

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 9448 of 2015

Eastern Coalfields Ltd.

Vs.

Sri Khudiram Bouri & Ors.

For the Petitioner : Mr. Shiv Shankar Banerjee,
Mrs. Sanchita Barman Ray,
Mr. Abhishek Chakraborty.

For the Respondent : Mr. Arabinda Sen,
Mr. Anindya Sundar Das.

Hearing concluded on : 14.08.2025

Judgment on : 14.08.2025

SHAMPA DUTT (PAUL), J. :

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred challenging an award dated 20th October, 2014 passed by the Central Government Industrial Tribunal cum Labour Court, Asansol.
3. The petitioner's case is that the respondent no. 1 was a permanent employee of the petitioner. He was absent from his duties since 13th January, 2006 without permission and or information till 25th February, 2006 and as such a charge-sheet was issued, wherein it has been noted as follows:-

“ 2003 - 100 days
2004 - 058 days
2005 - 055 days”

4. As his reply to the said charge sheet was not satisfactory, a department enquiry was held in which the worker participated. The Enquiry Officer on conclusion of the enquiry submitted his report on 7th June 2006, holding the respondent no. 1/workman guilty of charges leveled against him in the charge sheet dated 25th September, 2006.
5. The General Manager of Jhanjhra area being the disciplinary authority, dismissed the respondent from service on and from 17th August, 2006.
6. The workman raised an industrial dispute before the Conciliation Officer wherein the Conciliation having failed, the following reference was made to the Tribunal:-

“Whether the action of the Management of M/s. ECL in dismissing Sri Khudiram Bouri w.e.f. 17.08.2006 legal and justified? If not, to what relief is the workman entitled?”
7. The Tribunal by the award under challenge dated 20th October, 2014 set aside the punishment of dismissal from service and directed the petitioner company to reinstate the respondent no.

1 in service with 50% backwages and modified the punishment as follows:-

“Considering the whole facts and circumstances of the case, discussed above, I come to conclusion that the action of the management of M/s. ECL in dismissing Sri Khudiram Bouri w.e.f. 17.08.2006 is illegal and unjustified. I set aside the order of dismissal of Sri Khudiram Bouri. Management is directed to re-instate Sri Khudiram Bouri with the continuity of service. I think it appropriate that the delinquent workman be imposed a punishment of stoppage of two increments without any cumulative effect. It is further directed that the concerned workman will be entitled to get only 50% of the back wages.”

8. It appears from the chargesheet dated 25.02.2006 that the petitioner was inflicted minor punishment on earlier occasions which included stoppage of increments and also demotion to the post of cleaning mazdur.
9. The relevant part of the chargesheet is as follows:-

“It has been revealed from the office record that you have absenting continuously from duty since 13.01.2006 and still continuing without permission/information from the Competent Authority.

Moreover, it has been revealed from your service record that you were awarded C3 punishments for unauthorized absence.

Punishment Awarded

Letter No.

1. Stoppage of three increments AGT/JNR/1&2/P/02/1098, dt. 20/21.11.02

2. Stoppage of two increments AGT/JNR/1&2/P/04/648, dt. 28.05.04
3. Demotion to Cleaning Mazdoor, AGT/JNR/1&2/P/05/641, dt. 27/29.06.05
Cat-I with initial basic.

Last Chance.

The attendance for last three years.

2003	-	100 days
2004	-	058 days
2005	-	055 days

The aforesaid acts committed by you constitute misconduct under clause 26.29 and 26.23 of the Certified Standing Order applicable to the Company which are appended below:-

"26.29- Absence from duty beyond 10 days without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave without valid reason.

26.23- Habitual low attendance or habitual absence from duty without sufficient cause".

You are hereby asked to explain in writing within 48 hours of the receipt of the letter as to why disciplinary action will not be taken against you.

*Sd/-
Manager
Jhandra Project"*

- 10.** On perusal of the enquiry report dated 07.06.2006, it appears that the said report does not record any of the earlier punishments awarded to the respondent/workman.

The only reference is regarding his absence since 13.01.2006. It was mandatory on behalf of the petitioner company that the earlier punishments inflicted upon the respondent/workman were brought to the notice of the enquiry officer, who should have recorded the same and then proceed to finalize his report. In the one page report of the enquiry officer it is stated that the charges against the workman was proved.

11. The letter dated 10.08.2006 issued by the General Manager, the disciplinary authority who terminated the services of the workman also **does not mention to the prior punishments** inflicted upon the workman including demotion. As such, the said findings and termination on the basis of reference to absence for a limited period does not justify the major punishment.
12. It was the duty of the company to bring on record and prove the earlier steps taken/punishment given against to the workman including the decrease of the increment and also demotion, to justify the major punishment of termination.
13. As such the Tribunal in holding that the punishment of dismissal inflicted upon the workman was disproportionate to the alleged mis-conduct, is justified and the order of the **Tribunal modifying the punishment to stoppage of two**

increments is proportionate to the misconduct proved before the enquiry officer.

14. As such the order under challenge passed by the Tribunal, dated 20th October, 2015 being in accordance with law, requires no interference by this Court.
15. The petitioner company is directed to act as per the direction in the award and comply with the award under challenge within 30 days from this order.
16. **Writ application stands dismissed.**
17. Applications, if any, connected thereto stand disposed of consequently.
18. Interim order, if any, stands vacated.
19. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul), J.]