



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3111 OF 2021

Petitioner : Sub Area Manager,
New Majri Open Cast Sub Area,
Western Coalfields Limited, District Chandrapur.

– Versus –

Respondents : 1. Presiding Officer, CGIT, Nagpur

2. ~~Shri Lokesh Maroti Khartad,
The General Secretary, National Colliery Workers
Congress, Dr. Ambedkar Nagar, Ballarpur,
Tah. Ballarpur, District Chandrapur.~~

3. Yakub Narsayya,
Aged 63 Years, Occupation : Retired,
R/o Ward No.5, New Majri Collery,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State)

4. Jeet Bahadur Angun,
Aged 65 Years, Occupation : Retired,
R/o New Majri Collery, New Housing Colony,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State)

5. Shri Venkatesh Ambala Mallya,
Aged 27 Years, Occupation : Private Job,
R/o Ward No.5, New Majri Collery,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State) (Legal Heir of Ambala Mallya)

6. Juthan s/o Dharamdeo Gajaraj,
Aged 55 Years, Occupation : Service,
R/o Quarter No.45, Hutment Colony, Saoner,
Tahsil Saoner, District Nagpur (Maharashtra State)

7. Sudhakar s/o Jiblaaji Khamankar,
Aged 56 Years, Occupation : Service,
R/o New Bati, Near Godown, Patala,
Tahsil Bhadravati, Dist. Chandrapur

Deleted as per
Court's Order
dated 16/10/2024.

Added Intervenors/
Respondents Nos.3 to 20
Vide Court's Order
dated 08/03.22

(Maharashtra State)

8. Ramnath Dhannu,
Aged 68 Years, Occupation : Retired, Temporary,
R/o Ward No.5, New Majri Collery,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State)
9. Khalji Zakir Miya,
Aged 65 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
Dist. Chandrapur (Maharashtra State)
10. Rekha Dhupkal,
Aged 64 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
11. Salim Shah Mohammad,
Aged 63 Years, Occupation : Retired,
R/o Ward No.5, New Majri Collery,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State)
12. Baijnath Dulare Kewat,
Aged 69 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
13. Dashrath Budhan
Aged 67 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
14. Avdhu Fagu,
Aged 70 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
15. Bishundhari Mohit,
Aged 66 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
16. Prabhunath Nagina Gupta,
Aged 62 Years, Occupation : Retired,

R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)

17. Gulam Gaus,
Aged 29 Years, Occupation : Labour,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
18. Vasant Uddhav Rode,
Aged 70 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
19. Pandurang Khade,
Aged 63 Years, Occupation : Retired,
R/o New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
20. Javed Mannan,
Aged 61 Years, Retd. Line Mistry,
Mine No.1, Saoner U/G Mines, WCL,
R/o Dafai No.1, Post Shivaji Nagar, Tah. Bhadravati,
District Chandrapur 442 503.

with

WRIT PETITION NO.3359 OF 2021

Petitioners

- : 1. Yakub Narsayya,
Aged 63 Years, Occupation : Retired,
R/o Ward No.5, New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
2. Jeet Bahadur Angun,
Aged 65 Years, Occupation : Retired,
R/o New Majri Collery, New Housing Colony,
Tahsil Bhadravati, District Chandrapur,
(Maharashtra State)
3. Shri Venkatesh Ambala Mallya,
Aged 27 Years, Occupation : Private Job,
R/o Ward No.5, New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)
(Legal heir of Ambala Mallya)

4. Juthan s/o Dharamdeo Gajaraj,'
Aged 55 Years, Occupation : Service,
R/o Quarter No.45, Hutment Colony, Saoner,
Tahsil Saoner, District Nagpur (Maharashtra State)
5. Sudhakar s/o Jibhlaji Khamankar,
Aged 56 Years, Occupation : Service,
R/o Majri Colliery, Post Shivaji Nagar,
Tahsil Bhadravati, District Chandrapur
(Maharashtra State)
6. Ramnath Dhannu,
Aged 68 Years, Occupation : Retired, Temporary,
R/o Ward No.5, New Majri Collery, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)

– Versus –

Respondents

:

(Original Party No.1)

1. The Sub Area Manager,
New Majri Open Cast Sub Area of W.C.L.,
Post-Shivaji Nagar, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)

(Original Party No.2)

Deleted as per
Court's Order
dated 16/10/2024.

- ~~2. General Secretary,
National Colliery Workers Congress,
Dr. Ambedkar Nagar, Ballarpur,
Post & Tahsil Ballarpur, District Chandrapur-
(Maharashtra State)~~
- ~~3. Shri Krishna Kumar Yadava,
Aged 75 Years, Occupation : Retired,
R/o Plot No.13, Shree Geeta Housing Society,
Behind Anant Nagar, Mahesh Nagar,
Near Mahadeo Temple, Nagpur 440013,
Tahsil & District Nagpur (Maharashtra State)~~
4. Presiding Officer, Central Government Industrial
Tribunal-Cum-Labour Court, Nagpur,
New Secretariat Building, 1st Floor, N.S. Building,
Civil Lines, Opposite V.C.A. Ground, Nagpur,
Tahsil & District Nagpur (Maharashtra State)
5. Javed Mannan,
Aged about 61 Years, Retd. Line Mistry,
Mine No.1, Saoner U/G Mines, WCL,

R/o Dafai No.1, Post Shivji Nagar, Tah. Bhadravati,
District Chandrapur - 442503

6. Kamlesh Kalideen,
Aged 60 Years, Retd. Pump Operator,
Majri OCM, WCL,
R/o Shanti Colony, Majri Mines, Tah. Bhadravati,
District Chandrapur – 442503.
7. Rambhajan Ramdas,
Aged 64 Years, Retired Dresser,
Bhandewara Mine, WCL,
R/o New Majri, Dafai No.1, Post Shivaji Nagar,
Tah. Bhadravati, Distt. Chandrapur- 442503.

with

WRIT PETITION NO.3747 OF 2021

Petitioner : Shri Dashrath Budhan,
Aged 65 Years, Occupation : Retired,
R/o Buxur, Tq. & District Buxur (Bihar)
Presently residing at New Majiari Colliery,
Tq. Bhadravati, District Chandrapur.

– Versus –

Respondents : 1. The Sub Area Manager,
New Majri Open Cast Sub Area of W.C.L.,
(Original Party No.1) Post-Shivaji Nagar, Tahsil Bhadravati,
District Chandrapur (Maharashtra State)

(Original Party No.2) 2. ~~General Secretary,
National Colliery Workers Congress,
Dr. Ambedkar Nagar, Ballarpur,
Post & Tahsil Ballarpur, District Chandrapur-
(Maharashtra State)~~

Deleted as per
Court's Order
dated 16/10/2024.

3. ~~Shri Krishna Kumar Yadava,
Aged 75 Years, Occupation : Retired,
R/o Plot No.13, Shree Geeta Housing Society,
Behind Anant Nagar, Mahesh Nagar,
Near Mahadeo Temple, Nagpur 440013,
Tahsil & District Nagpur (Maharashtra State)~~

4. Presiding Officer, Central Government Industrial Tribunal-Cum-Labour Court, Nagpur,
New Secretariat Building, 1st Floor, N.S. Building,
Civil Lines, Opposite V.C.A. Ground, Nagpur,
Tahsil & District Nagpur (Maharashtra State)

with

WRIT PETITION NO.5699 OF 2021

Petitioner : Shri Waman S/o Nagorao Alsetwar,
(Ori. Respondent) Age 59 Years, Occupation : Service,
R/o Qtr. No.70/6, WCL Colony Saoner,
Tq. Saoner, District Nagpur.

– Versus –

Respondents : 1. The Sub-Area Manager,
(Ori. Complainant) New Majri Open Cast Sub Area of W.C.L.,
Post-Shivaji Nagar, Tahsil Bhadravati,
District Chandrapur, Maharashtra.
2. General Secretary,
National Colliery Workers Congress,
Dr. Ambedkar Nagar, Ballarpur,
Post & Tahsil Ballarpur, Chandrapur, Maharashtra

Mr. A.M. Ghare, Advocate for the Petitioner in WP No.3111/2021 and for Respondent No.1 in WP No.3359/2021 and WP No.3747/2021.

Mr. Sandeep Singh, Advocate for the Petitioner(s) in WP No.3359/2021 and WP No.3747/2021 and for Respondents Nos.3 to 19 in WP No.3111/2021

Mr. H.S. Chitaley, Advocate for the Petitioner in WP No.5699/2021.

Mr. B. Lahiri, Advocate for Respondent No.20 in WP No.3111/2021 and for Respondent Nos.5 to 7 in WP No.3359/2021.

Mr. Pushkar Ghare, Advocate for Respondent No.1 in WP No.5699/2021.

CORAM : **ROHIT W. JOSHI, J.**
RESERVED ON : **9th OCTOBER, 2025.**
PRONOUNCED ON : **7th NOVEMBER, 2025.**

COMMON JUDGMENT :

WRIT PETITION NO.3111 OF 2021

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Advocates appearing for the parties.

02. The present petition is filed challenging the award dated 28/10/2019 passed by the learned Central Government Industrial Tribunal, Nagpur (*hereinafter referred to as "Tribunal" for brevity*) in Case No.CGIT/NGP/233/2003. The controversy in the present petition pertains to settlement dated 02/11/1992 entered into by and between the petitioner and respondent Nos.3 to 20, the workmen of the petitioner (employees) represented by recognized union viz. Rashtriya Kalya Khadan Mazdoor Sangh (RKKMS) which is affiliated with Indian National Trade Union Congress (INTUC). The petitioner and respondent Nos.3 to 20 hereinafter referred to as employer and employees respectively. The dispute pertains to Clause 1.3 i.e. Demand No.1(iii) raised by the Union which reads as under :

"That the management shall on conversion from PR to TR/Mr will fully protect the Group Wages including SPRA wherever applicable. The basic pay so fixed in the TR/MR category/grade if exceeds the maximum of the category/grade, the balance will be treated as personal pay to the person concerned which shall be adjusted in the subsequent revision of pay/promotion. This decision shall be effective from 01/01/1992. It is also agreed that the cases already converted between 14/11/90 to 31/12/91 shall be considered for national fixation only and earlier cases will not be considered."

03. The employees were working in Majri Area of the employer, which is a subsidiary of Coal India Limited. The employees were initially working as Loaders in Group V-A and paid salary as Peace Rated Workers (PRW) as per National Coal Wage Agreements (NCWA). The employees were paid salary of PRW along with Special Peace Rate Allowance (SPRA), which is in the nature of annual increment and some other allowances.

04. The employees were converted from PRW to Time Rated Workers (TRW), resulting in reduction of their wages. The employees raised the issue with the employer individually and also through the Union. However, since the persuasion was not successful, the employees approached the Regional Labour Commissioner (RLC). However, the matter could not be resolved, as a consequence of which, the RLC forwarded a failure report pursuant to which the Central Government made a reference as contemplated under Section 10(1)(d) and Section 10(2A) of the Industrial Disputes Act, 1947 (*hereinafter referred to as "ID Act" for brevity*). Pursuant to the said reference, the aforesaid Case No.CGIT/NGP/233/2003 came to be registered. The employees filed their statement of claim contending that the action on the part of the employer was in contravention of settlement dated 02/11/1992. It is contended that although talks were on going for modification of the said settlement, no decision with respect to modification of the settlement was arrived at. They contended that the settlement dated 02/11/1992 was enforceable and binding between the parties. The employees also placed

reliance on Certified Standing Orders of the employer, which provide for pay protection of employees in case of transfer of services from one job to another to contend that assuming that the settlement was amended/modified, the same will not be enforceable since it will be contrary to the Certified Standing Orders. Apart from this, contention was also raised that pay protection to the similarly circumstanced employees was granted by the petitioner-employer in Chandrapur Area. The employees also contended that their status from PRW to TRW was altered by the employer and, therefore, their pay ought to have been protected, even if it is assumed that the settlement dated 02/11/1992 was modified on 31/10/1995 as contended by the employer.

05. The employer filed written statement contending that the settlement dated 02/11/1992 was partially modified with effect from 31/10/1995 as per the decision arrived at between the Management and the Union-RKKMS in its meeting held on 31/10/1995. The employer contended that in view of decision dated 31/10/1995, employees who were getting salaries as PRW, who themselves opted for conversion into TRW, were not entitled for pay protection and that in such cases, their salaries were payable in the scales prescribed for TRW. The employer further contended that the present employees had made request for altering the nature of their job from PRW to TRW.

06. The employees examined certain witnesses in the matter. The said witnesses were not cross-examined by the employer. The employer has

also not entered the witness box. After hearing the rival submissions, the learned Tribunal has answered the reference in favour of the employees vide award dated 28/10/2019. The learned Tribunal has held that the minutes of discussion dated 31/10/1995 do not have the effect of amendment to/modification of settlement dated 02/11/1992. It is held that the employer had granted benefit of pay protection to similarly circumstanced employees in other areas and, therefore, the same yardstick was required to be applied to the present set of employees. It is also held that the employees were entitled to pay protection in view of Clause 21.1 of the Certified Standing Orders.

07. Thus, the controversy in the present petition principally revolves around interpretation of minutes of meeting/record of discussion dated 31/10/1995 and Clause 1.3 of the settlement dated 02/11/1992. Apart from this, question of binding efficacy of Clause 21.1 of the Certified Standing Orders also arises for consideration. It is also required to be determined as to whether the employer can treat similarly circumstanced employees working in different areas in a different manner.

08. Clause 1.3 of the settlement dated 02/11/1992 will demonstrate that on conversion of status of employees from PRW to TRW, the employer was under obligation to protect the wages of such employee including the SPRA (Annual Increment). The said clause does not make any distinction with respect to cases under which the conversion of status of the employee from PRW to TRW is at the behest of the employer or on the request of the

employee. Perusal of Clause 1.3 will demonstrate that pay protection was to be granted on conversion of status from PRW to TRW in all cases, irrespective of the fact as to whether the conversion was at the request of the employee or not.

09. The contention of the employer is that the aforesaid Clause 1.3 is modified in view of Record Note of Discussions/Minutes of Meeting dated 31/10/1995. Clause 1 of the Record Note of Discussion dated 31/10/1995 will indicate that in cases where status of PRW was altered to TRW at the option of the employee or in case of selection through internal notification for time rated/monthly rated jobs, the pay of such employee will be fixed at the rates prescribed for TRW and no personal pay will be allowed to the employee, as is allowed to PRW after 01/11/1995. Perusal of Record Note of Discussion dated 31/10/1995 will demonstrate that the Record Note of Discussion supersedes all other discussions held earlier on the subject. The document also states that parties have decided to move amendment/modification as per the discussion held on 31/10/1985. However, Clause 7 of the document also records that in view of the result of the modification, there will be no claim from either side against the other.

10. Clause 7 gives an impression that the earlier settlement dated 02/11/1992 was in fact altered/modified. However, perusal of the introductory paragraph and Clauses 6 and 8 of the document gives an impression that the earlier settlement dated 02/11/1992 was not actually

modified/alterd and that no final decision in the matter was taken. It will be pertinent to mention that settlement dated 02/11/1992 is arrived at in conciliation proceedings as per Section 12(2) of the ID Act. Perusal of Clause 6 of Record Note of Discussion will demonstrate that the parties had contemplated discussion on certain other items before moving the RLC for amendment of the settlement. It is not in dispute that the parties did not approach the RLC for amendment of the settlement.

11. It will be pertinent to mention that the employer had issued notice dated 21/02/1995 for termination of settlement dated 02/11/1992. However, vide subsequent communication dated 02/03/1995, notice of termination dated 21/02/1995 was kept in abeyance by the employer. There is no document indicating that the said letter dated 02/03/1995 was withdrawn. There is no document indicating fresh notice for termination of settlement dated 02/11/1992 was issued. It will, however, be pertinent to mention that the employer has issued letter dated 27/04/1996 to the Assistant Labour Commissioner (ALC) informing that the settlement dated 02/11/1992 was superseded on 31/10/1995. It appears that copy of Record Note of Discussion dated 31/10/1995 was forwarded along with the said letter. However, letter dated 27/04/1996 is sent individually by the employer. The Union has not sent similar letter to the ALC. Likewise, perusal of letter dated 27/04/1996 does not indicate that copy thereof was marked to Union of Workers or to individual worker.

12. The learned Tribunal has interpreted the terms of Record Note of Discussions dated 31/10/1995 and has held that the settlement dated 02/11/1992 was not altered or modified and that the said Record Note of Discussion only indicated that discussions were on going for proposed modification/amendment of the settlement. It is held that the settlement was not actually amended or modified. The view taken by the learned Tribunal is a possible view. The decision is arrived at by taking into consideration the contents of settlement dated 02/11/1992 and Record Note of Discussion dated 31/10/1995 along with respective pleadings and evidence. This Court sees no reason to take a different view of the matter in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

13. It will be pertinent to state that the Rule 58(4) of the Industrial Disputes (Central) Rules, 1957 provides that when a settlement is arrived at between the employer and workmen outside conciliation proceedings, the parties to the settlement shall jointly send a copy thereof to the Chief Labour Commissioner (Central), Regional Labour Commissioner (Central) and Assistant Labour Commissioner (Central). In the case at hand, admittedly such joint communication is not issued by the parties to the said authorities. This is another circumstance, which will indicate that the Record Note of Discussion dated 31/10/1995 is not a settlement by itself or a document under which settlement dated 02/11/1992 was altered or modified.

14. Assuming that the settlement dated 02/11/1992 is altered or modified with effect from 31/10/1995, in the considered opinion of this Court, the same amendment/modification cannot operate to cause reduction in the wages payable to the employees. It will be pertinent to mention that the Certified Standing Orders govern the service conditions of the employees. Clause 21.1 of the said Standing Orders provides that workmen will be transferred from one job to another and in case of such transfer, the pay of the worker should be protected. The work of PRW is of loading coal from underground mines. The work of TRW is of different nature and these workers do not work in underground mines. Thus, the transfer of workers from PRW to TRW is a transfer of job under the Standing Order 21. The pay of the workers is required to be protected in view of the Standing Order 21. The Certified Standing Orders have primacy over settlements and any clause in a settlement, which is contrary to a Standing Order, is unenforceable. The legal position in this regard is no longer *res integra* as will be apparent from perusal of judgment of the Hon'ble Supreme Court in the matter of *Western India Match Co. Ltd. vs. Wormken*, reported in *AIR 1973 SC 2650* and other judgments of the Hon'ble Supreme Court referred in the said judgment.

15. The learned Tribunal has also recorded that the employees had come up with a case that their services were converted from PRW to TRW by the employer due to reduction in cadre strength of PRW on account of advent of modern equipment and machinery. The employees have entered the

witness box with deposed about the same. The employer has not conducted cross-examination of the said witnesses to dispute the contention. The employer has also not entered the witness box. The learned Tribunal has nonetheless also taken into consideration certain documents on record and has recorded a finding of fact that the employer had failed to prove that conversion of status of PRW to TRW was at the request of the employees concerned. There is no material on record to disturb this finding of fact recorded by the learned Tribunal. In view of the above, even if it is assumed that the settlement dated 02/11/1992 was modified on 31/10/1995, even then benefit of pay protection needs to be granted to the employees.

16. The employees have come up with a specific contention that in other mining areas of the petitioner/employer, benefit of pay protection is granted to similarly circumstanced employees. This contention is not denied in the written statement. The employer has come up with a stand that the decisions taken with respect to workers in other mining areas will not be applicable and binding on the petitioner with respect to Majri Mining Area where the present set of employees were working. The contention of the petitioner-employer is liable to be rejected. The petitioner-employer cannot apply different yardsticks to its employees working in different mining areas. The learned Tribunal has rightly rejected the said contention raised by the petitioner-employer.

17. For the reasons recorded above, in the considered opinion of this Court, no case for interference is made out. The writ petition is, therefore, dismissed. Rule is discharged with no order as to costs.

WRIT PETITION NO.3359 OF 2021

WRIT PETITION NO.3747 OF 2021

WRIT PETITION NO.5699 OF 2021

18. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned Advocates appearing for the parties.

19. The petitioners in the present petitions are workers employed with the respondent-W.C.L. The reference under Section 10 of the ID Act was made by the Central Government to the learned Tribunal at the behest of 103 employees including the present petitioners. The names of the present petitioners and some other employees were ordered to be deleted by the learned Tribunal vide order dated 20/08/2018 recorded in the order-sheet. The names of the petitioners and other employees were deleted in view of the pursis filed by the learned Advocate representing the petitioners before the Tribunal. The petitioners state that they had not instructed the learned Advocate to withdraw the reference proceedings on their behalf. The petitioners had moved applications seeking recall of the order dated 20/08/2018 recorded in the order-sheet, whereby their names were ordered to be deleted from the reference proceedings. The said application filed by the petitioners were dismissed by the learned Tribunal vide award dated

28/10/2019, whereby the reference with respect to other workers is allowed on merits.

20. It is not in dispute that the claim of the present petitioners is identical with the claim of other workers, who were parties to the aforesaid reference proceedings. The dispute pertains to pay protection of the petitioners and other workers on conversion of their status from PRW to TRW. Since the reference is decided on merits in favour of the workers and Writ Petition No.3111 of 2021 filed by the employer-W.C.L. is dismissed by this Court vide instant judgment, it will be appropriate in the interest of justice that the writ petition should be allowed so as to enable the present petitioners to reap benefits of the award passed in favour of identically circumstanced workers. In the considered opinion of this Court, adopting such a course will sub-serve the ends of justice. It will not be appropriate to deprive the petitioners of the benefits of the award passed by the learned Tribunal in favour of the workers, whose cases are identical with that of the present petitioners.

21. In the considered opinion of this Court, it is not necessary to go into the correctness or otherwise of the allegations levelled by the petitioners against their learned Advocate appearing before the learned Tribunal that he had made the motion for withdrawal of reference on their behalf without instructions from them. In view of the aforesaid, Writ Petition

Nos.3359/2021, 3747/2021 and 5699/2021 are allowed in the following terms:

22. Order dated 20/08/2018 passed by learned Tribunal in order-sheet in deleting the names of the petitioners from Case No.CGIT/NGP/233/2003 is quashed and set aside. It is directed that the petitioners will be treated as parties to Case No.CGIT/NGP/233/2003 decided by the learned Tribunal, Nagpur vide award dated 28/10/2019 and shall be entitled to the benefit of the said award.

23. Rule is made absolute in the above terms with no order as to costs.

(Rohit W. Joshi, J.)