

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1881 OF 2011

THE EASTERN COALFIELDS LTD.

APPELLANT(S)

VERSUS

UNION OF INDIA AND ORS.

RESPONDENT(S)

O R D E R

Heard Mr. Parthiv K. Goswami, learned senior counsel appearing for the appellant (Management). Also heard Mr. Brijender Chahar, learned senior counsel appearing for respondent Nos. 2 and 3 (Workmen and the Union).

2. The subject matter of the present appeal is the Award dated 01.12.1998 which on being challenged by the Management, stood affirmed by the learned Single Judge by the order dated 11.07.2005 in the Management's Writ Petition No. 1841 of 2000. The Division Bench through the impugned judgment (dated 22.09.2009) after looking into the consideration made by the learned Single Judge on the Award (dated 01.12.1998 of the Industrial Tribunal) opined that the judgment of the Court does not suffer from any infirmity.

3. The respondent No. 3 - Trade Union was espousing the cause of the workmen in the Buradhemo Colliery who were retrenched by the erstwhile private management. A Tripartite Settlement was then reached on 13.09.1972 between the erstwhile owner, the Union and the workmen and an attempt was made to examine the feasibility of restarting a part of the closed mines of the Buradhemo Colliery and

also to explore the possibility of re-employment of some of the retrenched workmen. It was decided under Clause 2 of the Tripartite Settlement that re-employment of the workmen by the Management will be done on need basis, from time to time.

4. The Buradhemo Colliery was partially re-started and some of the retrenched employees were re-deployed but all the retrenched workmen, could not be re-employed. At that stage, the Management of the Buradhemo Colliery was taken over under the Coal Mines (Taking Over of Management) Act, 1973 and following the Coal Mines (Nationalisation) Act, 1973, the right, title and interest of the erstwhile owners in relation to the coal mines, stood transferred to and vested absolutely in the Central Government, free from all encumbrances. It may be mentioned that Buradhemo Colliery was shown at Sl. No. 406 in the Schedule to the Nationalisation Act, 1973. Thereafter, the Colliery was transferred and is being managed under the Eastern Coalfields Limited, who are the appellants. Be it clarified at this stage that the present Management had nothing to do with either the engagement of the workmen or their retrenchment which happened earlier while the Coalfields were with private Management.

5. Since a Section of Colliery was re-started an industrial dispute was raised by the Union seeking re-employment of the remaining retrenched employees. When the conciliation proceedings failed, the Central Government in exercise of powers under Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to the Central Government

**Industrial Tribunal, Asansol:**

"Whether the General Manager, Sitarampur area of M/s Eastern Coalfields Ltd., Borachak House, P.O. Sitarampur, Dist. Burdwan was justified in denying employment to S/Sri T.K. Sarkar and 238 others (List enclosed in Annexure-A) the retrenched workman of Burradhemo Colliery by not implementing the Tripartite Settlement dated 13 Sept., 1972? If not, to what relief the workman are entitled and from what date?"

6. The Industrial Tribunal after considering the submission of the counsel and the materials on record, in the concluding portion of the Award (1.12.1998) issued the following directions:

"76. Such of the concerned retrenched employee who are presently below the age of superannuation and still physically fit, estimated earlier vide para No. 66 to be roughly seventy in number, now stand entitled to re-employment by the Government Company in any category or class at any place or in any colliery under the Company's control and till such re-employments are secured, to lump sum payment of Rs. 7,000/- (Rupees Seven thousand) to each and a monthly subsistence allowance of Rs.1,000/- (rupees one thousand only) each beginning from the month in which the list of such employees is furnished by the union to the Government Company, after enforceability of the award. Payment of the monthly subsistence allowance shall continue till completion of the age of sixty years, if the company avoids to provide re-employment to any body."

7. As can be seen, the present is a five-decade old matter and is waiting long for a finality to the proceeding. The concerned workmen are now much aged persons and there is little possibility for their re-employment in mining work, as the superannuation age for the workmen is 60 years.

8. Taking the aforesaid circumstances into consideration and balancing the equity, a conciliatory approach is warranted in this case. Therefore, in the interest of justice, it is deemed appropriate to pass the following order:-

8.1 The Award (dated 01.12.1998) indicates that the reference was in relation to 239 workmen but the Tribunal in the aforequoted paragraph 76 has indicated that around 70 workmen would be entitled to re-employment. After so many years after the Award, keeping in mind the superannuation age (60 years), there is little possibility of any of the litigating workmen being entitled to re-employment, at this point of time. The Management should therefore undertake a verification exercise as to the number of workmen, who were part of the reference, who would be entitled to monetary benefit, in terms of the Award. The verification exercise be completed within four months and the benefits of this order be made available to the eligible workmen, within two months thereafter. We clarify that the entitlement of monetary benefits shall not be restricted to a particular number of workmen but to all those, whose names/particulars were mentioned in the reference petition which was the subject matter of the Award dated 1.12.1998.

8.2 Taking into account that only nominal lumpsum amount was ordered to be paid, instead of Rs.7,000/- (Rupees Seven Thousand Only), we deem it appropriate that a lumpsum amount of Rs.50,000/- (Rupees Fifty Thousand Only) would be paid to each of the eligible retrenched workmen. They should also be paid monthly subsistence allowance of Rs.1,000/- (Rupees One Thousand Only) per month until

they reach the age of 60 years i.e., the date of superannuation. The subsistence allowance is to be computed from the date of the Award i.e., 01.12.1998. The lumpsum amount will not carry any interest. In case of death of any workmen found eligible for relief under this order, the due amount should be remitted to the concerned legal heirs, after proper identification. It is ordered accordingly.

9. With the above order, the appeal stands disposed of with partial modification of the Award dated 1.12.1998 rendered by the Industrial Tribunal.

10. Pending application(s), if any, shall stand disposed of.

.....J.  
(HRISHIKESH ROY)

.....J.  
(SANJAY KAROL)

NEW DELHI;  
AUGUST 31, 2023.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 1881/2011

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VERSUS

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RESPONDENT(S)

Date : 31-08-2023 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE SANJAY KAROLFor Appellant(s) Mr. Parthiv K. Goswami, Sr. Adv.  
Mr. Parijat Kishore, AOR  
Mr. Atul Dong, Adv.  
Ms. Atiga Singh, Adv.For Respondent(s) Mr. Brijender Chahar, Sr. Adv.  
Mr. Simanata Kumar, Adv.  
Mr. Devendra Kumar Shukla, AOR  
Mr. Bhupendra Pratap Singh, Adv.  
Mr. Maneesh Pathak, Adv.  
Mr. Abhishek Kumar Suman, Adv.  
Mr. Prakash Kumar Singh, Adv.  
Ms. Nikita Anand, Adv.

UPON hearing the counsel the Court made the following

## O R D E R

The appeal stands disposed of with partial modification of the Award dated 1.12.1998 rendered by the Industrial Tribunal in terms of the signed order.

Pending application(s), if any, shall stand closed.

(NITIN TALREJA)  
COURT MASTER (SH)(KAMLESH RAWAT)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)