

10.09.2025
Ct. No. 30
S.L. No. 1
SM

WPA 20746 of 2025
Eastern Coalfield Limited & Anr.
Versus
Union of India & Ors.

Mr. Anup Kanti Poddar
Ms. Anjali Shaw

.....for the petitioners

Mr. Ajit Kumar Mishra
Mr. A. Dey

.....for the respondent no. 1

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred challenging an award dated 23.12.2024 published by an order dated 25.06.2025.
3. It is submitted by the learned counsel for the petitioner that the learned Tribunal has passed an order as follows:

“Hence,

ORDERED

that the Industrial Dispute is allowed on contest against the management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of Eastern Coalfields Limited. The Notice of superannuation issued to Kudus Mia dated 10/16.12.2010 is not found legally tenable and the same is set aside. The reagement of ECL is directed to compensate Kudus Mia for his premature superauation, contrary to the date of birth mentioned in his initial Service Record. The management shall pay a compensation equivalent to his monthly salary from 01.03.2011 till the actual date of superannuation i.e.,

31.01.2016 within three (3) months from the date of communication of the Award. An award be draw, 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*

4. It is submitted that the said order being not in accordance with law is liable to be set aside.

5. On hearing the learned counsel for the parties and on perusal of the award under challenge the findings of the learned Presiding Officer deciding as above being relevant is reproduced herein:

*“In my foregoing discussion, I have already considered **the copies of Form PS-3 and PS-4, where the date of birth of the workman has been subsequently changed.** Though the said forms bear the signature of K. Mia and other management representative, the disputed date of birth cannot be accepted as there is no evidence that the signature of Kudus Mia was obtained after such changes were made. It can be presumed that the changes had been made after signatures were obtained on the documents where date of birth was initially recorded as 02.01.1956. If the changes were necessary after signature were obtained, in such case a fresh form could have been issued for the purpose of*

recording correct date of birth or the change should have been countersigned and no controversy would have arisen in such case. Learned advocate for the management, in course of his argument admitted that the management did not issue any Notice to Kudus Mia, disputing his date of birth at any point of time after it was recorded as 02.01.1956 nor did Kudus Mia raise any objection against the entries made in the Service Record Excerpt in the year 1987. Under such circumstance there was no occasion for the management of ECL to hold any assessment of age of the workman for the purpose of changing/recording his date of birth to 07.02.1951. The employer company has not been able to produce any document on the basis of which it arrived at the conch that the date of birth of the workman is 07.02.1951. In my considered view the correct date of birth is 02.01.1956, which was initially recorded in the Service Record of Kudus Mia and he attained the age of sixty on 02.01.2016. The Notice of superannuation issued to the workman was contrary to the provisions laid down in Annexure-1 of Implementation Instruction No. 76 dated 25.04.1988, relating to determination of age at the time of appointment of the workman. The management of Ghusick Unit of Kalipahari (R) Colliery under Sripur Area of ECL therefore has acted in an arbitrary and illegal manner by issuing Notice of superannuation to the workman, prematurely five years earlier to his

actual date of superannuation. From the copy of Notice of superannuation (Exhibit M-5) it appears that the management decided to terminate the service of Kudus Mia on superannuation w.e.f. 01.03.2011. If the management considered his date of birth as 07.02.1951, in such case his date of superannuation would have been 28.02.2011. Therefore, even by conjecture the Notice of Superannuation is not legally tenable. Since, the workman has already attained the age of superannuation in January, 2016 there is no scope for his reinstatement in service. However, the workman is entitled to compensation for the loss suffered by him due to his premature superannuation from service w.e.f. 01.03.2011 (Exhibit M-5). In my considered view it is just and appropriate to grant monetary compensation to the workman, equivalent to his pay for the period from 01.03.2011 to 31.01.2016. The management of ECL shall pay the compensation amount to Kudus Mia within three (3) months from the date of communication of this Award.”

6. On perusal of the document referred to by the Presiding Officer in its award, a copy of which is at page 19 (Annexure P 1) of the writ application, that form PS-3 in respect of the workman shows at column 6 the date of birth of the ‘workman’ as 02.01.1956. It also appears that the said date of birth has been struck off and in its place the date of birth has been noted as 07.02.1951. There is no signature correcting

the said date of birth nor does it contain the signature of the workman.

7. It appears that the workman had raised the issue several years prior to his superannuation. **The workman superannuated in the year 2021. The reference in this case was made on 04.10.2013 that is well before his superannuation.**

8. The order of reference contains the following issue to be decided by the tribunal:-

*“Whether the action of the management to retire the Kudus Mia premature, taking his date of birth as 07.02.1951 is fair, proper and justified, **while his date of birth in Identity Card, Service, Excerpt and School Certificate is 02.01.1956** and he should be retired on January, 2016. If not, so what relief management can provide to him?”*

9. On hearing the learned counsels for the parties and on perusal of the materials on record and the findings of the learned Presiding Officer, this Court finds that the award under challenge being in accordance with law requires no interference by this Court.

10. The petitioner is directed to implement the award within a month from the date of this order.

11. Writ application stands disposed of.

12. Applications, if any, connected thereto stand disposed of consequently.

13. Interim order, if any, stands vacated.

14. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]