Suresh Kumar,
S/o Late Shattrughan,
R/o Village Chhinpur,
PO Bhilai Bazar, Kusmunda, Korba (CG)**

Workman

Versues

**Sub Area Manager,
South Eastern Coalfields Limited (SECL)
Dhelvadih – Singhali – Bagdeva Sub Area,
Korba (CG) –**

Management

AWARD

(Passed on this 24th day of July, 2026)

As per letter dated 30.11.2023 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. **RP-02(1-04)/2023-ES.III** dt 30.11.2023. The dispute under reference relates to:

“Whether the action on the part of the Management of south Eastern Coalfields Limited (SECL) DSB Sub-Area, Korba Area, Distt. Korba (CG) in dismissing the services of workman Shri Suresh Kumar S/o Late Shatrughan, General Mazdoor Category-I is legal and justified? If not, to what relief the workman is entitled to?”

The undisputed facts are that the Workman Suresh Kumar son of Late Shri Shatrughan is the husband of Rajkumari, daughter of Mansa Ram. Mansaram was tenure holder of land Kasra No. 481/9

with an area of 1.5 acres situated in village Kusmunda Distt. Korba, Chhattisgarh. Rajkumari, who is the wife of the Workman Suresh Kumar, got this land as heir and successor of her father Mansaram after his death. This land was acquired by the Management of SECL. According to an agreement between the Management of SECL and land holders, the Management was in obligation to offer appointment to one of the dependant family member of the land oustee, nominated by him. Name of the workman Suresh Kumar was nominated by the land oustee Rajkumari who was his wife as her dependant family member. The Workman was offered appointment on the post of General Mazdoor in the year 2005 under **National Coal Wage Agreement – 7 (NCWA-7)**. Before his appointment, he furnished all the documents i.e. the records of land claimed by the Management, nomination form regarding the sponsorship and other related documents. On 18.08.2008, the Additional Collector Korba sent a letter to the Management of SECL that it came to their knowledge that some heir certificates, which are said to be issued under the signature of the Collector, are in fact not issued by him, these certificates do not contain signatures of the Collector. He asked the Management to send all the heir certificates to his Office for verification. The Management vide its letter dated 15/16-09-2008, provided the list of 22 employees who had submitted their certificates to the Office of Additional Collector Korba. On 14.10.2009, the Additional Collector Korba informed the Management that out of 22 employees, the heir certificates of 17 employees, in which the applicant workman Suresh Kumar was also included, were fake as they were not issued by the Office.

It is the case of the Workman that, the Management got conducted an enquiry from the Sub-divisional Officer, Khatghora, who sent his reports dated 07.11.2009, and stated that on enquiry it

was found that the Applicant workman is the husband of land oustee Rajkumari, who is the daughter and sole heir and successor of the original land holder i.e. her father Mansaram vide his letter dated 07.11.2009. The Management had sent another communication to Police, to enquire into the matter. It was informed to Management by the Police Department vide their letter dated 17.06.2010 that heir certificates were not found to be fake, they were prepared by SDM Khatghora and are genuine. In the meanwhile, the Management terminated the workman vide its order dated 03.05.2010, without conducting any Departmental enquiry and without giving workman any opportunity of hearing on the ground of production of non-genuine heir certificates by him to secure his employment. When he came to know about his termination, he made a representation and filed the case before the Additional Collector Korba, under Section 51 of Chhattisgarh Land Revenue Code for review and recall of his letter dated 14.10.2009, in which heir certificate of the applicant Workman was said to be fake along with other persons. The Additional Collector passed an order dated 08.09.2010, in which he held that since the letter was an Administrative Letter dated 14.10.2009, it could not be reviewed under the Code but he also observed that from the record available, heir certificate showing that the land oustee Rajkumari is daughter and her father i.e original land holder Mansaram has been issued to them and when this fact has been certified by the Administration, the Management of SECL should act accordingly. It is the case of the Workman that this action of Management in dismissing his services without any enquiry or opportunity of hearing is unjust, illegal and arbitrary because the very basis of termination is not established, he has prayed that setting aside his termination, he be reinstated with back wages and benefits.

Management has taken a case that, since in the light of letter of the Additional Collector dated 14.10.2009, it was mentioned that the heir certificate with respect to the workman was not genuine, and there was a Clause in his appointment letter, which specifically stated that *“if any fact or information regarding securing of appointment is found incorrect, the services of the workman shall be terminated without any notice.”* Hence, according to Management, there was no occasion or justification to issue a show cause notice to the Workman or conduct regular Departmental Enquiry before his termination.

The workman has further taken a case that he filed a Writ Petition against the termination of his services, which was **W.P. No. 2672/2011** before Hon'ble High Court of Bilaspur (CG), which was disposed vide order dated 05.01.2016. The Management was directed to decide the representation of the workman filed by him against his dismissal on the basis of facts and documents produced by him, which was decided by Management vide its order dated 20.04.2016 and the representation was rejected on the ground that no heir certificate with respect to family tree or not other fact or affidavit has been filed by the workman with the representation. The earlier filed heir certificate was found not genuine which the Additional Collector, Korba in his order has specifically mentioned that since the communication dated 14.10.2009 was not recalled.

The case of Workman is also that this action of Management is also unjust, illegal and arbitrary and is perverse in the light of the communication and certificate issued by the Sub-divisional Officer and report of the Police Officers as well observations made by the Additional Collector in his order dated 08.09.2010.

The Management has taken a case with respect to these allegations of workman that their action is just, legal and proved because situation did not change.

In evidence, both parties have filed affidavit and documents which are inform of letters referred to above, not disputed by any of the parties.

I have heard argument of Learned Counsel Mr. Akshay Pawar and Mr. Alabhya Vajpai for Management. Workman side has filed written submission also, which are part of record. I have gone through the written submission as well the record.

On perusal of record in the light of submission, the reference itself is the issue for determination.

Learned Counsel for the Workman has submitted that the Workman was awarded maximum punishment of dismissal without even issuing a notice to him to have his say on his proposed punishment. Learned Counsel for the Workman has submitted that this fact remains undisputed right from the beginning till now that Mansaram had only one daughter Rajkumar, who is the wife of the Workman and this Rajkumari succeeded the land of Mansaram as his heir and successor which was enquired by Management of SECL. Hence, it cannot be stated that any fact was wrongly mentioned by the Workman for seeking employment as dependant family member of land oustee. Regarding the charge of production of allegedly fake heir certificates, which loses significance, as submitted by Learned Counsel for Workman in the light of the communication made by Sub Divisional Magistrate who certified that this fact of heir and also the communication of Police Department that the certificates were not found fake after enquiry, this fact was not considered by the Management at the time of deciding his representation filed by him in

the light of order of Hon'ble High Court, thus Management has acted unjustly and against law.

Argument from the side of Management is that there was specific Clause in the offer of appointment if any information or fact or document produced by the Workman is found fake or not genuine, his services may be terminated by Management without notice. Hence, there was no notice required nor was any requirement of Departmental Enquiry before termination of services of the workman because the facts still remain unchanged that the heir certificate was not genuine as it was mentioned in the letter of Additional Collector dated 14.10.2009.

Learned Counsel for Management has further submitted that, in *Clause 26.9 of Certified Standing Orders* furnishing false information or document for seeking appointment is a serious misconduct in which dismissal may be the punishment. Hence, on this score also, the action of Management is not against law. As regards rejection of representation by Management which was filed by the Workman under order of Hon'ble High Court, the Management has submitted that the situation still remain the same that the heir certificate was not genuine.

From perusal of records it comes out that the Rajkumari was the sole heir and successor of original tenure holder Mansaram, being his daughter, is not disputed, rather it is fermented by the Sub Divisional Officer and even by the Additional Collector in his order dated 08.09.2010. He observes that the letter is not a judicial order, hence it cannot be recalled, but he also observes that when it is established that the Workman is dependant family member of the land oustee, the Management was required to consider this fact.

Punishment of dismissal from services is the maximum punishment. No doubt, in the offer of appointment, there was a provision in the offer that services of the workman could be terminated even without notice if any information furnished by him at the time of his appointment for seeking appointment is found incorrect. Had the Management given the workman an opportunity to have his say, he could have successfully put his defense and established the fact that he is the dependant family member of the land oustee, who happens to be his wife and has got land as heir and successor of her father Mansaram, who was original tenure holder. After termination of his services, the workman raised his allegation before Revenue and Police Authorities, and this fact of heirship as well the dependant family member was certified by the Revenue and Police Authorities. The Management was bound under law to consider all these facts at the time of deciding the representation of the workman dated 25.01.2016, filed by him before the Management in the light of order of Hon'ble High Court of Chhattisgarh in **WP No. 2672/2011** dated 05.01.2016. In not considering these facts and rejecting the representation filed by the Workman against his termination, the Management is held to have acquired illegality and this action of Management is held unjust, illegal and arbitrary.

Now the question arises with respect to relief, Learned Counsel for Workman has referred to Judgment of Hon'ble Supreme Court in the *Deepali Gundu Surwase V.s. Kranti Junior Adhyapak Mahavidyalaya & Ors. (2013) 10 SCC 342*. The relevant portion of the judgment is being reproduced as follows –

"The propositions which can be called out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have

the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these

cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

In the light of principles laid down in the said judgment, the Workman is held entitled to be reinstated with full back wages and consequential benefits deeming him to be in continuous service of the Management from the date of termination. Management is directed to calculate his dues and pay him within 90 days from the date of Judgment, failing which interest @6% from the date of Judgment till payment.

AWARD

Holding the action on the part of the Management of South Eastern Coalfields Limited (SECL) DSB Sub-Area, Korba Area, Distt. Korba (CG) in dismissing the services of workman Shri Suresh Kumar is illegal and arbitrary, the Workman is held entitled to be reinstated with full back wages and consequential benefits deeming him to be in continuous service of the Management from the date of termination. Management is directed to calculate his dues and pay

him within 90 days from the date of Judgment, failing which interest @6% from the date of Judgment till payment

No order as to cost.

DATE:- 24/07/2026

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**

