

02-01-2024
ct no. 13
sl. 269
pk

WPA 25986 of 2023

The Agent, Chinakuri Colliery, Sodepur Area and
others

-Versus-

Koyala Mazdoor Congress and others

Mr. Soumya Majumdar,
Mr. Syed Nurul Arefin,
Mr. Syed M. Arefin

... for the petitioners

Mr. Dhiraj Trivedi.
Mr. Anindya Sundar Das

... for the Union of India.

1. Affidavit of service filed in Court is taken on record.
2. The subject matter of the challenge is an award dated 23rd June, 2023 passed by the Central Government Industrial Tribunal cum Labour Court, Asansol in Reference Case No. 8 of 2015 (Sushil Dome Vs. Management of Chinakuri Colliery of ECL).
3. It appears that reference made by the appropriate government was to decide as to “whether the dismissal of the workman, Sushil Dome with effect from 13th May, 1999 was legal or justified”.
4. The brief facts relevant to the case are that the workman was engaged by the ECL from 1985. He was working continuously until 10th of August, 1998 when he went on unauthorised absence.

5. The Tribunal found that the ECL commenced disciplinary proceedings for unauthorised absence and issued a charge sheet to the petitioner. Evidence of service of the charge sheet was not produced before the Tribunal. Admittedly, a copy of the enquiry report was not made available to the workman. No second show cause notice was issued.

6. Based on the aforesaid facts and the decision of the Supreme Court in the case of **Union of India and others Vs. Mohd. Ramzan Khan** reported in **AIR (1991) SC 471** and the case of **Managing Director, ECIL, Hyderabad Vs. Karunakaran reported in 1993 (3) SLR 532 SC**, the proceedings against the workman conducted by the ECL was held to be illegal. Reinstatement of the workman has been ordered. The period of absence was, however, directed to be treated as Dies-non.

7. This Court is in complete agreement with the findings of the C.G.I.T. in the impugned award.

8. Having heard Mr. Majumdar, learned counsel for the petitioners and considering the facts that the petitioner was born on 11th August, 1964. The workman may have superannuated as on date.

9. In those circumstances, this Court directs implementation of the award as it stands except for the portion relating to reinstatement. The

petitioner shall be deemed to have superannuated without blemish.

10. The workman shall be entitled to all benefits in terms of the award except reinstatement. Such benefits would include P.F., Pension and any other benefits under the National Coal Wages Agreement.

11. It is expected that the ECL shall make necessary arrangements to trace out the workman and obtain completion of necessary forms to be executed by the workman.

12. Let the terminal benefits that can be computed in terms of money to be made available to the workman within a period of three months from date. Any other benefits under the NCWA including employment for any eligible person related to the workman shall also be decided in accordance with law within a period of six months from date.

13. The writ petition is disposed of.

14. The petitioner shall communicate a copy of this order to the non-appearing respondents.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

