

**(2012) 04 JH CK 0020**

**Jharkhand High Court**

**Case No:** C.W.J.C. No. 2234 of 2000 (R)

Employer in relation to the  
Management of Swang Colliery  
of M/s. Central Coalfields Ltd.

APPELLANT

Vs

Presiding Officer, Labour Court  
Bokaro and Others

RESPONDENT

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**Date of Decision:** April 19, 2012

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 33C(2)

**Citation:** (2012) 4 JCR 551 : (2012) 3 LJLR 527

**Hon'ble Judges:** Narendra Nath Tiwari, J

**Bench:** Single Bench

**Advocate:** Ananda Sen, for the Appellant; A. K. Sahani, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Narendra Nath Tiwari

1. The petitioner has prayed for quashing the order dated 15th January, 1996 passed by the Respondent No. 1 in M.J. Case No. 2 of 1991. By

the said order, learned Labour Court has allowed the application of the concerned workman filed u/s 33-C(2) OF The Industrial Disputes Act

(hereinafter to be referred as the "Act"), directing the Management to pay Rs. 24,279.39 poise payable to the petitioner after calculation of 50%

of his wages. The petitioner has challenged the said order on the ground that the learned Labour Court has exceeded its jurisdiction and has

determined the disputed issues in a proceeding u/s 33-C(2) of the said Act. Learned Labour Court has also erroneously included some of the

grants and allowance in wages. According to the petitioner, the order is wholly illegal and liable to be quashed.

2. This writ petition has been contested by the concerned workmen, stating, inter alia, that the order is perfectly legal and valid and has been

passed within the ambit of provisions of Section 33-C(2) of the Act. No fresh issue has been decided by learned Labour Court, The concerned

workman was reinstated and was given 50% back wages by an award rendered in Ref. Case No. 1 of 1979. By the said award, the termination

of the concerned workman was set aside and the Management was directed to reinstate him with full back wages.

3. The petitioner had challenged the said award by filing writ petition, being CWJC no. 135 of 1980 (R). The writ petition was allowed by order

dated 26th September, 1980. The said order was challenged in the Supreme Court in Civil Appeal No. 6715 of 1983. Before the Supreme Court,

the opposite party (petitioner herein) agreed to reinstate the concerned workman in service with 50% back wages. Accordingly, the apex Court

directed the Management to take the concerned workman back in service within two months and pay him back wages with effect from 24th

August, 1977 till the date of his reinstatement. The concerned workman was, thereafter, reinstated in job as Incline Coal Cutter on 5th November,

1983. His back wages were calculated and a sum of Rs. 13,491.01 paise was paid. The workman received the amount under protest as it was less

than what was due and payable to him. He, thereafter, made complaint to the A.L.C. (C), Hazaribagh for taking action against the management for

not implementing the order of the Supreme Court. The concerned workman was asked to move this Court for redressal of his grievance. He,

thereafter, preferred writ petition before the Patna High Court, Ranchi Bench, as then was, being CWJC No. 1519 of 1990(R). The concerned

workman after disposal of the said writ petition filed application u/s 33-C(2) of the said Act before the Labour Court.

It has been submitted that learned Labour Court, while hearing the said application had assumed the power, which was not vested in it, and

arbitrarily decided some of the fresh issues. The order is wholly illegal, perverse and liable to be set aside.

4. The writ petition has been contested by the respondent-concerned workman. In the counter affidavit, it has been stated, inter alia, that the concerned workman was all along working as Incline Coal Cutter, which is a Category-V post, but the Management arbitrarily designated him as Category-1 Mazdoor by order dated 2nd December, 1986 and calculated and paid the back wages at lesser rate. The workman by filing application prayed for calculation of 50% back wages on the scale of Category-V post, which he was holding from 24th August, 1977 to 4th November, 1983 at the rates revised from time to time as per N.C.W.A. which the concerned workman was entitled to get.

5. Learned Labour Court heard the parties and discussed the facts and materials in detail and came to the finding that the concerned workman has rightly claimed for computation of the amount in accordance with the category which he was holding. The Labour Court has fairly calculated the amount on the basis of the wages payable to the category of post, which the concerned workman was holding, and has computed the amount payable at Rs. 24,279.39 paise. There is no illegality or arbitrariness in the impugned award.

6. I have heard learned counsel for the parties and considered the facts and materials on record. I also perused the Impugned order of the learned Labour Court. I find that the learned Labour Court has considered all relevant aspect and after due discussion and appreciation of the facts and materials on record has come to the conclusion that the applicant is entitled to get 50% back wages, as directed by the Supreme Court for the place he was occupying i.e. Category-V and on that basis learned court below has computed the amount payable at Rs. 41,877/-.

7. Learned court below found that the amount of Rs. 13,491.01 paise, which was calculated and paid to the concerned workman, was erroneous, as calculation was not on the basis of his category. Learned Labour Court thus computed the wages payable in accordance with the award. No new issue has been decided by the learned Labour Court and nothing has been ordered beyond the scope of Section 33-C(2) of the said Act.

8. I, therefore, find no ground made out to interfere with the impugned order of the learned Labour Court dated 15th January, 1996. This writ

petition is, accordingly, dismissed.