

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 8870 of 2024

Eastern Coalfields Ltd.
Vs
Union of India & Anr.

For the Petitioner : Mr. Soumya Majumder, Sr. Advocate
Mr. Syed Nurul Arefin.

For the Union of India : Mr. Shiv Chandra Prasad.

Judgment reserved on : 01.04.2026

Judgment delivered on : 11.05.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging an award dated 26.04.2023 as passed by the Central Government Industrial Tribunal-cum-Labour Court in case No.16 of 2010 and as published by the Central Government by publication order dated 07.08.2023.
2. Vide the impugned order, the Central Government Industrial Tribunal-cum-Labour Court, Asansol held as follows:-

“Accordingly, the employees of M/s. ECL working within Municipal Area of Asansol and Narsamuda

Colliery in particular who have not been provided with company accommodation are entitled to 20% of their basic pay as HRA with effect from 01.01.2009. It needs to be mentioned that as per National Coal Wage Agreement-VIII Implementation Instruction No. 16 dated 22.07.2009, no arrear shall be payable for the period from 01.07.2006 to 31.12.2009 on revised basic pay on account of HRA as per NCWA-VIII. Arrear of less drawn HRA @ 5% of Basic pay from 01.07.2004 till 31.12.2009 and less drawn HRA @ 10% of Basic pay from 01.01.2009 till date be paid to the employees of M/s. ECL working within Asansol Municipal Corporation area and who are not having company accommodation. The Industrial Dispute is disposed of in favour of workmen in the light of my above findings.

The reference case is decided in favour of workmen/union. Let an Award be drawn in favour of workmen to the effect that House Rent Allowance at the rate of 15% of basic be paid to employees not provided with company's accommodation within the Municipal Area of Asansol with effect from 01.07.2004 subject to maximum of Rs. 2286.30 and House Rent Allowance at the rate of 20% of the basic with effect from 01.01.2009. The dues shall be paid to the employees less the amount already drawn towards the HRA, within three months from the date of notification of this Award. Let a copy of this Award be communicated to Ministry for information."

3. The petitioner's case in short is that the respondent trade union raised a dispute with regard to enhanced House Rent Allowance for the coal mine workers on the ground that the Government of India through notification dated 17.4.1996 had declared Asansol urban area as B-2 class city for the purpose HRA with effect from 31.1.1994, and subsequently by a **notification dated 14.6.2001**

issued by the Coal India Limited Asansol had been given the status of **A-class city**.

4. It was the case of the union that consequent upon **upgradation of Asansol from C-class city to B-2 and then to A class city**, with the corresponding upgradation and the Sodepur Area coming under Asansol Municipal Corporation, the HRA for the coal mines workers should be appropriately enhanced commensurate to the upgradation of Asansol from B-2 to A-class city. The Learned Tribunal thereafter proceeded to dispose of the order of reference by an award dated 26.4.2023 in favour of the workmen/union.
5. The petitioner in the writ application further states that in the anvil of the phase-wise upgradation of the areas coming under Asansol Municipal Corporation to be upgraded, the petitioner states that the Sodepur area had been upgraded from time to time following the government notification/classifications on HRA as provided in the National Coal Wage Agreement's (NCWA).
6. The dispute not having been resolved at bipartite level, the Central Government referred the said dispute to the learned Central Government Industrial Tribunal-cum-Labour Court, Asansol for the purpose of adjudication of the issue as to whether the demand of the union for payment of HRA at the rate of 15% was legal and justified.
7. It is further stated that **during the relevant period the coal mines workers were getting HRA @ 10%, and as such demand for 15% HRA and subsequently at 20% HRA was unjustified. In**

any event, the settlements being NCWAs were not under challenge, which had overwhelmingly decided the service conditions of the parties during the operation thereof. The respondent trade union is also one of the constituent members of the said JBCCI which had negotiated the terms and conditions of the coal mines workers including those under the Sodepur area. The said respondent trade union has been represented through the apex trade union in all negotiations for arriving at NCWA.

8. The petitioner further states that in cross-examination, the union's witness failed to produce any document to show that Narsamuda mine is coming under Sodepur area, falls within the jurisdiction of the Asansol Municipal Corporation, and hence the coal mines workers would be entitled to enhanced HRA @ 15% on the basis of upgradation of areas falling under Asansol Municipal Corporation through Government notification.
9. It is stated by the petitioner that the company has constructed quarters/accommodation in each and every mine including those under the Sodepur area for accommodation of the coal mine workers. That apart, there are statutory post holders who are required to compulsorily stay near about coal mine.
10. It is further stated that the workers, in spite of owing a duty to apply for quarters do not make such applications rendering the coal company to suffer financially on account of huge outgo of HRA. ECL was suffering badly and was referred to BIFR.

- 11.** It is further stated that the Learned Tribunal failed to appreciate and misconstrued the provisions of NCWA vis-à-vis its implementation and binding nature thereof in terms of section 18 of the Industrial Disputes Act, 1947. It is stated that the Learned Tribunal proceeded on an erroneous assumption that Government of India notification reclassifying/upgrading cities/areas would form the foundational basis for enhancement of HRA whereas the NCWA provided for a definite fixed rate of HRA.
- 12.** It is also stated that the Learned Tribunal failed to appreciate that all workers of Narsamuda colliery under Sodepur area would not be entitled to 15% HRA just because of reclassification/upgradation of the area **since many of the workers might have actually availed themselves of the house rent/quarters facility.**
- 13.** It is also stated that the impugned award does not take into consideration the fact that ECL was referred to BIFR and implementation of such award with retrospective effect from 1.7.2004 would have severe financial impact on your petitioner company and cause utter financial detriment leading to operational hazards. **It is further stated that there are 112 quarters/allotments lying vacant at the colliery and as such claim for HRA without considering such aspect is inequitable.**
- 14.** Mr. Majumder learned senior counsel appearing for the petitioner, on filing written notes on behalf of the petitioner, argued as follows:-

- a) Union bases its claim on notification issued by the Government of India dated 17th April, 1996 and 14th May, 1993 whereby Asansol was declared as a Group “B-2” city and subsequently as “A” class city by the Government of India. However, what has been referred before the Tribunal are Office memorandum dated 14th May, 1993 (page 76 to 81 of the writ petition) and Office Memorandum dated 3rd October, 1997 (page 95 at 101 of the writ petition), and also office memorandum dated 18th November, 2004 of the writ petition.
- b) The Office Memoranda issued by the Central Govt. and referred to above are applicable to Central Government employees; whose conditions of service are governed by Article 309 of the Constitution of India, and not by any industrial award. These Office Memorandum therefore do not apply to ECL.
- c) The defence of ECL before the Tribunal was that the issue of the HRA had been covered by NCWA’s; and hence there can be no increase in the rate of HRA. ECL had been paying HRA at the agreed rate in terms of NCWA’s to its workmen. Any award contrary to a term of NCWA will upset the NCWA’s which apply to various coal companies across the country.

d) NCWA's govern the service conditions of the workmen.

HRA is a part of such NCWA's. A term or condition governed by an industrial settlement cannot form the subject matter of an Industrial dispute.

e) In NCWA VII executed in 2005 clause 8.1.3 dealt with

HRA for employees in urban areas. It read as follows:

"Government notification/clarification on the subject will be followed as provided in the previous agreements. Other related issues will be discussed/decided in the Standardization Committee within a period of 3 months".

f) The union had not challenged the settlement as a whole but only demanded an additional benefit as HRA beyond the terms of settlement so as to negate the binding efficacy of the same.

g) The Tribunal granted relief by directing the HRA to be paid at the rate of 20% from 01.07.2004. This is beyond the scope of the reference made to the Tribunal by the appropriate government. Law is well settled that an Industrial Tribunal can only answer the issues referred to it for adjudication and matters incidental thereto, as per Section 10 of the I.D Act granting relief beyond the terms of reference is ex-facie bad in law.

15. Mr. Majumder relies upon the judgments reported in:-

i. *Herbertsons Limited vs The workmen of Herbertsons Limited and Ors. (1976) 4 SCC 736, (Para 21).*

“21. Besides, the settlement has to be considered in the light of the conditions that were in force at the time of the reference. It will not be correct to judge the settlement merely in the light of the award which was pending appeal before this Court. So far as the parties are concerned there will always be uncertainty with regard to the result of the litigation in a court proceeding. When, therefore, negotiations take place which have to be encouraged, particularly between labour and employer in the interest of general peace and well-being, there is always give and take. Having regard to the nature of the dispute, which was raised as far back as 1968, the very fact of the existence of a litigation with regard to the same matter which was bound to take some time must have influenced both the parties to come to some settlement. The settlement has to be taken as a package deal and when labour has gained in the matter of wages and if there is some reduction in the matter of dearness allowance so far as the award is concerned, it cannot be said that the settlement as a whole is unfair and unjust.”

ii. *National Engineering Industries Ltd. vs State of Rajasthan and Ors. (2000) 1 SCC 371, (Para 21, 22 and 23).*

“21. To answer the question so raised, this Court had a look at the statutory scheme of the Act in depth and observed: (SCC p. 658, para 8)

“8. The aforesaid relevant provisions of the Act, therefore, leave no room for doubt that once a written settlement is arrived at during the conciliation proceedings such settlement under Section 12(3) has a binding effect not only on the signatories to the settlement but also on all parties to the industrial dispute which would cover the entire body of workmen, not only existing workmen but also future workmen. Such a settlement during conciliation proceedings has the same legal effect as an award of Labour Court, or tribunal or national tribunal or an arbitration award. They all stand on a par.”

It then held:

“On the aforesaid scheme of the Act, therefore, it must be held that the settlement arrived at during conciliation proceedings on 5-5-1980 between Respondent 1 Management on the one hand and the four out of five unions of workmen on the other, had a binding effect under Section 18(3) of the Act not only on the members of the signatory unions but also on the remaining workmen who were represented by the fifth union which, though having taken part in conciliation proceedings, refused to sign the settlement. It is axiomatic that if such settlement arrived at during the conciliation proceedings is binding on even future workmen as laid down by Section 18(3)(d), it would ipso facto bind all the existing workmen who are all parties to the industrial dispute and who may not be members of unions that are signatories to such settlement under Section 12(3) of the Act.”

The Court stressed the principle of collective bargaining in these words: (SCC p. 659, para 9)

“9. It has to be kept in view that the Act is based on the principle of collective bargaining for resolving industrial disputes and for maintaining industrial peace. Thus principle of industrial democracy is the bedrock of the Act. The employer or a class of employers on the one hand and the accredited representatives of the workmen on the

other are expected to resolve the industrial dispute amicably as far as possible by entering into the settlement outside the conciliation proceedings or if no settlement is reached and the dispute reaches the conciliator even during conciliation proceedings. In all these negotiations based on collective bargaining the individual workman necessarily recedes to the background. The reins of bargaining on his behalf are handed over to the union representing such workman. The unions espouse the common cause on behalf of all their members. Consequently, settlement arrived at by them with management would bind at least their members and if such settlement is arrived at during conciliation proceedings, it would bind even non-members. Thus, settlements are the live wires under the Act for ensuring industrial peace and prosperity.”

22. *In Ram Pukar Singh v. Heavy Engineering Corpn. [(1994) 6 SCC 145 : 1994 SCC (L&S) 1314] this Court said that a settlement arrived at between the Management and the sole recognised union of workmen under Section 12(3) read with Section 18 of the Act would be binding on all the workmen whether members of the Union or not. This is how this Court considered this question: (SCC p. 148, para 5)*

“A settlement was, however, arrived at between the Management and the Union thereafter, whereunder it was, among other things, agreed that the employees who were holding the post of Office Superintendent (Non-Supervisory) would be deemed to have been appointed to the post of Assistant Personnel Officer from the date they were appointed as Office Superintendent (Non-Supervisory) and that the services rendered by them both in the post of Office Superintendent (Non-Supervisory) as well as in the post of Assistant Personnel Officer would together be taken into consideration as a qualifying period for promotion to the post of the Junior Executive Officer. It was further agreed that the employees concerned would not, however, claim any arrears of pay. This was done because the respondent Corporation was in a bad financial shape. The contention that the settlement of 13-9-1990 is not binding on the appellants because they were in a Supervisory category and were not workmen and

*hence the Union had no right to represent them, has no substance in it for two reasons. Firstly, in the settlement of 14-5-1987 arrived at with the Union they had not only received the benefit of the arrears of salary of Rs 1600 but also of the revised pay scales since then. They could not have had this benefit if they were not workmen and, therefore, considered themselves as belonging to the Non-Supervisory category. They had continued to be workmen, i.e., in Non-Supervisory category till the next settlement of 13-9-1990. Admittedly, there was only one Union representing all workers during all the relevant period. The settlement dated 13-9-1990 was admittedly under Section 12(3) read with Section 18 and other provisions of the Industrial Disputes Act. **The settlement was, therefore, binding on all the workmen whether they were members of the Union or not.***

23. *In Workmen v. Hindustan Lever Ltd. [(1984) 4 SCC 392 : 1985 SCC (L&S) 6] this Court said as under: (SCC p. 395, para 4)*

“4. Section 10(1) confers power on the appropriate Government to refer an existing or apprehended industrial dispute, amongst others, to the Industrial Tribunal for adjudication. The dispute therefore, which can be referred for adjudication, of necessity, has to be an industrial dispute which would clothe the appropriate Government with power to make the reference, and the Industrial Tribunal to adjudicate it.”

16. On the other hand the claim of the respondent/Union of India is that ECL is bound by the orders of the Govt. of India and as such the impugned award being in accordance with law, may not be interfered with.

17. On hearing the learned counsels for the parties and on perusal of the materials on record, considering that the tribunal has passed an award granting relief on and from 2004, it appears that the **National Coal Wage Agreement –VI (23rd December, 2000)** is

a Memorandum of Agreement by a Joint Bipartite Committee for Coal Industry. The said agreement provides for house rent allowance under Clause 8.1 series and provides how the same shall be regulated.

18. Clause 8.1.3 provides for house rent allowance for employees in urban areas as per **implementation instruction no. 27 dated 14th June, 2001. Asansol is classified as a 'C' city and the house rent** allowance rate per month has been agreed in the said agreement at **10 per cent of basic pay.** Provisions have been made for higher house rent allowance for employees posted at different cities, for example, though Ranchi has been classified as the 'b-2' city and as per Clause 8.1.4, house rent allowance for employees posted at Ranchi has been agreed on 25 per cent of their basic pay as per NCWA-V.

19. In the **National Coal Wage Agreement VI** wherein the provisions for house rent allowance has also been made, it has been stated therein that existing house rent allowance would apply in case of employees as per increase in rent w.e.f. 01.07.1999.

20. As per **implementation instruction no.43 dated 17th May, 2004,** issued, Government classification was duly implemented.

21. Subsequently, **National Coal Wage Agreement VII** came into effect, **on 15th July, 2005,** which provided for the provisions for house rent allowance with an enhancement w.e.f. 01.07.2004. In Clause 8.1.3 of Agreement VI, matching implementation instruction no.7 dated 21st July, 2005 was then issued.

- 22.** Implementation instruction no. 10 dated 23rd September, 2005 was issued providing HRA at 10% of Basic pay subject to a maximum in respect of 'C' class cities, and **Asansol was categorized as 'C' class city.**
- 23.** The same procedure was followed in **NCWA VIII** which came into effect on **24th January, 2009.** The learned Tribunal in its award while deciding the issue in reference decided the same in the affirmative. An enhancement was also agreed upon with effect from 1.1.2009.
- 24.** Implementation instruction no. 16 dated **22nd July, 2009** was issued in respect of **NCWA-VIII. Asansol has been classified as a 'Y' class city and HRA was agreed upon at 20% of Basic Pay.**
- 25.** **The relief has been granted from 2004 to 2009 and then from 2009 till date.**
- 26.** The petitioner appearing before the Tribunal did not adduce any evidence but argued that a Notification would be filed showing that Narsamuda Colliery was not within the jurisdiction of Asansol Municipal Corporation and as such it was argued that the petitioner is not entitled to get house rent allowance at the rate which was applicable for areas within the jurisdiction of Asansol Municipal Corporation.
- 27.** The learned Tribunal relied upon the government notification and held that Asansol has been upgraded as 'B-2' Class city for the purpose of house rent allowance from 31.01.1994. The Tribunal then proceeds to hold that NCWA-VII provides for house rent

allowance for employees in urban areas and it has been provided that 'B-2' Class city will be entitled the house rent allowance @ 15 per cent of their basic as per reclassification of the cities of the Government.

- 28.** The Tribunal categorically held that the employees of ECL working within the Municipal Corporation of Asansol **who have not been provided with accommodation by the Company are entitled to 15 per cent of their basic pay of HRA with effect from 01.07.2004.** The difference, if any, was provided to be paid to the employees. The Tribunal further held that the provisions of Clause 8.1.3 of NCWA – VII will be binding upon the employers and employees. Finally, the Tribunal held that the employees of ECL working within the Municipal area of Asansol Narsamuda Colliery who have not been provided with company accommodation are entitled to 20 per cent basic pay as HRA w.e.f. 1.1.2009 and finally directed that the said benefit would be available to the employees of ECL working within Asansol Municipal Corporation area.
- 29.** It appears that the award has been passed by the Tribunal by applying the terms and conditions of NCWA - VIII which came into effect only on 24.01.2009 and would be applicable on and from 1.1.2009 on revised basic.
- 30.** The implementation instruction no.16 dated 22.07.2009 provides for HRA in respect of employees posted in urban areas.
- 31.** In the list of cities annexed as per Government Notification, Asansol (urban areas) has been in respect of 'Y' city which as per

the implementation instruction no.16 dated 22nd July, 2009, the employees of such cities would be entitled to **20 per cent of basic pay**, with certain terms and conditions.

32. In **NCWA-IX** and **10th wage agreement dated 10.10.2017** implementation instruction no. 07 dated **7th July, 2017, Asansol** has been classified as **‘Y’ City** and the HRA has now been fixed at **16% for ‘Y’ class cities.**

33. Now, it is for this Court to decide as to whether findings of the Tribunal that Narsamuda Colliery would be considered to be within Asansol Municipal Corporation area is correct or not. It is the contention of the petitioner herein that Narsamuda Colliery does not fall within the Municipal area of Asansol and as such Clause 8.1.3 will not be applicable to employees residing at the colliery. It is the further case of the petitioner, that though several quarters are vacant, the employees are reluctant to accept the accommodation provided by the company, in order to reside within the Municipal area of Asansol (urban area) to get the benefit of Clause 8.1.3 and enhanced HRA.

34. The issue in the order of reference is:-

“whether the demand of Unions for payment of HRA @ 15% HRA is legal and justified? To what relief are the claimants entitled for?”

35. The Union’s case before the tribunal was that:-

“..... The contention of the union is that the Government of India by Notification No. 2/(43)/95-E-11(B)/Govt. of India dated 17th April, 1996, declared

Asansol as urban area and as B-2 class city for the purpose of House rent allowance w.e.f. 31.01.1994. Furthermore, in the memorandum of Coal India Limited, bearing no. CIL/C-5-A (vi)/50727/252 dated 14th June, 2001 Asansol has been given the status of A-class city. According to the union, implementation of the directives in the notification dated 17.04.1996 is necessary. It is urged on behalf of the workmen that Coal India Limited has totally ignored the notification of Government of India by declaring Asansol as a 'C' class city. Therefore, the workers of M/s. ECL not having company accommodation at Asansol are being paid HRA at the rate of 10% of their basic pay instead of 15% applicable to B-2 class cities from 31.01.1994 to 31.12.2008 and at the rate of 20% applicable to Asansol as declared 'Y' class city from 01.01.2009.....”

36. The National Coal Wage Agreement (NCWA) governs the

wages, service conditions, and benefits for non-executive coal employees in India, primarily for Coal India Limited (CIL) and Singareni Collieries Company Limited (SCCL). Initiated on August 15, 1967, following central wage board recommendations, the NCWA is negotiated every 4 to 5 years via the **Joint Bipartite Committee** for the Coal Industry (JBCCI), **with the latest, NCWA-XI (2021-2026), signed in May 2023.**

37. The NCWA is crucial for maintaining industrial peace and ensuring standard wages and welfare measures, such as housing and medical facilities, across the public sector coal industry in India.

38. Thus the employees of the petitioner company are bound by the memorandum of agreement leading to the NCWA's executed from time to time, periodically along with the

implementation instructions specifying the category and class of cities and the HRA applicable to each of them.

- 39.** The tribunal then relying entirely on Swamy's manual and government notifications applied the same to the NCWA's and its implementation instructions in respect of urban areas and passed the impugned award without taking into consideration the terms and conditions in the respective NCWA's and implementation instructions.
- 40.** The tribunal held that Narsamuda Colliery was within the Asansol Municipal Corporation Area and thus **granted HRA as per the government notifications and not as per the NCWA's and related implementation and instructions, applicable at the relevant stages.**
- 41.** The tribunal held that as NCWA-VII, implementation instruction provided that **B-2 class cities** would be paid HRA of 15% of the basic **as per reclassification of cities by the government, Asansol was treated as a B-2 class city** and the HRA of 15% was permitted, which is not in accordance with the NCWA VII and connected implementation instruction.
- 42.** Unfortunately, **the learned tribunal applied part of the NCWA-VII and part of government notifications**, which is clearly an erroneous decision, **considering that NCWA-VII, implementation instruction no. 10 dated 23rd September, 2005 clearly provides that as per the said agreement, Asansol is classified as 'C' city and HRA applicable was 10% of Basic pay.**

43. Thus, such an award, wherein, the terms and conditions of an agreement, herein the NCWA's, to be implemented is only partly accepted and part rejected, is clearly an erroneous decision and also an abuse of the process of law.

44. The NCWA's and its connected implementation instructions are a package deal to be taken as a whole (*Herbertsons Ltd. (Supra)*).

45. The impugned award thus being not in accordance with law is hereby set aside.

46. WPA 8870 of 2024 stands allowed.

47. The petitioner shall ensure allotment of quarters and **if refused,** by the employee/workman, they shall not be entitled to any HRA as per the NCWA's and its connected implementation instructions.

48. It is further directed that HRA shall be granted, by the petitioner, only as per the NCWA's and its respective/connected implementation instructions, as applicable from time to time.

49. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)