IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)

WPA 9805 of 2025

Eastern Coalfields Limited
Vs.
Union of India & Ors.

For the Petitioner	:Mr. Manik Das, Adv.
For the Respondent Nos. 1, 2 & 3	:Mr. Raj Kumar Gaurisaria, Adv. Ms. Sabita Roy, Adv.
For the Respondent No.5	: Mr. Nirmalendu Ganguly, Adv. Mr. A. Chakraborty, Adv.
Judgment reserved on	: 03.09.2026
Judgment delivered on	: 12.10.2026

SHAMPA DUTT (PAUL), J.:-

1. The writ application has been preferred challenging an award dated 24th November, 2023 passed by the Central Government Industrial Tribunal cum Labour Court, Asansol in reference Case no. 15 of 1998.

2. Vide the impugned award the learned Tribunal observed as follows:-

> *"From the aforesaid facts and circumstances I hold that amidst non-availability of several important missing links and material relating to appointment of Gouri Nath Banerjee at Ajoy-II Colliery under Sripur Area, the transfer order, LPC, and release order by which he joined at Nakrakonda Colliery under Bankola Area, the only sustainable evidence which súrfaced in favour of the charged employee is his* ***CMPF Account Ledger*** *bearing his CMPF account number, issued on*

the basis of the Allotment Register of Ajoy-II Colliery (Exhibit M-5) Weighing the evidence on record, the balance tilts in favour of the workman who has admittedly served the company for ten years at Nakrakonda Colliery, where he was granted two promotions and also has a CMPF account. The evidence adduced on behalf of the management could not dislodge the material in support of the workman. ***The denial of the management simpliciter that the workman never worker at Ajoy-II Colliery does not help them to establish the charge.*** *Accordingly, I hold that the charge levelled against the workman in Charge Sheet dated 01.10.1994 could not be established against him. The Enquiry Report and Second Show Cause Notice were not served upon the workman in compliance with the principle laid down in the decision of the Hon'ble Supreme Court of India in the case of* ***Union of India and Others vs Mohd. Ramzan Khan [AIR (1991) SC 471]*** *and the Circular of Coal India Ltd. bearing No CIL C-5A(VI)/50774/28 dated 12.05 1994. The* ***order of dismissal*** *dated 23.01.1996 (Exhibit W-33) passed by the Chief General Manager of Bankola Area against Gouri Nath Banerjee is not sustainable under the law and the same is* ***set aside."***

And the tribunal finally decided as follows:-

"The workman having superannuated from service during pendency of the Reference case, it is found appropriate to direct the management of Nakrakonda Colliery of ECL that Gouri Nath Banerjee be treated to be in service from the date of his dismissal i.e. 23.01.1996. He shall be entitled to his back wages along with consequential benefits. The management of the company shall disburse his dues within six (6) months from the date of Notification.

Hence,

ORDERED

that the Industrial Dispute is decided in favour of the workman against the management on contest. The dismissal of Gouri Nath Banerjee from his service by order dated 23.01

1996 is set aside He shall be treated to be in service w.e.f. the date of his dismissal till the date of his normal superannuation. He shall be entitled to his back wages for the said period along with consequential benefits. The management of the company shall disburse his dues within six (6) months from the date of Notification. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification."

3. The petitioner's case is that the respondent No. 5 joined Nakrakonda Colliery of Eastern Coalfields Limited (hereinafter referred to as the "ECL") on 02-03-1984 as Fitter Helper on misrepresentation that he was transferred from Ajoy - II Colliery - At that time, Nakrakonda Colliery was under Jhanjra Area (presently Bankola Area) while Ajoy - II Colliery was under Sripur Area (presently under Satgram-Sripur Area. At the time of joining at the Nakrakonda Colliery, the respondent No. 5 used false and fabricated documents like LPC (Last Pay Certificate), Transfer order dt. 17-02-1984 (not produced), etc. Necessary information was sought from the management of the Ajoy II Colliery which revealed that the respondent No. 5 never worked at the Ajoy-II Colliery, Charge-Sheet dated 15-07-1994 was issued. The same was challenged before the Hon'ble High Court at Calcutta and was set aside with liberty to the petitioner to issue fresh Charge-Sheet. Fresh Charge-Sheet dated 01-10-1994 was issued for Misconduct under Clauses 17 (i) (a), (o) & (u) of the Model Standing Orders. Reply to the Charge-Sheet was given by the respondent No. 5 on 04-10-1994. Headquarter of ECL by letter dated 08-02-1995 informed the Jhanjra Area that no letter of transfer dated 17-

02-1984 was ever issued. Enquiry Proceedings were conducted and concluded and Enquiry Report dated 13-12-1995 was submitted wherein the charges against the respondent No. 5 were found proved. Respondent No. 5 was dismissed from service vide letter dated 23-01-1996.

4. Respondent No. 5 filed a writ petition challenging dismissal but the same was dismissed on the ground of alternative remedy Appeal filed was also dismissed. Industrial dispute was raised. Reference made on 12/06/1998. Award passed by the CGIT, Asansol, on 10-03-2010- Challenged by ECL in WP 15750 (W) of 2010- Such writ petition was dismissed on 27-08-2018. Appeal being MAT 1375 of 2018 was filed. Appeal was allowed and the Award was set aside and the matter was **remanded** back to the CGIT by order dated 30-03-2022. CGIT passed the Impugned Award dated 24-11-2023.

5. The petitioner's grounds for setting aside of the impugned award is as follows:-

i) FRAUD committed by the respondent No. 5 in securing employment at the Nakrakonda Colliery of ECL. The LPC (Last Pay Certificate) as submitted by the respondent No. 5 at the time of joining the Nakrakonda Colliery shows a different CMPF A/c No. than that of the one stated by the CMPFO in the letter dated 03-12-2018. There cannot be two CMPF A/c Nos for one workman as CMPF A/c No. is allotted only once, when a person is employed in a coal company and

the same remains unaltered until his cessation of work with the company.

ii) CGIT failed to consider that the CMPF A/c No. mentioned in the LPC is not of the respondent No. 5 but was of one Jayshree Ahir as confirmed by the letter dated 04/05-07-1994. It is thus apparent that the CMPF A/c was opened only after the respondent No. 5 joined the Nakrakonda Colliery in 1984 and not prior to that though the respondent No. 5 alleges that he was appointed on 22-03-1982 at the Ajoy-II Colliery. It is not possible for a new appointee to work for two years without CMPF A/c No., as the Exhibit W-28 (CMPF Pass Book) and Exhibit M-4 (letter dated 03-12-2018 of the CMPFO) do not prove that the respondent No. 5 was working since the first quarter of 1982 (his alleged date of appointment being 22-03-1982) Paragraphs 2 (k), 25A, 37 (d), 38 & 39 of the CMPF Scheme 1948 are relied upon.

iii) CGIT failed to consider the difference in the name of the father of the workman as recorded in the CMPFO's letter dated 03-12-2018 corroborated by the CMPF Passbook and one stated by the respondent No. 5 and is not an illiterate person and cannot be said to have made any bonafide mistake as to the name of his father.

iv) CGIT also did not consider the letter dated 08-02-1995 wherein the Headquarter of the petitioner confirmed that **no order of transfer dated 17-02-1984 was issued.** It is apparent from paragraph 18 of

the Award that the respondent No. 5 failed to produce his appointment letter and acted surreptitiously by **lodging a GD dated 27-07-1994 as to loss of all documents relating to his employment to cover his misdeeds.** There was no reason why the respondent No. 5 was carrying all such documents with him when the Charge-Sheet dated 15-07-1994 was issued but enquiry proceedings were not started. **If the respondent No. 5 had lost the service records how could he produce before the CGIT the documents like LPC, transfer order, etc. pertaining to Ajoy - II Colliery?**

6. The petitioner has relied upon the following judgments:-

i) Addagada Raghavamma & Another -versus- Addagada Chemchemma & Another reported in A 1964 SC 136 Paragraphs 9 to 12 (Page 8 at 13 and 14 of this written notes).

ii) Anil Rishi -versus- Gurbaksh Singh reported in (2006) 4 Supreme 62 Paragraphs 12, 19 and 20 (Page 35 at 38 and 39 of this written notes).

iii) A. V. Papayya Sastry & Others -versus- Govt. of A.P. & Others reported in (2007) 4 SCC 221-Paragraphs 21 to 30 (Page 40 at 50 and 51 of this written notes).

iv) Commissioner of Customs -versus- Aafloat Textiles India Private Limited and Others reported in (2009) 11 SCC 62, Paragraph 12 (page 58 at 62 of this written notes).

v) Meghmala and Others -versus- G. Narasimha Reddy and Others reported in (2010) 8 SC 383 - Paragraphs 28, 34 and 36 [Page 68 at 79, 80 and 81 of this written notes].

vi) State of Uttar Pradesh and Others -versus- Ravindra Kumar Sharma and Others reported in (2016) 4 SCC 791 - Paragraphs 7, 8, 10 and 11 [Page 86 at 88, 89 and 91 of this written notes].

7. The private respondent being the respondent no.5 herein has stated that the Learned CGIT, after a full-fledged trial, by the said Award dated 24.11.2023, decided the Industrial dispute in favour of the workman (respondent no. 5 herein) and set aside the order dated 23.01.1996 by which the respondent no. 5 was dismissed from his service. The Learned CGIT, further directed that the respondent no. 5 shall be treated to be in service w.e.f. the date of his dismissal till the date of his superannuation and he shall be entitled to his back wages for the said period along with consequential benefits. The management of the company, has been directed to, disburse his dues within six months from the date of Notification.

8. It is further case of the respondent no.5 the written complaint alleged to have been received by the petitioner company against respondent no. 5

were neither served upon respondent no. 5 nor adduced as evidence either before the Enquiry Officer or before the Learned CGIT.

9. The charge-sheet dated 15.07.1994, on the basis of which the enquiry proceedings was initiated is itself vague and bad in law and should not have been taken cognizance of, as it was not accompanied by any statement of allegations or list of witnesses and, moreover, it failed to specifically disclose the documents alleged to have been fabricated by the workman/respondent no. 5. The enquiry proceedings initiated on the basis of such a vague chargesheet stands vitiated, as having been conducted in violation of the principles of natural justice and is liable to be quashed and set aside. ***[Anant R. Kulkarni Vs. Y.P. Education Society and Ors. reported in (2013) 6 SCC 515 para 16, 17].***

10. That at the time of transfer of any workman from one office to another office of employer's establishment, an order of transfer, Last Pay Certificate (L.P.C) and an order of release are issued and the same are communicated to the place of transfer officially and the transferred workman has nothing to do with the same. In this case, it was the persisted stand of the workman/respondent no. 5 from the very inception and has been specifically pleaded in his written statement before the CGIT that he has not carried and produced the order of transfer, Last Pay Certificate (L.P.C) and an order of release but the said papers reached to the management of Bankola Area, Nakrakonda Colliery before his joining and the same has not been specifically denied by the

management/petitioner which itself proves the contention made by the workman is true and correct.

11. That at the time of joining of the workman/respondent no. 5 at the transferee colliery all the relevant papers and documents were verified by the higher officials of the management/petitioner but the officials who checked and verified the documents had not been produced as a witness by the management either before the Enquiry Officer or before the Tribunal. However, the witness produced before the Enquiry Officer or before the Tribunal do not have any personal knowledge of the incident.

12. Admittedly, during the tenure of the workman at the Nakrakonda Colliery (after being transferred from Ajoy-II Colliery) **starting from 02.03.1984 till his order of suspension on 01.10.1994,** the workman was promoted from the post of Fitter Helper to the post of Fitter in Category-IV by order dated 07/09.03.1989 (Exhibit W-26) and thereafter again after five years he had been promoted to the post of Fitter in Category-V by order dated 16/24.01.1994 (Exhibit W-27). At time of promotion, all records relating to service of workman had been duly verified by the officials of the management. But officials who were connected in giving promotion of the workman has not been produced as a witness either before Enquiry Officer or before the Tribunal which is fatal to employer's case that entry of the workman in the service is illegal or based on fabricated documents and adverse inference is liable to be drawn against the petitioner company.

13. A bare glance at the enquiry report annexed with the writ petition itself shows that respondent no. 5, the delinquent workman, was not afforded any opportunity to defend himself, and moreover, the entire burden of proof had been improperly placed upon him. Therefore, the enquiry report and the second show cause notice ought to have been served upon respondent no. 5 prior to awarding the highest punishment. The failure to afford such an opportunity has caused grave prejudice to respondent no. 5. The action of the management is against the principles pronounced by the Supreme Court of India in ***[Union of India and Others Vs. Mohd. Ramzan Khan reported in (1991) 1 SCC 588 para 15].***

14. The Union of India has filed the written notes along with supplementary notes and has supported the impugned award passed in the present case. The specific contention of Union of India herein is that the Award was published in the Official Gazette of Govt. of India and that 30 days from 29.01.2024 expired on 28.02.2024 and the said Award got the force of the law and become enforceable as envisaged u/sec. 17A and became final and binding on the parties to the dispute as well. Sec. 17(2) specifically lays down that the said award, then shall not be called in question by any Court in any manner whatsoever.

15. Section 17A, 17(2) and Section 18 are reproduced herein below for reference:-

> ***"Sec 17A- Commencement of the Award.-*** *(1) An Award (including an arbitration award) shall become enforceable on*

the expiry of thirty days from the date of its publication under section 17……

Sec.17(2) Subject to the provisions of section 17A, the award published under sub-section(1) shall be final and shall not be called in question by any court in any manner whatsoever.

Section 18. Persons on whom settlements and awards are binding.*-[(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

(2)[Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

(3) A settlement arrived at in the course of conciliation proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3-A) of section 10-A] or [an award [of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on-

(a)all parties to the industrial dispute;

(b)all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] [Labour Court, Tribunal or National Tribunal] as the case may be, records the opinion that they were so summoned without proper cause;

(c)where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d)where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part."

16. It is further submitted that non-implementation of the Award after becoming final and binding on the parties attracts penal clauses as

under Section 29 read with section 32 of the I.D. Act, 1947. The said Sec. 29 and section 32 speaks as under:-

> ***"Sec. 29. Penalty for breach of settlement or award****- Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine collected from him shall be paid by way of compensation, to any person who in its opinion has been injured by such breach.*
>
> ***Sec. 32 Offence by companies etc.*** *When a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence."*

The present Writ Petition WPA 9805 of 2025 has been filed after a long delay of more than 1 ½ years. No plausible explanation has been stated for such delay by the petitioner company.

17. Hence the Union of India submits that writ petition is thus not maintainable. In support of the allegation of fraud against the private respondent/workmen submits that the stand of the petitioner cannot be accepted considering that the Petitioner company allowed Respondent No. 5 to serve continuously for over 10 years (from March 1984 to July 1994) without any internal audit or verification objection. During this

tenure, the workman was twice granted promotions (to Category-IV in 1989 and Category-V in 1994) after thorough verification of service records by management officials. Independent records from the Coal Mines Provident Fund Office (Exhibits M-4 and M-5) confirm the workman's date of appointment as 22.03.1982 at Ajoy-II Colliery. Minor discrepancies in CMPF account numbering or administrative details generated by external authorities cannot be attributed as fraud on the part of the workman, although it reveals from the Award that there is no discrepancies in CMPF record.

18. From the materials on record including the impugned award, it appears that the sole document which formed the basis of the award was the employee's CMPF amount and the allotment register of Ajoy II colliery, which shows the name of the employee, on the basis of which CMPF account number was allotted on the basis of the said Register forwarded to the Regional Commissioner – I(SG), CMPF, Region- I.

19. The tribunal's following observation is relevant:-

> ***".....documents filed by the management (Exhibit M-4 and M-5) would reveal that the office of the Regional Commissioner- I (SG), CMPF in their letter dated 03.12.2018 informed the General Manager, Bankola Area that as per report received from custodian official and the Allotment Register of Ajoy-II Colliery (BKR/4), Gouri Nath Banerjee, son of Radhanath Banerjee was allotted CMPF Account No. BKR/4/348. Both these documents have been filed by the management which reveal that according to the Allotment Register of Ajoy-II***

> ***Colliery, Gouri Nath Banerjee was a beneficiary of CMPF with Account No. BKR/4/348 and Allotment Register reveals that his date of joining was 22.03.1982……."***

20. The petitioner's witness also deposed that **"no verification of such transfer order was done by the management to find out if genuine or not".**

21. The employee worked for 10 years and was granted two promotions. **This also shows he was qualified for the post where he worked/was attached.**

22. The findings on which the impugned award was passed are as follows:-

> *"……The management of ECL thereafter produced Exhibit M-4, a letter dated 03.12.2018, issued by the Regional Commissioner-I (SG), CMPF, which demolishes the management's own case that Gouri Nath Banerjee did not work at Ajoy-II Colliery. It transpires from the communication made to the General Manager, Bankola Area that as per the Allotment Register of Ajoy-II Colliery Sri Gouri Nath Banerjee, S/o- Radhanath Banerjee was allotted CMPF Account No.: BKR/4/348. There is nothing to disbelieve Exhibit M-4 and Exhibit M-5, which originate from an independent source, the Coal Mines Provident Fund authority, over which the charged employee has no control or influence. The unescapable conclusion therefore is that the employer failed to discharge their onus of proving the charge of misconduct by fraud against Gouri Nath Banerjee under Clause 17(i)(a), 17(i)(o), and 17(i)(u) of the Model Standing Order applicable to the management……"*

23. From the said facts, findings, evidence on record and circumstances, the impugned award being in accordance with law requires no interference.

24. WPA 9805 of 2025 is dismissed.

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

26. 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.)