

01.10.2024
Court No.13
Item No.60
pk

MAT 876 of 2024
CAN 1 of 2024
CAN 2 of 2024
CAN 3 of 2024

Eastern Coalfields Ltd.

Vs.

Smt. Janta Bauri and others

Mr. Shiv Shankar Banerjee,
Mr. Nilarnab Paul,
Ms. Sanchita Barman Roy
Ms. Soumita Das

... for the appellant.

Mr. Partha Ghosh,
Mr. Amal Kumar Datta,
Ms. Simran Sureka,
Mr. Debashis Das

.. for the writ petitioners/respondents

Re: CAN 2 of 2024 (Sec.5)

- 1.This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the appeal.
2. Having heard the learned Advocate appearing on behalf of the respective parties, as also considering the statements made in the said application, we are satisfied with the grounds indicated explaining delay in preferring the appeal.
3. The application for condonation of delay being CAN 2 of 2024 is, thus, allowed and disposed of.
4. There will be, however, no order as to costs.

Re: MAT 876 of 2024

1. The appellant/Eastern Coalfields Ltd.(ECL) challenges a judgement dated 16.01.2024 passed

by the Single Bench in WPA 19923 of 2011. By the said order the writ petition filed by the ECL challenging an award dated 01.12.2009 passed by the Central Government Industrial Tribunal cum Labour Court at Asansol, West Bengal was upheld and the writ petition is dismissed.

2. The brief facts relevant to the case are that the workman, namely, Gobardhan Bauri was engaged as an underground loader in the Manoharbahal Colliery of the appellant. He was found to be unauthorizedly absent from 23.04.2001 to 23.11.2001. A charge sheet dated 23.11.2001 was issued for the alleged unauthorized absence.
3. According to the appellant, an Enquiry Officer was appointed and the workman did not appear before the Enquiry Officer. The enquiry was conducted ex parte and an enquiry report dated 26.02.2003 was submitted to the Disciplinary Authority. The Disciplinary Authority being the General Manager, Salanpur Area agreed with the findings of the Enquiry Officer. By an order dated 18/20th March, 2003, the workman was dismissed from service with immediate effect.
4. The workman invoked the provisions of the Industrial Disputes Act, 1947 and the conciliation proceedings were started. Upon failure of the conciliation proceedings, the Central Government

referred the dispute under sub-section (1d) of Section 10(2A) for adjudication to the Central Government Industrial Tribunal cum Labour Court at Asansol, West Bengal on the following terms :

“Whether the action of management of Manoharbahal Colliery of M/s. ECL in dismissing Sri Gobardhan Bouri, U. G. Loader from service w.e.f 20.3.2003 is legal and justified? If not, to what relief is the workman entitled?

5. Interestingly, before the Central Government Industrial Tribunal, the appellant did not file any written statement despite repeated directions and opportunities given by the Central Government Industrial Tribunal. The workman filed a written statement which remained completely uncontroverted. The ECL could not produce any documents to demonstrate that a lawful and valid enquiry conducted against workman.
6. The Central Government Industrial Tribunal was, therefore, left with no other option than to hold that the workman was dismissed without due process of law. As a consequence, the Tribunal awarded on 1st December 2009 that the order of dismissal dated 20th March 2003 is set aside. Since the workman had died during the pendency of the reference, he was treated as having died in harness. His widow the respondent herein was held entitled to all financial benefits including back wages for the period from the date of dismissal till

the date of death. It was also ordered that his widow would be entitled to Compassionate Employment under the applicable NCWA.

7. The respondent herein, widow of the workman, was substituted in place and stead of the workman in the Tribunal.

8. Challenging the said Award, the ECL contended as follows:

(a) It was incumbent upon the workman to prove that there was no valid enquiry;

(b) Even assuming though not admitting that there was no valid enquiry, the Tribunal would not have directed any consequential relief to the respondent, widow of the workman i.e. back wages and compassionate employment.

9. The learned Single Bench has very carefully dealt with the arguments of the ECL by reference to the decision of the Hon'ble Supreme Court of India in the case of ***Workmen of M/s. Firestone Tyre & Rubber Co. of India (P) Ltd. – Vs. – Management & Ors.*** reported in ***(1973) 1 Supreme Court Cases 813***. It appears that the ECL, far from adducing additional evidence before the Tribunal to support the dismissal of the workman, did not even bother to file a written statement to bring on record any enquiry proceedings.

10. The learned Single Bench has, therefore, rightly held that the contention of the respondent/workman that there was no enquiry against him, remained uncontroverted as rightly accepted by the Central Government Industrial Tribunal. The Court also found that the case of ***United Bank of India – Vs. – Tamil Nadu Banks Deposit Collectors Union & Anr.*** reported in ***2008 AIR SCW 642*** was not applicable in the light of the ***Firestone Decision (supra)***.
11. On the question of consequential relief, the learned Single Bench rightly embarked upon the case of ***Rameshwar Manjhi (Deceased) Through His Son Lakhiram Manjhi – Vs. – Management of Sangramgarh Colliery & Ors.*** reported in ***AIR 1994 SC 1176***, in paragraph 13.
12. In the aforesaid decision, it was held that if a workman dies, during the pendency of a reference all benefits that the workman, would have normally received and would be payable to his legal heirs.
13. In those circumstances, the directions of the Central Government Industrial Tribunal to pay full back wages to the late Gobardhan Bauri from the date of his dismissal till the date of his actual death is in accordance with law as rightly found by the Single Bench. Even the order directing the

compassionate employment to his wife, namely, the respondent no.1 herein being in terms of the applicable NCWA cannot be faulted.

14. The impugned judgment and order dated 16th January, 2024 therefore calls for absolutely no interference at all.
15. The instant appeal is dismissed.
16. In view of the above, the application for stay being CAN 1 of 2024 is dismissed and application for appropriate order being CAN 3 of 2024 is disposed of.
17. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)