

TWENTY THIRD REPORT
COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

MINISTRY OF COAL

(Presented to Lok Sabha on 19.12.2006)



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COMPOSITION OF THE COMMITTEE ON PETITIONS

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4. Shri N.S.V. Chitthan
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5. Shri H.R. Kamboj — *Assistant Director*

TWENTY THIRD REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twenty Third Report (Fourteenth Lok Sabha) of the Committee to the House on the following matters:

- (i) Representation of Shri B.P. Verma, Joint Secretary (BCCL, Zone) Godhur Bastim Dhanbad on the following subjects:—
 - (a) Employment of dependants of departmental examination listed wagon Loaders of BCCL, Dhanbad;
 - (b) Re-employment of retrenches workers of Mahuda Coal Washery in BCCL, Dhanbad;
 - (c) Employment of Smt. Kamli Devi, W/o Late Laxman Rawani, Ex-Security-cum-Assistant production of BCCL, Dhanbad; and
 - (d) Re-employment of workmen of Godhur colliery in BCCL, Dhanbad.
 - (ii) Representation from Shri Dharmandra Kumar of Sonda Distt. Hazaribag (Jharkhand) requesting for appointment to the Post of Junior Overman in Eastern Coalfields Limited (ECL).
2. The Committee considered and adopted the draft Twenty Third Report at their sitting held on 18th December, 2006.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
18 December, 2006
27 Agrahayana, 1928 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION OF SHRI B.P. VERMA, JOINT SECRETARY (BCCL ZONE) ON SOME ISSUES RELATING TO BCCL

The Committee received the following four representations from Shri B.P. Verma, Joint Secretary, Jharkhand (BCCL Zone) Rashtriya Colliery Mazdoor Sangh, Godhur Dhanbad:—

- I. Employment of dependents of delisted wagon Loaders of BCCL, Dhanbad;
- II. Re-employment of retrenched workers of Mahuda Coal washery in BCCL, Dhanbad;
- III. Employment of Smt. Kamli Devi, w/o Late Laxman Rawani, Ex-Security-cum-Assistant Production of BCCL, Dhanbad; and
- IV. Re-employment of workmen of Godhur colliery in BCCL, Dhanbad.

2. The above representations were forwarded to the Ministry of Coal on 7th December, 2005 for their comments on the points raised by the petitioner. In response thereto, the Ministry of Coal furnished their comments on representation No. (I), (III) and (IV) on 16th January, 2006.

3. The Committee took the above representation for examination in accordance with Direction 95 of the Directions by the Speaker, Lok Sabha and the same has been dealt within the succeeding paragraphs.

4. I. Employment of dependents of delisted wagon loaders of BCCL, Dhanbad

4.1 The petitioner stated that as per the joint bi-partite settlement dated 9.12.1980, General Manager, Kusunda Area, Dhanbad signed an agreement for providing employment to the dependents of 35 delisted Kamins (Wagon Loaders) of Kusunda area of Bharat Coking Coal Ltd., Dhanbad. But no action was taken in spite of the fact that the matter was raised several times with the appropriate authorities. The petitioner, therefore, requested that the case may be investigated and justice be done to the aggrieved persons as the case has been pending for the last 25 years.

4.2 At the instance of the Committee, the Ministry of Coal *vide* their communication dated 16th January, 2006 furnished the following comments:

"The dispute relates to not taking into employment the husband/son/son-in-law of 35 Casual female wagon loaders who had put 75 days or more attendance between the years 1973 to 1976. The case is very old and complete records/documents are not available. Rashtriya Colliery Mazdoor Sangh had raised an Industrial Dispute for the employment of Shri Sarju Rajak and 112 others on the plea that they were delisted casual workers of Godhur Colliery. A memorandum of Settlement was entered into on 9.12.1980 between two officials namely Shri B.N. Jha the then Acting Personnel Manager, Shri N.P. Singh, the then Personnel Officer/Senior Welfare Officer, Kusunda Area and the Union represented by

S/Shri S.P. Rai, G.D. Pandey and C.N. Jha at Area level. Part of the agreement regarding employment to 31 male delisted casual wagon loaders was implemented as there was need at that time in underground. But for various reasons employment to the dependents against the 35 delisted female casual wagon loaders could not be released in spite of inviting applications by notice dated 8.1.87. The female delisted wagon loaders and their dependents were supposed to complete certain formalities to prove their bonafide and genuineness that they failed to discharge and in turn refusal of the management to enlist them for employment to their dependants could have resulted into an Industrial Dispute. Shri S.P. Rai, one of the signatories to the settlement raised the matter before the ALC, Dhanbad, after failure of conciliation. The matter was referred to CGIT for adjudication and is still *subjudice*."

The Ministry further added:

"It will not be out of place to mention here that Shri B.P. Verma, Joint Secretary, Jharkhand Colliery Mazdoor Union, the petitioner, has no *locus standi* as he is neither signatory to the settlement nor a representative of Rashtriya Colliery Mazdoor Sangh which was party to the settlement dated 9.12.1980. He has not produced any authorization from any of the persons in question for taking up their cause at any forum."

4.3 When asked to state the salient features of the Joint-bi-partite settlement dated 9.12.1980 and the follow up action taken by the Company in this regard, the Ministry of Coal in their written reply stated:

- "(a) Those male workers who have got 75 days or more attendance during the years 1973 to 1976 shall be taken into employment as Badli Miner/Loader subject to their physical fitness.
- (b) Those female workers who have got 75 or more attendance during the years 1973 to 1976, their husband/son/son-in-law shall be taken into employment as Badli Miner/Loader, as per company's policy and subject to their physical fitness.
- (c) In view of the settlement, Union shall withdraw the dispute pending before the ALC @ Dhanbad for conciliation.
- (d) It is also agreed that a copy of the agreement shall be filed before the ALC @ Dhanbad on next date fixed for conciliation."

The Ministry further added that:

"In view of above settlement, Agent Godhar Colliery to notify these persons through notice board to produce their photographs duly signed by Mukhia and BDO certifying their genuineness/identity, relationship etc. to whom they wanted to be provided with employment as Badli Miner/Loader."

The Ministry further added:

"It is learnt that with an intention to take undue benefit to the settlement there were claims and counter claims for employment from different corners by fake/wrong persons/impersonators. Complaints started pouring in from different sources including Union representatives, regarding genuineness of the claimants especially with regard to the dependents of the female delisted casual wagon loaders. The matter was reported to headquarter and finally employment to 31 delisted male casual wagon loaders as Badli Miner/Loader was agreed but

employment to the dependents of 35 delisted female casual wagon loaders was not agreed for reasons stated above."

4.4 On being asked to state the reasons for the pendency of the case for the last 25 years, the Ministry replied:

"It is very difficult to state the exact reasons for pendency of this case for over 25 years because the relevant files which could throw some light in the matter are not available. However, it is presumed that the following could be the reasons for pendency of this case:

- (i) The agreement was entered into by the officials who were not authorized to enter into such agreement.
- (ii) There is no provision to provide employment to the dependents of the delisted female wagon loaders who were not in the rolls of the company at any point of time.
- (iii) The same was also clarified by the then CMD, BCCL to Rashtriya Colliery Mazdoor Sangh representatives, during discussion held on 28.8.1981 with him.
- (iv) Even after displaying the list, the bonafide of the claimants could not be established due to claims and counter claims from different corners and complaints regarding the bonafide/genuineness. The matter ultimately ended up in an Industrial Dispute and was referred for adjudication to tribunal and is still *sub-judice*."

4.5 Replying to the question about the efforts being made by the Company/ Government to sort out the issue without waiting for adjudication, the Ministry in their written reply informed:

"The matter is *sub-judice* awaiting decision. As already mentioned earlier the management was unable to decide the genuineness, bonafide, identity of the 35 delisted female casual wagon loaders as well as their relationship with the dependents to be provided job in the company as otherwise, impersonators may find entry through this process in the employment of the company. The possibility of exchange of money between beneficiaries cannot be ruled out. It is pertinent to mention here with none except one delisted female casual wagon loader out of the 35 had ever made any representation before the management at any point of time. Shri S.P. Rai one of the signatories to the settlement dated 9.12.1980 has taken up the case for adjudication. Shri B.P. Verma the present petitioner has no *locus standi* in the matter as neither he is a signatory to the settlement nor had any authorization from the delisted female casual wagon loaders to represent their case before this august forum."

4.6 The Committee took oral evidence of the representatives of the Ministry of Coal on 31st March, 2006. On being enquired about the case of the petitioner, the representative of the Ministry responded as under:

"In the earlier case, a decision on 9.12.1980 was taken at local level *i.e.* on mine level in respect of those working with us that 31 casual male workers who were

required in the underground operation were supposed to be taken under miner loader. One more decision was taken along with this that the 35 female workers cannot be taken as mine loaders but their dependents will be taken as miner loaders. When this decision came to headquarters, the then Director (Personnel) approved the first half of the decision which was related to male dependents and the said decision of was implemented. But as there is no provision of job to the dependents of casual female workers, he did not agree for the same and it was not implemented. Thereafter, they have given representation to the ALC. But the nature of the matter is such that this decision has not been implemented and it cannot be implemented. In my opinion, the question of giving job to dependents of female workers will arise only when these are regular female dependents and female will apply for the VRS scheme, then only the question of the employment arises and this cannot be done in the case of casual workers; and this matter is *sub-judice*."

4.7 During evidence the Committee desired to know whether the workers were not given appointment due to lack of proper identification. The witness replied:

"This was not due to lack of identification, but the agreement was null and void. Thus, the management did not consider it. It was not possible to give them job. According to the law, there was no such provision that the job is given to male in lieu of female and the utmost thing is that they were not even our regular employee; they were casual workers."

About signing of the agreement the witness further stated:

"A junior level officer of the management signed the agreement."

"Acting Personnel Manager and Senior Welfare Officer."

4.8 Replying to the question whether junior level officers were authorized to sign the agreement on behalf of the management and when such an agreement was signed, whether CMD and Director of BCCL, were aware the witness submitted:

"They were aware but CMD did not approve."

4.9 About signing of an agreement by the officers who were not empowered to do so and action taken against them, the witness stated:

"the case against the officer came to their notice now."

Observations/Recommendations

4.10 The Committee note that a memorandum of settlement was entered into on 09.12.1980 between the officials of in BCCL management and the Rashtriya Colliery Mazdoor Sangh. According to the agreement, those male workers who got 75 or more attendance during the years 1973 to 1976 shall be taken into employment as Badli Miner/Loader subject to their physical fitness and those female workers who got 75 days or more attendance during the said period shall be taken into employment as Badli Miner/Loader, as per company's policy and subject to their physical fitness. It was also agreed that Union shall withdraw the dispute pending before the ALC(c) Dhanbad for conciliation. In pursuance of the said settlement, 31 delisted male wagon

loaders were employed as Badli Minor/Loaders but the dependents of 35 delisted female wagon loaders were not given employment. In 1993, the issue was raised as an industrial dispute for regularisation of 35 female workers/wagon loaders of Godhur Colliery before ALC(c) Dhanbad which ended in failure. The issue was again raised before ALC(c) Dhanbad but after failure of conciliation, the matter was referred to Central Government Industrial Tribunal on 21.01.2000 and the same is still pending before them for adjudication. In his representation, the petitioner has raised this issue concerning the employment of the dependents of the 35 female wagon loaders of Kusunda Area under Godhur Colliery of BCCL who were delisted from the job for a long time.

4.11 From the reply of the Ministry, the Committee note that there was no provision to provide employment to the dependents of the female wagon loaders who were not on the rolls of the Company at any point of time. As per the Mines Act, women are not deployed in underground mines. It was also informed that even after displaying the list, the bonafide of the claimants could not be established due to the claims and counter claims from different corners and complaints regarding the bonafide/genuineness of the claimants specially with regard to the dependent of the female delisted casual wagon loaders. Accordingly, the employment of the dependents of 35 female delisted casual wagon loaders was not agreed upon for the reasons stated above.

4.12 The Committee were also informed that the 2 officials of the Company who signed/settled the agreement with the Union, were not empowered to do so. According to the Ministry, the decision was taken at the local level. When the decision came before the Headquarters, the then Director (Personnel) approved the first half of the decision which was related to male dependents and was implemented. But as there was no provision of job to the dependents of casual female workers, he did not agree for the same and was not implemented. According to the Ministry, the question of giving job to the dependents of female workers would arise only when they are regular and female applying for VRS Scheme and that the same could not be done in the case of casual worker.

4.13 The Committee are not at all convinced with the stand taken by the Ministry. The Committee fail to understand, if there was no provision under the law to give employment to the dependents of the delisted female wagon loader, why then in the first instance, the management agreed to enter into an agreement with the Union in the matter. Further, in case those officers were not empowered to sign/settle the agreement with the Union, why then the said agreement was not treated as null and void *ab-initio*. The Committee are unable to understand as to how the Ministry agree to implement one part of the agreement and chose not to implement the others part which concerned the female wagon workers.

4.14 The Committee are distressed to note that the dispute is pending for settlement even after lapse of more than 35 years. This only goes to show the scant attention paid/being paid by the authorities to resolve the issue. During the said span, some workers, had they been appointed then and there, might have retired or have been on the verge of their retirement. It is unbelievable that the officers at the junior level would enter into any agreement/settlement without the

knowledge and approval of the competent authority. The Committee are surprised to note that the said discrepancy, if at all, came to the notice of the authorities recently only when the matter came before the Committee. All these go on to prove the absence of sensitivity and lack of humane approach of the authorities concerned which is deplorable.

4.15 In view of the foregoing and the fact that the issue is still pending before the Court for final adjudication, the Committee recommend that sincere efforts may be made to resolve the issue expeditiously within a fixed time frame to avoid any further hardship to the dependents of concerned female wagon loaders. The Committee hope that the necessary steps would be taken in this direction. The Committee would like to apprised of the action taken in the matter.

5. II. Re-employment of retrenched workers of Mahuda Coal Washery in BCCL

5.1 The petitioner in his representation while referring to the letter dated 5.1.2005 addressed to the CMD, BCCL Dhanbad from OSD to Minister of Coal, regarding re-employment of retrenched workers of Mahuda Coal Washery under BCCL, Dhanbad stated that no action had been taken in this regard. The petitioner, therefore requested that the matter may be taken for the sake of justice to workers.

5.2 Responding to the representation, the Ministry of Coal in their written reply furnished their comments as under:

"The Secretary & President, JCMU, Mahuda Coal Washery Branch raised an ID before ALC, Dhanbad over alleged denial of absorption of Shri Sishupal Mahato and 154 other workers of M/s McNally Bharat Engineering Co. Ltd., Contractor of, Mahuda, Coal Washery. The subject of the dispute itself explains that Shri Sishupal Mahato and 154 others were workers of M/s McNally Bharat Engineering Co. Ltd, who was given the contract for construction of Mahuda Coal Washery. So claim in itself is baseless and unjustified. The dispute ended in failure as is evident from the FOC report dated 30.1.1985 of ALC, Dhanbad. The case was declared not fit for reference to CGIT for adjudication by the Ministry *vide* letter dated 16.4.85 from Ministry of Labour. There has been no development after the decision of the Ministry."

5.3 When asked to state about the number of workers who were retrenched from Mahuda Coal Washery, the Ministry of Coal in their written reply stated as under:

"No worker has ever been retrenched from Mahuda Coal Washery since its inception to date."

5.4 The Committee took oral evidence of the representatives of the Ministry of Coal at their sitting held on 31st March, 2006.

5.5 On being asked to state whether the retrenched workers had approached the court for their reinstatement, the Ministry in their reply, informed:

"The management has no knowledge as to whether anyone has approached the Court for reinstatement as it has not received any notice. Moreover, question of reinstatement does not arise as they were never retrenched."

Observations/Recommendations

5.6 The Committee note that the claim itself is unjustified as the retrenched workers belonged to M/s. McBally Bharat Engineering Company Limited who were given the contract for construction of Mahuda Coal Washery. The dispute ended in failure and the case was not considered fit for reference to CGIT for adjudication by the Ministry of Coal. Thereafter, there had been no development after the decision of the Ministry. The Committee, therefore, do not wish to pursue the matter further.

6. III. Employment to Smt. Kamli Devi, Wife of Late Laxman Rewani, Ex. Mining Sirdar of Dobari Colliery under BCCL, Dhanbad.

6.1 The petitioner in his representation referred the case of Smt. Kamli Devi for employment on compassionate grounds as per the agreement after the death of her husband in an accident. The petitioner stated that the case had been pending for the last 5 years.

6.2 Offering their comments on the representation, the Ministry of Coal *vide* their communication dated 16th January, 2006 stated as follows:

“Shri Laxman Rewani, Ex-Mining Sirdar of Dobari Colliery expired on 8.4.2000 at Central Hospital, Dhanbad. Smt. Rudni Devi, wife of the deceased workman was offered employment as general mazdoor in category-I, based upon the entry in the service record of the deceased. The first wife Smt. Rudni Devi, however, refused to accept the employment on the ground of her ill health and requested the management to provide employment to Smt. Kamli Devi, her younger sister and also the second wife of the deceased workman. However, her case was rejected on the ground that the second marriage of the workman was void *ab-initio* as the first wife was alive and not legally separated.”

6.3 When the Committee desired to know whether there was any provision for appointment to other dependants of the deceased worker *viz.* son or daughter etc. for compassionate appointment. If so, then why the son or daughter or other dependants of late Laxman Rewani was not considered for compassionate appointment in the company in order to give relief to the bereaved family. Responding to that, the Ministry of Coal in their written reply informed:

“There is no provision for employment of other dependant like son or daughter, but there was no claim from Smt. Rudni Devi for providing employment to her dependant rather she represented for employment to her younger sister who alleged to be second wife of late Laxman Rewani who was not eligible for compassionate appointment.”

6.4 The representation under reference was listed for oral evidence of the Ministry of Coal at their sitting held on 31st March, 2006. However, the same was not taken up for examination/discussion in the sitting.

Observations/Recommendations

6.5 The Committee note that Laxman Rewani, Mining Sirdar of Dobari Colliery, expired on 8.4.2000 at Central Hospital, Dhanbad. There was no claim from Smt. Rudni Devi, for providing employment to her dependant. She was offered

compassionate appointment as general mazdoor. However, she refused to accept the employment due to her ill-health and she requested the management to provide employment to her younger sister (Smt. Kamli Devi) who happened to be the second wife of the deceased workman. Her case was rejected on the ground that the second marriage of the workman was void *ab-initio* as the first wife was alive and not legally separated.

6.6 The Committee are of the view that the basic objective behind the provision of compassionate appointment is to grant relief and succour to the dependants of the deceased employees to tide over the financial hardship. As per the provisions of the company in the relevant rules, dependants like son or daughter of the deceased employee could be given employment, but there was no claim from Smt. Rudni Devi in this regard rather she represented for employment to her younger sister who was alleged to be second wife of late Laxman Rewani and was not eligible for compassionate appointment.

6.7 The Committee note that the family of late Laxman Rewani belonged to the poorer section of the society and therefore, efforts should be made to provide them with immediate relief in terms of compassionate appointment. To keep this aspect in view, the Committee feel that the Ministry should examine on priority basis an alternate proposal to consider and provide suitable appointment to other dependants like son or daughter of late Shri Laxman. The Ministry should also explore other ways and means to provide immediate succour to the family of the deceased employee on humanitarian grounds. The Committee would like to be apprised of the action taken in this regard.

7. IV. Re-Employment of workman of Godhur Colliery Under BCCL, Dhanbad

7.1 The petitioner raised the issue regarding re-employment of workmen of Godhur Colliery under BCCL, Dhanbad and stated that they had not received any reply from the Ministry in the context. The petitioner, therefore, requested that the matter may be taken up by the Committee.

7.2 The Ministry of Coal *vide* their communication dated 16th January, 2006 furnished the following comments:

“An industrial dispute was raised by the Branch Secretary, United Coal Worker for not regularizing Shri Samal Kumar Banerjee and another 112 contract workers alleged to be working at Godhur Colliery with Shri S.N. Khan, contractor between the years 1972-1980. The issue was deliberated by ALC Dhanbad but the same ended in failure because of divergent views of the union and the management. The report was sent to the Ministry of Labour by ALC on 08.12.1981. The Ministry did not find merit in the case and so the same was not referred for adjudication.”

7.3 When asked to state about the number of workers that were actually employed/engaged in the Godhur Colliery by the BCCL, the Ministry in their written communication stated:

“In April 1975 on an average 1685 employees were on the roll of Godhur Colliery BCCL. As regards deployment of contract workers are concerned no records are available as the case is almost 25 years old.”

7.4 On being asked to state the reasons as to why the Ministry did not find any merit in the case particularly when these workers had worked for about 8 years from 1972 to 1980, the Ministry of Coal, in their written reply, stated that:

“The Ministry of Labour did not find any merit in the case and communicated as 'NOT FIT FOR REFERENCE' in 1982.”

The Ministry further stated:

".....and the issue was never raised thereafter before the management of BCCL except the instant petition."

7.5 In their comments, the Ministry had clarified that there had never been employer-employee relationship between BCCL and these contractor workers. The case is now almost 25 years old and complete connecting papers are not readily available as records are generally preserved upto 10 years in any organisation. In this context they have also added:

"So far as the representation dated 23.5.1992 of Shri Y.P. Yogesh of Labour Cell of AICC (I) addressed to Shri P.A. Sangma, the then Union Minister of State for Coal regarding providing employment to Shri Wazir Yadav is concerned, the records reveal that one Shri Wazir Yadav was provided employment against a different I.D. which was raised by Rashtriya Colliery Mazdoor Sangh before the ALC (C) Dhanbad and was registered at CGIT No.1 as Ref. No. 73 of 1984 on the following terms of reference:

"Whether the action of the management of Godhur Colliery in Kusunda Area No. VI of M/s. BCCL Ltd., P.O. Kusunda, Dhanbad, in not treating Shri Wazir Yadav, Stone Cutter, as a Stone Cutter and a permanent worker with effect from January 1978 and also in stopping him from work with effect from 03.04.1984 is justified? If not, to what relief this workman is entitled?"

It is noteworthy that the one Wazir Yadav, mentioned at Sl. No. 76 in the list of 113 workmen had been working with a contractor, Shri S.N. Khan between 1972 to 1980 and was designated as Dry Picking Mazdoor. While the other Wazir Yadav who had been provided employment by BCCL as per the recommendation of Joint Committee by filing a compromise petition before CGIT was a Stone Cutter and was working from January 1978 up till 1984".

7.6 The representation under reference was listed for oral evidence of the Ministry at the sitting of the Committee held on 31.03.2006, but the same could not be taken up for elaborate discussion/examination at the said sitting.

Observations/Recommendations

7.7 From the reply of the Ministry, the Committee note that an industrial dispute was raised by the Branch Secretary, United Coal Workers' Union for not regularising Shri Samal Kumar Banerjee and another 112 contractor workers' working at Godhur Colliery with Shri S.N. Khan, contractor during the years 1972 to 1980. The issue was deliberated by ALC, Dhanbad but the same ended in failure because of divergent views of the union and the management. The Report was sent to the Ministry of Labour by ALC, on 08.12.1981. The Ministry did not find merit in the case and so the same was not referred for adjudication.

7.8 The Committee were informed that the case referred to the then Union Minister of State for Coal was to provide employment to one Shri Wazir Yadav. As per the records, one Shri Wazir Yadav was provided employment as Stone Cutter and he worked from January 1978 upto 1984. His case was referred before ALC (c) Dhanbad for not taking him as a permanent worker with effect from January 1978 and stopping him from work *w.e.f.* 03.04.1984. The other Wazir Yadav had worked as Dry Picking Mazdoor with a contractor with Shri S.N. Khan between 1978 to 1980. One case was referred by the Labour Cell of AICC (I) to the then Union Minister of State for Labour for employment of one Shri Wazir Yadav. Their records reveal that there were two persons by name Shri Wazir Yadav—one Wazir Yadav worked with a contractor and the other worked in BCCL from 1978 upto 1984.

7.9 The Committee were also informed that there had never been employer-employee relationship between BCCL and contract workers'. The case under reference is almost 25 years' old and the records are generally kept for 10 years in the organization.

In view of the position explained above, the Committee do not wish to pursue the matter further.

CHAPTER II

REPRESENTATION FROM SHRI DHARMANDRA KUMAR OF SONDA FOR APPOINTMENT TO THE POST OF JUNIOR OVERMAN

2.1 The Committee received a representation dated 'nil' from Shri Dharmandra Kumar son of Shri Yogeshwar Sharma, resident of village Central Sonda Colliery, Post Sonda, district Hazaribag (Jharkhand) requesting for appointment to the post of Junior Overman in Eastern Coalfields Limited (ECL). In his representation, the petitioner stated that the employment exchange, district Dhanbad was requested by the Eastern Coalfields Limited to sponsor names for the post of Junior Overman on 3.9.1996. They were called to appear for written test on 21.9.1997 at Jawahar Jalan Institute, Asansol. They were declared qualified and called for interview in November, 1997. But even after completing all formalities, appointment letters were not issued to the successful candidates on the plea of a court case in the matter. Hon'ble High Court of Jharkhand, Ranchi gave their judgement on 04.11.2004 to give appointment to the successful candidates on priority basis but in spite of Court's order, they were not given any appointment letters by the Management. Moreover, no intimation was given to the Employment Exchange and as a result thereof they are not even fit to give interview anywhere. The petitioner, therefore, requested that the matter may be investigated and they be helped to get appointment as Junior Overman in ECL.

2. The Committee took up the matter for examination in accordance with Directions 95 of the Directions by the Speaker, Lok Sabha, Accordingly, above representation was forwarded to the Ministry of Coal on 02.03.2006 seeking their comments on the issues raised in the representation. In response thereto, the Ministry *vide* their communication dated 28.03.2006 informed as under:

"During the year 1997 ECL invited applications from eligible candidates through local employment exchange for recruitment to the post of Junior overman specifying requisite qualification. In all 785 persons were sponsored by the Employment Exchange and after screening of names 774 persons were called for written test in which 379 candidates appeared. Out of 379 candidates, 235 candidates qualified for oral interview.

In November 1997 while oral test was in progress Sri Ashim Kumar Sadhu and others moved a writ petition no. 23690 (W)/1997 before High Court, Kolkata and Shri Khurshid Akram alongwith 3 others moved a further writ petition No. 23691 (W) 1997 before High Court, Kolkata alleging dispute in the matter of selection to the post of Junior Overman by ECL: when on 14.11.1997 the Hon'ble Court upon hearing passed an interim Order restraining ECL from publishing result of the interview till disposal of the writ petition directing *inter-alia* that the same shall abide by the result of the writ petition.

Both the above matters were further heard on 16.01.1998 when another interim order was passed restraining ECL from offering appointment to persons to the post of Junior Overman who do not have specified qualification in terms of

Annexure-A to writ petition. In spite of several hearings held in both the cases the above interim order *vis-a-vis* writ applications still remains to be finally disposed of by the hon'ble Court. ECL has already taken up this issue through its empanelled counsel at Kolkata for arranging early hearing and final disposal of the pending cases.”

It is pertinent to mention that while above litigations were in progress before High Court, Kolkata in the same matter S/Sri Navin Kumar along with 16 others (including instant applicants under reference) moved another writ petition (C) 6358/2002 before Hon'ble High Court of Jharkhand at Ranchi which has been disposed by Order dated 4.11.2004. In its order, the Hon'ble Court directed as follows:

“For the foregoing reasons therefore, this Court is not inclined to pass any order directing the Respondents to appoint the Petitioners on the post of Overman. If, the Petitioners had successfully qualified in the interview and if there is a shift or change in policy at any later stage, the Respondents may do the needful in accordance with law including considering as to whether the Petitioners should be given priority. These observations will however, not be deemed to be an expression conferring entitlement upon the Petitioners as it will depend on the effect, interpretation and tenor of policies that the Respondents may frame in their wisdom and discretion. This writ-petition is accordingly closed. No order as to costs.

Under facts and circumstances narrated above it may, therefore kindly be appreciated that since identical issues are presently sub-judice before High Court, Kolkata, therefore, on the face of an interim direction of the Hon'ble Court, ECL has considered it prudent not to interfere with the said orders at this stage till the writs are finally disposed of by the Court of Law.”

2.3 On being asked to state whether the petitioners were called for written test and after being declared qualified, whether they were called for interview for the post of Junior Overman, the Ministry in their written communication stated that:

"It is a fact that the petitioners were called for written test and after being declared qualified, they were called for interview for the post of Junior Overman. 774 candidates were asked to appear in the written test but only 376 candidates appeared in the test. Out of these, only 235 candidates qualified for interview. The petitioner is also one of the qualified candidates in written test."

2.4 About the number of vacancies at the time of calling up names for the post of Junior Overman from Employment Exchange, the Ministry in their written communication stated that:

"At the time of inviting applications for the post of Junior Overman from Employment Exchange, 116 vacancies existed. As a result of reorganization of mines and suspension of work of few mines, the requirement of Junior Overman has been reduced to extent of 53."

2.5 When asked to state whether any select list was prepared on the basis of said written test and interview held on November, 1997 for the post of Junior Overman, the Ministry replied that:

"It is a fact that a select list was prepared on the basis of written test and while the interview was under progress in the year 1997 for the post of unior Overman due

to writ application before the Hon'ble High Court, Kolkata, the management did not proceed into the matter and the selection process remained inconclusive.”

2.6 The Committee desired to know the case filed before the Court of Jharkhand, Ranchi regarding appointment of Junior Overman in ECL and whether the Court had passed any direction in regard to filling up the post of Junior Overman. In reply thereto, the ministry stated:

“It is correct that the Hon'ble High Court, Jharkhand dismissed the writ petition no. 1416 of 1998 on 5.7.2002 giving liberty to ECL management to make recruitment as per its own rules and regulations having regard to Company's BIFR status. But unfortunately, similar writ petitions were filed before Hon'ble High Court, Kolkata, namely WP No. 23690 (W) of 1997 and WP No. 23691 (W) of 1997. These matters are still pending with interim orders dated 13.11.1997 and 16.1.1998. The order-dated 13.11.1997 directed that if the result of interview is published, the same will abide by the result of the writ petition. In interim order dated 16.1.1998, ECL was given liberty to give appointment to such persons only who have requisite qualification as specified in the Notification to the local Employment Exchange. ECL can go for recruitment of persons having notified qualifications but appointments have to be tentative. If ultimately writ petitions are allowed, persons appointed shall have to be removed from service. This is extremely a risky proposition and there may be many IR problems stalling normal work in ECL. The perception is shared by Chief of Legal and panel Advocate of ECL.”

2.7 About the grievance of the petitioners that the Company has not even bothered to inform the Employment Exchange about their selection/rejection for the post of Junior Overman thereby restraining them to apply elsewhere, the Ministry replied that:

“Since the matter is *sub-judice* ECL is not in a position to declare the recruitment process to be closed.”

2.8 When the Committee desired to know about the efforts being made by the Company to accommodate selected candidates on the post of Junior Overman in the Company, the Ministry stated that:

“The matter is *sub-judice* and the said selection process remains inconclusive and the requirement of Junior Overman reduced considerably leaving little scope for recruitment of all the petitioners. The only recourse left for the ECL is to wait for final court order. Considering the existing vacancies now of around 53 posts of which 50% to be filled up from outside recruitment as per Company's policy.”

2.9 The Committee took oral evidence of the representatives of the Ministry of Coal on 31st March, 2006. On being asked to state the latest position in the matter, the representative of the Ministry stated:

“A writ petition is pending in Kolkata High Court. There were two writ petitions in Kolkata High Court and one in Jharkhand High Court. One of the writ petition filed in Kolkata High Court and one filed in Jharkhand High Court has been dismissed. one is still being heard where an order has been passed that we cannot notify these list until the High Court disposes off this case. We got the order on 14th and on the same day, we stopped the interview.”

2.10 When the Committee desired to know about the order of Kolkata High Court, the representative of the Ministry stated:

"the Hon'ble High Court upon hearing, passed an interim order restraining the ECL from publishing result of the interview till the disposal of the writ petition directing *inter-alia* that the same shall abide by the result of the writ petition."

2.11 About the order of Jharkhand High Court on 04.11.2004, the representative of the Ministry stated:

"... These observations will, however, not be deemed to be an expression conferring entitlement upon the Petitioners as it will depend on the effect, interpretation and tenor of policies that the Respondents may frame in their wisdom and discretion. This writ-petition is accordingly closed. No order as to costs. The petition of Jharkhand has been closed."

2.12 The Committee suggested that appointment to the post of Junior Overman in Eastern Coalfields might be made on conditional basis subject to the outcome of the court case. Replying that, the witness submitted:

"If you agree, we will take legal opinion and if we can do, we will do it."

2.13 When the Committee desired to know about the action taken in this regard, the Ministry of Coal *vide* their O.M. dated 01.12.2006 informed as under:

"It is informed that ECL has succeeded in getting the writ applications dismissed by the Kolkata High Court obviating the necessity of seeking legal opinion. ECL has already initiated action for appointment of Junior Overman out of the earlier panel and it is expected that the entire process would be completed by the end of December, 2006."

Observations/Recommendations

2.14 In the representation under examination, the petitioners have submitted that Eastern Coalfields Limited (ECL) in September, 1996 approached the Employment Exchange, district Dhanbad to sponsor candidates for the post of Junior Overman. The candidates appeared in written test in September, 1997 and the qualified candidates were called for the interview in November, 1997. Based on that, the select list was prepared. However, offers of appointment could not be issued to the successful candidates as writ petitions were pending in the Hon'ble High Court of Jharkhand and Hon'ble High Court of Kolkata.

2.15 Responding to the representation, the Ministry of Coal submitted that during the year 1997 ECL invited applications from eligible candidates through local employment exchange for recruitment to the post of Junior Overman specifying requisite qualification. In all 785 persons were sponsored by the Employment Exchange and after screening of names, 774 persons were called for written test in which 379 candidates appeared. Out of 379 candidates, 235 candidates qualified for oral interview. In November 1997 while oral test was in progress Shri Ashim Kumar Sadhu and others moved a writ petition No. 23690 (W)/19978 before High Court, Kolkata and Shri Khurshid Akram alongwith 3 others moved a further write petition No. 23691 (W)/1997 before High Court, Kolkata alleging dispute in the matter of selection to

the post of Junior Overman by ECL. On 14.11.1997 the Hon'ble Court upon hearing passed an Interim Order restraining ECL from publishing result of the interview till disposal of the writ petition directing *inter-alia* that the same shall abide by the result of the writ petition. During the course of hearing, an interim order was passed restraining ECL from offering appointment to persons to the post of Junior Overman who do not have specified qualification. While the above litigations were in progress before High Court, Kolkata, in the same matter S/Sri Navin Kumar along with 16 others (including the applicants under reference) moved another writ petition (C) 6358/2002 before Hon'ble High Court of Jharkhand at Ranchi.

2.16 The Hon'ble High Court of Jharkhand dismissed the writ petition No. 1416 of 1998 on 5.7.2002 giving liberty to ECL management to make recruitment as per its own rules and regulations. But similar writ petitions were pending before Hon'ble High Court, Kolkata (No. WP 23690 (W) of 1997 and WP 23691 (W) of 1997). These matters were pending with interim orders dated 13.11.1997 and 16.1.1998. The order dated 13.11.1997 directed that if the result of interview is published, the same will abide by the result of the writ petition. In the interim order dated 16.1.1998, ECL was given the liberty to give appointment to such persons only who have requisite qualifications as specified in the notification to the local employment Exchange.

2.17 The committee note that the interim order dated 13.11.1997 permitted ECL to publish the result of the interview subject to the outcome of the writ petition, while the interim order dated 16.01.1998 allowed ECL to give appointment to persons having requisite qualifications as specified in the notification to the local Employment Exchange. As per these interim orders, the successful candidates could have been issued the offer of appointment for the post of Junior Overman with the condition that their appointment would be subject to the outcome of the Court case. However, the management of ECL decided to withhold the appointment of the successful candidates on the post of Junior Overman till the final judgement of the Court. The Committee regret to state that the above perception of the ECL was not proper. In fact, the latest orders from the court left the entire issue to the wisdom of the management. Thus, the management of ECL could have adopted a humane approach by offering conditional appointment to the successful candidates who were placed in the select list after being interviewed in November, 1997. It would have helped them in gaining employment and the Company could also have managed its affairs by utilising their services. It was more important as no outside recruitment was done by ECL during the last 10 years. The Committee consider it as unfortunate that ECL did not do so.

2.18 At the instance of the Committee during evidence, the Ministry of Coal agreed to seek legal opinion on the desirability of appointment of persons to the post of junior Overman in ECL on conditional basis subject to the outcome of the Court case. Now, the Ministry have informed the Committee that ECL has succeeded in getting the writ petitions dismissed thereby obviating the necessity of seeking legal opinion. The Committee has further been informed that ECL have initiated action for appointment of Junior Overman out of the earlier panel and it is expected that the entire process will be completed by the end of December 2006.

2.19 The Committee are happy to note that ultimately the grievance of the petitioner will be redressed, although the management could have resolved the issue

much earlier in the light of the latest orders of the Court and thus avoiding the hardship caused to the petitioners. The Committee hope that the Ministry will take necessary steps to ensure expeditious recruitment of all the empanelled candidates for apointment to the post of Junior Overman and will not give them any cause of grievance on the issue in future. The Committee also expect the authorities to act with reason and sensitivity in processing and deciding such cases in future so that justice is not denied to any one.

NEW DELHI;
18 December, 2006
27 Agrahayana, 1928 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

MINUTES OF THE THIRTY FOURTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Friday, 31st March, 2006 from 1200 hrs. to 1440 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Dr. M. Jagannath
4. Adv. Suresh Kurup
5. Shri Dharmendra Pradhan
6. Shri Jyotiraditya Madhavrao Scindia
7. Shri Vijoy Krishna

SECRETARIAT

1. Shri P. Sreedharan — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Under Secretary*
4. Shri M.S. Jaspal — *Assistant Director*

WITNESSES

Ministry of Coal

1. Shri H.C. Gupta — Secretary
2. Shri Abhiram Sharma — CMD, MCL
3. Shri Pradeep Kumar — Addl. Secretary
4. Shri Rajiv Sharma — Joint Secretary
5. Shri B.K. Panda — Director & Commissioner, CMPFO
6. Shri H.C. Agarwal — Director
7. Shri Shashi Kumar — CMD (CIL)
8. Md. Salimuddin — Director (P), CIL
9. Shri P.S. Bhattacharyya — CMD (BCCL)
10. Shri D.C. Garg — Director (P), BCCL
11. Shri D. Chakraborty — CMD, ECL

12. Shri A. Chattopadhyay — Director (P), ECL
 13. Shri Suresh Kumar Vashishth — District Magistrate, Angul, Orissa
 14. Shri Tarun Kanti Mishra — Principal Secretary,
 (Deptt. of Revenue) Govt. of Orissa

2. At the outset, Chairman welcomed the representatives of the Ministry of Coal and drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letters, telegrams from various individuals, associations etc. which are not covered by the rules relating to petitions and give directions for their disposals.

3. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Coal on the following petitions/representations:—

** ** * * * * *

(iii) Representation from Shri B.P. Verma, Joint Secretary, BCCL Zone, Dhanbad on various issues related with BCCL, Dhanbad;

** ** * * * * *

(vi) Representation from Shri Dharmendra Kumar, Distt. Hazaribagh and others regarding appointment on the post of Junior Overman in Eastern Coalfields Limited; and

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III. Representation from Shri B.P. Verma, Joint Secretary, BCCL Zone, Dhanbad on various issues related with BCCL, Dhanbad

The following issues/points were discussed by the Committee:—

Issue regarding employment of dependents of delisted wagon loaders of BCCL, Dhanbad.

- (i) the details about the nature of work etc. of the workers who were delisted from job by the BCCL;
 (ii) The salient features of the Joint Bipartite settlement dated 09.12.1980 and the follow up action taken by the company in this regard; and
 (iii) action taken by the Government who provided employment to the dependents of 35 delisted female wagon loaders.

Issue regarding re-employment of retrenched workers of Mahuda Coal Washery in BCCL, Dhanbad.

- (i) the details of the workers who were retrenched from Mahuda Coal Washery in BCCL, Dhanbad; and

MINUTES OF THE FORTY-NINTH SITTING OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Monday, the 18th December, 2006 from 1500 hours to 1630 hours in Chairman's Room No. 45(II) Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

1. Shri Shingada Damodar Barku
2. Shri N.S.V. Chitthan
3. Shri Mohan Jena
4. Shri C. Kuppusami
5. Shri Dharmendra Pradhan
6. Shri Kishan Singh Sangwan
7. Shri Jyotiraditya M. Scindia

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Under Secretary*

2. The Committee considered the draft Twentieth, Twenty First, Twenty Second and Twenty Third Reports and adopted the same.

3. The Committee also authorised the Chairman to finalise and present the same to the House.

The Committee then adjourned.