

## Smt. Punam Kumari Vs State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** April 9, 2003

**Citation:** (2004) 1 JCR 447

**Hon'ble Judges:** Gurusharan Sharma, J; Amareshwar Sahay, J

**Bench:** Division Bench

**Advocate:** Delip Jerath and Kailash Prasad Deo, for the Appellant; R.S. Mazumdar, Government Advocate for Respondents 1 to 3 and Indrajit Sinha, for the Respondent

### Judgement

1. The Central Government in the Ministry of Labour in exercise of the powers conferred under Sections 1(i)(d) and 2A of the Industrial Disputes

Act, 1947 referred the following dispute for adjudication to the Central Government, Industrial Tribunal at Dhanbad

Whether the action of the management of Balihari Colliery, P.O. Kusunda, Distt. Dhanbad in denying regularization of the services of S/Shri

Gaya Ram Mahto and 70 others (as per the list annexed) by the management of M/s. BCCL is justified? If not, to what relief are the concerned

workmen entitled?

2. Bihar Colliery Kamgar Union sponsored the dispute of Gaya Ram Mahto and 70 others alleging that they were working at Balihari Colliery in

underground mine since 1989 to March 1996 continuously in permanent, perennial and prohibited category of job under the direct control and

supervision of the management. They were supplied all the implements for execution of job by the management and they rendered services in

producing goods for the benefit of the management of the Colliery.

3. Those workmen were performing the job of stone cutting, coal cutting, cutting drain, driving gallery, drilling, isolation stopping, making duggis in

stone, cleaning coal below conveyor belt, cleaning and removing stone debris, etc. and had put more than 240 days attendance in each calendar

year, but were being paid less wages. All of them were engaged by the management of the Colliery, but were being branded as contractor"s

labourers, engaged by M/s Azad Shramik Sahayag Samiti.

4. The tribunal in its award dated 14.8,2000 held that action of the management of Balihari Colliery in denying regularization of the services of

Gaya Ram Mahto and 75 others (as per the list) was not justified and the concerned workmen were entitled for regularization in the employment of

M/s. BCCL, except the persons mentioned at serial Nos. 38, 71 and 76, in General Mazdoor Category-I, The management was, therefore,

directed to regularize them in the employment of the . Company within 30 days from the date of publication of the award, failing which they were

entitled for wages of General Mazdoor Category-I on expiry of 30 days" from the date of publication of the award.

5. The Management challenged the said award in this Court in C.W.J.C. No. 3824 of 2000, which was heard and dismissed by the learned Single

Judge on 26.7.2001 holding that the finding recorded by the Tribunal was purely findings of fact and the counsel for the management was not able

to satisfy that the said finding was either perverse in law or was based on no evidence. The Management has, therefore, filed the present appeal.

6. Counsel for the appellant placed reliance on a recent decision of the Apex Court in Steel Authority of India Ltd. and Others etc. etc. Vs.

National Union Water Front Workers and Others etc. etc., and submitted that direction of the tribunal to regularize all the workmen concerned in

the employment of the Company within 30 days was not justified.

7. On the ratio of the aforesaid decision of the Apex Court, we modify the impugned award as well as the order of the learned Single Judge only to

the extent that as and when the management intends to appoint regular workmen, it shall give preference to these daily wage workers, if otherwise

found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of these daily

workers at the time of their initial employment and also relaxing the condition as to academic qualifications other than technical qualifications.

8. This appeal is disposed of with the aforesaid modification in the impugned award. No costs.