रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-सा.-07042025-262325
CG-DL-W-07042025-262325

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 11] नई दिल्ली, मार्च 23—मार्च 29, 2025, शनिवार/चैत्र 2, —चैत्र 8, 1947
No. 11] NEW DELHI, MARCH 23—MARCH 29, 2025, SATURDAY/CHAITRA 2, – CHAITRA 8, 1947

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

(राजभाषा विभाग)

नई दिल्ली, 21मार्च, 2025

का.आ. 479.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, **मत्स्यपालन विभाग** को एतद्द्वारा अधिसूचित करती है।

[फा. सं. 12022/01/2023-रा.भा. (का. 2)]

अनिल कुमार, उप सचिव (कार्यान्वयन)

MINISTRY OF HOME AFFAIRS

(Department of Official Language)

New Delhi, the 21st March, 2025

S.O. 479.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies **Department of Fisheries**.

[F. No. 12022/01/2023-O.L. (Imp.2)]

ANIL KUMAR, Dy. Secy. (Impl.)

नई दिल्ली, 21मार्च, 2025

का.आ. 480.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, **सहकारिता मंत्रालय** को एतद्द्वारा अधिसूचित करती है।

[फा. सं. 12022/01/2023-रा.भा. (का.2)]

अनिल कुमार, उप सचिव (कार्यान्वयन)

New Delhi, the 21st March, 2025

S.O. 480.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies **Ministry of Cooperation**.

[F. No. 12022/01/2023-O.L. (Imp.2)]

ANIL KUMAR, Dy. Secy. (Impl.)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 25 मार्च, 2025

का.आ. 481.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री स्वामीनाथन एस. अय्यर, कार्यकारी उपाध्यक्ष - प्रमुख विधि, कंपनी सचिव और विनियामकीय कार्य तथा ईएसजी, टाटा एआईए लाइफ इंश्योरेंस कंपनी लिमिटेड को पद का कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए या 62 वर्ष की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, पांच लाख रुपए प्रतिमाह (आवास और कार की सुविधा के बिना) के समेकित वेतन पैकेज पर भारतीय बीमा विनियामक और विकास प्राधिकरण (इरडाई) में पूर्णकालिक सदस्य (जीवन) नियुक्त करती है।

[फा. सं. आर-12011/03/2024-बीमा-I]

अब्दुल गुफरान, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 25th March, 2025

S.O. 481.—In exercise of the powers conferred by section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Shri Swaminathan S. Iyer, Executive Vice President – Head Legal, Company Secretary and Regulatory Affairs & ESG, Tata AIA Life Insurance Company Limited as Whole-Time Member (Life) in the Insurance Regulatory and Development Authority of India (IRDAI), on a consolidated pay package of five lakh rupees per month (without facility of house and car), for a period of five years from the date of assumption of charge of the post or until he attains the age of 62 years or until further orders, whichever is the earliest.

[F. No. R-12011/03/2024-Ins.I]

ABDUL GUFRAN, Under Secy.

विदेश मन्त्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 18 मार्च, 2025

का.आ. 482.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्द्वारा,सरकार भारत का प्रतिनिधि कार्यालय,अल्माटी मे श्री दीपेश शर्मा, सहायक अनुभाग अधिकारी को दिनांक मार्च 18, 2025 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2025(13)]

एस.आर.एच. फहमी, निदेशक (सीपीवी)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 18th March, 2025

S.O. 482.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Mr. Deepesh Sharma, Assistant Section Officer as Assistant Consular Officer in the Representative Office of India, Almaty to perform the consular services as Assistant Consular Officer with effect from March 18, 2025.

[F. No. T. 4330/01/2025(13)]

S.R.H FAHMI, Director (CPV)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 10 मार्च, 2025

का.आ. 483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **समूह महाप्रबंधक, राष्ट्रीय थर्मल पावर कंपनी लिमिटेड, मौदा- नागपुर; प्रबंध निदेशक/महाप्रबंधक, आई.वी.आर.सी.एल. लिमिटेड, ठेकेदार, मौदा-नागपुर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **अध्यक्ष, मौदा विज प्रकल्प मजदूर संघ, पारसिवनी, नागपुर,** के बीच अनुबंध में निर्दिष्ट **केंद्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, नागपुर, पंचाट (संदर्भ संख्या Case No.CGIT/NGP/09/2019-20)** को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.03.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-आईआर(डीयू)-50]

दिलीप कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th March, 2025

S.O. 483.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Case No.CGIT/NGP/09/2019-20)** of the **Central Government Industrial Tribunal-Cum-Labour Court, Nagpur,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Group General Manager, National Thermal Power Company Ltd, Mouda– Nagpur ;The Managing Director/General Manager, I.V.R.C.L. Ltd, Contractor, Mauda- Nagpur, and The President, Mouda Vij Prakalp Mazdoor Sangh, Parseoni, Nagpur,** which was received along with soft copy of the award by the Central Government on 10.03.2025.

[No. L-42025-07-2025-IR (DU)-50]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE SHRI SHIV SHANKER PRASAD PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/Appln./09/2019-20 Date: 30.01.2025.

Party No.1: The President,

Mouda Vij Prakalp Mazdoor Sangh,

House of Shri Prem Rodekar, Tarsa Road,

Kanhan, Tah. Parseoni, Distt. Nagpur – 441404.

V/s.

Party No.2: The Group General Manager,

National Thermal Power Company Ltd,

At. Tah. & Post: Mouda, Distt. – Nagpur – 441404.

The Managing Director/General Manager,

I.V.R.C.L. Ltd, Contractor,

NTPC Mouda, Post & Tah. Mauda, Distt. Nagpur – 441104.

AWARD

(Dated: 30th January, 2025)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of National Thermal Power Company Ltd., Mauda, Distt. Nagpur (Principal Employer) I.V.R.C.L (Contractor) and their workman, Shri Sagar Vishwanathji Chandekar for adjudication, as per letter **No. N-8(01)/2020-ID/IR dated 27.02.2020,** with the following schedule:-

> **"Whether the action of management National Thermal Power Company Ltd., Mouda, Distt-Nagpur (Principal Employer) Iragavarapu Venkata Reddy Construction Limited (Contractor) in terminating the Service Sagar Vishwanathji Chandekar w.e.f. 06/12/2016 is legal, just and proper? If not, to what relief the workman Shri Sagar Vishwanathji Chandekar is entitled to?"**

2. Case called out. Counsel for the management is present and filed an application for dismissal of the case. Petitioner is absent on repeated calls. Petitioner is not attending the Court since 28/04/2020 i.e. near about 5 years. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement. The reference notification no. N-8(01)/2020-ID/IR dated 27.02.2020 has been received and has registered vide case no. CGIT/NGP/Appln./09/2019-20. The dispute has been raised by the workman. The Government has already directed the parties for raising the dispute and to file a statement of claim with relevant documents, list of reliance and witnesses within 15 days of the receipt of the order or reference and also to forward the copies of the said statement to which one of the opposite parties involved in the dispute. But from the date of registration of reference in this Court petitioner did not turn up to prove his case. No statement of claim and written statement have been filed by the parties till date. The petitioner has not adduced any evidence to support his claim.

3. As the petitioner is not coming since long shows that petitioner is not interested to contest the case and do not want to proceed with the reference, so it is closed.

The case of the petitioner is not proved.

Hence, it is ordered:

ORDER

The action of management National Thermal Power Company Ltd., Mouda, Distt-Nagpur (Principal Employer) Iragavarapu Venkata Reddy Construction Limited (Contractor) in terminating the Service Sagar Vishwanathji Chandekar w.e.f. 06/12/2016 is legal, just and proper. The Workman is not entitled to any relief''.

Justice (Retd.) SHIV SHANKER PRASAD, Presiding Officer

नई दिल्ली, 10 मार्च, 2025

का.आ. 484.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **समूह महाप्रबंधक, राष्ट्रीय थर्मल पावर कंपनी लिमिटेड, मौदा- नागपुर; प्रबंध निदेशक/महाप्रबंधक, आई.वी.आर.सी.एल. लिमिटेड, ठेकेदार, मौदा-नागपुर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **अध्यक्ष, मौदा विज प्रकल्प मजदूर संघ, पारसिवनी, नागपुर,** के बीच अनुबंध में निर्दिष्ट **केंद्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, नागपुर, पंचाट (संदर्भ संख्या Case.No.CGIT/NGP/11/2019-20)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.03.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2025-आईआर(डीयू)-51]

दिलीप कुमार, अवर सचिव

New Delhi, the 10th March, 2025

S.O. 484.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Case No.CGIT/NGP/11/2019-20)** of the **Central Government Industrial Tribunal-Cum-Labour Court, Nagpur,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Group General Manager, National Thermal Power Company Ltd, Mouda–Nagpur ;The Managing Director/General Manager, I.V.R.C.L. Ltd, Contractor, Mauda- Nagpur, and The President, Mouda Vij Prakalp Mazdoor Sangh, Parseoni, Nagpur,** which was received along with soft copy of the award by the Central Government on 10.03.2025.

[No. L-42025-07-2025-IR (DU)-51]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE SHRI SHIV SHANKER PRASAD PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/Appln./11/2019-20 Date: 30.01.2025.

Party No. 1: The President,
Mouda Vij Prakalp Mazdoor Sangh,
House of Shri Prem Rodekar, Tarsa Road,
Kanhan, Tah. Parseoni, Distt. Nagpur – 441404.

V/s.

Party No. 2: The Group General Manager,
National Thermal Power Company Ltd,
At. Tah. & Post: Mouda, Distt. – Nagpur – 441404.
The Managing Director/General Manager,
I.V.R.C.L. Ltd., Contractor,
NTPC Mouda, Post & Tah. Mouda, Distt. Nagpur-441104.

AWARD

(Dated: 30th January, 2025)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of National Thermal Power Company Ltd., Mouda, Distt-Nagar (Principal Employer) I.V.R.C.L. (Contractor) and their workman, Shri Dnyaneshwar Motiram Patiye for adjudication, as per letter **No. N-8(02)/2020-ID/IR dated 27.02.2020,** with the following schedule:-

> **"Whether the action of management National Thermal Power Company Ltd., Mouda, Distt-Nagpur (Principal Employer) Iragavarapu Venkata Reddy Construction Limited (Contractor) in terminating the Service Shri Dnyaneshwar Motiram Patiye w.e.f. 03/03/2017 is legal, just and proper? If not, to what relief the workman Shri Dnyaneshwar Motiram Patiye is entitled to?"**

2. Case called out. Counsel for the management is present and filed an application for dismissal of the case. Petitioner is absent on repeated calls. Petitioner is not attending the Court since 28/04/2020 i.e. near about 5 years. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement. The reference notification no. N-8(02)/2020-ID/IR dated 27.02.2020 has been received and has registered vide case no. CGIT/NGP/Appln./11/2019-20. The dispute has been raised by the workman. The Government has already directed the parties for raising the dispute and to file a statement of claim with relevant documents, list of reliance and witnesses within 15 days of the receipt of the order or reference and also to forward the copies of the said statement to which one of the opposite parties involved in the dispute. But from the date of registration of reference in this Court petitioner did not turn up to prove his case. No statement of claim and written statement have been filed by the parties till date.

3. As the petitioner is not coming since long shows that petitioner is not interested to contest the case and do not want to proceed with the reference, so it is closed.

The case of the petitioner is not proved.

Hence, it is ordered:

ORDER

The action of management National Thermal Power Company Ltd., Mouda, Distt-Nagpur (Principal Employer) Iragavarapu Venkata Reddy Construction Limited (Contractor) in terminating the Service Shri Dnyaneshwar Motiram Patiye w.e.f. 03/03/2017 is legal, just and proper. The workman is not entitled to any relief.

Justice (Retd.) SHIV SHANKER PRASAD, Presiding Officer

नई दिल्ली, 18 मार्च, 2025

का.आ. 485.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वायु सेना स्टेशन नई दिल्ली, किंग सिक्योरिटी गार्ड्स सर्विस प्राइवेट लिमिटेड के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2 दिल्ली के पंचाट (222/2019,223/2019,224/2019) प्रकाशित करती है।

[सं. एल-12025/01/2025-आईआर(बी-I)-41]

सलोनी, उप निदेशक

New Delhi, the 18th March, 2025

S.O. 485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.222/2019,223/2019,224/2019*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No -II Delhi* as shown in the Annexure, in the industrial dispute between the management of Air Force Station New Delhi, King Security Guards Service Pvt. Ltd. and their workmen.

[No. L-12025/01/2025-IR (B-I)-41]

SALONI, Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID No. 222/2019, 223/2019, 224/2019

Sh. Mohammad Anarul Aslam, Sh. Bablu Rehman, Sh. Mohd. Bilal
vs. Airforce Station and Anr.

1. Md. Anarul Aslam S/o Md. Sayed Ali,

Through-Samast Delhi Karamchari Union,

Affiliated to Rashtriya Mazdoor Sangh, 52-C,

Okhla Estate, Phase-III, New Delhi-110020.

2. Sh. Bablu Rehman, S/o Md. Menuddin,
Through-Samast Delhi Karamchari Union,
Affiliated to Rashtriya Mazdoor Sangh, 52-C,
Okhla Estate, Phase-III, New Delhi-110020.

3. Md. Bilal, S/o Md. Misril Ali,
Through-Samast Delhi Karamchari Union,
Affiliated to Rashtriya Mazdoor Sangh, 52-C,
Okhla Estate, Phase-III, New Delhi-110020.

…Applicants/Claimants

Versus

1. Air Force Station,
412 Rece Course, New Delhi-110003.

2. King Security Guards Services Pvt. Ltd.,
39-A/102, Mohamadpur Village, Near Ram mandir,
New Delhi-110066.

…Managements/respondents

Counsels:

For Applicant/ Claimant*:*

Sh. Amit Tripathi, Ld. AR.

For Management/ Respondent*:*

Management-1 (Airforce Station) had already been proceeded ex-parte.

Sh. Kripal Singh, Ld. AR for King Security Guards Services Pvt. Ltd. (management-2).

AWARD

28.02.2025

By this composite order, I shall dispose of these three petitions have been filed **U/s 2-A of Industrial Disputes Act, 1947 (Herein after referred as 'the Act')**. Before proceeding further, the brief facts in regard to these claim petitions are required to be produced herein. The details of the workmen, whose claims are being dealt with, are given below in the tabular form:

	workman	Post	Salary	Date of appointment	Date of termination
1	Sh. Md. Anarul Aslam	Safai Karmchari	12,000/- p.m.	02.01.2017	14.09.2018
2	Sh.Bablu Rehman	Safai Karmchari	12,000/- p.m.	21.05.2017	18.03.2018
3	Sh. Md. Bilal	Safai Karmchari	12,000/- p.m.	02.01.2017	01.02.2018

2. The claimants in their claim statements submitted that they had been continuously working at the post of Safai Karmachari (Sanitation worker) with a last drawn salary of Rs. 12,000/- per month. They never gave the managements any reason for complaint. During their tenure, their service records remained clean, and they performed their duties diligently and honestly in a peaceful manner. They had been working in the establishment of **Management No. 1** but were engaged through management-2. The managements didn't provide the claimants with basic legal benefits under labour laws, including appointment letter, identity card, minimum wages, leave book, overtime card, ESI, PF, transport allowance, salary increments, bonus, casual leave, national holiday leave, and annual leave. They kept demanding the legal rights but the managements neither provide the claimants with legal benefits nor paid any arrears. When the claimants sent a letter requesting their legal benefits, the managements got annoyed and terminated their services

without any written notice, charge sheet or payment of dues on the respective dates mentioned above in the table. The action of management is in violation of different provisions of the act. Subsequently, the claimants sent a demand notice to the management through speed post, with request to reinstate them with full back wages. Despite receiving the demand letter, the managements didn't give any response. Lastly, the claimants prayed that their termination be declared as illegal and the managements be ordered to reinstate them with full back wages, continuity of service and other legal benefits. They also seek 18% interest on back wages and compensation of legal expenses.

3. In response, management-2 had filed its written statement where it submitted that one of the claimants Md. Anarul Aslam had been found missing during his duty hours by SWO (the concerned authority under whom all the conservancy labourers were deployed). As such type of activities are not permissible at the defense organization so he had been suggested to wait for some days till his deployment was confirmed to some other place. After some days, he had been offered the job but he didn't show any interest. As for the other two claimants, the management submitted that they had been caught doing suspicious activities at the scrape-yard in the premises of management-1 (Airforce station) during security check by AFND security staff. Therefore, management of AFND had instructed them to hand them over to the police for further action but on the management's request, they had been released on the condition that they will not be deployed at the Air Force premises in the future. So, as per the condition of AFND, the management was compelled to discontinue the deployment of Bablu Rehman and Md. Bilal at the AFND premises. As Air force station was the only site where conservancy services were being provided by the management, they had been offered to be deployed as housekeepers to other sites but they refused to join.

4. Thereafter, the claimants filed their rejoinders where they denied the averments made by management-2 in its written statements are affirmed the facts mentioned by them in their respective claim statements.

5. Identical issues were framed in these cases vide order dated 31.05.2022.

i. Whether the proceeding is maintainable.

ii. Whether the claimant was employed under management-1.

iii. Whether services of the claimant were illegally terminated by management-1 & 2.

iv. To what relief the claimants are entitled to.

6. In order to substantiate the issues, all three claimants had come into witness box in their respective cases. They reiterated the facts mentioned in their claim statements as well as affidavits of evidence. Claimant Sh. Bilal relied upon the documents i.e. demand notice (Ex. WW1/1), receipt of speed post (Ex. WW1/2), claim statement filed before the Regional Labour Commissioner(Ex. WW1/3), Identity Card issued by M/s King Security Guards pvt. Ltd. (Ex. WW1/4), copy of bank statement showing credit of salary (Ex. WW1/5) and police clearance certificate (Ex.WW1/6); Claimant Sh. Bablu Rahman relied upon five documents i.e. demand notice (Ex. WW1/1), receipt of speed post (Ex. WW1/2), claim statement filed before the Regional Labour Commissioner(Ex. WW1/3), Identity Card issued by M/s King Security Guards pvt. Ltd. (Ex. WW1/4) and his Aadhar Card (Ex. WW1/5); Claimant Sh. Mohd. Anarul Aslam relied upon five documents i.e. demand notice (Ex. WW1/1), receipt of speed post (Ex. WW1/2), claim statement filed before the Regional Labour Commissioner(Ex. WW1/3), Identity Card issued by M/s King Security Guards pvt. Ltd. (Ex. WW1/4) and his Aadhar Card (Ex. WW1/5).

7. It is also a matter of fact that their testimony remained unchallenged, uncontroverted and unrebutted. Management-2 in its W.S. took the plea that claimant Sh. Md. Anarul Aslam had been found missing during his duty hours by SWO (the concerned authority under whom all the conservancy labourers were deployed). As such type of activities are not permissible at the defense organization so he had been suggested to wait for some days till his deployment was confirmed to some other place. After some days, he had been offered the job but he didn't show any interest. So far so the other two claimants are concerned, the management submitted that Sh. Bablu Rahman and Sh. Md. Bilal had been caught doing suspicious activities at the scrape-yard in the premises of management-1 (Airforce station) during security check by AFND security staff. Therefore, management of AFND had instructed them to hand them over to the police for further action but on the management's request, they had been released. However, for proving its defense, management-2 didn't bring evidence nor produced any document to substantiate its defense.

8. Before proceeding further, text of section 25F, G and H of the Act are required to be reproduced herein :

25F. Conditions precedent to retrenchment of workmen:*No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-*

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

***25G. Procedure for retrenchment**.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*

***25H. Re-employment of retrenched workmen**.—Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 4[to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman] who offer themselves for re-employment shall have preference over other persons.*

9. From perusal of the above said sections, it is inferred that the claimants have no absolute right to remain in the employment of the management. The management can discontinue or retrench the workmen who have completed not less than one year of service under the employer if he has given a one month notice in writing indicating the reason for retrenchment and the period of notice has expired or he has paid the wages in lieu of notice period. The second condition is that the retrenchment compensation shall also be paid equivalent to 15-days of average pay for every completed year of continuous service. Besides this, appropriate government shall also be informed regarding the retrenchment. In the present scenario, it is undisputed that the claimants in question were the employees of management-2 and they were deployed as conservancy labourers at the premises of management-1. However, management-2 hasn't complied with any condition as prescribed U/s 25F of the Act before retrenching the claimants from their respective roles, which is mandatory by law. The management didn't provide the claimants with any notice pay, nor did it pay the retrenchment compensation equivalent to 15-days' average pay. The claimants have asserted these facts in their respective claim statements as well as evidence, which remain unrebutted and unchallenged. Their testimonies establish that they had worked for the relevant periods, making them entitled to be reinstated with full back wages.

10. Therefore, **issue no. 1** goes in favour of the claimants as they have proved that they worked in an 'industry' and they had been terminated illegally.

11. As for **issue no.2**, though management-1 remained ex-parte, the claimants failed to prove that they were ever directly employed with management-1 because all the documents indicate that they were the employees of management-2 and were deployed at the site of management-1. Therefore, issue-2 goes against the claimants and in favour of management-1.

12. So far so, **issue no. 3** is concerned, the evidence led by the claimants has pointed out that the claimants were employed by management-2 which failed to comply with section 25F of the Act before retrenching the claimants. Therefore, issue-3 goes in favour of the claimants and against the managements.

13. Now the next question that arises is what relief the claimants are entitled to. All three claimants in their evidence submitted they were unemployed since the date of their termination. Management didn't lead any evidence to rebut these claims and prove gainful employment of the claimants. Only defense of management-2 was that one of the claimants Md. Anarul Aslam had been found missing during his duty hours by SWO (the concerned authority under whom all the conservancy labourers were deployed), while remaining two claimants were caught doing suspicious activities at the scrape-yard in the premises of management-1 (Airforce station) during security check by AFND security staff. Instead of being handed over to the police, they were thrown off from their jobs. Except the bald statement deposed by the workmen, nothing has been brought on record that they had ever tried to get another job.

14. It is held by the Hon'ble Supreme Court of India in the case titled as **Employers, Management of central P& D Inst. Ltd. Vs Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator. Similar views were expressed by Hon'ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt. Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219** wherein it was held by the court that even if the termination of a claimant is held illegal, the industrial adjudicator is not supposed to direct reinstatement along with full back wages and the relief can be moulded according to the facts and circumstances of each case and the court can allow compensation to the claimant instead of reinstatement with back wages. Same view has been expressed by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC** stating that upon dismissal, being set aside by a court of Law, reinstatement with full back wages is not an automatic relief. In some cases, lump sum compensation is better relief.

15. Here, the claimants had worked with management-2 for 1-1.5 years (respective periods mentioned in the table above), but the proceedings have been lingered on for over six years. Considering the length of their service, this tribunal considers it just and proper to award lump sum compensation in lieu of reinstatement.

Accordingly, A compensation of **Rs. 1,25,000/- (Rupees One lakh Twenty-Five Thousand Only)** is awarded to **Md. Anarul Aslam,** whereas **Sh. Mohd. Bilal** and **Sh. Bablu Rehman** are awarded **Rs. 1,00,000/- (Rupees One Lakh Only)** each. The award is accordingly passed. A copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. These files are consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Dated 28.02.2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार ऑल इंडिया रेडियो, गुवाहाटी और मेसर्स एचआरडी कमर्शियल एंड इंडस्ट्रियल सिक्योरिटी फोर्स प्राइवेट लिमिटेड, करीमगंज, असम,** प्रबंधतंत्र के संबद्ध नियोजकों और , **श्री जयंत कुमार दास, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, गुवाहाटी पंचाट (संदर्भ संख्या आईडी नंबर 13 of 2020), को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2024-68-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 486.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 13 of 2020),** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam, and Shri Jayanta Kumar Das, Worker,** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-42025-07-2024-68-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 13 of 2020.

PARTIES: Sri Jayanta Kumar Das, Ex-Electrician, All India Radio, Guwahati.

……**Workman**.

-Vrs-

The Management of All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam. ……. **OP/Management**.

REPRESENTATIVES:

For the Workman : Mr. Mridul Mahanta, learned Advocate.

For the Management. : Mr. Rajib Hazarika, Addl. Central Govt. Standing Counsel.

For the Contractor : None appeared.

INDUSTRY : All India Radio,

STATE : Assam.

Date of Award : 26/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour and Employment, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. G/R. 8(07)/2020-Dy. CLC(C)/ID** dated 06-11-2020 has been pleased to refer the following dispute between Sri Jayanta Kumar Das the workman and the Management of All India Radio, Guwahati and the Contractor, M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of All India Radio, Prasar Bharti, India Punlic Broadcaster, Chandmari, Guwahati-781003 and their Service provider/Contractor M/s HRD Commercial & Industrial Security Force Pvt. Ltd., S.T. Road, Badarpur, Karimganj, Assam-788803 in terminating the services of Sri Jayanta Kumar Das, Ex-Electrician, PO: Saptakhali, Kamrup, Assam -781132 is justified without giving any notice of termination? If not, what relief Sh. Jayanta Kumar Das is entitled to and from which date ?"

On the basis of said order instant case was registered as Reference Case No.13 of 2020 on 10-11-2020 and notices were issued to the Management, Contractor and the workman for appearance and filing claim statement/written statement, documents and list of witnesses. On receiving the notice, the Management and the Contractor were appeared through their engaged learned Counsels. The Contractor was absent without any steps. The Management of All India Radio, Guwahati was submitted Written Statement. The Workman and the Contractor were not submitted their Written Statement, last chance was given vide order dated 16-07-2021 and 17-08-2021 to the workman for filing of claim statement but none appeared for the workman nor any step has been taken on his behalf, therefore vide order dated 04-10-2021 the Reference Case was disposed of.

The order dated 04-10-2021 was uploaded at Samadhan Portal, but the same was returned through the Samadhan Portal due to non-issuance of physical copy of the Award by my learned predecessor.

Accordingly, the Case record of Reference case No. 13 of 2020 is put up before me in the light of the email dated 18-05-2023, of IR (DU) section, Ministry of Labour and Employment, Govt. of India.

Considering the circumstances it appears to me that ample opportunity was provided but the concerned Workman is not inclined to pursue this case. It is thus, abundantly clear that the workman is not interested to go ahead with the proceeding. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में, केन्द्रीय सरकार ऑल इंडिया रेडियो, गुवाहाटी और मेसर्स एचआरडी कमर्शियल एंड इंडस्ट्रियल सिक्योरिटी फोर्स प्राइवेट लिमिटेड, करीमगंज, असम,** प्रबंधतंत्र के संबद्ध नियोजकों और **, श्री रफीकुर रहमान, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, गुवाहाटी पंचाट (संदर्भ संख्या आईडी नंबर 09 of 2020), को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल- 42025-07-2024-67-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 487.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 09 of 2020),** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam, and Shri Rafiqur Rahman, Worker,** which was received along with soft copy of the award by the Central Government on 19.03.2025,

[No. L-42025-07-2024-67-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 09 of 2020.

PARTIES: Sri Rafiqur Rahman, Ex-Plumber, All India Radio, Guwahati.

……**Workman**.

-Vrs-

The Management of All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam. ……. **OP/Management**.

REPRESENTATIVES:

For the Workman : Mr. Mridul Mahanta, learned Advocate.

For the Management. : Mr. Rajib Hazarika, Addl. Central Govt. Standing Counsel.

For the Contractor : Mr. Mustafa Kamal Ali, learned Advocate.

INDUSTRY : All India Radio,

STATE : Assam.

Date of Award : 28/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour and Employment, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. G/R. 8(03)/2020-Dy. CLC(C)/ID** dated 20-10-2020 has been pleased to refer the following dispute between Sri Rafiqur Rahman the workman and the Management of All India Radio, Guwahati and the Contractor, M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of All India Radio, Prasar Bharti, India Punlic Broadcaster, Chandmari, Guwahati-781003 and their Service provider/Contractor M/s HRD Commercial & Industrial Security Force Pvt. Ltd., S.T. Road, Badarpur, Karimganj, Assam-788803 in terminating the services of Sh. Rafiqur Rahman, Ex-Plumber is justified without giving any notice of termination? If not, what relief Sh. Rafiqur Rahman is entitled to and from which date ?"

On the basis of said order instant case was registered as Reference Case No.09 of 2020 on 22-10-2020 and notices were issued to the Management, Contractor and the workman for appearance and filing claim statement/written statement, documents and list of witnesses. On

receiving the notice, the parties were appeared through their engaged learned Counsels. The Management of All India Radio, Guwahati was submitted Written Statement. The Workman and the Contractor were not submitted their

Written Statement, last chance was given vide order dated 16-07-2021 and 17-08-2021 to the workman for filing of claim statement but none appeared for the workman nor any step has been taken on his behalf, therefore vide order dated 04-10-2021 the Reference Case was disposed of.

The order dated 04-10-2021 was uploaded at Samadhan Portal, but the same was returned through the Samadhan Portal due to non-issuance of physical copy of the Award by my learned predecessor.

Accordingly, the Case record of Reference case No. 09 of 2020 is put up before me in the light of the email dated 18-05-2023, of IR (DU) section, Ministry of Labour and Employment, Govt. of India.

Considering the circumstances it appears to me that ample opportunity has been provided but the concerned Workman is not inclined to pursue this case. It is thus, abundantly clear that the workman is not interested to go ahead with the proceeding. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 488.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार ऑल इंडिया रेडियो, गुवाहाटी और मेसर्स एचआरडी कमर्शियल एंड इंडस्ट्रियल सिक्योरिटी फोर्स प्राइवेट लिमिटेड, करीमगंज, असम,** प्रबंधतंत्र के संबद्ध नियोजकों और , **श्री सानू दैमारी, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, गुवाहाटी पंचाट (संदर्भ संख्या आईडी नंबर 08 of 2021), को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025को प्राप्त हुआ था।

[सं. एल- 42025-07-2024-66-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 488.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 08 of 2021),** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam, and Shri Sanu Daimari, Worker,** which was received along with soft copy of the award by the Central Government on 19.03.2025,

[No. L-42025-07-2024-66-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

REF. CASE NO. 08 of 2021.

PARTIES: Sri Sanu Daimari, Ex-Helper, All India Radio, Guwahati.

……**Workman**.

-Vrs-

The Management of All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam. ……. **OP/Management**.

REPRESENTATIVES:

For the Workman : None appeared.

For the Management. : None appeared.

For the Contractor : None appeared.

INDUSTRY : All India Radio,

STATE : Assam.

Date of Award : 28/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour and Employment, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. G/R. 8(50)/2019-RLC** dated 23-06-2021 has been pleased to refer the following dispute between Sri Sanu Daimari the workman and the Management of All India Radio, Guwahati and the Contractor, M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, for adjudication by this Tribunal.

SCHEDULE

"Whether the oral termination of services of Shri Sanu Daimari, Ex-Helper/Peon/Safaiwala/Farash/Canteen boy/Asst. w.e.f. 05-10-2019 & non-payment of wages for October, November,2019 and non-payment of monetary benefits of casual labour are legal and justified ? If not, what relief the workman is entitled ?"

On the basis of Order instant case was registered as **Reference Case No.08 of 2021** on 28-06-2021 and notices were issued to the Management, Contractor and the workman for appearance and filing claim statement/written statement, documents and list of witnesses.

None appeared for the Management, Contractor and the workman nor any step has been taken on their behalf, therefore vide order dated 04-10-2021 the Reference Case No.08 of 2021 was disposed of by my learned predecessor.

The order dated 04-10-2021 was uploaded at Samadhan Portal, but the same was returned through the Samadhan Portal due to non-issuance of physical copy of the Award by my learned predecessor.

Accordingly, the Case record of Reference case No. 08 of 2021 is put up before me in the light of the email dated 18-05-2023, of IR (Misc) section, Ministry of Labour and Employment, Govt. of India.

Considering the circumstances of the case it appears to me that ample opportunity was provided but the concerned parties are not inclined to pursue this case. It is thus, abundantly clear that the parties are not interested to go ahead with the proceeding. The Reference case No. 08 of 2021 is therefore disposed of in the form of a no dispute award.

Hence,

ORDERED

That the Reference case No. 08 of 2021 is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार ऑल इंडिया रेडियो, गुवाहाटी और मेसर्स एचआरडी कमर्शियल एंड इंडस्ट्रियल सिक्योरिटी फोर्स प्राइवेट लिमिटेड, करीमगंज, असम,** प्रबंधतंत्र के संबद्ध नियोजकों और, **श्री राजू अली, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय

सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, गुवाहाटी पंचाट (संदर्भ संख्या आईडी नंबर 08 of 2020), को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2024-69-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 489.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 08 of 2020),** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam, and Shri Raju Ali, Worker,** which was received along with soft copy of the award by the Central Government on 19.03.2025,

[No. L-42025-07-2024-69-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 08 of 2020.

PARTIES: Sri Raju Ali, Ex-Pump Operator, All India Radio, Guwahati. ……**Workman**.

-Vrs-

The Management of All India Radio, Guwahati and M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, Assam. ……. **OP/Management**.

REPRESENTATIVES:

For the Workman : Mr. Mridul Mahanta, learned Advocate.

For the Management. : Mr. Rajib Hazarika, Addl. Central Govt. Standing Counsel.

For the Contractor : Mr. Mustafa Kamal Ali, learned Advocate.

INDUSTRY : All India Radio,

STATE : Assam.

Date of Award : 26/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour and Employment, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. G/R. 8(02)/2020-Dy. CLC(C)/ID** dated 20-10-2020 has been pleased to refer the following dispute between Sri Raju Ali the workman and the Management of All India Radio, Guwahati and the Contractor, M/s HRD Commercial & Industrial Security Force Pvt. Ltd., Karimganj, for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of All India Radio, Prasar Bharti, India Punlic Broadcaster, Chandmari, Guwahati-781003 and their Service provider/Contractor M/s HRD Commercial & Industrial Security Force Pvt. Ltd., S.T. Road, Badarpur, Karimganj, Assam-788803 in terminating the services of Sh. Raju Ali, Ex-Pump Operator is justified without giving any notice of termination? If not, what relief Sh. Raju Ali is entitled to and from which date ?"

On the basis of said order instant case was registered as Reference Case No.08 of 2020 on 22-10-2020 and notices were issued to the Management, Contractor and the workman for appearance and filing claim statement/written statement, documents and list of witnesses.

On receiving the notice, the parties were appeared through their engaged learned Counsels. The Management of All India Radio, Guwahati was submitted Written Statement. The Workman and the Contractor were not submitted their Written Statement, last chance was given vide order dated 16-07-2021 and 17-08-2021 to the workman for filing of claim statement but none appeared for the workman nor any step has been taken on his behalf, therefore vide order dated 04-10-2021 the Reference Case is disposed of.

The order dated 04-10-2021 was uploaded at Samadhan Portal, but the same was returned through the Samadhan Portal due to non-issuance of physical copy of the Award by my learned predecessor.

Accordingly, the Case record of Reference case No. 08 of 2020 is put up before me in the light of the email dated 18-05-2023, of IR (Misc) section, Ministry of Labour and Employment, Govt. of India.

Considering the circumstances it appears to me that ample opportunity has been provided but the concerned Workman is not inclined to pursue this case. It is thus, abundantly clear that the workman is not interested to go ahead with the proceeding. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **आयुक्त, दक्षिण दिल्ली नगर निगम, मिंटो रोड, नई दिल्ली; उप आयुक्त, दक्षिण दिल्ली नगर निगम, लाजपत नगर, नई दिल्ली,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री हीतलाल, कामगार , द्वारा -श्री मार्कंडेय शुक्ला, महासचिव, जागृति मजदूर संघ, संगम विहार, वजीराबाद, दिल्ली,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 208/2021) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-70-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 490.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 208/2021) of the **Central Government Industrial Tribunal cum Labour Court– II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Commissioner, South Delhi Municipal Corporation, Minto Road, New Delhi ; The Dy. Commissioner, South Delhi Municipal Corporation, Lajpat Nagar, New Delhi,** and, **Shri Heatlal, Worker, Through-Sh. Markandey Shukla, The General Secretary, Jagriti Labour Union, Sangam Vihar, Wazirabad, Delh,** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-42025-07-2025-70-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID No. 208/2021

Sh. Heatlal, S/o Sh. Harkesh,

Through-Sh. Markandey Shukla,

The General Secretary, Jagriti Labour Union,

5/511, Sangam Vihar, Wazirabad, Delhi-110084.

Versus

1. The Commissioner,

South Delhi Municipal Corporation,

Dr. S.P. Mukherjee Civic Centre, J.L. Nehru Marg,

Minto Road, New Delhi-110002.

2. The Dy. Commissioner,

South Delhi Municipal Corporation,

Lajpat Nagar, New Delhi-110024.

AWARD

1. This is an application U/S 2A of the **Industrial Disputes Act (here in after referred as an "Act").** Claimant had stated in his claim statement that he was working with the management as Breeding Checker from the year 1996 at the last drawn salary Rs. 6,750/- per month. He used to go to the area and check the coolers etc. and also did other related work as per the orders of the management. He did his work with great hard work and honesty and never given any chance to complain during his service period. He was deprived of legal facility like appointment letter, Pay Slip, Bonus, Annual Leave, Casual Leave and minimum wages declared by the government. When he demanded the same, the management adopted a evasive attitude towards him and gave false assurance to him. When he repeatedly demanded the above mentioned legal facilities, his services were terminated by the management on 11.06.2010 without giving any charge-sheet, without giving any notice, without conducting any domestic investigation which is a violation of 25F of the ID Act, 1947. He had repeatedly visited the office of the management, but inspite of repeated efforts, he was not taken on job. He had worked continuously more than 240 days in a year. He had sent the demand letter to the management through speed post on 19.12.2019, but the management did not respond to the demand letter. He had gone to the conciliation officer, but, it was resulted into failure. Hence, he filed the present claim with the prayer that he be reinstated with full back wages.

2. Management-1 & 2 had filed its WS denying the averment made in the claimant's claim. He also submitted that claim has been filed in the year 2021 after the lapse of more than 11 years of his alleged termination which is debarred from limitation. He submitted that claim of the claimant is liable to be dismissed.

3. After completion of the pleadings, following issues have been framed on 31.08.2022 i.e.-

1. If the proceeding is maintainable.

2. If the service of the claimant was illegally terminated by the management by letter dated 11.06.2010.

3. Whether the claimant is entitled to the relief of reinstatement with back wages.

4. Now, the matter is listed for workman evidence. Workman is not appearing since long to substantiate his claim, inspite of providing a number of opportunities.

5. I have gone through the record of this case. At the time of proceedings, this tribunal found that this claim petition was filed by the claimant in the year 2010, much beyond the period of limitation prescribed U/s 2-A (3). Before we proceed further, it is necessary to produce the text of section 2-A:

"2-A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.- [(1)] where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute not withstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Not withstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this act and all the provisions of this act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

6. A perusal of the aforesaid section would go to show that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman U/s 2-A of the act and it is not necessary that such dispute should be sponsored by the trade union or a substantial number of workmen. However, what is required is that workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2-A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after expiry of 45 days from the date he has made an application to conciliation officer of appropriate government for conciliation of dispute. Sub-section 3 of section 2-A lay down the time limit for making such application to Labour Court or the tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without any effect upon remedy available in section 10 of the act.

7. Here admittedly, workman had filed his claim in the year 2021 after more than 11 years of his termination which is beyond the prescribed limit for filing the claim U/s 2(A) of the I.D Act. Hence, claim petition stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required U/s 17 of the I.D Act. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Dated: 04.03.2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **सचिव, तमिलनाडु हाउस, नंबर 06, कौटिल्य मार्ग, चाणक्यपुरी, नई दिल्ली,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कृष्ण मूर्ति, कामगार ,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 264/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-71-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 491.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 264/2022) of the **Central Government Industrial Tribunal cum Labour Court– II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Secretary, Tamil Nadu House,No.06, Kautilya Marg, Chanakyapuri, New Delhi** and, **Shri Krishna Murthy, Worker,** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-42025-07-2025-71-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID No. 264/2022

Sh. Krishnamurthy vs. Tamilnadu House

Sh. Krishna Murthy, S/o Sh. P. Manickam,

R/o- Annasireni Street, Venkatamuthram Post,

Pappiredypatti Taluk Dharmapuri District, Tamilnadu.

…Applicant/Claimant

Versus

The Secretary, Tamil Nadu House,

No.06, Kautilya Marg, Chanakyapuri,

New Delhi-110021.

Management/respondent

Counsels:

For Applicant/ Claimant*:*

None for the claimant.

For Management/ Respondent*:*

Sh. Akshay Sahai, Ld. AR.

AWARD

06.02.2025

The present petition is an application filed U/s 2-A of Industrial Disputes Act, 1947 **(Herein after referred as 'the act')**. The claimant in his claim statement submits that he was a housekeeping staff working with the management which is a government body that deals with delegations visiting Delhi. He asserts that he had been working for the management for several years along with other employees.

2. The dispute arose after the claimant met with an accident in June 2021, resulting in a serious injury that required five months of medical rest. Despite informing the management through written communications in October and November 2021 about his condition and intent to resume his work, he received no response. Later, he discovered that he had been removed from employment without any prior notice or intimation.

3. The claimant lastly submitted that his termination was illegal, as he had been working continuously for ten years without any disciplinary charges. He seeks reinstatement to his previous job and compensation for litigation expenses.

4. Subsequently, the management filed its W.S. whereby it submitted that the claimant's petition is based on false claims and misrepresentation of facts. It raised various preliminary objections which are as follows:

- **No Employment Relationship** – The claimant was never a regular employee but only worked on a casual basis when needed. Therefore, his demand for reinstatement is legally invalid.
- **Demolition of Workplace** – The Vaigai Tamil Nadu House building, where the claimant worked, is scheduled for demolition, and operations are shifting to another location, reducing staff requirements.
- **No Illegal Termination** – The claimant was not removed from employment since he was never a permanent employee. His allegations of wrongful termination lack merit.
- **Medical Condition Not Relevant** – The claimant's reference to an accident in 2021 is irrelevant as it does not establish any legal employment rights. His request for leave and subsequent correspondence do not prove continuous employment.
- **No Legal Right Established** – The claimant relies on letters and representations that do not create any binding obligation on the management.
- **Management is not an Industry** – The management argues that it does not qualify as an "Industry" under Section 2(j) of the Industrial Disputes Act, further weakening the claimant's case. Lastly, the management prayed for the dismissal of present claim.

5. Thereafter, the claimant was required to file his rejoinder. However, despite being given a number of opportunities, he didn't appear to file the same. Consequently, his right to file the same was closed and the issues were framed. The claimant was then directed to adduce his evidence but he has remained absent.

In light of the fact that the claimant has not been appearing to pursue his claim, the same stands dismissed. The award is passed accordingly. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. The file is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Dated 06.02.2025

नई दिल्ली, 20 जनवरी, 2025

का.आ. 492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स एटीसी टेलीकॉम इंफ्रास्ट्रक्चर प्राइवेट लिमिटेड, भाम्बुरदा, शिवाजीनगर, पुणे; मेसर्स एआरसी टेलीवेंचर प्राइवेट लिमिटेड, रामदास पेठ, नागपुर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **अध्यक्ष, महाराष्ट्र राज्य मोबाइल टावर तकनीकी कर्मचारी संघ, देवप्लाजा श्रीराम चौक, सावेदी, अहमदनगर,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायालय, अहमदनगर, पंचाट (संदर्भ संख्या (Reference(I.T)No.01/2020(CNR-MHLC-160001332020)**को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल – 40011/19/2020-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th January, 2025

S.O. 492.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference(I.T)No.01/2020(CNR-MHLC-160001332020)** of the **Industrial Court, Ahmednagar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. ATC Telecom Infrastructure Pvt. Ltd., Bhamburda, Shivajinagar, Pune; M/s.ARC Televenture Pvt. Ltd.,Ramdas Peth, Nagpur, and The President, Maharashtra Rajya Mobile Tower Technical Employees Association, Deoplaza Shriram Chowk, Savedi, Ahmednagar,** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-40011/19/2020-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE INDUSTRIAL COURT AT AHMEDNAGAR. BEFORE SAMEENA KHAN, MEMBER.

Reference (I.T.) No. 01/2020.

(CNR – MHIC-160001332020)

1. M/s. ATC Telecom Infrastructure Pvt. Ltd.,
Unit No. 3 and 304, 3rd Floor, 1 May
Fair Tower, Plot No. 55, S. No. 26/27/28
(Part), T.P. Scheme Sangamwadi,
Bhamburda, Shivajinagar,
Pune – 411005.

2. M/s. ARC Televenture Pvt. Ltd.,
6, 3rd Floor, Diwan Plaza, Near
Lokmat Bhavan, Vardha Road,
Ramdas Peth, Nagpur – 440012. … **First Party.**

VERSUS

The President,
Maharashtra Rajya Mobile Tower
Technical Employees Association,
Deoplaza Shriram Chowk,
Savedi, Ahmednagar – 414003. … **Second Party.**

APPEARANCE :- Shri. K. K. Pagar, Ld. Adv. for First Party.

Shri. Shrirang Gitte, Ld. Adv. for Second Party.

AWARD.

(Delivered on 28/02/2025)

1. The Central Government, in exercise of its powers under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute between the parties for adjudication.

2. The dispute between the parties as per the terms of Reference and Order dated 11.11.2020 is Scheduled as follows :-

> *"Whether the demands with letter dated 21.12.2017 raised by the Maharashtra Rajya Mobile Tower Technical Employees Association in charter of demands to the management (M/s ATS Telecom infrastructure Pvt. Ltd., Pune / M/s. ARC Televenture Pvt. Ltd., Nagpur) are proper, legal and justified? If yes, to what relief the disputant is entitled and what directions, if any, are necessary in this regard?"*

3. Second Party to the Reference / Union has filed Statement of Claim at Exh. U-3, and submits that as and when any problem, interruption or defect occurs in any Mobile Communication System, an automatic alarm appears on the Mobile Phone of the Technician / its member, and thereafter, immediately the Technician has to reach the tower and search the defect and clear it. The defect can occur at any time within 24 hours. Hence, Technicians / its members are under the control and observations of First Party Nos. 1 and 2 for 24 hours. Their working hours have no limit. Technicians are under the control and supervision of First Party Nos. 1 and 2 for 24x7 hours. They are not given weekly off, National Holidays, over time wages, earned leaves and other facilities.

4. Hence, the Second Party Union claiming the reliefs as mentioned in the Charter of Demands dated 05.10.2017 related to hike in wages, house rent allowance, traveling allowance, bonus, canteen allowance, regulation of working hours, paid holidays night work, leaves, medi-claim, accident policy, health checkup, gratuity, retrenchment procedure, supply of safety equipments, leave arrangements and abolition of contract system. It is contended by the Second Party that all these demands are proper, legal, just and enforceable by law.

5. The First Party No. 1 appeared in the matter and filed its Written Statement at Exh. C-11, inter alia objecting the Reference as illegal and untenable in law. It is submitted that the present Reference is not maintainable for want of employer-employee relationship between the First Party No. 1 and beneficiaries / members of the Second Party Union / Association. First Party No. 1 has engaged vendor i.e. First Party No. 2 for providing services. There is no requirement of deploying any person on 24x7 basis at the sites. The tower sites are not manned by any caretaker, Technician, etc. The Technician is only required in case of any break down or fault on need basis.

6. It is further contended by the First Party No. 1 that it follows a strategic business policy of concentrating in its core activities, which is "the establishment, maintenance and provision of the telecommunication infrastructure" and outsources the non-core activities to such organizations, whose core business is to provide the services which are non-core activities for the First Party No. 1. The First Party No. 2 is one of such specialist service provider. First Party No. 1 has granted complete and absolute freedom to the First Party No. 2 so far as selection and employment as well as payment, assigning duties, assigning duty points, etc. to the manpower deployed by the First Party No. 2. The First Party No. 1 only makes it sure that the First Party No. 2 complies with the mandatory beneficial provisions of various labour laws, which the First Party No. 2 is found to be complying. Hence, the present Reference deserves to be dismissed in limine.

7. The First Party No. 2 appeared in the matter and filed its Written Statement at Exh. C-9, inter alia denying all the contentions of the Second Party in the Statement of Claim. It is submitted that the Second Party has no legal rights to raise any disputes in relation to employees employed by the First Party No. 2, as not a single employee of the First Party No. 2 is office bearer of the Second Party Union. It is also denied by the First Party No. 2 that any of it's employee is member of the Second Party at any point of time. It is further submitted by the First Party No. 2 that it has engaged 55 employees to perform its day to day work, who are getting all the facilities and handsome monthly wages. It has cordial relationship with its employees.

8. Considering the above facts and circumstances, Issues have been framed by my Learned Predecessor at Exh. O-6, and I have given my findings on them, for the reasons stated below, are as under :-

Sr. No.	Issues	Findings
1.	Whether demand raised by Second Party Union in Charter of Demands dated 05.10.2017, are legal and proper?	No.
2.	Whether the Second Party Union is entitled for the relief, as prayed for?	No.
3.	What Order?	As per final Award.

REASONS

As to Issue Nos. 1 to 3 :-

9. The Second Party Union did not appear in the matter after the Written Statement was filed. The Second Party Union was granted with ample and reasonable opportunity to lead its oral evidence. The matter is old and was at the same stage, awaiting evidence of the Second party. However, since there was no presence of the Second Party and Second Party Union has failed to lead its oral evidence, the matter is proceeded further without oral evidence of the Second Party by passing order below Exh. U-1 on 04.09.2024.

The First Party was also granted with ample and reasonable opportunity to lead its oral evidence. The First Party also failed to lead its oral evidence. Hence, the matter is proceeded further without its oral evidence by passing order below Exh. U-1 on 29.01.2025, and the matter was fixed for final arguments.

10. On previous date i.e. 13.02.2025, none is present before the Court to argue the matter. Hence, the matter is taken up for passing of Award by considering the material on record. Even today when the matter was called from time to time, none is appeared.

11. Considered the order of Reference, Statement of Claim, Written Statements and the entire material on record. In respect of his contentions in the Statement of Claim and notice of demand, the Second Party has filed documentary evidence on record at the time of filing of its Statement of Claim along with list Exh. U-4, viz; Charter of Demand dated 05.10.2017, letter of intervention dated 21.12.2017 and registration certificate of Union dated 24.05.2013.

12. The First Party No. 1 has filed documentary evidence on record along with list Exh. C-5 i.e. xerox copy of power of attorney dated 30.03.2019.

13. In support of its contentions, the First Party No. 2 has also filed documentary evidence on record along with list Exh. C-10 viz; copy of reply filed by the First Party No. 2 before the Regional Labour Commissioner, Pune, dated 22.10.2018 and copies of letters given by the employees of the First Party No. 2 to the Regional Labour Commissioner, Pune, dated 23.05.2018.

14. The First Party Nos. 1 and 2 have denied their relationship with the Second Party Union. First Party No. 2 has specifically contended that the Second Party has no legal right to raise any disputes in relation to employees employed by the First Party No. 2, as not a single employee of the First Party No. 2 is office bearer of the Second Party, and any of it's employee is member of the Second Party Union at any point of time. In these circumstances, it is necessary for the Second Party Union to show / prove that the employees of the First Party are its members. There is nothing on record to show that the employees of the First Party are members of the Second Party Union. There is no document on record to show relation of the Second Party Union or its members in terms of employer-employee relationship with the First Party. Therefore, the Second Party Union has failed to prove employer-employee relationship between its members and the First Party.

15. The Second Party Union has claimed reliefs as mentioned in the Charter of Demands dated 05.10.2017 related to hike in wages, house rent allowance, traveling allowance, bonus, canteen allowance, regulation of working hours, paid holidays night work, leaves, medi-claim, accident policy, health checkup, gratuity, retrenchment procedure, supply of safety equipments, leave arrangements and abolition of contract system. Therefore, in absence of relationship between the First Party and Second Party Union or its members, the Second Party Union is not entitled for any relief as claimed.

16. In view of the above, Issue Nos. 1 and 2 are answered in negative, and therefore, the dispute between the parties referred by the Central Government is adjudicated and decided in negative. Hence, for issue No. 3, I pass the following Award.

AWARD

1. The Reference is answered in negative.

2. No order as to costs.

3. Copies of this Award be sent to Government of India, Ministry of Labour, New Delhi for publication and further necessary action.

SAMEENA KHAN, Member

नई दिल्ली, 19 मार्च, 2025

का.आ. 493.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एयरलाइंस लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्दोय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, चेन्नई के पंचाट (सन्दर्भ संख्या **111/2005**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/03/2025** को प्राप्त हुआ था।

[सं. एल – 11012/29/2005-आईआर(सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th March, 2025

S.O. 493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.111/2005)** of the **Central Government Industrial Tribunal-cum-Labour Court, CHANNAI** as shown in the Annexure, in the industrial dispute between the Management of **Indian Airlines Ltd.** and their workmen, received by the Central Government on **19*/03/2025*.**

[No. L-11012/29/2005-IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, CHENNAI

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 111/2005

Ref. No. L-I1012/29/2005 (IR(C-I)

BETWEEN

Chennai Airport Contract Workers Union

Represented by the Secretary

13, First Street, Balaji Nagar

Anakaputhur, Chennai- 600 070 **…… Workman**

AND

The General Manager (Personnel)

Indian Airlines Ltd

Airlines House, Meenambakkam

Chennai – 600 027. **……. Respondent**

AWARD

On 02.11.2005 appropriate authority referred the following dispute to this tribunal for adjudication.

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby refers the said dispute for adjudication to the Central Govt. Industrial Tribunal –cum- Labour Court, Chennai. The said Tribunal shall give its award within a period of three months.

"*Whether the contract between M/s Indian Airlines, Chennai with M/s Enrec Engineers for maintenance of sewerage treatment plant in the Indian Airlines Housing Colony, Chennai sham? If so, whether the demand of Chennai Airport Contract Workers Union for regularization of 08 workmen, as per list, justified? If so, from what date?*

In ID case No.111/2005 registered before this Tribunal.

On 03.12.2005 on behalf of claimant, claim statement was filed.

On behalf of respondent judgment dated 15.9.2022 passed on Writ Petition No.39222 of 2005 (Air India Limited v. the Government of India another) filed.

Further from the perusal of record the procedures which emerge out that in spite of notice none appeared on behalf of claimant to file document / evidence on affidavit in support of his case.

On 9.7.2024, once again none appeared on behalf of appellant, respondent was present, so case was listed for exparty hearing.
Today (30.8.2024) when the case was taken in revised cause list, none is present on behalf of workmen.

Accordingly, I have heard Sh. Stalin, advocate for respondent, and perused the record.

Finding & conclusion

Taking into consideration the above said facts as well as the law laid by Hon'ble High Court in the case of V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194 as under:

> "It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief".

In the case of M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghasiabad and others 2008 (118) FLR 1164 Hon'ble Allahabad High Court has held as under:

> "The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be who would fail if no evidence is led."

Hon'ble Allahabad High Court in the case of District Administrative Committee, U.P. P.A.C.C.S.A. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd 2010 (126) FLR 519 has held as under:

> "The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

ORDER

For the foregoing reasons, the case is dismissed and; and the workme are not entitled for any relief

Award Accordingly.

Justice ANIL KUMAR, Presiding Officer

Chennai

30.08.2024

Let two copies of this award are sent to the Ministry for publication.

नई दिल्ली, 19 मार्च, 2025

का.आ. 494.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, नागपुर के पंचाट (सीजीआईटी/एनजीपी/12/2024)को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/03/2025** को प्राप्त हुआ था।

[सं. एल – 22013/01/2024-आईआर(सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th March, 2025

S.O. 494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/12/2024)**of the **Central Government Industrial Tribunal-cum-Labour Court,Nagpur** as shown in the Annexure, in the industrial dispute between the Management of **Western Coalfields Ltd.** and their workmen, received by the Central Government on **19*/03/2025*.**

[No. L-22013/01/2024-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE SHRI SHIV SHANKER PRASAD PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/12/2024 Date: 27.01.2025.

Party No.1: The Sub Area Manager,
WCL, Ghugus Sub Area, Po- Ghugus,
Distt.- Chandrapur-442505.

V/s.

Party No.2: Amol Natthuji Mandhare,
At/PO- Ghugus, Distt. Chandrapur,
Pin-442505.

AWARD

(Dated: 27th January, 2025)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Ltd. and their workman, Shri Amol Natthuji Mandhare for adjudication, as per letter **No.NGP/1(03)/2024-ID(ALCCHP) dated 24.02.2024,** with the following schedule:-

> **"Whether the action of the management of Western Coalfields Ltd. in not considering demand of Shri Amol Natthuji Mandhare, Ex-workman/contract labour to ensure re-engagement in services through subsequent/ succeeding contractors, is legal and justified? If not, to what relief the workman is entitled to?"**

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement. After perusal of record it appears that none is present on behalf of the parties since 26/06/2024. The reference notification no. NGP/1(03)/2024-ID(ALCCHP) dated 27/02/2024 has been received from the Ministry and has registered case vide case no. CGIT/NGP/12/2024. The dispute has been raised by the workman. The Government has already directed the parties for raising the dispute and to file a statement of claim with relevant documents, list of reliance and witnesses within 15 days of the receipt of the order or reference and also to forward the copies of the said statement to which one of the opposite parties involved in the dispute. But from the date of registration of reference of this Court no parties turned up to prove his case. No statement of claim and written statement have been filed by the parties till date. It appears that both the parties are not interested to contest the case referred by the Ministry.

The case of the petitioner is not proved.

Hence, it is ordered:

ORDER

The action of the management of Western Coalfields Ltd. in not considering demand of Shri Amol Natthuji Mandhare, Ex-workman/contract labour to ensure re-engagement in services through subsequent/ succeeding contractors, is legal and justified. The workman is not entitled to any relief.

Justice (Retd.) SHIV SHANKER PRASAD, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 495.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेट लाइफ इंडिया इन्सुरेंस कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनीष श्रीवास्तव** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 16/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम)-14]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 495.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 16/2013)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Met Life India Insurance Company Limited** and **Shri Manish Srivastava** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-14]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/16/2013

Present: P.K.Srivastava

H.J.S..(Retd)

Manish Shrivastava

S/o. Gyan Swaroop Shrivastava

R/o. 89, Vinay Nagar, Sector 2A,

In front of Urvai Gate, Gwalior (MP)

Petitioner/Workman

Versus

1. **Met Life India Insurance Company Ltd.**
   Through – MD/CEO
   Met Life India Insurance Company Ltd.
   Orchid Centre, 5th Floor, DLF Golf Course
   Road, Sector 53, Gurugram, Haryana-122002
2. **Associate Director (HR)**
   Met Life India Insurance Company Ltd.
   Orchid Centre, 5th Floor, DLF Golf Course
   Road, Sector 53, Gurugram, Haryana-122002

3. Branch Manager

Met Life India Insurance Company Ltd.

2nd Floor, Anand Deep Building,

City Centre, Gwalior (MP)

Respondents/Management

AWARD

(Passed on this 06th day of February-2025.)

The workman has filed this petition u/s. 2-A (2&3) of the Industrial Disputes Act 1947 (in short 'The Act") against termination of his services by the respondents/management.

After registering the case on the basis of the petition, notices were sent to management and were duly served on them. They appeared and filed their statements of defense.

The case of the workman, in short, is that he was appointed as a Sales Manager in the Branch Office at Gwalior since 18.02.2011, he has been working since the date of his appointment till the date of termination of services on 13.06.2012, as such. On 22.05.2012 the Branch Manager used provocative language and scolded him, he asked the Branch Manager not to do this otherwise he would be compelled to complain against him. Then the Branch Manager, in order to save himself falsely leveled against him the charge of misbehavior and a show-cause notice was issued against him by management on 30.05.2012. He submitted a reply on 01.06.2012 and discussed this matter with the Branch Manager, who accepted that he was harsh in excitement and asked the petitioner to send a mail in this respect to the Branch Manager. The petitioner did send him a mail dated 04.06.2012 to the Branch Manager. The Branch Manager also send a mail to the higher officer recommending that, the matter be closed against the petitioner as the petitioner had assured him to work with team spirit. The petitioner received an order of management dated 13.06.2022 stating that his services stud terminated by this order. According to the petitioner, he was not given any opportunity to have his case before management, before his termination order though according to the termination order, his termination was stigmatic, hence the action of management in terminating the petitioner on the charges is against principles of natural justice, arbitrary and illegal. It is further the case of the petitioner that, his service record has otherwise been excellent and he has received top position in the Branch with respect to performance. The petitioner has also alleged that he does not have any right to terminate any employee or to sanction leave or initiate disciplinary action against any employee. He is a workman as defined u/s. 2(s) of the Act.

The petitioner has thus prayed that, holding the order of management dated 13.06.2012 against law and arbitrary, this order be set aside and he be reinstated with all back wages and benefits.

The case of the management, inter alia, is that, **firstly**, the petitioner is Sales Manager, engaged in selling the insurance policies of management, hence he is not a workman as defined u/s. 2(s) of the Act. According to management, the behavior of the petitioner was bad towards his seniors. He was used to abusive language with his senior colleagues in the office premises for which show-cause notice was issued against him, which he never reply. Despite several warnings, he did not improve himself, rather misbehaved his seniors. Hence, after giving him opportunity of hearing on proving of misconduct, his services were terminated as per the terms of employment, which he had accepted at the time of his appointment. Management has denied the allegation that, principles of natural justice were not followed. Management also pleaded that, the performance of the petitioner in the months after he was promoted was not upto the mark and the Branch Manager was compelled to pursue him for giving performance for which he was appointed. He was in subordinate and did not adher to the general guidelines mentioned in his appointment letter, he was also issued a request for clarification in relation to in subordination vide communication dated 23.12.2011. Though he was given time to improve, he did not improve, he was issued a warning letter for poor performance of on 08.02.2012 informing him of his poor performance for the period October-2011 to December-2012 which was too below the acceptable standards of management. He had not given any business within the period 01.04.2011 to 22.05.2012. Accordingly, the management has prayed that, the petition be dismissed.

On the basis of evidence, this petition was decided by my learned Predecessor vide Judgment dated 26.10.2015. The respondent management preferred a Writ Petition No. 9268/2017, which was decided after hearing by Single Bench of Hon'ble High Court. Setting aside the Judgment and Award, the matter was remanded to this Tribunal with a direction that, the respondent management be allowed to file their written statement of defense on cost Rs. 10000/- and thereafter, the petition be decided in the light of case of management that, the petition was not maintainable as the petitioner was not a workman as defined u/s. 2(s) of the Act, as well other please taken by parties.

After the matter was received after remand, the management filed its statement of claim which was taken on record under the directions as mentioned above. The petitioner and management side both filed their affidavits as their examination in chief. They were cross examined by their adversary, the petitioner filed and proved photocopy documents Ex. W/1 to W/8 and the management filed improved documents Ex. M/1 to M/10, to be referred to as and when required.

I have heard argument of learned Senior Counsel Mr. Anoop Nair, assisted by Mr. Neeraj Kewat. Mr. Aditya Ahiwasi submitted arguments for management. I have gone through the records as well.

On perusal of record, in the light of rival arguments, following issues arise for determination :-

1. ***Whether, the petitioner is a workman as defined u/s. 2(s) of the Act ?***
2. ***Whether, the termination of services of the petitioner is bad in law ?***
3. ***Whether, the petitioner is entitled to any relief ?***

Issue No. 1.

Section 2(s) of the Act, which defines Workman, is being reproduced as follows:

"**2(s)** "workman" means any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensum or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature…….

Learned Senior Counsel for Petitioner has relied on judgment of **Hon'ble High Court of Bombay in the case of Union Carbide (India) Ltd. V.s. Ramesh Kumbla and Others reported in MANU/MH/0073/1999** and **another judgment of the same High Court in the case of Union Carbide (India) Ltd. V.s. D. Samuel and Others reported in MANU/MH/1713/1998**.

In these two cases, after analyzing the judgment of various High Courts and Hon'ble Supreme Court, the Single Bench of Hon'ble Bombay High Court has summarized the principles on the basis of which it is to be decided whether the Workman is in supervisory capacity or not. These tests mentioned in **Para 34 and 35** of the Judgment are being reproduced as follows:

"Para-34. In so far as the Apex Court is concerned, some of the tests laid down are:

(1) Designation is not material but what is important is the nature of work.

(2) Find out the dominant purpose of employment and not any additional duties the employee may be performing.

(3) Can he bind the Company/employer to some kind of decisions on behalf of the Company/employer.

(4) Has the employee power to direct or oversee the work of his subordinates.

(5) Has the power to sanction leave or recommend it; and

(6) Has he the power to appoint, terminate or take disciplinary action against workmen.

Para-35. From the judgment of this Court and the other High Courts some of the tests apart from what the Apex Court has stated are:

(a) Whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not;

(b) Does the employee have powers of assigning duties and distribution of work;

(c) Can he indent material and distribute the same amongst the workmen;

(d) Even though he has no authority to grant leave does he have power to recommend leave;

(e) Are there persons working under him;

(f) Has he the power to supervise the work of men and not merely machines;

(g) Dos he mark the attendance of other employees;

(h) **Does he write the confidential reports of his subordinates**."

Learned Counsel for management has referred to Judgment of Hon'ble High Court of MP in ***W.A. No. 75/2017 Novartis India Vs. Vipin Shrivastava***, wherein a Division Bench of Hon'ble High Court has held that, since the petitioner in the referred case was engaged as a sales representative in a Pharmaceutical Company, his duty was to visit Doctors, Chemist, as well Stockists, meeting different professionals to promote sale, his job being not manual or clerical, hence though he might not be controlling any subordinates, he was master of his work assigned with respect to performance of job being solemnly in his discretion, he was not a workman as defined u/s. 2(s) of the Act.

In another judgment of Hon'ble the Supreme Court referred to the ***Burmah Shell Oil Storage and Distributing Company vs. Burmah Shell Management Staff Association, (1970) 3 SCC 378***, in which a full Bench of Hon'ble Supreme Court held that the petitioner who was appointed as a District Sales Representative, his job being making of recommendations for selection of agents and dealers in connection with promotion of sale, extension or curtailment of credit facilities to agent, dealers and customers; investment on capital and revenue in shape of facilities at agent premises or retail outlets and selection of suitable sites for retails outlets to maximize sales and negotiations for terms of new sites he could not be classified as a workman as defined u/s. 2(s) of the Act.

Now, coming to the facts of case in hand, in the light of above proposition of law, the appointment letter of the workman which he accepted and was appointed as Sales Manager after accepting the terms and conditions in the offer of appointment letter, his duties as sales manager have not been defined. No copy of any Certified Standing Orders or Service Rules have been filed by management to describe the roles and responsibilities of a sales manager. The management has stated in his evidence that, his job was to contact educated persons, tell them about financial advisor and to send them to the Branch Manager, who used to appoint them on the basis of their interaction with the Branch Manager. These financial advisors appointed had to pass a test conducted by IRDAI and thereafter, they used to become eligible for selling insurance policies to the customers for which they were paid commission. He further stated that, he used to have an account of policies sent by such financial advisors. Also that, he was under subordination of the Branch Manager, who he used to report. He also states that, management used to set goal regarding sale of policies in a particular time frame. His job was to see that, the financial advisors reach the target.

The management witness has stated that, the petitioner was to do the job of canvassing and promoting sales under whom several sales representatives were working. This witness further states that, it was in the role assigned to the sales manager that, he would recruits salesman and promote sales. He admits that, this does not find in his offer of appointment. There is no other document filed by management to substantiate this statement of the witness. It is not the case of management that the petitioner used to sanction leaves to the financial advisors or initiate any disciplinary action against them.

In the light of above discussion, the petitioner is held to have successfully proved that, he is a workman as defined u/s. 2(s) of the Act.

Issue No.-1 is answered accordingly.

Issue No.-2 :-

As it is the case of management, that **firstly**, the conduct of the petitioner was not proper as a sales manager. According to management, the behavior of the petitioner was bad towards his seniors. He was used to abusive language with his senior colleagues in the office premises for which show-cause notice was issued against him, which he never reply. Despite several warnings, he did not improve himself, rather misbehaved his seniors. Hence, after giving him opportunity of hearing on proving of misconduct, his services were terminated as per the terms of employment, which he had accepted at the time of his appointment. Management has denied the allegation that, principles of natural justice were not follow**. The second ground** for termination taken by management is that, the performance of the petitioner in the months after he was promoted was not up to the mark and the Branch Manager was compelled to pursue him for giving performance for which he was appointed. He was in subordinate and did not adher to the general guidelines mentioned in his appointment letter, he was also issued a request for clarification in relation to in subordination vide communication dated 23.12.2011. Though he was given time to improve, he did not improve, he was issued a warning letter for poor performance of on 08.02.2012 informing him of his poor performance for the period October-2011 to December-2012 which was too below the acceptable standards of management. He had not given any business within the period 01.04.2011 to 22.05.2012.

As the termination letter dated 13.06.2012 mentions that, a show-cause notice on 30.05.2012 was issued to the petitioner on account of misconduct of using abusive language against his senior colleagues in the office premises while he was on duty and despite receipt of show-cause notice, he did not provide satisfactory reply to the same, The management had adequate proof of the misconduct which is grave in nature and hence his employment stood terminated from closure of business hours of 15th June 2011, which was rectified vide another communication making it operational from 15th June 2012. There is no mention of non-fulfillment of goal allotted to the petitioner has a ground of termination. Hence, the second ground pleaded by management for termination of services of the workman loses significance and what is required to be looked into as to whether the ground taken in the termination letter is in violation of principles of natural justice, because no sufficient opportunity was granted to the petitioner for proving

his innocence.

Since, the termination of services of petitioner is on ground of misconduct said to be committed by him, no doubt it is punitive. As stated above, the case of management is that, the workman did not reply to the letter dated 30.05.2012 seeking clarification from him with respect to the misconduct alleged. The management witness has stated this fact in his affidavit as his examination in chief. He also states that, his mail dated 04.06.2012, the petitioner accepted that he was tense and frustrated thus he made some comments about the sales manager. (Probably it is about the Branch Manager and due to mistake in typing, sales manager has been written).

The petitioner has filed and proved Ex. W/4, which the letter of management dated 30.05.2012. According to this letter, the petitioner was required to clarify within three days regarding allegations with respect to his involvement in using abusive language against his senior colleague in office premises, failing which it will be deemed that he has admitted the allegations. The Petitioner has filed and proved Ex. W/5 which is the communication sent by him on 01.06.2012 in which he has stated that he was required to explain on complaint made by his Senior Manager Mr. Ramendra Singh. That he strongly opposed (rejected) allegations against him.That he also stated that, he was not a type of person who could abuse his senior and he was aware about the code of conduct of Met Life. Also that, he never used such type language. This letter amply establishes the fact that, the petitioner did submit reply to the show cause in which he denied the allegations in communication/show cause notice dated 30.05.2012, which are the basis of termination of his services. As regards, the communication dated 04.06.2012, with respect to which the management witness has stated that the petitioner had admitted the charges, there is on record Ex. W/6 filed and proved by the petitioner. This is the communication dated 04.06.2012. Reading of this communication reveals that the Branch Manager Ramendra Singh was scolding them on phone for NOP just after he was tense and frustrated, so he made comments about sales managers. One of the colleagues of the petitioner communicated this fact to him he was also tense and in business pressure, asked the Branch Manager as to while he made comments about sales managers. During this conversations, my voice was loud but intention not bad. This also cannot be as admission of charge.

From the above discussion, it is established that action of management in assuming the misconduct alleged admitted by petitioner is against fact. This is also established that, the petitioner did submit reply to the show-cause notice denying the allegations. In this circumstance, it was incumbent on management to hold an inquiry with respect to the allegations. **By terminating the services of petitioner without holding an inquiry into the allegations, the management is held to have acted arbitrarily and hence the act of termination of services of the petitioner by respondent management is held unjust and illegal**.

Issue no.-2 is answered accordingly.

Issue No.-3:-

In the light of findings recorded above, the question arises as to what relief the petitioner workman is entitled to ?

In the case of ***Deepali Gundu Survasey vs. Kranti Junior High School, reported in (2013) 9 SCR 1***, the Supreme Court laid down following proposition of law after analyzing its various pronouncements. The relevant paragraph is being reproduced as follows :-

33. The propositions which can be culled out from the aforementioned judgments are:

(i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule. F

(ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found G proved against the employee/workman, the financial condition of the employer and similar other factors.

(iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/ she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

(iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and I or certified standing orders, if any, but holds that E the punishment was

disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then F there will be ample justification for award of full back wages.

(v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the G concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman A to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the. cases of wrongful I illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and th~re is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages:

(vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position visa-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., .the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Prhlate Limited v. Employees of F Hindustan Tin Works Private Limited (supra).

(vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the G ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.

Based on the findings arrived at as above, in the light of the proposition of law as stated above, the petition deserves to be allowed. The petitioner deserves to be reinstated with back wages and benefits from the date of his termination.

Issue No.-3 is answered accordingly.

ORDER

Petition is allowed. Holding the action of management respondent in terminating the services of petitioner vide order dated 13.06.2012 unjust and illegal, it is set aside. The respondent management is directed to reinstate the petitioner with back wages and benefits from the date of his termination within 90 days from the order, failing which interest @ of 6% p.a. from date of Order till payment.

No order as to cost.

P. K. SRIVASTAVA, Presiding Officer

DATE: 06/02/2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 496.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेट लाइफ इंडिया इन्सुरेंस कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री शैलेन्द्र सिंह परिहार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 15/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था ।

[सं. जेड-16025/04/2025-आईआर(एम)-15]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 496.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 15/2013)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Met Life India Insurance Company Limited** and **Shri Shailendra Singh Parihar** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-15]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/15/2013

Present: P.K.Srivastava

H.J.S..(Retd)

Shailendra Singh Parihar

S/o. Sudama Singh Parihar

R/o. 11, Jauhari Colony, Nai Sadak

Lashkar, Gwalior (MP)

Petitioner/Workman

Versus

1. **Met Life India Insurance Company Ltd.**
   Through – MD/CEO
   Met Life India Insurance Company Ltd.
   Orchid Centre, 5th Floor, DLF Golf Course
   Road, Sector 53, Gurugram, Haryana-122002
2. **Associate Director (HR)**
   Met Life India Insurance Company Ltd.
   Orchid Centre, 5th Floor, DLF Golf Course
   Road, Sector 53, Gurugram, Haryana-122002
3. **Branch Manager**
   Met Life India Insurance Company Ltd.
   2nd Floor, Anand Deep Building,
   City Centre, Gwalior (MP)

Respondents/Management

AWARD

(Passed on this 06th day of February-2025.)

The workman has filed this petition u/s. 2-A (2&3) of the Industrial Disputes Act 1947 (in short 'The Act") against termination of his services by the respondents/management.

After registering the case on the basis of the petition, notices were sent to management and were duly served on them. They appeared and filed their statements of defense.

The case of the workman, in short, is that he was appointed as a Sales Manager in the Branch Office at Gwalior since 12.10.2010, he has been working since the date of his appointment till the date of termination of services on 13.06.2012, as such. On 22.05.2012 the Branch Manager used provocative language and scolded him, he

asked the Branch Manager not to do this otherwise he would be compelled to complain against him. Then the Branch Manager, in order to save himself falsely leveled against him the charge of misbehavior and a show-cause notice was issued against him by management on 30.05.2012. He submitted a reply on 01.06.2012 and discussed this matter with the Branch Manager, who accepted that he was harsh in excitement and asked the petitioner to send a mail in this respect to the Branch Manager. The petitioner did send him a mail dated 04.06.2012 to the Branch Manager. The Branch Manager also send a mail to the higher officer recommending that, the matter be closed against the petitioner as the petitioner had assured him to work with team spirit. The petitioner received an order of management dated 13.06.2022 stating that his services stud terminated by this order. According to the petitioner, he was not given any opportunity to have his case before management, before his termination order though according to the termination order, his termination was stigmatic, hence the action of management in terminating the petitioner on the charges is against principles of natural justice, arbitrary and illegal. It is further the case of the petitioner that, his service record has otherwise been excellent and he has received top position in the Branch with respect to performance. The petitioner has also alleged that he does not have any right to terminate any employee or to sanction leave or initiate disciplinary action against any employee. He is a workman as defined u/s. 2(s) of the Act.

The petitioner has thus prayed that, holding the order of management dated 13.06.2012 against law and arbitrary, this order be set aside and he be reinstated with all back wages and benefits.

The case of the management, inter alia, is that, **firstly**, the petitioner is Sales Manager, engaged in selling the insurance policies of management, hence he is not a workman as defined u/s. 2(s) of the Act. According to management, the behavior of the petitioner was bad towards his seniors. He was used to abusive language with his senior colleagues in the office premises for which show-cause notice was issued against him, which he never reply. Despite several warnings, he did not improve himself, rather misbehaved his seniors. Hence, after giving him opportunity of hearing on proving of misconduct, his services were terminated as per the terms of employment, which he had accepted at the time of his appointment. Management has denied the allegation that, principles of natural justice were not followed. Management also pleaded that, the performance of the petitioner in the months after he was promoted was not upto the mark and the Branch Manager was compelled to pursue him for giving performance for which he was appointed. He was in subordinate and did not adher to the general guidelines mentioned in his appointment letter, he was also issued a request for clarification in relation to in subordination vide communication dated 23.12.2011. Though he was given time to improve, he did not improve, he was issued a warning letter for poor performance of on 08.02.2012 informing him of his poor performance for the period October-2011 to December-2012 which was too below the acceptable standards of management. He had not given any business within the period 01.04.2011 to 22.05.2012. Accordingly, the management has prayed that, the petition be dismissed.

On the basis of evidence, this petition was decided by my learned Predecessor vide Judgment dated 26.10.2015. The respondent management preferred a Writ Petition No. 9268/2017, which was decided after hearing by Single Bench of Hon'ble High Court. Setting aside the Judgment and Award, the matter was remanded to this Tribunal with a direction that, the respondent management be allowed to file their written statement of defense on cost Rs. 10000/- and thereafter, the petition be decided in the light of case of management that, the petition was not maintainable as the petitioner was not a workman as defined u/s. 2(s) of the Act, as well other please taken by parties.

After the matter was received after remand, the management filed its statement of claim which was taken on record under the directions as mentioned above. The petitioner and management side both filed their affidavits as their examination in chief. They were cross examined by their adversary, the petitioner filed and proved photocopy documents Ex. W/1 to W/8 and the management filed improved documents Ex. M/1 to M/10, to be referred to as and when required.

I have heard argument of learned Senior Counsel Mr. Anoop Nair, assisted by Mr. Neeraj Kewat. Mr. Aditya Ahiwasi submitted arguments for management. I have gone through the records as well.

On perusal of record, in the light of rival arguments, following issues arise for determination :-

1. ***Whether, the petitioner is a workman as defined u/s. 2(s) of the Act ?***
2. ***Whether, the termination of services of the petitioner is bad in law ?***
3. ***Whether, the petitioner is entitled to any relief ?***

Issue No. 1.

Section 2(s) of the Act, which defines Workman, is being reproduced as follows:

"**2(s)** "workman" means any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensum or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature……..

Learned Senior Counsel for Petitioner has relied on judgment of **Hon'ble High Court of Bombay in the case of Union Carbide (India) Ltd. V.s. Ramesh Kumbla and Others reported in MANU/ MH/0073/ 1999** and **another judgment of the same High Court in the case of Union Carbide (India) Ltd. V.s. D. Samuel and Others reported in MANU/MH/1713/1998**.

In these two cases, after analyzing the judgment of various High Courts and Hon'ble Supreme Court, the Single Bench of Hon'ble Bombay High Court has summarized the principles on the basis of which it is to be decided whether the Workman is in supervisory capacity or not. These tests mentioned in **Para 34 and 35** of the Judgment are being reproduced as follows:

"Para-34. In so far as the Apex Court is concerned, some of the tests laid down are:

(1) Designation is not material but what is important is the nature of work.

(2) Find out the dominant purpose of employment and not any additional duties the employee may be performing.

(3) Can he bind the Company/employer to some kind of decisions on behalf of the Company/employer.

(4) Has the employee power to direct or oversee the work of his subordinates.

(5) Has the power to sanction leave or recommend it; and

(6) Has he the power to appoint, terminate or take disciplinary action against workmen.

Para-35. From the judgment of this Court and the other High Courts some of the tests apart from what the Apex Court has stated are:

(a) Whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not;

(b) Does the employee have powers of assigning duties and distribution of work;

(c) Can he indent material and distribute the same amongst the workmen;

(d) Even though he has no authority to grant leave does he have power to recommend leave;

(e) Are there persons working under him;

(f) Has he the power to supervise the work of men and not merely machines;

(g) Dos he mark the attendance of other employees;

(h) **Does he write the confidential reports of his subordinates**."

Learned Counsel for management has referred to Judgment of Hon'ble High Court of MP in ***W.A. No. 75/2017 Novartis India Vs. Vipin Shrivastava***, wherein a Division Bench of Hon'ble High Court has held that, since the petitioner in the referred case was engaged as a sales representative in a Pharmaceutical Company, his duty was to visit Doctors, Chemist, as well Stockists, meeting different professionals to promote sale, his job being not manual or clerical, hence though he might not be controlling any subordinates, he was master of his work assigned with respect to performance of job being solemnly in his discretion, he was not a workman as defined u/s. 2(s) of the Act.

In another judgment of Hon'ble the Supreme Court referred to the ***Burmah Shell Oil Storage and Distributing Company vs. Burmah Shell Management Staff Association, (1970) 3 SCC 378***, in which a full Bench of Hon'ble Supreme Court held that the petitioner who was appointed as a District Sales Representative, his job being making of recommendations for selection of agents and dealers in connection with promotion of sale, extension or curtailment of credit facilities to agent, dealers and customers; investment on capital and revenue in shape of facilities at agent premises or retail outlets and selection of suitable sites for retails outlets to maximize sales and negotiations for terms of new sites he could not be classified as a workman as defined u/s. 2(s) of the Act.

Now, coming to the facts of case in hand, in the light of above proposition of law, the appointment letter of

the workman which he accepted and was appointed as Sales Manager after accepting the terms and conditions in the offer of appointment letter, his duties as sales manager have not been defined. No copy of any Certified Standing Orders or Service Rules have been filed by management to describe the roles and responsibilities of a sales manager. The management has stated in his evidence that, his job was to contact educated persons, tell them about financial advisor and to send them to the Branch Manager, who used to appoint them on the basis of their interaction with the Branch Manager. These financial advisors appointed had to pass a test conducted by IRDAI and thereafter, they used to become eligible for selling insurance policies to the customers for which they were paid commission. He further stated that, he used to have an account of policies sent by such financial advisors. Also that, he was under subordination of the Branch Manager, who he used to report. He also states that, management used to set goal regarding sale of policies in a particular time frame. His job was to see that, the financial advisors reach the target.

The management witness has stated that, the petitioner was to do the job of canvassing and promoting sales under whom several sales representatives were working. This witness further states that, it was in the role assigned to the sales manager that, he would recruits salesman and promote sales. He admits that, this does not find in his offer of appointment. There is no other document filed by management to substantiate this statement of the witness. It is not the case of management that the petitioner used to sanction leaves to the financial advisors or initiate any disciplinary action against them.

In the light of above discussion, the petitioner is held to have successfully proved that, he is a workman as defined u/s. 2(s) of the Act.

Issue No.-1 is answered accordingly.

Issue No.-2 :-

As it is the case of management, that **firstly**, the conduct of the petitioner was not proper as a sales manager. According to management, the behavior of the petitioner was bad towards his seniors. He was used to abusive language with his senior colleagues in the office premises for which show-cause notice was issued against him, which he never reply. Despite several warnings, he did not improve himself, rather misbehaved his seniors. Hence, after giving him opportunity of hearing on proving of misconduct, his services were terminated as per the terms of employment, which he had accepted at the time of his appointment. Management has denied the allegation that, principles of natural justice were not follow**. The second ground** for termination taken by management is that, the performance of the petitioner in the months after he was promoted was not up to the mark and the Branch Manager was compelled to pursue him for giving performance for which he was appointed. He was in subordinate and did not adher to the general guidelines mentioned in his appointment letter, he was also issued a request for clarification in relation to in subordination vide communication dated 23.12.2011. Though he was given time to improve, he did not improve, he was issued a warning letter for poor performance of on 08.02.2012 informing him of his poor performance for the period October-2011 to December-2012 which was too below the acceptable standards of management. He had not given any business within the period 01.04.2011 to 22.05.2012.

As the termination letter dated 13.06.2012 mentions that, a show-cause notice on 30.05.2012 was issued to the petitioner on account of misconduct of using abusive language against his senior colleagues in the office premises while he was on duty and despite receipt of show-cause notice, he did not provide satisfactory reply to the same, The management had adequate proof of the misconduct which is grave in nature and hence his employment stood terminated from closure of business hours of 15th June 2011, which was rectified vide another communication making it operational from 15th June 2012. There is no mention of non-fulfillment of goal allotted to the petitioner has a ground of termination. Hence, the second ground pleaded by management for termination of services of the workman loses significance and what is required to be looked into as to whether the ground taken in the termination letter is in violation of principles of natural justice, because no sufficient opportunity was granted to the petitioner for proving his innocence.

Since, the termination of services of petitioner is on ground of misconduct said to be committed by him, no doubt it is punitive. As stated above, the case of management is that, the workman did not reply to the letter dated 30.05.2012 seeking clarification from him with respect to the misconduct alleged. The management witness has stated this fact in his affidavit as his examination in chief. He also states that, his mail dated 04.06.2012, the petitioner accepted that he was tense and frustrated thus he made some comments about the sales manager. (Probably it is about the Branch Manager and due to mistake in typing, sales manager has been written).

The petitioner has filed and proved Ex. W/4, which the letter of management dated 30.05.2012. According to this letter, the petitioner was required to clarify within three days regarding allegations with respect to his involvement in using abusive language against his senior colleague in office premises, failing which it will be deemed that he has admitted the allegations. The Petitioner has filed and proved Ex. W/5 which is the communication sent by him on 01.06.2012 in which he has stated that he was required to explain on complaint made by his Senior Manager Mr. Ramendra Singh. That he strongly opposed (rejected) allegations against him.That he also stated that, he was not a type of person who could abuse his senior and he was aware about the code of conduct of Met Life. Also that, he never used such type language. This letter amply establishes the fact that, the petitioner did submit reply to the show

cause in which he denied the allegations in communication/show cause notice dated 30.05.2012, which are the basis of termination of his services. As regards, the communication dated 04.06.2012, with respect to which the management witness has stated that the petitioner had admitted the charges, there is on record Ex. W/6 filed and proved by the petitioner. This is the communication dated 04.06.2012. Reading of this communication reveals that the Branch Manager Ramendra Singh was scolding them on phone for NOP just after he was tense and frustrated, so he made comments about sales managers. One of the colleagues of the petitioner communicated this fact to him he was also tense and in business pressure, asked the Branch Manager as to while he made comments about sales managers. During this conversations, my voice was loud but intention not bad. This also cannot be as admission of charge.

From the above discussion, it is established that action of management in assuming the misconduct alleged admitted by petitioner is against fact. This is also established that, the petitioner did submit reply to the show-cause notice denying the allegations. In this circumstance, it was incumbent on management to hold an inquiry with respect to the allegations. **By terminating the services of petitioner without holding an inquiry into the allegations, the management is held to have acted arbitrarily and hence the act of termination of services of the petitioner by respondent management is held unjust and illegal**.

Issue no.-2 is answered accordingly.

Issue No.-3:-

In the light of findings recorded above, the question arises as to what relief the petitioner workman is entitled to ?

In the case of ***Deepali Gundu Survasey vs. Kranti Junior High School, reported in (2013) 9 SCR 1***, the Supreme Court laid down following proposition of law after analyzing its various pronouncements. The relevant paragraph is being reproduced as follows :-

33. The propositions which can be culled out from the aforementioned judgments are:

(i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule. F

(ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found G proved against the employee/workman, the financial condition of the employer and similar other factors.

(iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/ she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

(iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and I or certified standing orders, if any, but holds that E the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then F there will be ample justification for award of full back wages.

(v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the G concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman A to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the. cases of wrongful I illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and th~re is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages:

(vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the

parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position visa-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., .the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Prhlate Limited v. Employees of F Hindustan Tin Works Private Limited (supra).

(vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the G ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.

Based on the findings arrived at as above, in the light of the proposition of law as stated above, the petition deserves to be allowed. The petitioner deserves to be reinstated with back wages and benefits from the date of his termination.

Issue No.-3 is answered accordingly.

ORDER

Petition is allowed. Holding the action of management respondent in terminating the services of petitioner vide order dated 13.06.2012 unjust and illegal, it is set aside. The respondent management is directed to reinstate the petitioner with back wages and benefits from the date of his termination within 90 days from the order, failing which interest @ of 6% p.a. from date of Order till payment.

No order as to cost.

P. K. SRIVASTAVA, Presiding Officer

DATE: 06/02/2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भिलाई स्टील प्लांट, सेल** के प्रबंधतंत्र के संबद्ध नियोजकों और **बीएसपी वर्कर्स यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 92/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल -26011/8/2017-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 497.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 92/2017)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bhilai Steel Plant, SAIL** and **BSP Workers Union** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-26011/8/2017-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/92/2017

Present: P.K.Srivastava

H.J.S..(Retd)

The President,

BSP Workers Union

Qtr. No. 9/A, Street-31, Sector -7,

Bhilai Nagar, Durg (CG)

Workman

Vs

The General Manager,

Bhilai Steel Plant,

SAIL, PO-Bhilai,

Distt. – Durg (CG)

Management

(JUDGMENT)

(Passed on this 19th day of February - 2025)

As per letter dated **28/06/2017** by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification **No. L-26011/8/2017-IR(M)** dt. **28/06/2017**. The dispute under reference relates to:

"Whether the action of the management of Bhilai Steel Plant, Bhilai, in terminating the service of Shri S. Jogulu Ex-Technician w.e.f. 22-04-2016 on the ground of permanent medical unfitness and depriving his dependent son/from compassionate appointment opportunity is legal and justified? If not, what relief the workman is entitled to?"

The undisputed facts with respect to the reference are that, the Workman S. Jogulu was first appointed by Management on 21.03.1977. While in service, he received Paralytic Attack and after long treatment, he was declared permanently unfit for service by a Board of Doctors after his medical examination on 27.02.2017. His services were terminated by Management vide its order dated 01.12.2017 on the ground of being permanently medically unfit for services due to paralytic attack, which, according to the workman, was unjust on the part of Management.

The case of the Workman is that as per Rules, one dependant from his family was entitled for compassionate appointment which was not granted by Management which is unjust, illegal and arbitrary on the part of Management.

According to Management, the Workman S. Jogulu was prematurely terminated from service, on the ground of permanent disability due to Paralytic Attack, on the basis of report of Medical Board constituted by Management which reported and was of the opinion that the Workman had become permanent medically unfit for service, just before 39 days of his superannuation. It is further the case of Management that since the Workman had almost completed his service tenure, the claim of his dependant for compassionate appointment was rightly not considered.

In evidence the Workman did not filed any affidavit. Management also did plead any evidences.

None appeared for the Workman at the time of argument. Arguments of Learned Counsel Mr. R.C. Shrivastava for Management were heard by me. I have gone through the records as well.

No written submissions were filed by any of the parties.

On perusal of record in the light of argument, the reference itself is the issue for determination.

It is the case of the Workman himself that he suffered a Paralytic Attack and in-spite of long treatment at

various hospitals, he could not recover, hence the action of Management in terminating his services on the ground of permanent medical unfitness that too on the basis of report of a Medical Board of Qualified Doctors cannot be held to be unjustified in law or fact.

As regards to claim of the Workman with regard to compassionate appointment of one of his dependants, though the Rules provided such appointment but the Amendment Clause 5.3.4. of the Rules provides that for consideration of such cases, employees having less than one year of services left on the date of medical invalidation will be excluded from consideration for compassionate appointment of their dependant. In the case in hand, it is not disputed that his services were terminated by Management on ground of permanent medical disability vide order dated 22.04.2016 whereas his date of superannuation was 31.05.2016 thus it is clear that he was covered under the Exclusion Clause as mentioned above. Thus on the basis of above discussion, action of Management in not offering compassionate appointment to the dependant of the Workman S. Jogulu on termination of his services on the ground of permanent medical disability cannot be held to be justified in law or fact. Judgment of Hon'ble Supreme Court in case **of Civil Appeal No. 255 OF 2025 arising out of SLP (CIVIL) NO. 30532 /2019 Canara Bank vs Ajithkumar G.K**. supports this view.

On the basis of above discussion and findings the reference is answered as follows.

AWARD

Holding the action of the management of Bhilai Steel Plant, Bhilai, in terminating the service of Shri S. Jogulu Ex-Technician w.e.f. 22-04-2016 on the ground of permanent medical unfitness and depriving his dependent son from compassionate appointment opportunity is held legal and justified in law.

No order as to cost.

P.K.SRIVASTAVA, Presiding Officer

DATE:- 19/02/2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 498.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स भिलाई स्टील प्लांट, सेल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती ईश्वरी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 99/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल -26011/5/2018-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 498.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 99/2018)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Bhilai Steel Plant, SAIL** and **Smt. Ishwari** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-26011/5/2018-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/99/2018
Present: P.K.Srivastava
H.J.S..(Retd)

Smt. Ishwari

W/o Late Sh. Chandrashekhar
Shiva Line, Balaji Nagar, Khursipar Zone-2
Bilai, District – Durg (C.G.)

Workman

Versus

The General Manager (Pers.),
M/s. Bhilai Steel Plant, SAIL
Post – Bhilai, District – Durg
Chhattisgarh - 490001

Management

AWARD

(Passed on this 14th day of February-2025.)

As per letter dated 29.11.2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-26011/5/2018-IR(M) dt. 29.11.2018. The dispute under reference related to :-

> ***"Whether action of the Management of Bhilai Steel Plant, Bhilai, in holding enquiry in absence of Shri Chandrashekhar (P.No. 895211), Attendant (missing as per FIR copy), removing him from service and denying Compassionate Appointment to dependent of Shri Chandrashekhar is proper, legal and justified ? If not, what relief the widow/dependants are entitled to ?"***

After registering the case on the basis of the reference, notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The undisputed facts are that, Chandra Shekhar was appointed by the management of Bhilai Steel Plant on 14.04.1987 as an Attendant and was working till 03.09.1994. On 03.09.1994 he went at his workplace from his house and never returned. A missing report was lodged by his wife, the applicant Ishwari (died during pendency of the case and represented by her legal representatives). An application for compassionate appointed was filed by the applicant wife with management on 15.01.1995 which was not responded by management. Several other prayers and representations were also turned down by management, rather the management conducted an inquiry on 03.10.1994 against the workman alleging against him the charge of misconduct by way of unathorizedly and willfully absenting from duty. The applicant wife informed the management that her husband the workman was missing, but management passed an order in 1995 terminating the services of the workman on the charge of willful absence, which is arbitrary, unjust and illegal. **According to the applicant**, no proper inquiry was conducted and the workman was awarded maximum punishment of dismissal. The representation of the applicant wife for compassionate appointment was also wrongly turned down, which is arbitrary, unjust and illegal.

The case of management is that, the workman was in the habit of absenting himself from work without informing management or without getting leave sanctioned. His absence for the period April-1994 to August-1994 was 93 days. He was issued a charge-sheet on 03.10.1994, which was sent to his residence i.e. the company quarter allotted to him as well his permanent residence recorded in his service records, but not responded by the workman. An inquiry was conducted, the notice was again sent to his two addresses but were returned unserved with an endorsement that the whereabouts of the addressee is not known to anybody. Hence the inquiry was conducted ex-parte. The inquiry report was also sent to him on his address with a show-cause notice, but no response was received from workman. Hence, taken that the workman had abandoned his service, he was terminated from service. Further

according to management since the workman was a terminated employee, his dependents are not entitled to compassionate appointment.

In evidence, the applicant filed Judgment of Civil Judge, Junior Division, Durg in Case no. 345-8/2006 and decree in which the applicant has been declared civilly dead by the Court and applications for compassionate appointment filed by the applicant on 10.03.2016 and 19.04.2016, marked Ex. W/1 to W/3. The applicant side has filed affidavit of one of its legal representative, which is on record.

Following preliminary issue was framed vide order dated 11.12.2023:-

Whether the departmental inquiry was legal and proper ?

On the basis of evidence, this issue was decided by order dated 19.04.2024 holding the departmental inquiry legal and proper. This order is part of this Judgment.

Following additional issues were framed thereafter :-

1. ***What will the effect of order of Civil Court and Decree declaring the civil death of the workman on the finding of the Inquiry Officer regarding proof of charge and punishment order ?***

2. ***Whether the workman side is entitled to any relief ?***

I have heard arguments of Learned Counsel for applicant Shri Aditya Singh and Shri R.C. Shrivastava for management and have gone through the record as well.

Additional Issue No.-1 :-

12. Learned Counsel for workman side has referred to case ***Munni Devi Vs. Central Coalfields Limited****, W.P. (s) No. 7438 of 2013 decided by Hon'ble High Court of Jharkhand on 13th July, 2015. The facts referred in the case are almost the same to the case in hand. In the referred case also the workman proceeded for his duty from his home on 05..06.2003 and was never seen thereafter. Title suit no. 1/2011 before the Civil Judge was filed by his dependent for declaration that the workman had died a civil death. The management was also made party and the suit was contested but was decreed and vide judgment dated 13.11.2012 the civil death of that workman was declared and this order was final between the parties. In the meantime, the management proceeded with an inquiry on the ground of willful absence of the workman and terminated him ex-parte on the ground of unauthorized willful absence from duty since 05.06.2003. Hon'ble High Court of Jharkhand made following observations which are as follows :-*

> **"……. Findings rendered by the learned Trial Court, therefore, are a clear declaration of Civil Death of an employee after he went missing for 7 years from 5-6-2003. As would also appear from the relevant charge-sheet, notice and second show cause notice including the order of termination dated 17-1-2005 that the proceedings were conducted and concluded ex-parte as there was no representation on behalf of the employee, who admittedly had gone missing…….**
>
> **…….In the wake of declaration by the learned Trial Court, such a proceeding therefore, would have no legal value as the employee would be deemed to have died on 5-6-2003. The order of termination passed against the dead employee is therefore untenable in law and on facts and is accordingly quashed…**
>
> **…….Therefore, consequent to quashing of the order of termination of the employee, it would be deemed that the employee was on the roll of the company on the date on which he went**

missing i.e. on 5-6-2003 and presumed to be dead as per declaration made vide judgment and decree dated 30.11.2012/1.12.2012. The application for compassionate appointment made on behalf of the petitioner is required to be accorded due consideration in terms of the Provisions of NCWA in vogue…….

13. Now applying the principle laid down in the referred case to the case in hand, it will be presumed that the workman Triveni Prasad Tiwari was alive on 03.09.1994 and died as per declaration made by Civil Court on that date or thereafter. Hence the argument of the learned Counsel for management that the workman would be deemed to have died a Civil Death on the date of judgment passed by the Civil Court holds no water and is liable to be turned down.

*14. As regards the second point raised earlier, the inquiry against the workman will be **void ab initio** because it was against a dead person. Secondly the charge against the workman that he willfully absented himself also cannot be held proved in the eyes of law. Consequently the removal of the workman for the charge will also be **nonest**.*

Additional Issue No.-2 :-

The applicant wife, who had prayed for her compassionate appointment had made this prayer first time in 2000. Since then, 25 years have passed. She has also died.

The settled law on the point of compassionate appointment as crystallized through various decisions of Hon'ble Supreme Court in the case of ***Canara Bank Vs. Ajit Kumar GK in CIVIL APPEAL NO. 255 OF 2025 ARISING OUT OF SLP (CIVIL) NO. 30532 /2019*** is that, it cannot be claimed as a right; rather it is a type of hand holding to the bereaved family who has lost its sole bread earner and is on the verge of penury. Since, the cause has become meaningless due to lapse of time. Hence, cannot be granted.

Additional issue no.-2 is answered accordingly.

On the basis of above discussion and findings, the reference is answered as follows:-

AWARD

The action of management of Bhilai Steel Plant, Bhilai in holding inquiry in absence of the workman Chandrashekhar who was missing at the time and removing him from service is held not legal and *non est.* Denial of compassionate appointment to dependant of Chandrashekhar is held legal and justified and the widow/dependants are held entitled to no relief.

No order as to cost

DATE: 14/02/2025 P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **नेशनल इन्सुरेंस कम्पनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री किशोर माले** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 47/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम)-16]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 499.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 47/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Insurance Company Limited** and **Shri Kishore Male** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR(M)-16]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/47/2020

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Kishore Male,
H.No. A 1/778, Bhawani Nagar
Nepanagar, Distt.-Burhanpur (MP)

Workman

Versus

The Chief Regional Manager,
National Insurance Co. Ltd.
Regional Office, 4th Floor, Apollo Tower
M.G. Road, Indore (MP)

Management

AWARD

(Passed on this 18th day of February-2025.)

As per letter dated 31.07.2020 by the Deputy Chief Labour Commissioner (Central) Jabalpur, Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number J-1(1-37)/2020-IR dt. 31.07.2020. The dispute under reference related to :-

1. ***"Whether the action of the management – Regional Manager, National Insurance Co. Ltd. Indore Region in terminating the services of Shri K.K. Male (Employee No. 75018) Development Officer w.e.f. 30.06.1999 is legal and justified in view of Section 25-F of the I.D. Act 1947 ?***
2. ***"Whether Shri K.K. Male is entitled for reinstatement in service with back wages ? If yes, from which date ?"***

After registering the case on the basis of the reference, notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short, is that he was first appointed in 1990 and was confirmed on 27.07.1993 as Development Officer. His services were terminated by the Assistant General Manager u/s. 11 (5) of General Insurance (Rationalization of Pay Scales and Other Conditions of Service of Development Staff) Scheme 1996 vide his letter dated 16.02.1999 on the ground that his cost ratio has not been maintained. Similarly situated employee had been reinstated by management on the ground of a direction of SC/ST Commission. Supreme Court had passed a direction that parity should be maintained, hence the workman made a representation to the SC/ST Commission but of no avail. He also filed an appeal to the Assistant General Manager, Mumbai on 07.04.1999, which was dismissed. He raised a dispute before the Regional Labour Commissioner (C) in 2017. On failure of conciliation, reference was made to this Tribunal. **According to the workman**, the action of management is illegal, unjust and arbitrary. The workman has served, the relief of his reinstatement with all back wages and benefits.

The case of management, as taken by them in their written statement of defense is that, since the very first year of his service, the workman never attained the minimum target. His probation period was extended from 10.01.1991 to 09.01.1992 vide letter of management dated 14.03.1991 on his request. He was allotted a target of Rs. 2,00,000/- which was further revised to 2,50,000/- vide letter of management dated 20.06.1991. The workman could achieve target of only Rs. 1,61,256/-. His probation period was further extended for one year with same target. He could get business of Rs. 2,59,000/-, hence was confirmed in service w.e.f. 10.01.1993. Thereafter, as claimed by management he could never achieve his target in 1993-94, 1994-95, 1995-96, 1996-97, 1997-98. In view of his continuous incompetence in not achieving the target, the management terminated his services after previous warnings issued by management on 18.07.1996, 05.05.1997, 27.08.1997, 11.12.1997 and 20.01.1998, in the light of para 11(5) of the General Insurance (Rationalization of Pay Scales and Other Conditions of Service of Development Staff) Scheme 1996 (Scheme) amended from time to time, which is just and legal. Management has thus prayed that the reference be answered against the workman.

In evidence, the workman did not file his affidavit. Management filed affidavit of its witness as its examination in chief. No cross examination was done by workman.

At the stage of argument, none appeared for the workman and the case was fixed for Award, after hearing argument of management side submitted by learned Counsel Ms. Amrit Ruprah for management.

On the date fixed for Award, learned Counsel Mr. C.L. Sethi appeared. On his request, the workman side was granted opportunity to file written arguments after serving copy to management and date of Award was postponed, but no written submissions were filed from the side of workman.

I have gone through the records, in the light of argument.

Para 11(5 & 6) of the Scheme are being reproduced as follows :-

(5). The Development Officer whose basic pay has been fixed at the minimum of the scale of Development Officer, Grade II after reduction under sub-paragraph (4), shall be provided an opportunity of one year to conform to the stipulated cost limits and will be issued a warning that his services will be liable for termination if he still continues to exceed the stipulated cost limits.

(6) If the Development Officer continues to be beyond stipulated cost limits even after bringing down his basic pay to the minimum of scale of Development Officer, Grade II and providing him an opportunity of one year under sub-paragraph (5) his services shall be terminated by an officer not below the rank of Assistant General Manager, after giving him a notice of 30 days.

Provided ……...

Provided further ……

Hence, it is clear that when the workman was consistently deficient in achieving the target allotted to him, the management was within its right to terminate his services. No employer can afford to have a deadwood.

On the basis of above discussion and findings, the reference is answered as follows :-

AWARD

The action of the management – Regional Manager, National Insurance Co. Ltd. Indore Region in terminating the services of Shri K.K. Male (Employee No. 75018) Development Officer w.e.f. 30.06.1999 is held legal and justified and he is held not entitled for reinstatement in service.

No order as to cost.

DATE: 18/02/2025 P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 500.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एसीसी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **कैमोर सीमेंट एवम खदान मज़दूर संघ** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 02/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल -29011/23/2022-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 500.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 02/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **ACC Limited** and **Kymore Cement Avam Khadan Mazdoor Sangh** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-29011/23/2022-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/02/2023

Present: P.K.Srivastava

H.J.S..(Retd)

The President,
Kymore Cement Avam Khadan Mazdoor Sangh,
R/o ACC Colony, Qtr. No. – NTRT/123,
Tehsil – Vijayraghavgarh,
Katni(M.P.) – 483880.

Workman

Vs

The Director Plant,
ACC Ltd.,
Kymore Cement Works,
PO- Kymore, Katni(M.P.)-483880.

Management

(JUDGMENT)

(Passed on this 03rd day of Feburary-2025)

As per letter dated **23/12/2022** by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification **No. L-29011/23/2022 (IR(M))** dt. **23.12.2022.** The dispute under reference relates to:

"Whether the claims of Kymore Cement Avam Khadan Mazdoor Sangh, Kanti Vide letter dated 10.05.2022 against the management of ACC Limited, Kymore that the suspension of Shri Satrujeet Singh is illegal and his intentional transfer from Keymore Cement Works, Katni (M.P.) to Gagal Cement Works, Bramana, Bilaspur (H.P.) as a punishment, are proper, legal and justified? If yes, what reliefs the disputant are entitle to and what directions, if any, are necessary in the matter? "

According to the Workman side, the Workman, a X-ray Technician Grade-4 was posted in the department of OFC, with the Management Kymore Cement Works, and was placed under suspension vide order dated 07.09.2023 by Management on the charges of alleged misconduct, he was issued a charge-sheet. A Departmental Enquiry was conducted and punishment order dated 06.05.2022 was passed by the Management. He was punished for the charge of misconduct which was suspension for period of 60 days and his transfer from his place of posting on CMU Kymore to CMU Gagal. It was also mentioned the punishment order that management had also decided to transfer his services with immediate effect and a separate order will be issued in this respect. The management thereafter, issued a transfer

order Dated 06/05/2022 **transferring him as Lab Technician to Gagal.** He raised a dispute in this respect and after failure of conciliation, a report was sent to the appropriate Government by the concerned Assistant Labour Commissioner on 01.06.2022 as well to management. He filed a Writ Petition No. 19485/2022 before Hon'ble High Court of MP, which was disposed by Hon'ble High Court vide its order dated 30.08.2022. The management was directed to take appropriate decision on the communication dated 01.06.2022 (Conciliation Failure report) within a period of 30 days from the date of production of order. The Management rejected the representation of the Workman for stay/cancellation of his transfer. He preferred another Writ Petition No. 26088/2022 which was heard and decided by Hon'ble High Court of MP vide its order dated 17.11.2022, the petition was allowed with direction that appropriate Government will send a reference to this Tribunal within 30 days from the date of production of the order or before it. Since, this Tribunal at Jabalpur was not functional due to non-appointment of Presiding Officer, the Workman again filed a Writ Petition No.1398/2023 which was disposed after hearing by order dated 19.01.2023, with a observation that transfer of an employee cannot be made by way of punishment and Management was directed to consider this aspect, if the Workman was being transferred only because of punishment, the decision taken by Management could be reviewed by them. The Workman was also directed to make a representation before the Management within 7 days from the date of order to Management which was mandated to be decided in the light of observations made in the order. It is further the case of the Workman that he did file a representation on 27.01.2023 in the light of the said order which was wrongly dismissed by Management with an observation that there was a requirement of X-ray technician at Gagal and the X-ray unit was non operational since 2017, hence the workman, a X-ray technician , was thus a surplus for Kymore. According to the Workman, being a Low Paid Employee, his transfer from MP to a distant place in Himachal Pradesh is quite taxing and is punitive.., hence mala fide and not in good faith, further, his transfer is not based on administration exchanges rather, as a tool of his harassment hence, mala fide and arbitrary. The Workman has thus prayed that holding his transfer order dated 14.02.2023 bad in law, the Workman be held entitled to be retained at his present place of posting with all consequential benefits.

Case of management is mainly that, the Workman was issued a charge sheet alleging misconduct on his part by absenting himself from the Occupational Health Centre on 05.03.2022 while working as X-ray Technician resulting into disruption of X-ray work of emergency and when enquired about this by the in-charge Doctor, he misbehaved with him, thus committed misconduct. An enquiry was held in which the charge was found proved and a Workman was punished with the period suspension.

It is further the case of Management that, since the X-ray Machine at Kymore was non-functional since 2017 the Workman was surplus as X-ray Technician whereas the post of X-ray Technician was laying vacant in the Gagal Unit, hence he was transferred by Management in the interest of administration, at the Gagal Unit and not by way of punishment. Thus according to Management, his transfer was bona fide and in good faith. Management has thus prayed that the reference be answered against the Workman.

Both the sides have filed documents which are not disputed, affidavits have also been filed.

I have heard argument for Learned Counsel Mr. Akash Chaudhary for the Workman side and Mr. Kuldeep Bhargav for Management. I have gone through the record as well.

From the perusal of record in the light of rival arguments it comes out that according to the reference the dispute referred is whether the claim of the Workman Union raised by its Letter Dated 10.05.2022 regarding suspension and transfer of the Workman. This refers to the transfer order dated 06.05.2022. **Pleadings of both the parties with respect to dispute have been detailed earlier.**

As held in the cases, Caparo Engineering India Ltd. Vs. Ummed Singh Lodhi and Another (2021) SCC Online SC 973, Somesh Tiwari Vs. Union of India (2009) 2 SCC 592, Ashok Kumar Tiwari Vs. State of Madhya Pradesh (2001) 1 MPLJ the principle laid down is that the Courts and Tribunals will be justified in interfering with the Transfers of Employees done with malafide exercise of power, punitive transfers and transfers orders passed in with non application of mind as well transfer to a place where there is no vacancy. Learned Counsel for Management has referred to judgment in the cases **President Vs. Director Rajasthan Patrika (2015) 4 MPLJ, State of Rajasthan Vs. Anand Prakash Solanki (2003) 7 SCC 403, Rajneesh Khajuria Vs. Wockhardt Limited (2020)3**

SCC86 in which it has been laid down that transfer is an incident of service and power of transfer is vested in the employer in terms of appointment. Further held that unless transfer is not mentioned as a condition of service, it cannot be held to be a change in service condition and hence not in violation of Section 9A of Industrial Disputes Act, 1947. In other cases, **M/s Bharat Iron Works Vs. Bhagubhai Balubhai Patel (1976) 1 SCC 518, and MPSRTC Vs. PRaj 1986 MPLSR 404** in which it has been held that when victimisation or malafide is pleaded by a party, the burden is on him to prove it.

Preposition of law with respect to transfers of an employee which comes out from the decision of the cases referred to above is that transfer is an incident of service and employer gets this right from the conditions of appointment which the employee has accepted at the time of joining. Also that Courts and Tribunals will interfere only when the transfers are malafide, and in bad faith with the purpose to victimise employee.

The issue which arises to be considered now is that whether the transfer order dated 06/05/2022 passed by management is malafide, in bad faith, or as a means of victimisation of the Applicant Workman or not?

As undisputedly, the terms of the appointment of the Workman specifically mention that he may be transferred to any other place under the Management. The case of the Workman is that his Transfer is an act of revenge, and malafide. Learned Counsel for Workman has submitted that the Management passed order dated 06.05.2022 transferring him as a punishment order. which they have tried to justify in their order Dated 14/02/2013 on the ground that since the X-ray plant was non functional since 2017 the workman was surplus at Kymore. This stand of management militates against facts that the allegations in the charge for which the workman was enquired into by Management which was that due to his unauthorized absence on one day for some reasons X-ray Machine could not be operated resulting in inconvenience to patients. Learned Counsel has further stated that the Workman was appointed and working as X-ray Technician there is no post Lab Technician at Gagal rather there is a post of Occupational of Health Worker where Santosh Kumar was working and Superannuated Since, Management has transferred him at place were his post does not exist, this transfer is bad in law.

Per contra, the Learned Counsel for Management has submitted that there is a post of X-ray Technician at Gagal where the Workman has been ordered to transferred, which was vacant and this job was done by Santosh Kumar the Occupational Health Worker. After his retirement, the job of Occupational Health Worker and X-ray Technician both are being done on outsourcing basis whereas the Workman is surplus because X-ray Machine at Kymore is not functional since 2017, hence has transferred to Gagal cannot be said to be malafide rather it is in the interest of administration. This fact requires to be mentioned here that vide transfer letter dated 06/05/2012, the Workman was transferred as Lab Technician this error was corrected by Management vide its letter dated 19.02.2023 stating that it was a typing mistake.

From the evidence on record, it also comes out that it is in the statement of Management witness once that though the X-ray Machine was not working, due to want of certain approvals with regard to radiations and efficiency of the machine, X-ray work was done in emergency though the witness himself admitted that it was against law. If this is true, the management is guilty of exposing the patients and the employee who is involved in the operation of the X-ray Machine, the applicant workman in this case, to exposing them to harmful radiations, thus risking their lives, this is also a default. Whether the suspension is a part of punishment, is not in the reference, I refrain myself from making any observation in this respect but, if the stand of management, that X-ray Machine was non functional since 2017 the allegation in the charge that unauthorized absence of the Workman resulted into inconvenience to the patients gets vanished. **This fact is a relevant factor in deciding whether the punishment order dated 06.05.2022 and the transfer order transferring the X-ray Technician to the post of Lab Technician vide order dated 06.05.2022 is bonafide or not.**

Also it comes out from perusal of record that Management has issued another letter dated 19.02.2024 stating that there was a typing mistake in the Transfer order dated 06.05.2022 in fact, workman has been transferred on the post of X-ray Technician hence the word Lab Technician written in the said Transfer order dated 06.05.2022 be read as X-ray Technician.

From above discussion it is established that the punishment order speaks about transfer of the Workman. It goes to show that it is punitive. The so called separate order dated 006.05.2022 is nothing but offshoot of the punishment order dated 06.05.2022. **Secondly**, by this order, the Workman was transferred to the post of Lab Technician, the post which he was not holding nor was appointed rather he was a X-ray Technician. On this ground also, the transfer order dated 06.05.2022 is bad in law.

As regards the argument from the side of the workman that Transfer was in mid Session, this ground is ceased to exist because of lapse of time hence does not required to be considered.

As regards to effect of the amendment order dated 19.02.2024 in the transfer order, it was passed during the pendency of the proceeding before this Tribunal. Hence it could be held as a patch work.

Since the Management has established the fact the since the X-ray Machine is non functional at Kymore since 2017 and no one is posted at Gagal Unit where there is a post of X-ray Technician, Management is also within its right in transferring the applicant workman by a fresh transfer order.

In the light of above discussion, holding the transfer order dated 06.05.2022 bad in law, it is quashed. The Workman will be deemed in continuous service of the Management and shall be entitled to wages as well benefits deeming him to be in continuous service as if he was not transferred vide order dated 06.05.2022 nor was relieved under that order. The Management may issue a fresh transfer order passed on the needs regarding X-ray Technician at Gagal transferring the Workman at Gagal Unit.

Petition stands disposed accordingly.

No order as to cost.

DATE:- 03/02/2025 P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स एयरपोर्ट ऑथोरिटी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **इंडियन एयरपोर्ट कामगार यूनियन (आईएकेयू)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न.- 18/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम) -17]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 501.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 18/2018)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Airport Authority of India** and **Indian Airport Kamgar Union (IAKU)** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-17]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 18/2018

The General Secretary,

Indian Airport Kamgar Union (IAKU),

Quarter No. B-140, Pocket-A,

INA Colony, New Delhi-110023.

VERSUS

The Chairman,

M/s Airport Authority of India,

Rajiv Gandhi Bhawan, Safdarjung Airport,

New Delhi-110003.

Appearance

For claimant: None

For respondent: Sh. Vaibhav Kalra and Ms. Neha Bhatnagar, Ld. ARs

AWARD

The appropriate Government has sent the reference refered dated 16.02.2018 to this tribunal for adjudication in the following words:

"Whether the action of the management of Airports Authority of India in discontinuing the payment of Proficiency Allowance bassed on a totally different concept and paid to the workers since 1997, on the plea of introduction of the Scheme of Performance Linked Payment (PLP), is legal & justified? If not, to what relief the workers are entitled?"

After receiving the said reference, notice was issued to both the parties. Both the parties have appeared. Claimant/union has filed the claim statement with the prayer that declare notification of AAI regarding discontinuing the payment of Proficiency Allowance issued on basis of Bi-partite agreement held between Airports Authority Employees Union and AAI management U/s 18(1) of the **Industrial Disputes Act (hereinafter called as an "Act")** and declare restoration of Proficiency Allowance paid as an Incentive in addition to Productivity Linked Incentive/Ex-gratia.

Respondent has filed the WS. He denied the averment made in his claim statement. He submits that claim petition is devoid of merit as it was raised by un-recognised union of the management. He also submits that claim is not maintainable and deserves to be dismissed.

After completion of the pleadings, following issues has been framed vide order dated 15.04.2019 i.e.:-

1. If the proceeding is maintainable.
2. Whether the introduction of the scheme of Performance Linked Payment (PLP) is suppression of proficiency allowance is legal and unjustified.
3. Whether there was proper espousal of the dispute and the General Secretary of India Airport Kamgar Union has been properly authorized to represent the workmen.
4. To what relief the parties are entitled to.

Cross-examination of the witness whose affidavit had already been filed, however, since long, nobody has been appearing on behalf of the claimant to substantiate their claim. Counsel for the respondent had stated that the Ld. Additional District Judge vide order dated 25.02.2022 had restrained the witness Mr. Rudrappa from using in any manner the letter head, stamps, seals, logo and the name of the plaintiff union in respect of business/affairs/activities of the said union. He further submitted that since then, neither the AR of the claimant union has been appearing nor produced any witness.

In view of the facts on record that claimants have not been appearing since then to substantiate their claim. Their claim has been resulted into failure. Consequent thereto, their claim stand dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date: 09.12.2024

नई दिल्ली, 19 मार्च, 2025

का.आ. 502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय

सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; मेसर्स इंडियन इंडस्ट्रियल सिक्योरिटी सर्विसेज (पी) लिमिटेड; मेसर्स आर. आर. एसोसिएट** के प्रबंधतंत्र के संबद्ध नियोजकों और **दिल्ली मल्टी स्टोरेएड बिल्डिंग एम्प्लाइज कांग्रेस** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न.- 01/2010)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम) -18]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 502.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 01/2010)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; M/s Indian Industrial Security Services (P) Limited; M/s R.R. Associates** and **Delhi Multi Storeyed Building Employees Congress** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-18]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 01/2010

The General Secretary
Delhi Multi Storeyed Building Employees Congress,
Vandana Building- 11, Tolstoy Marg,
New Delhi-110001.

VERSUS

1. The Chairman-cum-Managing Director,
   Indian Oil Corporation Ltd.
   Scope Complex, Core No. 2
   Lodhi Road, New Delhi.
2. Sh. Mahipal Singh Chouhan,
   M/s Indian Industrial Security Services (P) Ltd.,
   A-4/144, New Kondli, Delhi-110096.
3. **M/s R.R. Associate,**
   E-12, Sadh Nagar, Pardhan Chowk,
   Palam Colony, New Delhi-45.

Appearance
For claimant: Sh. Jagdish Prasad, Proxy for Ms. Asha Jain Madaan, Ld. AR
For respondent: None

AWARD

The appropriate Government has sent the reference refered dated 05.01.2010 to this tribunal for adjudication in the following words:

"Whether the contract arrangement between the management of IOCL and their contractors is sham and bogus and whether the same is camouflage to deprive the workmen (Lists enclosed) the benefits of regular employee? If so, to what relief the workmen concerned are entitled and from which date?"

After receiving the said reference, notice was issued to both the parties. Both the parties have appeared. Details of workmen are shown below:

List of Workmen				
S. No.	Name of the workmen	Designation	Date of Joining	Basic Pay

1.	Dilbag Singh	Security Guard	10.01.1980	6474/-
2.	Jaipal Singh	Security Guard	17.02.1983	4316/-
3.	Sukhwasi Singh	Security Guard	16.06.1983	4316/-
4.	Visheshwar Prasad	Security Guard	30.06.1983	4316/-
5.	Shiv Kumar	Security Guard	06.07.1983	4316/-
6.	Man Mohan Lal	Security Guard	08.08.1984	4316/-
7.	R.B. Pande	Security Guard	15.05.1987	4316/-
8.	Rakesh	Head Safai Karamchar	19.03.1997	4001.92/
9.	Om Prakash	Safai Karamchari	01.01.1998	3372.98/
10.	Mahipal	Safai Karamchari	01.01.1998	3372.98/

Claimants had stated in the claim statement that they had been continuously employed by Indian Oil Corporation (IOC) for many years, working under IOC's direct supervision, despite being technically hired through various contractors. They claim that there has been ongoing employer-employee relationship between them and IOC, and the contractors only acted as intermediaries without any real authority. They were engaged under a system that violated labour laws, specifically concerning the non-regularisation of their services and wage disparity. Their work has always been permanent in nature, but IOC exploited them by using contractors to deny them regular employee. All the claimants fall within the definition of workman as defined by Section 2 (s) of the I.D Act. They have filed the claim with the prayer that IOC should regularize their services from the date they started working.

Respondent-1 and Respondent-3 had filed their WS respectively. They denied the averment made in the claim statement. Respondent-1 submitted that claim of the claimants is devoid of any merit and is liable to be dismissed. Respondent-3 submitted that claim petition is not maintainable and is liable to be dismissed.

Now, the matter is listed for workman evidence. Out of 10 workmen, only two workmen namely **Sh. Sukhwasi Singh** and **Sh. Om Prakash** had filed their affidavits. Their Examination in chief have been done. They are required to be cross-examined, but, they have not been appearing since 2019, to substantiate their claim inspite of providing a number of opportunities.

In these circumstances, when the claimants have not been appearing since long, it appears that they are not interested to pursue their case. Hence, their claim stands dismissed. Reference is answered accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room. A copy of this award is placed in each of the file.

ATUL KUMAR GARG, Presiding Officer

Date: 17.02.2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **3251/दीपक चिभर सिक्योरिटी एजेंसी; इएसआईसी डिस्पेंसरी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती मिथिलेश** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न.- 127/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम) -19]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 503.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 127/2019)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **3251/Deepak Chibhar Security Agency; ESIC Dispensary** and **Smt. Mithilesh** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-19]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 127/2019

Smt. Mithilesh, LR´s of Late Sh. Anil Kumar

R/o- Plot No. 427, Village Bijwasan,

Near Railway Crossing, New Delhi-110061.

VERSUS

1. **3251/Deepak Chibbar Security Agency,**
   Shop No. 1, Plot No. 398, Khasra No. 130, Gali No. 7,
   D- Block Prem Nagar, Najafgarh, P.S. Najafgarh,
   New Delhi-110043.
2. **ESIC Dispensary,**
   D-22, Phase-II, Mayapuri, New Delhi-110064.

AWARD

1. This is an application filed by the workman U/S 2A of the **Industrial Disputes Act (here in after referred as an "Act").** Claimant had stated in his claim statement that he was working with the M-2 through M-1 as a ¨Security Guards¨ since 02.07.2012 at the last drawn wages of Rs. 23,967/- p.m. He was performing his regular duty with utmost satisfaction with the management and never given any complaint from the management. He was retired from Army and joined with the management-2 through M-1. Management used to take a refund of Rs. 5,000/- back through workman´s bank account every month after paying salary. When he refused or protested for this, he was threatened by the management to terminate his service. Workman was taken signatures in some blank papers and vouchers by the management. He had also denied the benefits of Appointment Letter, Attendance Card, Leave Book, Bonus, minimum wages, Overtime, Leave etc. When he demanded for the same and opposed for the deduction of Rs. 5,000/- p.m. then, management got annoyed and terminated his services w.e.f. 23.08.2018 without assigning any valid reason. Hence, he filed the claim with the prayer that he be reinstated with full back wages.

2. M-1 had never appeared and he was proceeded ex-parte vide order dated 15.01.2020. As per record, M-2 i.e. ESIC had appeared and had taken preliminary objections stating that no employer-employee relationship existing between the claimant and the answering management. Claimant was engaged by the independent Contractor i.e. M-1. M-1 was the real employer of the claimant. M-2 submitted that no industrial dispute could exist and also submitted that claim qua him be dismissed. After filing the WS by M-2, he has stopped coming, and he was also proceeded ex-parte.

3. Workman himself appeared in the witness box to prove his claim. In his evidence, he had reiterated the facts mentioned in his claim statement. He had relied upon the following documents. In between he was expired. His LR´s has been brought on record. His wife Smt. Mithilesh had come into the witness box. She had reiterated the same fact as mentioned in the claim statement of her deceased husband. She had relied upon the following documents i.e.:

1. Copy of Aadhar Card is exhibited as **Ex. WW1/1.** (OSR)
2. Copy of death certificate of her deceased husband Sh. Anil Kumar is exhibited as **Ex. WW1/2.**
3. Copy of legal demand notice is **Ex. WW1/3.**
4. Postal slip is **Ex. WW1/4.**
5. Copy of statement of claim filed before the conciliation officer dated 05.09.2018 is **Ex. WW1/5.**
6. Copy of letter issued by IMO incharge dated 02.08.2018 is **Ex. WW1/6.**
7. Copy of attendance sheet of the month of July 2018 is **Ex. WW1/7.**
8. Copy of I-card issued by the contractor i.e Deepak Chhibbar Security Agency dated 30.06.2017 is marked as **Mark A**. **Ex. WW1/8 is de-exhibited** as no original document is shown.
9. Copy of complaint to anti corruption department dated 16.10.2017 is **Ex. WW1/9**.
10. Copy of failure report is **Ex. WW1/10.**

4. I have heard the argument and perused the record. Entire case set out in the claim statement is towards M-1. M-2 is the principal employer and denied the relationship of employer-employee. Documents relied by the claimant which reflects that he was the employee of M-1 i.e. **Deepak Chhibar Security Agency**. Documents Mark-A i.e.

Photocopy of the Identity card reflects so. Even the claim statement had stated that he was posted at ESI dispensary through M-1, therefore, the claim qua the ESI dispensary is not maintainable.

5. So far as the document relied by the LR´s of the claimant is concerned that her husband (deceased claimant) was employed with M-1. I-card Mark-A suggests that he was employed with the M-1. Document i.e. Ex. WW1/6 is the attendance of security guard for the month of July, 2018 of the ESI dispensary which was forwarded to **Assistant Director, Estate Cell by IOM incharge of ESIC** for payment to the contractor. Presence of the claimant in the month of July, 2018 is also exhibited as Ex. WW1/7 where it had shown that he had worked for 27 days. Further Ex. WW1/9 reveals that claimant workers had lodged complaint in Anti Corruption Department, New Delhi regarding the above said facts.

6. Before proceeding further, text of section 25F, G and H of the Act are required to be reproduced herein :

25F. Conditions precedent to retrenchment of workmen: *No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-*

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

25G. Procedure for retrenchment*.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*

25H. Re-employment of retrenched workmen*.—Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 4[to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman] who offer themselves for re-employment shall have preference over other persons.*

7. From perusal of the above said sections, it is inferred that the claimants have no absolute right to remain in the employment of the management. The management can discontinue or retrench the workmen who have completed not less than one year of service under the employer if he has given a one month notice in writing indicating the reason for retrenchment and the period of notice has expired or he has paid the wages in lieu of notice period. The second condition is that the retrenchment compensation shall also be paid equivalent to 15-days of average pay for every completed year of continuous service. Besides this, appropriate government shall also be informed regarding the retrenchment.

8. Statement of claim and these documents clearly established that claimant is the employee of the M-1. As the M-1 has not brought any evidence contrary that the workman himself had left the job or his services had been terminated by way of punishment or he had been given any one month salary, therefore, it is established by the claimant by preponderance of evidence that his services had been terminated illegally and unjustified and in violation of Section 25 of the ID Act.

9. Now, the question arises as to what relief the workman is entitled. Since the workman was expired and his Legal heir has come on record, therefore, it is assuming that the workman was in service till his death from the date of termination. M-1 is directed to pay the entire salary at the rate of last drawn salary till his death. He is also directed to pay the salary within one month of passing this award failure of which 9% interest per annum shall be attracted. Award is passed accordingly. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D Act 1947.

ATUL KUMAR GARG, Presiding Officer

Date: 04.03.2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आईओसीएल, गुवाहाटी रिफाइनरी, मेसर्स अभय कालिता** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री दीपक दास** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी, पंचाट (रिफरेन्स न.- 14/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. जेड-16025/04/2025-आईआर(एम) -21]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 504.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 14/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **IOCL, Guwahati Refinery, M/s Abhay Kalita** and **Shri Deepak Das** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-21]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 14 of 2020.

PARTIES **:** Sri Dipak Das, Guwahati. ……Workman.

-vrs-

The Management of (1) IOCL, Guwahati Refinery,

Guwahati and the Contractor M/S Abhay Kalita, Noonmati, Guwahati.….OP/Management.

REPRESENTATIVES:

For the Workman: Sri Dipak Das, Workman.

For the Management. : Sri S. Saini, DGM, IOCL, Guwahati Refinery, Guwahati.

For the Contractor. : Sri Abhay Kalita, the Contractor,

INDUSTRY : IOCL, Guwahati Refinery, Guwahati

STATE : Assam.

Date of Award : 26/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour and Employment, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, vide its Order **No. G/R. 8(11)/2020-Dy. CLC/ID** dated 03-12-2020 has been pleased to refer the following dispute between Sri Dipak Das the workman and the Management of IOCL, Guwahati Refinery, Guwahati the Contractor, M/S Abhay Kalita, Guwahati for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Oil Corporation Ltd., Guwahati Refinery, Noonmati, Guwahati-7810202, Assam and their service provider/Contractor M/s Abhay Kalita, Narangi Forest Gate, House No-08, Yubanagar Road, Noonmati, Guwahati-781026 in terminating the services of Sh. Dipak Das, Contract Worker of IOCL, Guwahati Refinery Noonmati, P.S.-Noonmati, Guwahati-781020, Dist-Kamrup (M) is justified in violation of Sec. 25 (F) of I.D. Act,1947 together with non-payment of wages for August-September,2020? If not, what relief Sh. Dipak Das is entitled to?"

On receiving Order **No. G/R. 8(11)/2020-Dy. CLC/ID** dated 03-12-2020 from the Office of the Deputy Chief Labour Commissioner (Central), Guwahati, Ministry of Labour and Employment, Government of India, for adjudication of the dispute, **Reference case No. 14 of 2020** was registered on 16-12-2020 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

On 19-03-2021 the workman Mr. Dipak Das has appeared and filed a petition praying for withdrawing this reference Case. It is urged that the claim raised by him against the Management of IOCL, Guwahati Refinery, Guwahati and the Contractor has been settled and hence he has no claim in this reference.

In view of the facts and circumstances mentioned in the petition the prayer for withdrawing this Reference Case is accordingly dismissed as withdrawn vide order dated 19-03-2021.

The order dated 19-03-2021 was updated at Samadhan Portal, but the same was returned through the Samadhan Portal due to non-issuance of physical copy of the Award by my learned predecessor.

Accordingly, the Case record of Reference case No. 14 of 2020 is put up before me in the light of the email dated 18-05-2023, of IR (Misc) section, Ministry of Labour and Employment, Govt. of India. I perused the record and order dated 19-03-2021. The workman is intended to withdraw the case.

Hence,

ORDERED

As per the above order dated 19-03-2021 the Reference Case No.14 of 2020 stands dismissed as withdrawn. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ऑयल इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ऑयल इंडिया वर्कर'स एसोसिएशन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी, पंचाट (रिफरेन्स न.- 01/2021)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल-30011/26/2020-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 505.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 01/2021)** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Oil India Limited** and **Oil India Worker's Association** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-30011/26/2020-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 01 of 2021.

PARTIES: The General Secretary, Oil India Worker's Association, Duliajan, Assam.

……**Workmen/Union**.

-Vrs-

The Resident Chief Executive, Field Head Quarters, Oil India Ltd. Duliajan, Assam. …….**OP/Management**.

REPRESENTATIVES:

For the Workmen/Union : None

For the Management. : Mr. S.N. Sarma, learned Senior Advocate.

Mr. Kan Kalita, learned Advocate.

Mr. Mehboob Hussain, learned Advocate.

INDUSTRY : Oil India Ltd.

STATE : Assam.

Date of Award : 27/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub–section (1) and Sub-Sec (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its order No. **L-30011/26/2020-IR(M) dated 21-12-2020** has been please to refer the following dispute between the employer, that is the Management of Oil India Ltd. and their Workmen for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of OIL (FHQ) Duliajan is legal and justified by terminating the contractual employment of 31 nos. of workmen (List attached) when they have put in 240 days of contract service is in violation of sec 25 F of ID Act,1947?, and failure of management of OIL being a major CPSU to provide suitable employment to the aforementioned 31 workers, when they have been working on outsourcing basis since 2011 continuously ? if not, what compensation the above group pf workmen are entitled ?"

On the basis of said order instant case has been registered on 08-01-2021 and notices were issued to the Management and the workmen/Union for appearance and filing claim statement and written statement.

Since initiation of this proceeding, more than 4 years have passed but none of the Union representative have appeared after two consecutive notices were issued. As per record it seems that after receiving first notice the General Secretary of the Union send a letter to Secretary of Tribunal regarding his bad health on 23-02-2021. Thereafter 4 years he does not turnup. Thereafter, on 16-12-2024 a registered notice was sent to the General Secretary of the Union which is serve personally to addressee as per postal record. But he does not turn up. So, the case is fixed up today for appearance of parties and filing of claim statement by the Union as last chance.

Mr. Kan Kalita, learned Counsel for the Management of Oil India Ltd., is present. On repeated calls at 12-20 p.m. none appeared for the Union nor any step has been taken on their behalf.

Considering the circumstances it appears to me that ample opportunity has been provided but the concerned Union, representing the workmen is not inclined to pursue this case. It is thus, abundantly clear that the Union is not interested to go ahead with the proceeding. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 506.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **ऑयल इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ऑयल ड्रिलिंग एंड प्रोडक्शन वर्कर्स यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी, पंचाट (रिफरेन्स न.- 08/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल -30011/33/2022-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 506.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 08/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Guwahati** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Oil India Limited** and **Oil Drilling and Production Workers Union** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-30011/33/2022-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

PRESENT: Shri Ajai Kumar Srivastava.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 08 of 2023.

PARTIES: The President, Oil Drilling and Production Workers Union, Duliajan, Dibrugarh, Assam. **……Workmen/Union.**

-Vrs-

The Resident Chief Executive, Field Head Quarters, Oil India Ltd. Duliajan, Assam. **….OP/Management.**

REPRESENTATIVES:

For the Workmen/Union : None
For the Management. : Mr. S.N. Sarma, learned Senior Advocate.
Mr. Kan Kalita, learned Advocate.
Mr. Mehboob Hussain, learned Advocate.
For the Contractor. : Mr. Dipjyoti Deka, learned Advocate.
Mr. Nayan Jyoti Kumar, learned Advocate.
Ms. Kankana Baruah, learned Advocate.

INDUSTRY : Oil India Ltd.
STATE : Assam.
Date of Award : 27/02/2025.

AWARD

In exercise of powers conferred under clause (d) of sub–section (1) and Sub-Sec (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its order No. **L-30011/33/2022-IR(M) dated 24-02-2023** has been please to refer the following dispute between the President, Oil Drilling and Production Workers Union, Duliajan, Dibrugarh and employer, that is the Management of Oil India Ltd. Duliajan, Dibrugarh and the Contractor Jay Bee Energy Pvt. Ltd. Dibrugarh for adjudication by this Tribunal.

SCHEDULE

"Whether demand of Oil Drilling and Production Workers Union (O.D.P.W.U.), Duliajan, Assam vide letter dated 17-08-2022 to the management of M/s Jay Bee Energy Private Ltd., Guwahati (Contractor) under Oil India Limited, Dibrugarh, Assam for an additional coverage of Insurance of Rs. 5 lakhs for the Workers is proper, legal and justified ? If yes, to what relief the disputant Union is entitled and what directions, if any, is necessary in the matter ?"

On the basis of said order instant case has been registered on 11-04-2023 and notices were issued to the Management, Contractor and the workmen/Union for appearance and filing claim statement and written statement.

Since initiation of this proceeding, about two years have passed but none of the Union representative have appeared after issued two notices. As per postal record both registered notices have been served personally to addressee. So, the case is fixed up today for appearance of parties and filing of claim statement by the Union, as last chance.

Mr. Kan Kalita, learned Counsel for the Management of Oil India Ltd., is present. On repeated calls at 11-30 a.m. none appeared for the Contractor and the Union nor any step has been taken on their behalf.

Considering the circumstances it appears to me that ample opportunity has been provided but the concerned Union, representing the workmen is not inclined to pursue this case. It is thus, abundantly clear that the Union is not interested to go ahead with the proceeding. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case No. 08 of 2023 is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

AJAI KUMAR SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मार्च, 2025

का.आ. 507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स सेंट्रल सिल्वर प्लांट; मेसर्स ब्लैक हाउंड सिक्योरिटी सर्विसेज (पी) लिमिटेड; मेसर्स मार्स नेटवर्क सिक्योरिटी सर्विसेज** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनोज** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ, पंचाट (रिफरेन्स न.- 23/2011)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था ।

[सं. जेड-16025/04/2025-आईआर(एम) -22]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 507.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 23/2011)** of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Central Silver Plant; M/s Black Hound Security Services (P) Ltd; M/s Mars Network Security Services** and **Shri Manoj** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. Z-16025/04/2025-IR (M)-22]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

I.D. No. 23 of 2011

Manoj, S/o Sri Ram Sumiran,

R/o Village Pindari Khurd,

P.O. Resahat, District Rae-bareli ……..Workman

Versus

1. M/s. Central Silver Plant,
   Khadi Village & Industries Commission,
   Amawan Road, Rae-bareli;

2. Project Manager
   M/s. Central Silver Plant,
   Khadi Village & Industries Commission
   Amawan Road, Rae-bareli;

3. M/s. Black Hound Security Services (P) Ltd.
   261, Sadar Bazar, District Jhansi
   Through its Managing Director;

4. M/s. Mars Network Security Services,
   Head Office at 435, Lakhanpur,
   Vikas Nagar, District Kanpur through its
   Manager …….Respondents

Judgment

Sri Manoj-applicant/claimant had filed an application under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act 1947') on 25.1.2011. In the claim application the claimant in brief has stated that he was initially engaged on 1.3.2009 but has been shown as on 30.4.2009 in ESI card by the employer i.e. Project Manager, M/s. Central Silver Plant, Khadi Village & Industries Commissioner, Rae-bareli and since then he had been continuously working till his oral termination w.e.f. 20.3.2010 in the department of Simplex, carding & blowroom. The claimant rendered his services more than 240 days in each & every calendar year from the date of his engagement without any break even no holidays has been given. The monthly salary of Rs.2990/- was paid to the claimant after deduction of contribution of provident fund as well as ESI. The services of the claimant has wrongly been terminated/retrenched orally w.e.f. 20.3.2015 without any rhyme and reason and prior to making such termination neither any notice nor notice pay in lieu thereof was given, as such, the employers contravened and violated Section 25-F of the Act 1947.

It has also been narrated that the work on which the claimant was working is perennial in nature and is still available. About 21 workmen engaged as on daily wage basis and completed about 10 to 6 years continuous service were become eligible for regularization but in view of making regularization, their services have been terminated/retrenched orally from the month of February 2010 to March 2010 without following due process of law violation the provisions of Section 25-F of I.D. Act 1947. The claimant also stated that an issue whether the perennial in nature of work can be taken by the principal employer through contractor labours or not? On the above said basis the claimant stated that the oral termination since 20.3.2015 is arbitrary, illegal and whimsical one by not regularising his services.

On the above said strength the claimant prayed that his oral termination be set aside and the principal be directed to reinstate the claimant in service with continuity of service with full back wages with all resultant and consequential benefits.

On behalf of respondents no.1 & 2 written statement had been filed stating that Central Silver Plant, KVIC situated at Rae-bareli is governed and controller by the Government of India and as such it has its own settled principles of rules of recruitment. The claimant was never appointed by the Central Silver Plant KVIC but in fact he was deployed by a

contractor of KVIC i.e. M/s. Black Hound Security Services (P) Ltd., Sadar Bazar, Jhansi that too as per exigencies of work. As such, the present reference is bad in law as it is nothing but a mis-joinder of parties with the sole purpose of causing acute harassment to KVIC and extracting undue monetary gains. It has also been stated in the written statement that the labour supply contract of M/s. Black Hound Security Services (P) Ltd. Jhansi with whom the applicant was employed came to an end on 24.12.2009. As per information given by the contractor M/s. Mars Network Security Services, Lakhanpur, Vikas Nagar, Kanpur the claimant had worked under him and left the job of his own accord after filing a false and fabricated application based on concocted story before the Assistant Labour Commissioner, Lucknow. In view of above there was no relationship of master and servant in between M/s. Central Sliver Plant KVIC, Rae-bareli and the applicant Sri Manoj who was a contractor worker and no case is made out against Central Silver Plant, KVIC, Rae-bareli.

Further in his written statement the respondents also denied the stand taken by the claimant. The respondent no.3 M/s. Black Hound Security Services (P) Ltd., Jhansi also filed its written statement. Thereafter the rejoinder/reply to the written statement had been filed by the workman/claimant and also the documents were exchanged between the parties.

On 6.2.2014 the workman/claimant Sri Manoj filed his evidence on affidavit in order to prove his case. Thereafter in spite of repeated opportunities the workman/claimant did not turn up for cross examination on evidence which he had filed by way of affidavit. Lastly on 6.11.2024 the following order was passed:

> "*Sri R.K. Verma, counsel or workman submits that in spite of due information that workman has not turned up for cross examination. Accordingly prays that he may be exempted/cross-examination may be closed*."

Accordingly Heard Learned Counsels for parties and gone through the records.

Taking into consideration the law as laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194*** as under:

> "*It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief*."

The ***Hon'ble High Court of Allahabad vide its judgment and order dated 19.10.1983 passed in Civil Misc. Writ Petition No.6741 of 1983(Airtech Private Ltd. Versus State of U.P. & others)*** has held as under:-

> "*The matter can be looked at from another angle, which party will fail if the evidence is not led before the Labour Court in proceedings in a reference made to it for adjudication by the State Government? The obvious answer is that the workman will fail. Here the reference was made by the State Government at the instance of the workmen and for the benefit of the workman. In the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workmen. In such a situation it is not necessary for the employers to lead any evidence at all. This matter was dealt with by the Supreme Court in Sankar Chaudhary Vs. Britannia Biscuits Co. Ltd. In paragraph 30th Court held that the Labour Court or the Industrial Tribunal have all the trappings of a Court. In paragraph 31 it held that any party appearing before a Labour Court or Industrial Tribunal 'Must' make a claim or demur the claim of the other wise and when there is a burden upon it to prove or establish the fact so as to invite a decision in its favour, it has to lead evidence. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led. It must seek an opportunity to lead evidence*."

In the case of ***M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> "*The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led*."

The Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has been held as under:

"*The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed*."

Keeping in view the above said established principles of law as the workman/claimant did not turn up for cross-examination in spite of ample opportunities, so the present case is liable to be dismissed.

AWARD

For the foregoing reasons, the case is dismissed. Thus the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

Lucknow

24th February, 2025

नई दिल्ली, 19 मार्च, 2025

का.आ. 508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पीएनबी मेटलाइफ इंडिया इन्सुरेंस कम्पनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री गुलशन धनवान** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ, पंचाट (रिफरेन्स न.- 38/2012)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.03.2025 को प्राप्त हुआ था।

[सं. एल-17012/28/2011-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2025

S.O. 508.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 38/2012)** of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **PNB MetLife India Insurance Company Limited** and **Shri Gulshan Dhanwan** which was received along with soft copy of the award by the Central Government on 19.03.2025.

[No. L-17012/28/2011-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 38/2012

Ref. No. L-17012/28/2011-IR(M) dated: 22.02.2012

BETWEEN

Shri Gulshan Dhawan, S/o Sh. Kashmiri Lal, 95-D/10, Near Prabha Devi Kanya Inter College, Moradabad (UP)

AND

1. The Chief Manager (HR), PNB Metlife India Insurance Co. Ltd., Brigad Seshmahal, 5, Vani Vilash Road, Basavanagudi, Bangalore.
2. Dy. Director (HR) PNB Metlife India Insurance Co. td., IInd Floor, Commercial Motor Building 11, M.G. Marg, Hazrat Ganj, Lucknow

AWARD

By order No. L-17012/28/2011-IR(M) dated: 22.02.2012 the present industrial dispute has been referred for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the workmen of the management of M/s Metlife India Insurance Co. Ltd. in terminating the services of Shri Gulshan Dhawan S/o Shri Kashmiri Lal w.e.f. 25/10/2010 is legal and justified? What relief the workman is entitled to?"*

Accordingly, an industrial dispute No. 38/2012 has been registered.

On 24.05.2012 claimant filed claim statement with following prayer:

> *"क- वादी को उसके पद पर तथा पूर्व स्थान पर नये वेतनमान के साथ बहाल किया जाये।*
>
> *ख- वादी को टर्मिनेशन की तिथि से बहाली तक का वेतन, बोनस आदि दिलाया जाये।*
>
> *ग- आर्थिक, शारीरिक व मानसिक क्षति के रूप में कम से कम पाँच लाख रूपये दिलाये जाये।*
>
> *घ- वाद व्यय व न्यायालय की दृष्टि में जो कोई अन्य उचित अनुतोष हो तो उसे दिलाया जाये।"*

On behalf of the respondent statement of defense filed on 17.07.2012 in which preliminary objection also taken by the respondent.

Thereafter, workman filed rejoinder on 09.10.2012 and evidence in support of his cased vide affidavit dated 01.11.2014.

After filing of the evidence on affidavit, the workman did not turned for his cross- examination, in spite of several opportunities given to workman, he did not turn for his cross-examination.

Accordingly heard learned counsel for respondent and gone through the records.

In view of the above said facts the claimant/workman has not field any rejoinder/evidence in support of his case on affidavit, in spite of several opportunities given to him and taking into consideration the law as laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194*** as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

Lucknow.

27th February, 2025

नई दिल्ली, 20 मार्च, 2025

का.आ. 509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में, केन्द्रीय सरकार महाप्रबंधक, नेशनल थर्मल पावर कॉर्पोरेशन, सिंगरौली सुपर थर्मल पावर स्टेशन, शक्ति नगर, सोनभद्र - (यूपी); मेसर्स ज्योति इंजीनियरिंग वर्क्स, ग्राम तेलगवां, पोस्ट विंधनगर (बैदान), सिंगरौली,** प्रबंधतंत्र के संबद्ध नियोजकों और , **श्री किशन कुमार कुशवाह, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, कानपुर पंचाट (संदर्भ संख्या आईडी नंबर 63 of 2022), को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20.03.2025 को प्राप्त हुआ था।

[सं. एल – 42025-07-2025-72आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 20th March, 2025

S.O. 509.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 63 of 2022),** of the **Central Government Industrial Tribunal cum Labour Court, kanpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, National Thermal Power Corporation, Singrauli Super Thermal Power Station, Shakti Nagar, Sonebhadra -(U.P.); M/s Jyoti Engineering Works, Village Telgawan, Post Vindhnagar (Baidan), Singrauli , and Shri Kishan Kumar Kushwaha, Worker,** which was received along with soft copy of the award by the Central Government on 20.03.2025,

[No. L-42025-07-2025-72-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, KANPUR

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 63/2022

Ref. No. K-10/3-2/2021-IR dated 07.07.2022

BETWEEN

Shri Kishan Kumar Kushwaha, Village Chilkadad Basti, Post Shakti Nagar, Distt. Sonehbhadra- 231222.

AND

1. The General Manager, National Thermal Power Corporation, Singrauli Super Thermal Power Station, Shakti Nagar, Distt. Sonebhadra – 231222. (U.P.)
2. M/s Jyoti Engineering Works, Village Telgawan, Post Vindhnagar (Baidan), Distt. Singrauli - 486886.

AWARD

By order No. K-10/3-2/2021-IR dated 07.07.2022 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (I) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Deputy Chief Labour Commissioner (Central), Kanpur with following schedule:

"1. Whether the allegation of Shri Kishan Kumar Kushwaha, who is claimed to be a member of Project Land Looser and destitute person, was engaged as Contract Labour as Semi Skilled Worker in the establishment of National Thermal Power Works, Singrauli and his gate pass was snatched in connivance of the management of National Thermal Power Corporation Limited, Shakti Nagar for ulterior motive is correct? If so,

2. Whether the action of the management of National Thermal Power Corporation Limited, Shakti Nagar in

terminating the services of Shri Kishan Kumar Kushwaha, Semi Skilled Worker w.e.f. 12.11.2019 without following the provisions of Section 25 F of I.D. Act, 1947 is legal and justified? If not, to what relief the workman is entitled to and from which date?"

Accordingly, an industrial dispute No. 63/2022 has been registered before this Tribunal.

On 24.08.2022 an order was passed which is quoted as below:

"A.R. for N.T.P.C. appears and filed authority letter.

A.R. for Jyoti Engineering Works appears and filed authority letter.

None appeared for claimant side.

Case is fixed to 07.10.2022 for filing claim statement."

Further from the perusal of record the position which emerge out that thereafter several date was fixed for filing statement of claim in spite of opportunity no statement of claim was not filed.

On 20.07.2023 following order was passed which is quoted as below:

"A.R. for O.P. side appears.

None appeared for claimant side.

Case is fixed to 21.09.2023 for filing claim statement as last chance."

However, in spite of the notice none appeared on behalf of the claimant on 21.09.2023. So on the said date again time was granted to file claim statement.

Today when the matter was taken up in the revised cause list neither the claimant nor his authorized representative is present.

On the perusal of the record.

Findings & Conclusion:

Taking into consideration the fact as stated above that till date no statement of claim filed by the claimant in response to the reference dated 07.07.2022.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194***as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

Kanpur.

08th April, 2024

नई दिल्ली, 21 मार्च, 2025

का.आ. 510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार महाप्रबंधक, दूरसंचार विभाग, तेलियाबाग, वाराणसी (उ.प्र.),** प्रबंधतंत्र के संबद्ध नियोजकों और**, श्री सुभाष सिंह, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, कानपुर पंचाट(संदर्भ संख्या आईडी नंबर 87/2000), को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2025 को प्राप्त हुआ था।

[सं. एल – 40012/211/2000-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2025

S.O. 510.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 87/2000),** of the **Central Government Industrial Tribunal cum Labour Court, kanpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Telecom Department, Teliabagh, Varanasi (U.P.), and Shri Subhash Singh, Worker,** which was received along with soft copy of the award by the Central Government on 21.03.2025,

[No. L-40012/211/2000-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, KANPUR

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 87/2000

Ref. No.L-40012/211/2000/IR(DU) dated 07.08.2000

BETWEEN

Sh. Subhash Singh S/o Sh. Shiv Adhar Singh, Vill. Fatehpur, Purshottampur. Mirzapur (UP)

AND

The General Manager, Telecom Department, Teliabagh, Varanasi (U.P.)

AWARD

By order No. L-40012/211/2000/IR(DU) dated 07.08.2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Subhash Singh w.e.f. 15.7.1999 is justified? If not, to what relief the workman is entitled?"

Thereafter by corrigendum dated 27.11.2000 the same was modified, read as under:

"Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Subhash Singh w.e.f. 1.8.1999 is justified ? If not, to what relief the workman is entitled?"

In pursuance to the said reference I.D. Case No. 87 of 2000 was registered before this Tribunal.

In spite of notice non present on behalf of the workman,

Smt Neeta Mathur appears on behalf of respondent.

I have heard Smt. Neeta Mathur leaned advocate on behalf respondent and perusal of the record.

In the statement of claim, the workman pleaded as under:

a) He was appointed as a casual labour in the office of respondent no. 2 on 01.05.1998 on the post of Guard and in the said capacity he worked and discharged his duty till 31.07.1999.

b) Thereafter his services were retrenched/terminated by the respondent in violation of the provision of the provisions as provided under section 25-F of the Industrial Disputes Act, 1947.

c) In his claim petition, claimant has also pleaded that he has completed 240 days in the last preceding Twelve months prior to retrenchment/ termination of the services.

d) Accordingly, it is prayed by the claimant/workman that the order of retrenchment/terminated of the services may be set aside and he may be reinstated in services.

On behalf of respondent in the written statement it was pleaded as under:-

a) It was submitted by the respondent that workman was at no point of time was appointed as a casual labour in the Telecommunication Department.

b) That for the purpose of security in the office of T.D.M. Mirzapur and agreement was entered into between M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi through its Director S. N. Singh and Divisional Engineer (Administration) through Shri Mritunjay Singh posted in the office of T.D.M., Mirzapur on 6.2.1998.

c) In terms of the said agreement he was engaged for a period of one year starting from 6th February, 1998 to 5th Feburary, 1999.

d) Accordingly, it is submitted that Department of Telecommunication is neither the appointing authority as he was engaged in pursuance of contract entered between the parties.

e) That as per the terms and conditions his services were engaged.

f) Respondent has also pleaded that aggrieved by his retrenchment/ termination order he filed an original application before the Central Administrative Tribunal, Allahabad the same was dismissed on the ground that the same is not maintainable but it is maintainable before Central Labour Tribunal, Kanpur.

Accordingly, it is prayed on behalf of the respondent that claimant is not entitled for any relief as claimed by him.

Finding & conclusion:

In the present case as per the case of workman was engaged as a casual labour in the department of Telecommunication and posted at Mirzapur, as under the control of General Manager, Teliabagh, Varanasi.

And his services were retrenched/terminated on 1.8.1999 without following the mandatory provisions as provided under Section 25-F of Industrial Disputes Act 1947.

So far as the defence, is taken by the management/respondent that the Telecommunication Department/ Respondent, not appointed the workman but he has engaged through M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi as such he has not an employee of Telecommunication Department.

From the material on record the position which emerged out that workman was engaged as per the contract entered between the competent authority in the office of T.D.M. Mirzapur by way of agreement entered between M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi however there was neither any pleading nor any material on record that any notification has been issued as per section 10 of the Contract Labour Abolition Act.

Accordingly, taking into consideration the said facts that as per the agreement entered between parties workman, was supplied/ engaged as a casual labour with the BSNL/ Respondent and paid wages each and every month as such BSNL as per law was principal employer of the workman.

Next point, to be considered in the present case "whether applicant worked for more than 240 days continuously as Security Guard (causal labour) in the last 12 preceding months from the date of retrenchment and his services were terminated/retrenched or not?"

As per section 101 of Indian Evidence Act which is read as under:-

> "101. Burden of proof.- Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.
>
> When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

Thus, the burden lies on the workman to prove that he has worked for 240 days in the last 12 preceding months from the date of retrenchment of his services.

In the instant matter, in his statement of claim, the workman has categorically pleaded that he had worked for 240 days in the last 12 preceding months from the date of retrenchment of his services and his services were retrenched on 1.8.199 from the post of Guard without following the provision as provided under section 25-F of Industrial Disputes Act, 1947.

The said facts was not categorically denied by the respondent in their written statement rather respondent had stated that the workman was engaged on the post of Security Guard from contractor as such respondent/BSNL is not the appointing authority so taking into consideration the said facts and the Contract Labour Abolition Act the BSNL as stated above the BSNL was principal employer of workman even if he has been engaged through contractor.

Moreover, as in written statement filed on behalf of the respondent, they had not denied the fact that the workman had continuously worked for 240 days prior to retrenchment of his services in last preceding 12 calendar months so the said facts, amounts to admission by the respondent, as per the pleadings on record.

Further, from the perusal of record, it is also transpired that the workman has filed the attendance sheets in support of his case on the point in issue, as per the attendance sheets which are the documentary evidence filed on behalf of the workman and not denied by the respondent filing any material/ document in support of its case, as well as evidence file on affidavit by the workman as his cross-examination, the position which emerge out that he has continueously worked for 240 days preceding 12 months prior to retrenchment of his services and the provision of section 25-F of the ID Act has not been followed and as no retrenchment compensation was given to him and after retrenchment of his services another person has been engaged on his place the said material piece of evidence not denied by the respondent by way evidence on affidavit (examination in chief of its witness) and by the said witness in his cross-examination.

Thus, taken into consideration the above said facts as well as the law laid down by the Hon'ble Madhya Pradesh High Court in the case of Chairman, Institution of Engineers, Jabalpur Vs. Kailash Sen operative portion of the same is read as under:

> *"14. 14. It is not in dispute that the respondent employee was in employment of petitioner institute and was working as Watchman/Peon on daily wages. The employee has claimed that, he was working continuously since 2008 whereas the petitioner institute denied this fact that he worked for more than 240 days in a calendar year. Similarly, the petitioner institute claimed that the petitioner institute is non-profitable institute whereas the employee stated that the petitioner institute is indulged in charging the amount from the participants. The petitioner institute was having sufficient documentary evidence to demonstrate that petitioner is not a profit making institute as well as the proof that the employee has not worked for more than 240 days in a calendar year. An application was moved on behalf of employee before the Labour court by which he prayed for issuance of direction to the institute to produce the documents in respect of attendance register and payment register. However, the same were not produced by the institute despite directions issued by the Labour Court, therefore, it shall be presumed that the documents were not in favour of institute and adverse influence ought to have been drawn against the institute.*
>
> *15. The Apex Court in the matter of Gopal Krishnaj Ketkar v. Mohamed Haji Latif and others, has held that, if a party in possession of best evidence, which would throw a light on the issue in controversy withheld the same, Court ought to draw an adverse inference against the party notwithstanding that onus of proof does not lie on him. The party who is in possession of best evidence cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it."*

And the law as laid down by the Hon'ble Apex Court in the matter of ***Gopal Krishnaj Ketkar vs. Mohamed Haji Latif and others, AIR 1968 SC 1413*** has held that, if a party in possession of best evidence, which would throw a light on the issue in controversy withheld the same, Court ought to draw an adverse inference against the party notwithstanding that onus of proof does not lie on him. The party who is in possession of best evidence cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it.

The Hon'ble Madhya Pradesh High Court in the case of ***Chairman, Institute of Engineers, Jabalpur Versus Kailash Sen reported in 2024(181) FLR 300***, it has been held that it is not in dispute that workman was in employment with respondent since the date of engagement and prior to retrenchment of his services he has continuously worked for 240 days in the last preceding 12 months. The said plea taken by the workman has to be categorically denied and disprove by the respondent who has sufficient documentary evidence to demonstrate that employee has not worked for more than 240 days in a calander year by producing attendance and payment register. If same is not done, it will be presumed that the respondent has failed to dislodge the claim of the workman that he has worked for more than 240 days in last preceding 12 months.

A Division Bench of Hon'ble Telangana High Court in the case of ***S.Srinivas Versus The Union of India & others reported in 2024 LLR 860***, it has been held that it is trite law that a party invoking/relying on certain plea has to make

an averments with details to sustain such a plea and has to adduce material to establish allegations made and the burden is on the party to lead and prove that it is right. (see State of Uttar Pradesh v. Kartar Singh, AIR 1964 SC 1135).(see also ***Pradeep v. Manganese Ore (India) Limited & ors. 2022 (3) SCC 68***3)

Accordingly in view of the said facts the argument, advanced by the Learned Counsel for the respondent Smt. Neeta Mathur that workman is not an employee of the Telecommunication Department and has not worked 240 days got no force because, the workman Sri Subhash Singh has clearly established and proved that he had worked for more than 240 days in the last preceding 12 months prior to date of his oral termination on 1.8.1999; hence, the same is rejected.

Thus in view of above once action on the part of respondent thereby retrenching the services of the workman without following the provisions of Section 25-F of the Act 1952 is contrary to law, then what relief the workman is entitled in pursuance to the reference No.L-40012/211/2000/IR(DU) Dated 07.08.2000.

Answer to the said question finds place in the case of ***Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota vs. Mohan Lal reported in (2013) 14 SCC 543***, wherein it has been held that the respondent was engaged as a Mistri on muster roll basis, whose services were terminated. The workman was neither given one month's notice nor one month's salary was given in lieu of that notice, prior to termination of his service and he was also not paid retrenchment compensation. The industrial dispute, which was referred to the Labour Court culminated with the award made by the Labour Court, holding that as the workman had completed more than 240 days in a calendar year and his services were being terminated in violation of Section 25- F of the Industrial Dispute Act, 1947, the workman was entitled to be reinstated with continuity in service.

The Single Judge of the Hon'ble High Court set aside the award and the Division Bench reinstated the award passed by the Labour Court. The Hon'ble Supreme Court observed that the workman had worked for 286 days from 01.11.1984 to 17.02.1986 and though the service of the workman was terminated w.e.f. 18.02.1986, the industrial dispute was raised by the workman after six years. The Supreme Court thus held that the judicial discretion exercised by the Labour Court was flawed and unsustainable, in view of the delay of six years in raising the industrial dispute. However, the Supreme Court held that the interest of justice would be sub-served, if in lieu of reinstatement, compensation @ Rs.1 Lakh was paid to the workman.

In the case of ***U.P. State Road Transport Corporation vs. Man Singh reported in 2006 (111) FLR 323(SC)***, the service of the respondent, who was appointed on temporary basis, was terminated. The industrial dispute referred to the Labour Court culminated with the termination of the workman being set aside, in view of Section 25-F of the Industrial Dispute Act, 1947, not being complied with. However, the workman was granted only back wages. The Hon'ble Supreme Court, on considering the fact that there was nothing to show that the workman had been appointed in accordance with the Recruitment Rules for filling up a vacancy, in terms of Article 14 and 16 of the Constitution, besides the fact that the dispute was raised after 12 years, the Hon'ble Supreme Court held that the interest of justice would be sub-served, if the Corporation was made to pay a sum of Rs. 50,000/- to the workman.

In the case of ***Nand Kumar vs. State of Bihar and others reported in (2014) 5 SCC 300***, the Hon'ble Supreme Court considered the judgment of the Constitution Bench in the case of ***State of Karnataka vs. Uma Devi reported in (2006) 4 SCC 1***, where it had held that while directing the appointments, temporary or casual, be regularized or made permanent, the Courts are swayed by the fact that the concerned person had worked for some time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it would be creating another mode of public appointment which is not permissible. (see also ***State of Orissa vs. Mamata Mohanty reported in (2011) 3 SCC 436)***,

Further the Madhya Pradesh Hon'ble High Court in the case of ***Branch Manager, Central Bank of India Tilak Chowk Vidisha Versus Pradeep Kumar Sen reported in 2024 (181) FLR 809*** held as under:-

> "*22. The Supreme Court in the case of Bharat Sanchar Nigam Limited Vs. Bhurumal, reported in (2014) 7 SCC 177 has held as under:-*
>
> > *"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases*

reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious."

23. The Supreme Court in the case of Jayant Vasantrao Hiwarkar Vs. Anoop Ganpatrao Bobde and others reported in (2017)11 SCC 244 has upheld the grant of compensation in lieu of reinstatement as the respondent had merely worked for a period of one year.

24. The Supreme Court in the case of Hari Nandan Prasad and another Vs. Employer I/R to Management of Food Corporation of India and another, reported in (2014) 7 SCC 190 has held as under:-

"19. The following passages from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement: (BSNL case, SCC pp. 187-88, paras 29-30)

"29. The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In BSNL v. Man Singh, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right. In Incharge Officer v. Shankar Shetty, it was held that those cases where the workman had worked on daily-wage basis, and worked merely for a period of 240 days or 2 to 3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.

30. In this judgment of Shankar Shetty, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp. 127-28, paras 2-4)

'2. Should an order of reinstatement automatically follow in a case where the engagement of a daily-wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "the ID Act")?The course of the decisions of this Court in recent years has been uniform on the above question.

3. In Jagbir Singh v. Haryana State Agriculture Mktg. Board, delivering the judgment of this Court, one of us (R.M. Lodha, J.) noticed some of the recent decisions of this Court, namely, U.P. State Brassware Corpn. Ltd. v.Uday Narain Pandey, Uttaranchal Forest Development Corpn. v. M.C. Joshi, State of M.P. v. Lalit Kumar Verma, M.P. Admn. v. Tribhuban, Sita Ram v. Moti Lal Nehru Farmers Training Institute, Jaipur Development Authority v. Ramsahai, GDA v. Ashok Kumar and Mahboob Deepak v. Nagar Panchayat, Gajraula and stated as follows: (Jagbir Singh case, SCC pp.330 & 335, paras 7 & 14)

"7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily-wagers has not been found to be proper by this Court and instead compensation has been awarded.This Court has distinguished between a daily-wager who does not hold a post and a permanent employee."

4. Jagbir Singh has been applied very recently in Telegraph Deptt. v. Santosh Kumar Seal, wherein this Court stated:(SCC p. 777, para 11)

11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily-wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice.'"

21. We make it clear that reference to Umadevi, in the aforesaid discussion is in a situation where the dispute referred pertained to termination alone. Going by the principles carved out above, had it been a case where the issue is limited only to the validity of termination, Appellant 1 would not be entitled to reinstatement....."

25. The Supreme Court in the case of O.P.Bhandari Vs. Indian Tourism Development Corporation Limited and others reported in (1986) 4 SCC 337 has held as under :-

"6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer-employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to "blue collar" workmen and "white collar"employees other than those belonging to the managerial or similar high level cadre, reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective -- a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co-existence with the private sector. The public sector can never fulfil its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the "policy-makers" of such undertakings. Then and then only can the public sector undertaking achieve the goals of (1) maximum production for the benefit of the community, (2) social justice for workers, consumers and the people, and (3) reasonable return on the public funds invested in the undertaking.

7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their managements to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success in the aforesaid three-dimensional sense as their common goal. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court."

A division Bench of Hon'ble Gujarat High Court in the case of ***Range Forest Officer Versus Virjibhai Ranchhodbhai & another*** reported in 2024 (182) FLR 179 has held as under:-

6.1. The shift in law on this count was highlighted by the Supreme Court in Bhopal Vs. Santosh Kumar Seal [(2010) 6 SCC 773] relying on its own another decision in Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327], observing that the relief of payment of lump-sum compensation could be a proper relief in a given set of facts and circumstances.

"In the last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. (See U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey [2006 (1) SCC 479], Uttaranchal Forest Development Corpn. v. M.C. Joshi [2007 (9) SCC 353], State of M.P. v. Lalit Kumar Verma [2007 (1) SCC 575], M.P. Admn. v. Tribhuban [2007 (9) SCC 748], Sita Ram v. Moti Lal Nehru Farmers Training Institute [2008 (5) SCC 75], Jaipur Development Authority v. Ramsahai [2006 (11) SCC 684], GDA v. Ashok Kumar [2008 (4) SCC 261] and Mahboob Deepak v. Nagar Panchayat, Gajraula [2008 (1) SCC 575].)"

6.2. In subsequent decision in Rajasthan Development Corporation Vs.Gitam Singh [(2013) 5 SCC 136], the Supreme Court stated,

"From the long line of cases indicated above, it can be said without any fear of contradiction that this Court has not held as an absolute proposition that in cases of wrongful dismissal, the dismissed employee is entitled to reinstatement in all situations. It has always been the view of this Court that there could be circumstance(s) in a case which may make it inexpedient to order reinstatement. Therefore, the normal rule that the dismissed employee is entitled to reinstatement in cases of wrongful dismissal has been held to be not without exception. Insofar as wrongful termination of daily-rated workers is concerned, this Court has laid down that consequential relief would depend on host of factors, namely, manner and method of appointment, nature of employment and length of service. Where the length of engagement as daily wager has not been long, award of reinstatement should not follow and rather compensation should be directed to be paid. A distinction has been drawn between a daily wager and an employee holding the regular post for the purposes of consequential relief."

6.3. In Uttaranchal Forest Development Corporation Vs. M.C.Joshi [(2007) 9 SCC 353], the Supreme Court held that the question of grant of compensation in place of relief of reinstatement could be guided by relevant factors to be that whether the appointment was made in accordance with the statutory Rules or not.

6.4. It is to be observed that the decisions of the Supreme Court have carved out the circumstances and aspects which may guide the discretion of the court in awarding lump-sum compensation instead of granting relief of reinstatement even if there is a breach of Section 25F, 25G and 25H of the Industrial Disputes Act.

6.5. These factors were highlighted in Bantva Municipality Vs. Amritlal Harji Chauhan being Special Civil Application No.9135 of 2013 decided on 31.3.2014 as under :-

> *"(i) The fact that the workman is daily-rated workmen, not permanently employed; (ii) He is not holding a permanent post; (iii) Nature of his employment; (iv) Span of service, viz. The period during which he worked upto the date of termination of services; (v) Manner and method of appointment. Whether it was a backdoor entry; (vi) The time gap from the date of termination; (vii) Delay in raising the Reference is also considered to be a germane factor;(viii) Any special feature peculiar to the facts of the particular case.*

For instance, in Bhurumal (supra), the Supreme Court noticed that post which the workman held was of Lineman in the Telephone Department, and that the work of Lineman was drastically reduced in view of advancement of the technology."

6.6. In the case of BSNL v. Bhurumal, reported in (2014) 7 SCC 177, it was categorically observed that even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself."

Thus it is clearly established by the parties that Sri Subhash Singh was engaged in the Telecommunication Department on the post of Security Guard as casual labour and his services were retrenched on 01.08.1999. As such as per law which are referred hereinabove the workman Sri Subhash Singh is only entitled for compensation as his service was retrenched without complying the provisions of Section 25-F of Industrial Disputes Act 1947 but he is not entitled for reinstatement as prayed by him.

AWARD

For the foregoing reasons as the services of Sri Subhash Singhwas engaged as casual labour on 01.05.1998 and his services were retrenched w.e.f. 01.8.1999 without following the provisions of Section 25-F of Industrial Disputes Act 1947, hence, he is entitled for compensation amounting to Rs.25 Thousand Only (Rupees Twenty Five Thousand only) but not for retrenchment in services.

The reference L-40012/211/2000/IR(DU) Dated 07.08.2000 is answered accordingly.

Justice ANIL KUMAR, Presiding Officer

Kanpur.

13th December, 2024

नई दिल्ली, 21 मार्च, 2025

का.आ. 511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार महाप्रबंधक, दूरसंचार विभाग, तेलियाबाग, वाराणसी (उ.प्र.),** प्रबंधतंत्र के संबद्ध नियोजकों और , **श्री सुरश्याम सिंह, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, कानपुर पंचाट (संदर्भ संख्या आईडी नंबर 83/2000), को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2025 को प्राप्त हुआ था।

[सं. एल – 40012/208/2000-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2025

S.O. 511.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID. No. 83/2000),** of the **Central Government Industrial Tribunal cum Labour Court, kanpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Telecom Department, Teliabagh, Varanasi (U.P.), and Shri Surshyam Singh, Worker,** which was received along with soft copy of the award by the Central Government on 21.03.2025.

[No. L-40012/208/2000-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, KANPUR

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 83/2000

Ref. No.L-40012/208/2000/IR(DU) dated 31.07.2000

BETWEEN

Sh. Surshyam Singh S/o Sh. Puniya Ram Singh, Vill. Fatehpur, Purshottampur. Mirzapur (UP)

AND

The General Manager, Telecom Department, Teliabagh, Varanasi (U.P.)

AWARD

By order No. L-40012/208/2000/IR(DU) dated 31.07.2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Surshyam Singh w.e.f. 15.7.1999 is justified? If not, to what relief the workman is entitled?"

Thereafter by corrigendum dated 27.11.2000 the same was modified with following dispute:

"Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Surshyam Singh w.e.f. 1.8.1999 is justified ? If not, to what relief the workman is entitled?"

In pursuance to the said reference the statement of claim was filed on behalf of workman/applicant before this Tribunal and I.D. Case No. 83 of 2000 was registered before this Tribunal.

Smt. Neeta Mathur appears on behalf of respondent.

I have heard Smt. Neeta Mathur learned advocate on behalf of respondent and perusal of the record.

In the statement of claim, the workman pleaded as under:

a) He was appointed as a casual labour in the office of respondent no. 2 on 17.05.1997 on the post of Guard and in the said capacity he worked and discharged his duty till 31.07.1999.

b) Thereafter his services were retrenched/terminated by the respondent in violation of the provisions as provided under section 25-F of the Industrial Disputes Act, 1947.

c) In his claim petition, claimant has also pleaded that he has completed 240 days in the last preceding Twelve months prior to retrenchment/ termination of the services.

d) Accordingly, it is prayed by the claimant/workman that the order of retrenchment/terminated of the services may be set aside and he may be reinstated in services.

On behalf of respondent in the written statement it was pleaded as under:-

a) It was submitted by the respondent that workman was at no point of time was appointed as a casual labour in the Telecommunication Department.

b) That for the purpose of security in the office of T.D.M. Mirzapur and agreement was entered into between M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi through its Director S. N. Singh and Divisional Engineer (Administration) through Shri Mritunjay Singh posted in the office of T.D.M., Mirzapur on 6.2.1998.

c) In terms of the said agreement he was engaged for a period of one year starting from 6th February, 1998 to 5th Feburary, 1999.

d) Accordingly, it is submitted that Department of Telecommunication is neither the appointing authority as he was engaged in pursuance of contract entered between the parties.

e) That as per the terms and conditions his services were engaged.

f) Respondent has also pleaded that aggrieved by his retrenchment/ termination order he filed an original application before the Central Administrative Tribunal, Allahabad the same was dismissed on the ground that the same is not maintainable but it is maintainable before Central Labour Tribunal, Kanpur.

g) Accordingly, it is prayed on behalf of the respondent that claimant is not entitled for any relief as claimed by him.

Finding & conclusion:

In the present case as per the case of workman was engaged as a casual labour in the department of Telecommunication and posted at Mirzapur, as under the control of General Manager, Teliabagh, Varanasi.

And his services were retrenched/terminated on 1.8.1999 without following the mandatory provisions as provided under Section 25-F of Industrial Disputes Act 1947.

So far as the defence, is taken by the management/respondent that the Telecommunication Department/ Respondent, not appointed the workman but he has engaged through M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi as such he has not an employee of Telecommunication Department.

From the material on record the position which emerged out that workman was engaged as per the contract entered between the competent authority in the office of T.D.M. Mirzapur by way of agreement entered between M/s Security and Protection Services, Gayatri Nagar, Pandeypur, Varanasi however there was neither any pleading nor any material on record that any notification has been issued as per section 10 of the Contract Labour Abolition Act.

Accordingly, taking into consideration the said facts that as per the agreement entered between parties workman, was supplied/ engaged as a casual labour with the BSNL/ Respondent and paid wages each and every month as such BSNL as per law was principal employer of the workman.

Next point, to be considered in the present case *"whether applicant worked for more than 240 days continuously as Security Guard (causal labour) in the last 12 preceding months from the date of retrenchment and his services were terminated/retrenched or not?"*

As per section 101 of Indian Evidence Act which is read as under:-

> *"101. Burden of proof.- Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.*
>
> *When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."*

Thus, the burden lies on the workman to prove that he has worked for 240 days in the last 12 preceding months from the date of retrenchment of his services.

In the instant matter, in his statement of claim, the workman has categorically pleaded that he had worked for 240 days in the last 12 preceding months from the date of retrenchment of his services and his services were retrenched on 1.8.199 from the post of Guard without following the provision as provided under section 25-F of Industrial Disputes Act, 1947.

The said facts was not categorically denied by the respondent in their written statement rather respondent had stated that the workman was engaged on the post of Security Guard from contractor as such respondent/BSNL is not the appointing authority so taking into consideration the said facts and the Contract Labour Abolition Act the BSNL as stated above the BSNL was principal employer of workman even if he has been engaged through contractor.

Moreover, as in written statement filed on behalf of the respondent, they had not denied the fact that the workman had continuously worked for 240 days prior to retrenchment of his services in last preceding 12 calendar months so the said facts, amounts to admission by the respondent, as per the pleadings on record.

Further, from the perusal of record, it is also transpired that the workman has filed the attendance sheets in support of his case on the point in issue, as per the attendance sheets which are the documentary evidence filed on behalf of the workman and not denied by the respondent filing any material/ document in support of its case, as well as evidence file on affidavit by the workman as his cross-examination, the position which emerge out that he has continuously worked for 240 days preceding 12 months prior to retrenchment of his services and the provision of section 25-F of the ID Act has not been followed and as no retrenchment compensation was given to him and after retrenchment of his services another person has been engaged on his place the said material piece of evidence not denied by the respondent by way evidence on affidavit (examination in chief of its witness) and by the said witness in his cross-examination.

Thus, taken into consideration the above said facts as well as the law laid down by the Hon'ble Madhya Pradesh High Court in the case of Chairman, Institution of Engineers, Jabalpur Vs. Kailash Sen operative portion of the same is read as under:

> *"14. 14. It is not in dispute that the respondent employee was in employment of petitioner institute and was*

working as Watchman/Peon on daily wages. The employee has claimed that, he was working continuously since 2008 whereas the petitioner institute denied this fact that he worked for more than 240 days in a calendar year. Similarly, the petitioner institute claimed that the petitioner institute is non-profitable institute whereas the employee stated that the petitioner institute is indulged in charging the amount from the participants. The petitioner institute was having sufficient documentary evidence to demonstrate that petitioner is not a profit making institute as well as the proof that the employee has not worked for more than 240 days in a calendar year. An application was moved on behalf of employee before the Labour court by which he prayed for issuance of direction to the institute to produce the documents in respect of attendance register and payment register. However, the same were not produced by the institute despite directions issued by the Labour Court, therefore, it shall be presumed that the documents were not in favour of institute and adverse influence ought to have been drawn against the institute.

15. The Apex Court in the matter of Gopal Krishnaj Ketkar v. Mohamed Haji Latif and others, has held that, if a party in possession of best evidence, which would throw a light on the issue in controversy withheld the same, Court ought to draw an adverse inference against the party notwithstanding that onus of proof does not lie on him. The party who is in possession of best evidence cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it."

And the law as laid down by the Hon'ble Apex Court in the matter of ***Gopal Krishnaj Ketkar vs. Mohamed Haji Latif and others, AIR 1968 SC 1413*** has held that, if a party in possession of best evidence, which would throw a light on the issue in controversy withheld the same, Court ought to draw an adverse inference against the party notwithstanding that onus of proof does not lie on him. The party who is in possession of best evidence cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it.

The Hon'ble Madhya Pradesh High Court in the case of ***Chairman, Institute of Engineers, Jabalpur Versus Kailash Sen reported in 2024(181) FLR 300***, it has been held that it is not in dispute that workman was in employment with respondent since the date of engagement and prior to retrenchment of his services he has continuously worked for 240 days in the last preceding 12 months. The said plea taken by the workman has to be categorically denied and disprove by the respondent who has sufficient documentary evidence to demonstrate that employee has not worked for more than 240 days in a calander year by producing attendance and payment register. If same is not done, it will be presumed that the respondent has failed to dislodge the claim of the workman that he has worked for more than 240 days in last preceding 12 months.

A Division Bench of Hon'ble Telangana High Court in the case of ***S. Srinivas Versus The Union of India & others reported in 2024 LLR 860***, it has been held that it is trite law that a party invoking/relying on certain plea has to make an averments with details to sustain such a plea and has to adduce material to establish allegations made and the burden is on the party to lead and prove that it is right. (see State of Uttar Pradesh v. Kartar Singh, AIR 1964 SC 1135).(see also ***Pradeep v. Manganese Ore (India) Limited & ors. 2022 (3) SCC 683).***

Accordingly in view of the said facts the argument, advanced by the Learned Counsel for the respondent Smt. Neeta Mathur that workman is not an employee of the Telecommunication Department and has not worked 240 days got no force because, the workman Sri Surshyam Singh has clearly established and proved that he has worked for more than 240 days in the last preceding 12 months prior to date of his oral termination on 01.08.1999; hence, the same is rejected.

Thus in view of above once action on the part of respondent thereby retrenching the services of the workman without following the provisions of Section 25-F of the Act 1952 is contrary to law, then what relief the workman is entitled in pursuance to the reference No. L-40012/208/2000/IR(DU) Dated 31.07.2000.

Answer to the said question finds place in the case of ***Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota vs. Mohan Lal reported in (2013) 14 SCC 543***, wherein it has been held that the respondent was engaged as a Mistri on muster roll basis, whose services were terminated. The workman was neither given one month's notice nor one month's salary was given in lieu of that notice, prior to termination of his service and he was also not paid retrenchment compensation. The industrial dispute, which was referred to the Labour Court culminated with the award made by the Labour Court, holding that as the workman had completed more than 240 days in a calendar year and his services were being terminated in violation of Section 25- F of the Industrial Dispute Act, 1947, the workman was entitled to be reinstated with continuity in service.

The Single Judge of the Hon'ble High Court set aside the award and the Division Bench reinstated the award passed by the Labour Court. The Hon'ble Supreme Court observed that the workman had worked for 286 days from 01.11.1984 to 17.02.1986 and though the service of the workman was terminated w.e.f. 18.02.1986, the industrial dispute was raised by the workman after six years. The Supreme Court thus held that the judicial discretion exercised by the Labour Court was flawed and unsustainable, in view of the delay of six years in raising the industrial dispute. However, the Supreme Court held that the interest of justice would be sub-served, if in lieu of reinstatement, compensation @ Rs.1 Lakh was paid to the workman.

In the case of ***U.P. State Road Transport Corporation vs. Man Singh reported in 2006 (111) FLR 323(SC)***, the

service of the respondent, who was appointed on temporary basis, was terminated. The industrial dispute referred to the Labour Court culminated with the termination of the workman being set aside, in view of Section 25-F of the Industrial Dispute Act, 1947, not being complied with. However, the workman was granted only back wages. The Hon'ble Supreme Court, on considering the fact that there was nothing to show that the workman had been appointed in accordance with the Recruitment Rules for filling up a vacancy, in terms of Article 14 and 16 of the Constitution, besides the fact that the dispute was raised after 12 years, the Hon'ble Supreme Court held that the interest of justice would be sub-served, if the Corporation was made to pay a sum of Rs. 50,000/- to the workman.

In the case of ***Nand Kumar vs. State of Bihar and others reported in (2014) 5 SCC 300***, the Hon'ble Supreme Court considered the judgment of the Constitution Bench in the case of ***State of Karnataka vs. Uma Devi reported in (2006) 4 SCC 1***, where it had held that while directing the appointments, temporary or casual, be regularized or made permanent, the Courts are swayed by the fact that the concerned person had worked for some time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it would be creating another mode of public appointment which is not permissible. (see aslo ***State of Orissa vs. Mamata Mohanty reported in (2011) 3 SCC 436***).

Further the Madhya Pradesh Hon'ble High Court in the case of ***Branch Manager, Central Bank of India Tilak Chowk Vidisha Versus Pradeep Kumar Sen reported in 2024 (181) FLR 809*** held as under:-

"*22. The Supreme Court in the case of Bharat Sanchar Nigam Limited Vs. Bhurumal, reported in (2014) 7 SCC 177 has held as under:-*

> *"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious."*

23. The Supreme Court in the case of Jayant Vasantrao Hiwarkar Vs. Anoop Ganpatrao Bobde and others reported in (2017)11 SCC 244 has upheld the grant of compensation in lieu of reinstatement as the respondent had merely worked for a period of one year.

24. The Supreme Court in the case of Hari Nandan Prasad and another Vs. Employer I/R to Management of Food Corporation of India and another, reported in (2014) 7 SCC 190 has held as under:-

> *"19. The following passages from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement: (BSNL case, SCC pp. 187-88, paras 29-30)*
>
> *"29. The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In BSNL v. Man Singh, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right. In Incharge Officer v. Shankar Shetty, it was held that those cases where the workman had worked on daily-wage basis, and worked merely for a period of 240 days or 2 to 3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.*
>
> *30. In this judgment of Shankar Shetty, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp. 127-28, paras 2-4)*
>
> *'2. Should an order of reinstatement automatically follow in a case where the engagement of a daily-wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "the ID Act")?The course of the decisions of this Court in recent years has been uniform on the above question.*
>
> *3. In Jagbir Singh v. Haryana State Agriculture Mktg. Board, delivering the judgment of this Court, one of us (R.M. Lodha, J.) noticed some of the recent decisions of this Court, namely, U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey, Uttaranchal Forest Development Corpn. v. M.C. Joshi, State of M.P. v. Lalit Kumar Verma, M.P. Admn. v. Tribhuban, Sita Ram v. Moti Lal Nehru Farmers Training Institute, Jaipur Development Authority v. Ramsahai, GDA v. Ashok Kumar and*

Mahboob Deepak v. Nagar Panchayat, Gajraula and stated as follows: (Jagbir Singh case, SCC pp.330 & 335, paras 7 & 14)

"7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily-wagers has not been found to be proper by this Court and instead compensation has been awarded.This Court has distinguished between a daily-wager who does not hold a post and a permanent employee."

4. Jagbir Singh has been applied very recently in Telegraph Deptt. v. Santosh Kumar Seal, wherein this Court stated:(SCC p. 777, para 11)

11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily-wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice.'"

21. We make it clear that reference to Umadevi, in the aforesaid discussion is in a situation where the dispute referred pertained to termination alone. Going by the principles carved out above, had it been a case where the issue is limited only to the validity of termination, Appellant 1 would not be entitled to reinstatement....."

25. The Supreme Court in the case of O.P.Bhandari Vs. Indian Tourism Development Corporation Limited and others reported in (1986) 4 SCC 337 has held as under :-

"6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer-employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to "blue collar" workmen and "white collar"employees other than those belonging to the managerial or similar high level cadre, reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective -- a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co-existence with the private sector. The public sector can never fulfil its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the "policy-makers" of such undertakings. Then and then only can the public sector undertaking achieve the goals of (1) maximum production for the benefit of the community, (2) social justice for workers, consumers and the people, and (3) reasonable return on the public funds invested in the undertaking.

7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their managements to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success in the aforesaid three-dimensional sense as their common goal. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court."

A division Bench of Hon'ble Gujarat High Court in the case of ***Range Forest Officer Versus Virjibhai Ranchhodbhai & another*** reported in 2024 (182) FLR 179 has held as under:-

6.1. The shift in law on this count was highlighted by the Supreme Court in Bhopal Vs. Santosh Kumar Seal [(2010) 6 SCC 773] relying on its own another decision in Jagbir Singh Vs. Haryana State Agriculture

Marketing Board [(2009) 15 SCC 327], observing that the relief of payment of lump-sum compensation could be a proper relief in a given set of facts and circumstances.

> *"In the last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. (See U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey [2006 (1) SCC 479], Uttaranchal Forest Development Corpn. v. M.C. Joshi [2007 (9) SCC 353], State of M.P. v. Lalit Kumar Verma [2007 (1) SCC 575], M.P. Admn. v. Tribhuban [2007 (9) SCC 748], Sita Ram v. Moti Lal Nehru Farmers Training Institute [2008 (5) SCC 75], Jaipur Development Authority v. Ramsahai [2006 (11) SCC 684], GDA v. Ashok Kumar [2008 (4) SCC 261] and Mahboob Deepak v. Nagar Panchayat, Gajraula [2008 (1) SCC 575].)"*

6.2. In subsequent decision in Rajasthan Development Corporation Vs.Gitam Singh [(2013) 5 SCC 136], the Supreme Court stated,

> *"From the long line of cases indicated above, it can be said without any fear of contradiction that this Court has not held as an absolute proposition that in cases of wrongful dismissal, the dismissed employee is entitled to reinstatement in all situations. It has always been the view of this Court that there could be circumstance(s) in a case which may make it inexpedient to order reinstatement. Therefore, the normal rule that the dismissed employee is entitled to reinstatement in cases of wrongful dismissal has been held to be not without exception. Insofar as wrongful termination of daily-rated workers is concerned, this Court has laid down that consequential relief would depend on host of factors, namely, manner and method of appointment, nature of employment and length of service. Where the length of engagement as daily wager has not been long, award of reinstatement should not follow and rather compensation should be directed to be paid. A distinction has been drawn between a daily wager and an employee holding the regular post for the purposes of consequential relief."*

6.3. In Uttaranchal Forest Development Corporation Vs. M.C.Joshi [(2007) 9 SCC 353], the Supreme Court held that the question of grant of compensation in place of relief of reinstatement could be guided by relevant factors to be that whether the appointment was made in accordance with the statutory Rules or not.

6.4. It is to be observed that the decisions of the Supreme Court have carved out the circumstances and aspects which may guide the discretion of the court in awarding lump-sum compensation instead of granting relief of reinstatement even if there is a breach of Section 25F, 25G and 25H of the Industrial Disputes Act.

6.5. These factors were highlighted in Bantva Municipality Vs. Amritlal Harji Chauhan being Special Civil Application No.9135 of 2013 decided on 31.3.2014 as under :-

> *"(i) The fact that the workman is daily-rated workmen, not permanently employed; (ii) He is not holding a permanent post; (iii) Nature of his employment; (iv) Span of service, viz. The period during which he worked upto the date of termination of services; (v) Manner and method of appointment. Whether it was a backdoor entry; (vi) The time gap from the date of termination; (vii) Delay in raising the Reference is also considered to be a germane factor;(viii) Any special feature peculiar to the facts of the particular case.*

For instance, in Bhurumal (supra), the Supreme Court noticed that post which the workman held was of Lineman in the Telephone Department, and that the work of Lineman was drastically reduced in view of advancement of the technology."

6.6. In the case of BSNL v. Bhurumal, reported in (2014) 7 SCC 177, it was categorically observed that even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself."

Thus it is clearly established by the parties that Sri Surshyam Singh was engaged in the Telecommunication Department on the post of Security Guard as a casual labour and his services were retrenched on 01.08.1999. As such as per law which are referred herein above the workman Sri Surshyam Singh is entitled for compensation as his service was retrenched without complying the provisions of Section 25-F of Industrial Disputes Act 1947 but he is not entitled for reinstatement as prayed by him.

AWARD

For the foregoing reasons as the services of Sri Surshyam Singh was engaged as casual labour on 17.05.1997 and his

services were retrenched w.e.f. 01.8.1999 without following the provisions of Section 25-F of Industrial Disputes Act 1947, hence, he is entitled for compensation amounting to Rs. 2 lacs (Rupees Two lacs only) but not for retrenchment in services.

The reference L-40012/208/2000/IR(DU) Dated 31.07.2000 is answered accordingly.

Justice ANIL KUMAR, Presiding Officer

Kanpur.

13th December, 2024

नई दिल्ली, 25 मार्च, 2025

का.आ. 512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **रजिस्ट्रार एवं सचिव, एडमिनिस्ट्रेटिव स्टाफ कॉलेज ऑफ इंडिया, बेला विस्टा, हैदराबाद; मुख्य कार्यकारी अधिकारी, हार्मनी कंसल्टेंसी, मेट्टुगुडा, सिकंदराबाद,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री एम. मनोज बाबू, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट (संदर्भ संख्या 12/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.03.2025 को प्राप्त हुआ था

[सं. एल – 42025-07-2025-74-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 25th March, 2025

S.O. 512.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 12/2017) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar & Secretary, Administrative Staff College of India, Bella Vista, Hyderabad ; The Chief Executive Officer, Harmony Consultancy, Mettuguda, Secunderabad, and Shri M. Manoj babu, Worker,** which was received along with soft copy of the award by the Central Government on 25.03.2025.

[No. L-42025-07-2025-74-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of February, 2025

INDUSTRIAL DISPUTE LC No.12/2017

Between:

M. Manoj babu,

S/o. Sri M. Nagabushanam,

Aged about 44 years, Occ:

Ex.project Academic Assistant,

R/o 6-3-1141/1/B, B.S. Maktha,

Begumpet, Hyderbad-500016. ……Petitioner

AND

1. Administrative Staff College of India,
   Rep. by Registrar & Secretary,
   Bella Vista, Raj Bhavan Road,
   Hyderabad.
2. Harmony Consultancy,
   Rep. by its Chief Executive Officer,

No. 12-8-403, Flat No. 401, Gayathri Plaza,
Mettuguda, Secunderabad-500017.

… Respondents

Appearances:

For the Petitioner: Sri A.K Jay Prakash Rao, advocate

For the Respondent: Sri GVS Ganesh, Advocate of R1

Sri Y. Babji, advocate of R2

AWARD

Sri M. Manoj Babu, who worked as Ex. Project Academic Assistant (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents by creating camouflage contract which is illegal and direct the respondents to take back the petitioner as Project Academic Assistant by granting with continuity of service and back wages.

2. On the date fixed for Petitioner's evidence, Petitioner called absent. Despite providing sufficient opportunity Petitioner did not adduce any evidence to substantiate his claim. Therefore, a 'No claim' award is passed for want of evidence.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 11th day of February, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 मार्च, 2025

का.आ. 513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंधक, मेसर्स गुरभानी सिक्योरिटी प्राइवेट लिमिटेड, ललिता नगर विशाखापत्तनम; लाइट हाउस और लाइट शिप निदेशालय, खेल शिपिंग और जलमार्ग मंत्रालय, दीप भवन बंदरगाह आवासीय क्षेत्र, सालिगराम पुरम, विशाखापत्तनम,**के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री डी.वी. सत्यकिशोर, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट (संदर्भ संख्या 25/2023) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.03.2025 को प्राप्त हुआ था।

[सं. एल – 42025-07-2025-75-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 25th March, 2025

S.O. 513.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 25/2023) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, M/s Gurbhani Security Pvt Ltd., Lalitha Nagar Vishakapatnam ; The Directorate of Light Houses and light ships, Ministry of sports shipping and water ways, Deep Bhavan port residential area, Saligrama puram, Vishakapatnam, and Shri DV Satyakishore, Worker,** which was received along with soft copy of the award by the Central Government on 25.03.2025.

[No. L-42025-07-2025-75-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 24th day of January, 2025

INDUSTRIAL DISPUTE LC No.25/2023

Between:

Sri DV Satyakishore,

S/o Chitta babu, Aged-36 years,

Occ: Unemployee,

R/o. Door No. 13-3126 Kota

Vari Street Bheemini Pattanam,

Vishakapatnam. ……Petitioner

AND

1. The Manager,
   M/s Gurbhani Security Pvt Ltd.,
   41-8-6/1 opposite SKML sweet shop
   Road Lalitha Nagar Vishakapatnam.
2. The Directorate of Light Houses and light ships,
   Ministry of sports shipping and water ways,
   Deep Bhavan port residential area
   Saligrama puram Vishakapatnam.

… Respondents

Appearances:

For the Petitioner: M/s. S. Bhagwantha Rao , Advocates

For the Respondent: Sri Lavudi. Adi Babu of R1, Advocate

Sri Ravinder Viswanath of R2, advocate

AWARD

Sri DV Satyakishore, who worked as House Keeper (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents to reinstate the petitioner into service as a House Keeper by releasing the salary of with held and reinstate into service with full back wages from the date of termination to date of Reinstatement.

2. On the date fixed for Petitioner's evidence, Petitioner called absent. Despite providing sufficient opportunity Petitioner did not adduce any evidence to substantiate his claim. Therefore, a 'No claim' award is passed for want of evidence.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 24th day of January, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 मार्च, 2025

का.आ. 514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **निदेशक (कार्मिक) एनएचपीसी लिमिटेड, सेक्टर 33, फरीदाबाद; कार्यकारी निदेशक, एनएचपीसी लिमिटेड, क्षेत्र -1, नरवाल, जम्मू; महाप्रबंधक, एनएचपीसी लिमिटेड, सलाल पावर स्टेशन, ज्योतिपुरम,,** के प्रबंधतंत्र के संबद्ध नियोजकों और **अध्यक्ष, सलाल (एनएचपीसी) वर्कर्स यूनियन कांग्रेस, ज्योति पुरम,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2, चंडीगढ़, पंचाट (संदर्भ संख्या **60/2015**)को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.03.2025 को प्राप्त हुआ था।

[सं. एल – 42011/233/2015-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 25th March, 2025

S.O. 514.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 60/2015) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh,** as **The Director (Personnel) NHPC Ltd, Sector 33, Faridabad; The Executive Director, NHPC Ltd, Region-1, Narwal, Jammu; The General manager, NHPC Ltd., Salal Power Station, Jyotipuram, and The President ,Salal (NHPC) Workers Union Congress, Jyoti Puram,** which was received along with soft copy of the award by the Central Government on 25.03.2025.

[No. L-42011/233/2015-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

(Presided over by Mr. Kamal Kant).

ID No.60/2015

Registered on:-25.02.2016

Salal (NHPC) Workers Union Congress, Jyoti Puram through its President.

-------- Applicant

Versus

1. The Director (Personnel) NHPC Ltd, Sector 33, Faridabad-121003.
2. Executive Director, NHPC Ltd, Region-1, Narwal, Jammu.
3. General manager, NHPC Ltd., Salal Power Station, Jyotipuram.

----Respondents

Present:- Workman in person along with Sh. Sanjeev Sharma, Advocate.

Sh. Tarun Gupta, ld. counsel along with Sh. Sanjeev Kumar (DGM HR) and Sh. B B Kalyan (DGM Law) for management.

Award : 17.02.2025

Central Government vide Notification No.L-42011/233/2015(IR(DU)) Dated 17.02.2016, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of (National Hydroelectric Power Corporation Limited, Salal Power Station, Jyotipuram, Distt. Reasi) representing through its General Manager for not giving pay scale of Rs.260-350 to Smt. Bimla Salathia with effect from date of her initial

appointment is justified or not? If not, to what relief the workman is entitled to and from which date?"

1. Brief facts of the case are that the applicant Smt. Bimla Salathia was initially appointed as work assistant in the Salal Project on 20.01.1978 and was placed in the pay scale of Rs.196-232. In the cadre of work assistant, the management of Salal was having three pay scale viz Rs. 196-232, 210-290 and 260-350 and the management has the unbridled powers to place any workman in any scale according to its whims and fancies and against well established rules/policy whether it may cause irreparable loss to workman. Policy of the management should be reasonable and fair and should apply to every workman equally. It is submitted that the applicant is matriculate and one person namely D. George, who too is working as work assistant having nil qualification was appointed on 13.10.1978 and was given pay scale of Rs.260-350, whereas the applicant was ignored and forced to perform the duties in the pay scale of Rs.196-232, which was applicable to helpers, beldars, khalasi etc. as per revised pay scale of pay indicated in the gazette notification for the work charge establishment of Salal, Loktak and Baira Siul projects. In addition to this, four more individuals namely Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma, who were also appointed subsequent to her as a matter of settlement were offered the pay scale of Rs.260-350 at the time of initial appointment vide letter dated 06.08.2013. The management has suppressed the present status of 4 work assistants. The similar analogy is required to be adopted in her case for placement in the pay scale of Rs.260-350 from the date of her initial appointment. It is prayed that the reference may be allowed and the applicant be given pay scale of Rs.260-350 from the date of her initial appointment.

2. Respondents filed reply thereof maintaining that the workman was initially appointed as work assistant in the pay scale of Rs.196-232 w.e.f. 20.01.1978 and was promoted to the next higher grade in the scale of Rs.210-290 w.e.f. 01.09.1979 and in pay scale of Rs.260-350 w.e.f. 01.10.1983. The workman was lastly holding the pay scale of Rs.15500-39500 (IDA) by virtue of her promotions from time to time as per applicable rules and policies. The management do not have any choice to appoint employee in any pay scale. At the time of initial appointment, the Salal Project was under the direct control of Government of India and recruited the workman including work assistant in the specified pay scale as were prevalent at that time. The recruitment of work charged employees of the project was done against the sanctioned post in the project and after they duly accepted the terms and conditions of appointment including the pay scales and designations for which they were found suitable. The workmen of Salal Hydro Electric Project (hereinafter called as SHEP) were transferred to NHPC Ltd. w.e.f. 01.04.1983 in the same capacity after exercising willingness by the individuals, the pay scales and designation of work charged employees including work assistants were rationalized in consultation with the union after signing a settlement. The said D. George was a retrenchee of BSL Project with an experience of 10 years in the construction works of the hydroelectric project and at the time of his discharge, he was having the designation of Chargeman (Misc.) and was found suitable for appointment in the pay scale of Rs.260-350. As per settlement arrived at between management of SHEP and Salal Project Union before Assistant Labour Commissioner (Central), Jammu (hereinafter called as ALC), Sh. Ram Singh, Gurdip Singh, Joginder Singh and Kamaldev Sharma, all work assistants were deemed to have been placed in the scale of Rs.260-350. The management of Salal project exercised its statutory rights to not continuing the settlement and therefore, under provisions of Section 19 of the Act, issued notices to the President, Salal project labour union of its intention to terminate the settlement signed on 18.10.1989. Accordingly, all the four workers after the termination of said settlement were put back in the pay scale of Rs.210-290, in which they were initially appointed.

3. It is also maintained that in case of Smt. Bimla, her case cannot be considered in pay scale of Rs.260-350 from the date of her initial appointment as she was given all the promotions and all the benefits of retirement as per Rule. It is maintained that having accepted the offer of appointment in the pay scale of Rs.196-232 and having availed all the benefits of services including promotions, she cannot raise dispute at belated stage as no cause of action arose to her and claim is liable to be dismissed.

Evidence of the parties:-

4. In order to prove her case, applicant herself appeared and filed her affidavit Ex.WW1/A and closed her evidence on 29.07.2019. She relied upon following documents:

Annexure A2: Settlement dated 18.10.1989

Annexure A3: Letter dated 25.11.1999

Annexure A4: Letter dated 06.08.2013

Annexure A5: Letter dated 16.09.2013

5. Thereafter, respondents have examined Sh. Vivek Kumar Jaiswal, Senior Manager (HR) as MW1, who tender his affidavit as MW1/A and management relied upon following documents:

Sr. No.	Annexure/Exhibit	Document
1.	Exhibit R-1	Appointment letter dated 20.01.1978 of Smt. Bimla Salathia
2.	Exhibit R-2	Office Order dated 09.10.1979
3.	Exhibit R-3	Office Order dated 19.11.1983
4.	Exhibit R-4	Retirement letter of Smt. Bimla Salathia dated 26.08.2015
5.	Exhibit R-5	Discharge certificate of Mr. D. George
6.	Exhibit R-6	Letter dated 21.07.2010
7.	Exhibit R-7	letter dated 08.06.1990
8.	Exhibit R-8	Affidavit of Mr. Sanjeev Kumar (DGM, HR) dated 04.02.2025
9.	Exhibit R-9 (Colly)	Office orders dated 23.11.1992

Thereafter, respondents closed their evidence on 17.09.2019 and the matter was fixed for arguments.

Submissions of Applicant:

6. While arguing the case, ld. counsel for the applicant contended that she was appointed on 20.01.1978 as work assistant in the pay scale of 196-232 vide Ex.R-1. However, she raised objection on putting her in pay scale of 196-232 as this scale was made for the category of khalasi/beldar/helper, on the ground that she was matriculate and her objection was taken note of by the HR department of respondents and concerned official made remarks on her appointment letter "Please examine and discuss (Mark A)." She was appointed on 20.01.1978 and subsequently was given scale of 210-290 vide order dated 01.09.1979 (Ex.R-2) and thereafter grade of 260-350 on 01.10.1983 vide Ex.R-3, whereas she should have given pay scale of 260-350 w.e.f. 20.01.1978. She continuously made various representations through union regarding the anomaly in her scale. Last representation was made on 01.02.2014. All the representation of the workman remained pending. It is further stated that after her appointment, one D. George was appointed in the pay scale of 260-350 on 13.10.1978. She made representation against it giving the scale to said D. George, but no action was taken by the department on the ground that pay scale of 260-350 cannot be extended to her as she has no experience at the time of induction into the service. There cannot be different treatment to two similar situated employees, having identical qualification, which is in violation of principles of natural justice. No reasonable explanation has been given by the management. In cross examination, management witness has admitted the fact that the workman was appointed as work assistant like D. George, but the scale granted to the workman was Rs.196-232, whereas scale granted to the D. George was Rs.260-350. The said witness has also submitted that there is no rule that there could be two different scales for work assistant. Moreover, the pay scale of junior cannot be higher than the pay scale of senior.

7. Ld. counsel for the workman further contended that even four persons namely Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma were given pay scale of 260-350 in view of the settlement dated 06.08.2013 arrived at between the President, Salal Project Labour Union (SPLU) and management i.e. respondents and on this score also, workman was entitled for pay scale of 260-350.

8. Hon'ble Supreme Court of India in case State of Punjab and ors vs. Jagjit Singh and others held that the state is bound to given equal pay for equal work to the employees who discharge the same duties and have the minimum qualification as per rules for appointment. He prayed that in view of above, the instant reference be allowed.

Submissions of Respondents:

9. On the other hand, ld. counsel for respondents contended that the workman was appointed as work assistant in the pay scale of Rs.196-232 in SHEP on 20.01.1978 (Annexure R1). Thereafter, she was promoted to the next higher grade in pay scale of Rs.210-290 on 01.09.1979 (Annexure R2). The workers of SHEP were transferred to NHPC in the same capacity after exercising willingness by individuals and settlement was signed with the union on 01.01.1983. On 01.10.1983, the workman was promoted to the next higher grade in pay scale of 260-350 (Annexure R3) and retired from service in the pay scale of Rs.15500-39500/- on 31.08.2015 (Ex. R-4). Her case is not maintainable for the fact that she was appointed as work assistant in the pay scale of 196-232 on 20.01.1978 and she has raised issue after 38 years, which suffers from inordinate delay and latches. He further contended that vide letter dated 21.07.2010 (Ex.R-6), workman was informed

that there was no anomaly in her case and she was granted scale as per rules and cause of action arises to her lately when the said letter was written, but she remained silent and thereafter raised issue in the year 2015, which is highly belated. Moreover, appointment of applicant was fresh appointment vide order dated 20.01.1978 by Government of India. She does not raise any objection at that time but later on expected the grade of 260-350. Moreover, the said D. George was also appointed on 03.10.1978 by the Government of India in the pay scale of Rs.260-350 as he was retrenchee and having experience of 10 years w.e.f. 08.11.1967 to 16.08.1977 as per discharge certificate (Annexure R-5) and after re-appointment on 03.10.1978, he also raised dispute that he should be given higher scale of Rs.360-560. He further contended that settlement was arrived between the management of Salal Project and Labour Union before ALC, Sh. Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma were placed in the scale of 260-350. But the said settlement was revoked and they were put back to the scale of 210-290 w.e.f. 20.03.1978. Thus, no discrimination has been made to the applicant.

10. I have given due consideration to the arguments advanced by ld. counsel for both the parties.

Findings:

11. At the very outset, it is pertinent to mention that there is no dispute between the parties regarding this fact that applicant is workman and respondent's establishment is an industry and there exists employer-employee relationship between the applicant and respondents. Now, the second question is whether the applicant was entitled for pay scale of 260-350 w.e.f. 20.01.1978 i.e. from the date of appointment of applicant. In this regard, applicant has claimed the aforesaid pay scale of 260-350 on the following 3 grounds:-

a. That one D. George, who was working as work assistant having nil qualification was appointed on 13.10.1978 and was given pay scale of Rs.260-350, whereas, the applicant was ignored and forced to perform the duty in pay scale of Rs.196-232 from the date of her initial appointment.

b. It is further the case of the applicant that 4 workers, namely Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma, who were appointed as work assistant, were granted pay scale of Rs.260-350 w.e.f. their initial appointments in terms of settlement dated 18.10.1989 (Annexure A2) arrived at between the President, Salal Project Labour Union (SPLU) and management i.e. respondents.

c. Further, it is the case of the applicant that junior to her, namely D. George was placed in the scale of Rs.260-350, who joined on 13.10.1978. On this ground, applicant sought pay scale of Rs.260-350.

12. It is added here that admittedly, workman was initially appointed as work assistant in Salal Project in the payscale of Rs.196-232 as per Annexure R-1 and thereafter, she was given next higher scale in the pay scale of Rs.210-290 on 01.09.1979 (Ex.R-2) and on 01.10.1983 (Ex.R-3), she was given next higher pay scale of Rs.260-350 and retired from the services on 15.08.2018 in the revised pay scale of Rs.15500-39500 (Annexure R4).

13. So far as the case of D. George is concerned, in the affidavit filed by Mr. Vivek Kumar Jaiswal, Senior Manager (HR), Salal Power Station, Jyotipuram of respondent, D. George was put in scale of 260-350, as he was retrenchee of BSL with experience of 10 years in the construction works of the hydroelectric project. At the time of his discharge from BSL project, he was having designation of chargeman (misc.) and was found suitable in pay scale of Rs.260-350. It has also been mentioned in his discharge certificate Ex.R-5 issued by Sub-Divisional Officer, S/ Shaft Complcy Const. Sundernagar that he worked as 'Fitter' from 08.11.1967 to 31.03.1973 and as C/M Misc. from 01.04.1973 to 16.08.1977, whereas, the applicant was appointed raw hand on 20.01.1978 vide Ex.R-1, she cannot claim parity from D. George. Thus, the fact that she was senior to D. George and was entitled for pay scale of 260-350 also carries no weight.

14. So far as other employees namely Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma are concerned, in respect of whom, the applicant has sought parity. In this regard it is pertinent to mention here that they were given pay scale of 260-350 in view of settlement arrived at between the union of SPLU and management vide conciliation dated 18.10.1989 (Annexure A2), but the same was withdrawn by the management vide letter dated 08.06.1990 (Ex.R-7). This fact also find mention in the affidavit of Mr. Vivek Kumar Jaiswal, Senior Manager (HR), Salal Power Station, Jyotipuram, para 5 of which is reproduced below:

5. That as per settlement arrived at between management of SHEP and Salal Project Labour Union before ALC (Central), Sh. Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma, all work assistant were deemed to have been placed in the scale of 260-350. The termination of the settlement by the management was occasioned because of the fact that the settlement arrived at had created serious industrial relation problems between management and the workmen of the project. It was thought necessary and expedient in the interest of proper administration that the management exercised their option to terminate the settlement. The management of Salal project exercised its statutory rights to not continuing the settlement and therefore, under provision of

Section 19 of the ID Act, issued notices to the President Salal Project Labour Union of its intention to terminate the settlement signed on 18.10.1989. Accordingly, as per Section 9A of the ID Act, notices were issued to Sh. Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma, to change their service condition as a consequence of termination of settlement. Further the above referred employees were graduate at the time of induction, whereas Smt. Bimla Salathia was matriculate. As such, it is not comparable with the case of Smt. Salathia with the above referred employees.

That a writ petition no. 642 of 1990 titled Sh. Gurdeep Singh and Others V/s General Manager and others was filed in the Hon'ble High Court of J&K by these employees which was dismissed as withdrawn vide order dated 01.02.1991 with liberty as prayed for, as the matter was pending before the ALC (Central) for conciliation. (Copy attached). The effected workmen through their union pursued the matter in conciliation, which ultimately ended in failure of conciliation and a failure report was sent by the ALC (C) (Conciliation Officer) to the Ministry of labour, Government of India.

It is also pertinent to mention here that these four workmen also move the High Court of J& K again in writ petition no.SWP 51 of 1992 titled "Gurdeep Singh and others v/s General Manager, SHEP and others thereby challenging the action of management in terminating the settlement which was signed in conciliation. The writ petition was dismissed as not maintainable vide order dt. 01.09.1992 but with the observations that the Central Govt. shall expedite the matter arising out of the reference made to it by the ALC (Central), Jammu.

Accordingly, the matter was referred by Central Govt. to Central Government Industrial Tribunal cum Labour Court, Chandigarh vide order dated 11.11.1992 (copy enclosed) which was returned to the Central Govt. vide award dated 22.11.2001 for want of prosecution. (Copy enclosed). The abstract of the said order is as follows:

'Today the case was fixed for evidence of the workmen. Despite several notices, none has put up appearance on behalf of the workmen. It appears that union is not interested to pursue with the present reference. In view of the above, the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed.'

The workmen referred in para 4 of the petition were given the pay scale of Rs.260-350 w.e.f. 23.03.1978 based on settlement and after termination of said settlement they were brought back in the pay scale of Rs.210-290 in which they were initially appointed.

15. It is also added here that during the course of arguments, ld. counsel for applicant has drawn attention of the Tribunal towards letter dated 06.08.2013 (Annexure A4) and contended that these four employees namely Sh. Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma were again extended benefits vide this letter. But the counter affidavit dated 04.02.2025 (Ex.R-8) was filed by Mr. Sanjeev Kumar, Deputy General Manager that the settlement arrived on 18.10.1989 was terminated and aforesaid four employees namely Sh. Ram Singh, Gurdip Singh, Joginder and Kamal Dev Sharma were brought back in the scale of 210-290 in which they were initially appointed and an order dated 23.11.1992 (Ex.R-9 colly) were issued in this regard by the management. It has been further mentioned in para 2 and 3 of the affidavit dated 04.02.2025 that they were given promotions and increments time to time till their retirement with deemed pay scale of Rs.210-290 and order dated 23.11.1992 has not been set aside. It is also mentioned that claimant cannot claim parity with these four employees. Relevant para 2 and 3 of the affidavit of Mr. Sanjeev Kumar are reproduced as under:-

"*2. That the above workmen have availed promotions and increments time to time till their retirement with deemed pay scale of Rs.210-290. The order dated 23.11.1992 has not been setaside.*

3.That the claimant cannot claim any parity with these 4 workmen and allege that they have been granted the pay scale of 260-350 as the settlement was terminated and they were placed in the initial pay scale of induction i.e. Rs.210-290."

16. So the arguments advanced by the ld. counsel for the applicant that vide order dated 06.08.2013 (Annexure A4), benefit were again granted to the workman as vide this letter, they were not granted pay scale of Rs.260-350 again, as contended by the ld. counsel for the workman. Rather, some monetary benefits had been given vide this letter. So the contention of the ld. counsel for workman that order dated 23.11.1992 has been withdrawn is not correct and contention in this regard is devoid of merit.

17. Now, the question which is raised by the applicant is that when the applicant was issued appointment letter (Annexure R1) dated 20.01.1978 and she orally requested to the concerned officer to grant her scale of 260-350 and even officer has stated on her appointment letter that "*Please examine and discuss*" (Mark A). The

said averment of the applicant is not at all maintainable as she has not moved any written request to the management for not accepting the post on which she was posted. It cannot be gathered from the aforesaid remarks on appointment letter that it was regarding to giving her higher scale. Rather, she continued with the post and thereafter obtained subsequent scales of Rs.210-290 w.e.f. 01.09.1979 and Rs.260-350 w.e.f. 01.10.1983 (Annexure R3) and retired from service in the pay scale of Rs.15500-39500/- on 31.08.2015 (Annexure R4). Not only this, the applicant has placed on record any written representation made by her during her services as the same has not been filed with her affidavit. During the course of arguments, it has been stated by the ld. counsel for respondents that applicant was issued a letter dated 21.07.2010 (Ex.R-6) informing her that there was no anomaly of pay scale in her case. But even after receiving letter dated 21.07.2010, she has not raised any issue till 2015. Thus, it is clear that after reaching near retirement, applicant has raised this issue. She might have raised this issue orally, but she has never raised this issue through any representation before the management as no such representation has been placed on file by the applicant.

18. Thus, keeping in view the above discussions, the case of the applicant is highly belated and even not maintainable on merit. Hence, the reference is rejected.

19. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

Sr. No.	Annexure/Exhibit	Document
10.	Annexure A2	Settlement dated 18.10.1989
11.	Annexure A3	Letter dated 25.11.1999
12.	Annexure A4	letter dated 06.08.2013
13.	Annexure A5	letter dated 16.09.2013
14.	Exhibit R-1	Appointment letter dated 20.01.1978 of Smt. Bimla Salathia
15.	Exhibit R-2	Office Order dated 09.10.1979
16.	Exhibit R-3	Office Order dated 19.11.1983
17.	Exhibit R-4	Retirement letter of Smt. Bimla Salathia dated 31.08.2015
18.	Exhibit R-5	Discharge certificate of Mr. D. George
19.	Exhibit R-6	Letter dated 21.07.2010
20.	Exhibit R-7	letter dated 08.06.1990
21.	Exhibit R-8	Affidavit of Mr. Sanjeev Kumar (DGM, HR) dated 04.02.2025
22.	Ex.R-9 (Colly)	Office orders dated 23.11.1992

नई दिल्ली, 25 मार्च, 2025

का.आ. 515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सचिव, कॉयर बोर्ड, कोचीन, केरल; क्षेत्रीय कॉयर विकास अधिकारी आरसीटी एवं डीसी, राजमुंदरी, जिला-ई जी,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री श्री के. योसेफ, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट (संदर्भ संख्या 10/2008) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.03.2025 को प्राप्त हुआ था।

[सं. एल – 42025-07-2025-73-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 25th March, 2025

S.O. 515.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 10/2008) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Secretary, Coir Board, Cochin, Kerala;Regional Coir Development Officer RCT & DC, Rajahmundry, District-E G, and Shri K. Yoseph, Worker,** which was received along with soft copy of the award by the Central Government on 25.03.2025.

[No. L-42025-07-2025-73-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 18th day of February, 2025

INDUSTRIAL DISPUTE LC No. 10/2008

Between:

Sri K. Yoseph,
S/o Surayya,
D.No.114, Cottonpet,
New Colony, Davaleswaram,
Rajahmundry,
East Godavari District. ….Petitioner

AND

1. The Secretary,
   Coir Board, Cochin
   Kerala State.
2. Regional Coir Development Officer
   RCT & DC, Rajahmundry, E G District ….Respondents

Appearances:

For the Petitioner : A K Jayaprakash Rao & M Govind, Advocates

For the Respondent: M/s. Ravinder Viswanath, Advocates

AWARD

Sri K. Yoseph, who worked as Cook (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Coir Board seeking for declaring the proceeding dated 28.1.2003 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

It is submitted that Petitioner worked as Ex-Cook and he got terminated by Respondent on 28.1.2003. Further, it is submitted that the Petitioner was drawing wages of Rs.1500/- per month. It is submitted that the Petitioner served demand letters on dt.12.1.2004 and subsequently reminders on dt.24.5.2004, 21.7.2005 and the latest being on dt.22.6.2006 to the employer by Registered Post with acknowledgement due, to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent neither send any reply nor reconsider his case. It is submitted that Petitioner did not approach any other authority or Forum for getting the dispute settled. It is submitted that the workman has registered his name with Employment Exchange. The 2nd Respondent called him for interview vide letter dt.2.8.1994 and according to which Petitioner attended interview on 12.8.1994 and thereby he was appointed vide order dt.28.9.1994, as Cook in the hostel of RCT & DC and he reported duty in October, 1994. The workman was appointed on consolidated pay of Rs.750/- per month. The workman submits that clear vacancies were existing in the office of 2nd Respondent, however, after completion of 89 days, the management shown break of about 1 or 2 days and used to issue fresh appointment letters which action has been evident from the Memo dt.27.4.1995 and on dt.16.7.1995. The workman submits that he had worked for more than 240 days continuously, but the management shown artificial breaks in service, obviously to evade regularization of the service of the workman. After the latest engagement of 89 days of spell in the year 1995, without there being any intimation or notice, the service of the workman was terminated. However, during the tenure of his employment, the workman approached the High Court and filed a W.P.No.23063/1995 along with one Mr.K.Yeseph in which interim direction was granted to continue the workmen in service and as such the workmen were continued in service. However, at later

stage in the year 2002, the Writ Petition was dismissed, as the issue relating to fact finding of the contention raised, therefore, the High Court observed that the contentions have to be agitated under the provisions of Industrial Disputes Act, 1947. Subsequently, in the year 1996, the consolidated pay was enhanced to Rs.1300/- per month, vide order No.66 dt.5.8.1996. It is submitted that during the interregnum while the workman was in continuous service in pursuance of the interim order of the High Court, the 1st Respondent issued an Office Order No.32, dt.17.5.2000 under which the workman was given temporary status of a Group D Employee as he rendered more than 240 days in a year. According to the above referred circular, the workman (i) is entitled for wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group D Official including DA, HRA and CCA. (ii) is entitled to increments at the same rate as applicable to a Group D Employee (ii) is also eligible for leave on a pro-rata basis (iv) is also entitled that his half of the service rendered under temporary status would be counted for the purpose of retirement benefits after regularization (v) is entitled to be treated on par with temporary Group D Employees for the purpose of contribution to GPF after 3 years continuous service after conferment of temporary status and till then the workman would be considered for Product Linked Bonus/Adhoc Bonus. The name of the workman is shown at Serial No.6 of the said proceeding. Contrary to the above referred circular dt.17.5.2000, the management terminated the service of the Petitioner w.e.f.28.1.2003. The management alleged that it had sent the termination notice to the workman and in fact made up a story of return of the same notice due to non delivery, and as such published in a News Paper. It is submitted that the Division Bench of the Hon'ble High Court while dealing with number of Writ Appeals filed by the Coir Board against its employees, decided the issue on dt.9.6.2006 that the Coir Board is an industry within the meaning of provisions of I.D. Act, 1947. The present case on hand also has similarity as to violation of provisions of Section 25F of the Industrial Disputes Act and also in violation of the Circular dt.17.5.2000 issued by the management. Hence, the present ID proceedings are initiated against management for appropriate relief in favour of the Petitioners and against the management. Even as seen from the Paper Publication, the Proceedings are dt.18.3.2003 and the date of effect of termination is 28.1.2003. In view of the settled principles of law, the termination cannot be effected with retrospective date, hence, the order of termination is liable to be set aside. The workman has approached the management for reinstatement him into service on 22.12.2007 but Management did not respond positively, hence, this petition. Therefore, prayed to set aside the order dt.18.3.2003 terminating the workman w.e.f. 28.1.2003 as illegal, arbitrary and consequently direct the Respondent to reinstate the Petitioner with all consequential benefits.

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows**:

It is submitted that the Coir Board had established four regional Coir training and development centres, one each in Thanjavur (Tamilnadu), Arsikere (Karnataka), Rajahmundry, (A.P), and Bhubaneswar (Orissa). The staff for these centres were to be appointed on deputation basis from the state governments concerned after an initial period of operation of five years. From the above, it is clear that no staff were able to be appointed by the Coir Board on regular basis, in these centres. It is submitted that in the case of the Petitioner, Shri. K. Yoseph, he was engaged as a contingent Cook in the hostel attached to the RCT&DC(Regional Coir Training and Development Centre) at Rajahmundry for a period of 89 days w.e.f 17.10.1994. It is submitted that he was given a consolidated pay of Rs.750/ per month. After the initial 89 days, after a break, he was again engaged as contingent Cook for another 89 days period with the same consolidated remuneration. Further, it is submitted that since the services of Petitioner was not required for the hostel attached to the RCT&DC (Regional Coir Training and Development Centre), Rajahmundry, his engagement was discontinued. At that time, Petitioner moved the Hon'ble High Court, Hyderabad filing a Writ Petition No. 23063/ 1995. As per the interim directions of the Hon'ble High Court in W.P.23063 / 1995, the Petitioner was re-engaged from 18.10.1995. Subsequently, the consolidated remuneration being paid to him was enhanced to Rs. 1,300/- p.m w.e.f 5.8.1996. It is submitted that Petitioner was given temporary status of a group D employee vide Office Orders No.32 dated 17.5.2000. In the meantime, correspondence was going on with the Central Government on the matter of transfer of RCT&DCs to the state governments concerned. Since the State Government were not coming forward to take over these Centres with the men and machinery available in the Centres, ultimately the Central Government issued a direction to the Coir Board to close down the Centres and discontinue the activities through them vide letter No.7(22)/95-Coir dated 4th July, 2000. Thus, the activities in the RCT&DCs, Rajahmurndry were stopped w.e.f 31.3.2001. The Petitioner was still continuing in the service by the virtue of the direction of the Hon'ble High Court in W.P.23063/1995. But the Hon'ble High Court vide judgment dated 22.11.2002 dismissed the above writ petition filed by the Petitioner. It is submitted that in the light of the judgment passed by the Hon'ble High Court, the engagement of relevant the Petitioner was terminated w.e.f. 28.1.2003 and termination order was sent by registered post to the contingent staff but it was returned undelivered. Therefore, the notice was published e in the local newspaper on 21.1.2003. With respect to the allegation that the termination Order cannot be effected with retrospective date, it may kindly be noted that the termination notice was first sent to him in his postal address by registered post promptly. But, since the same was returned after some days, undelivered, the same was issued in the local newspaper as per procedure. This was the fact against which the public notice was issued on 28-01-2003 for termination of the engagement of the Petitioner. Therefore, prayed to dismiss the petition with costs.

4. <u>On the basis of the pleadings of both parties and arguments advanced, the following points emerge for determination:-</u>

I. Whether the action of the Respondent management in terminating the services of the Petitioner workman vide order dated 28.1.2003 is legal and justified?

II. To what relief the Petitioner is entitled for?

<u>Findings</u>:-

5. <u>Point No.I:</u> Petitioner claims that he joined the services of Respondent on 28.9.1994 as Cook. The Workman was appointed on consolidated pay of Rs.750/- per month and from the date of joining till termination he worked continuously with unblemished record of service. Further, Petitioner submits that he had worked for more than 240 days of continuous service in every completed year. Further, it is submitted that Respondent in the month of October, 1995 gave artificial break. Thereafter, Workman approached Hon'ble High Court and filed WP No.23063 of 1995 along with another employee and the Hon'ble High Court passed the order in WPMP number 28326 of 1995, Ex. W6 directing the Respondent to continue the Petitioner in the service pending disposal of writ petition. Further, it is submitted that from 1995, Respondent continued the services of the Petitioner without giving any break in the service. Further, it is submitted that first Respondent issued an office order No. 32 dated 17th May, 2000, Ex.W8 under which they have given temporary status of a Group D employee to the employees who completed 240 days of service, as the Petitioner has completed 240 days of continuous service in every completed year, the Respondent gave the temporary status of Group D employee to the Petitioner also along with other employees and the name of the Petitioner appears in the office Order No.32 dated 17.5.2000 at Sl No. 1. Further, it is submitted that the Petitioner was granted temporary status by Respondent No.1 in the said office order but the Respondent has terminated the services of the Petitioner with effect from 28.1.2003 and the said action of the Respondent is illegal and contrary to the law. Further Petitioner has submitted that Respondent has terminated his services in violation of provision of Section 25 F of ID Act. To fortify the claim, Petitioner has examined himself as WW1 and filed chief affidavit of wherein has reiterated the averments made in petition. WW1 Witness has also exhibited photocopies of 11 documents in support of the claim i.e., Ex. W1 to W 11.

6. Perusal of the docket reveals that despite sufficient opportunity accorded to him, Respondent did not adduce any evidence nor cross examined witness WW1. Therefore, case was set exparte against the Respondent. As the Respondent did not cross examine Witness WW1, the deposition of the witness remained uncontraverted. The Petitioner has filed documents in support of his the claim which we proceed to discuss one by one. Ex. W1 is the memorandum dated 28.9.94 issued by the Management Coir Board for appointment of Petitioner Sri K. Yoseph at the hostel attached to RCT &DC, Rajahmundry on contingent basis on a consolidated pay of Rs.750/- per month. Further Ex.W2 is another memorandum dated 31.1.1995 issued by Regl.Coir Dev. Officer of the Respondent, which reveals that again the Petitioner Sri K. Yuseph was offered the post of Cook for 89 days at the hostel attached to Regl.Coir Training and Development Centre, Rajahmundry on contingent basis on a consolidated pay of Rs.750/- per month. Further, Ex.W3 is another memorandum issued by COIR Board to the Petitioner for the post of Cook, at the hostel attached to Regional Coir Training and Development Centre, Rajahmundry on contingent basis dated 16.7.1995 for a period of 89 days. Ex.W4 is an affidavit which has been filed in writ petition No.23063 of 1995 by Petitioner. Further Ex.W5 is the counter copy of affidavit filed by Respondent. Further Ex.W6 is copy of order of High Court of AP wherein High Court has ordered that notice do issue to the Respondents into show cause why this application of the Petitioner Sri K. Yeseph should not be complied with and it is further ordered that the Respondents herein and hereby are directed to continue the Petitioner in service pending further orders on this petition. Thus, Hon'ble High Court vide order dated 13.10.1995 has directed the Respondent to continue the Petitioner in services till further orders. Ex.W7 is the copy of another memorandum dated 20.10.1995, issued by Coir Board, Regl. Coir Dev. Officer-I, Rajahmundry. Thus, in view of the order dated 13.10.1995 of Hon'ble High Court of AP in the WPMP No. 28326/1995 Respondent was directed to continue the services of the Petitioner in the same post until further orders. Further, Ex. W8 is the office order No.32 dated 17.5.2000, of Respondent whereby the Petitioner was conferred the temporary status of Group D in the service of the Respondent. Ex.W9 is the Newspaper publication of notice of Termination of Petitioner dated 18.3.2003 wherein it is mentioned that services of the Petitioner Sri K. Yoseph and Sri Sd. Moulana of Rajahmundry are no longer required as the activity of the Centre has been discontinued. Therefore, the services of the Petitioner are not required in pursuance of the order dated 22.11.2002 of the Hon'ble High Court of AP in WP No.23063 of 1995. Further, it is mentioned in the said notice that the termination order was sent by RPAD which was undelivered, hence the same was published in the newspaper. Therefore, with the dismissal of the writ petition, the services of the Petitioner was terminated by the Respondent management with effect from 28.1.2003 for the reason assigned that the activities of the centre has been discontinued.

7. Admittedly, the activities of the centre of the Respondent has been discontinued vide letter dated 4.7.2000 issued by Government of India whereas the Respondent centre has been closed due to discontinuation of its activities, the provision of Sec.25FFF would apply to the case of Petitioner.

In this context, I would like to make the reference of Section 25 FFF which reads as follows:-

25FFF. Compensation to workmen in case of closing down of undertakings.

(1)Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25-F, as if the workman had been retrenched:Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25-F, shall not exceed his average pay for three months.

Further, in this context, Hon'ble Supreme Court in the matter of **Management of Hindustan Steel Ltd Vs. The Workmen & Ors. 1973 Air page 878** have held,

"According to sub-s.(2) of s. 25FFF it is quite clear that in case of closure of the categories of undertakings as mentioned therein, no workman employed in those undertakings can claim compensation under cl. (b) of S. 25F. The language of s. 25FFF(2) is plain and unambiguous. Indeed, the learned counsel for the Respondent also did not dispute that if it were to be held in this case that the undertaking had been closed down then cl. (b) of S. 25F would not be attracted and Shri Naidu would not be entitled to claim relief under that clause. According to Shri Madan Mohan, however, the present was not a case of closure of the undertaking. His submission was that only the work of the Housing Project at Ranchi had been completed. It was argued that unless the entire undertaking of the appellant was closed down not acceptable. The word undertaking as used in S. 25FFF seems to us to have been used in its ordinary sense connoting thereby any work, enterprise, project or business undertaking. It is not intended to cover the entire industry or business of the employer 'as was suggested on behalf of the Respondent. Even closure or stoppage of a part of the business or activities of the employer would seem in law to be covered by this sub-section. The question has indeed to, be decided on the facts of each case",,,. In the present case the Ranchi (1) [1957] S.C.R. 121.

Housing Project was clearly a distinct venture undertaken by the appellant and it had a distinct beginning and an end. Separate office was apparently set up for this venture and on the completion of the project or enterprise that undertaking was closed down. The Tribunal has actually so found. Its conclusion has not been shown to be wrong and we have no hesitation in agreeing with its view. There is no cogent ground for reopening the Tribunars conclusion under Art. 136 of the Constitution. It is also noteworthy that Shri Naidu had been recruited to the work-charged establishment of the Ranchi Housing Project. In Workmen of the Indian Leafs Tobacco Development Co. Ltd. v. Management(1) closure of eight out of 21 depots of the company though not amounting to, closure of its entire business was considered, to amount to a closure within the contemplation of s. 25FFF. In Parry & Co. Ltd. v. P. C. Lal(2) it was observed that it was within the managerial discretion of an employer to organise and arrange his business in the manner he considered best and that if a bona fide scheme for such re-organisation results in surplusage of employees, no employer is expected to carry on the burden of such economic deadweight and retrenchment has to be accepted as inevitable, however unfortunate. The reasoning and ratio of these decisions support the appellant's argument."

8. From the perusal of evidence on record it is established that the activities of the Respondent management has been closed and consequently, the services of the Petitioner was no more required in the Respondent office and Petitioner was terminated with effect from 28.1.2003. In this context, Respondent has also filed a document that goes to reveal that Regional Coir Development Officer, Rajahmundry Government of India, has written a letter to the Chairman, Coir Board, Ernakulam, regarding subject of transfer of Regional Coir Training and Development Centre to the State Government and contents of para 2 of the said letter is extracted as under:-

"The issue of continued retention of these Centres by the Coir Board has been carefully examined in this Ministry in consultation with the Integrated Finance Wing and it has been decided that Coir Board may in accordance with the prescribed administrative procedure forthwith dispense with the services of the staff engaged on contractual/casual basis at these centres, as there is no Government sanction for the engagement of this staff. A compliance report in this regard may please be sent to this Ministry by 24th July, 2000."

Thus, the service of staff engaged on contractual /casual basis at the centre of Respondent has been dispensed with as there was no Government sanction for engagement of the staff.

9. Therefore, in view of the above, the circumstances was beyond the control of the Respondent, and it was decided to close activities of the centre. Consequently services of the staff engaged on contractual /casual basis at the centre as there was no government sanction for the staff engaged on contractual /casual basis at the Centre. Thus, for the want of sanction of contract to engage the staff, the services of the Petitioner was terminated and that circumstances was beyond the control of the Respondent management due to closure of its activity. Considering the evidence on record produced by Petitioner which is uncontraverted, it is established that the undertaking of the Respondent was closed down due to want of sanction from the Government of India to engage the staff and it is also established. Petitioner workman has been in continuous service for not less than one year in the Respondent centre immediately before such closure. Therefore, the Petitioner is entitled for compensation to be paid under clause (b) of Sec.25F which shall not exceed his average pay for three months under the I.D. Act, 1947. As regard compliance of the provision of the notice and compensation to the Petitioner according to the provision contained under section 25 F(b) of the ID Act is concerned, the averment of the Petitioner in this respect remained uncontraverted that the Petitioner's services has been terminated in contravention of the provision of Section 25 F of the I.D. Act, 1947. Therefore, Petitioner is entitled to compensation in accordance with the provision contained under Section 25F of the Act.

10. In view of the fore gone discussion and law laid down by the Hon'ble Apex Court, the services of the Petitioner has been terminated under section 25FFF of the I.D. Act. Therefore, he is entitled for compensation as provided under Section 25F of the Act.

This point is answered accordingly.

11. Point No.II:- Since the termination of the Petitioner was due to the closure of the activities of the Respondent management for the want of sanction, in view of the provision of Section 25 FFF read with Section 25F(b), Petitioner is entitled for compensation as per Section 25 F(b).

This Point is answered accordingly.

AWARD

In view of the fore gone discussion and finding arrived at Points No. I & II, I hold that Petitioner's services has been terminated by the Respondent under provision of Sec.25FFF due to closure of activities of its centre and he is entitled for compensation as per provision contained u/s.25F(b) of I.D. Act, 1947.v Hence, the Petitioner Sri K. Yoseph, Ex.Cook is entitled to his average pay of three months. Respondent is directed to pay compensation to the Petitioner as per provision contained u/s. 25F(b) of I.D. Act, 1947 within two months from the date of receipt of the order. Petition is partly allowed accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 18th day of February, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Yoseph	NIL

Documents marked for the Petitioner

Ex.W1:	Photostat copy of memorandum dt.28.9.94 issued by Respondent appointing Petitioner
Ex.W2:	Photostat copy of memorandum dt. 31.1.95 issued by Respondent appointing Petitioner
Ex.W3:	Photostat copy of memorandum dt. 16.7.95 issued by Respondent appointing Petitioner
Ex.W4:	Photostat copy of affidavit filed in WP 23063/95 dt.12.10.95
Ex.W5:	Photostat copy of counter affidavit filed in WP 23063/95
Ex.W6:	Photostat copy of interim direction in WPMP 28326/1995 in WP 23063/95
Ex.W7:	Photostat copy of order of Respondent dt.20.10.95 to continue the Petitioner in service
Ex.W8:	Photostat copy of circular dt.17.5.2000 conferring temporary status to Petitioner
Ex.W9:	Photostat copy of paper publication dt.18.3.2003, terminating the services of Petitioner

Ex.W10: Photostat copy of common order in batch of writ appeals dt.9.6.2006

Ex.W11: Photostat copy of office order no.51 dt.18.12.2015 regularising the services of similarly placed workers at R.O., Bhubaneswar by the Board

Documents marked for the Respondent

NIL

नई दिल्ली, 26 मार्च, 2025

का.आ. 516.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई- 2 के पंचाट (18/2010) प्रकाशित करती है।

[सं. एल- 31011/08/2009-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Mumbai -2* as shown in the Annexure, in the industrial dispute between the management of Mumbai Port Trust and their workmen.

[No. L-31011/08/2009- IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/18 of 2010

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

MUMBAI PORT TRUST.

The Chairman,

Mumbai Port Trust.

Port House, Ballard Estate

S.V. Marg,

Mumbai 400001.

AND

THEIR WORKMEN.

(MUMBAI PORT TRUST DOCK AND GENERAL

EMPLOYEES' UNION)

The General Secretary,

Mumbai Port Trust Dock & General Employees' Union

Port Trust Kamgar Sadan, Nawab Tank Road, Mazgaon

Mumbai 400010.

APPEARANCES:

Party No. 1	:	Mr. Brijmohan B. Raturi. Representative
Party No. 2	:	Mr. Vijay D. Randive Representative

AWARD

(Delivered on 05-12-2024)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-31011/08/2009-IR(B-II) dated 05.02.2010. The terms of reference given in the schedule are as follows:

> *"Whether the demand of the Mumbai Port Trust, Dock & General Employees' Union, regarding restoration of normal working hours of the workers in the category of Typist-cum-Computer Clerk, Stenographer, Junior Assistant, Timekeeper, 'B' Scale, Timekeeper 'A' Scale, Programmer and others appointed on or after 01.11.1996 and demanding double rate of their normal wages working beyond normal working hours w.e.f. 02.04.2002 just and proper ? What relief these workers are entitled to?"*

2. Read pursis Ex-16, filed on behalf of the Second Party. Perused the say given on behalf of the First Party. Heard Mr. Vijay Randive, Secretary of the Mumbai Port Trust Dock & General Employees Union.

It appears that, the present Reference has been referred to this Court for restoration of normal working hours of the workers in the category of Typist-cum-Computer Clerk, Stenographer, Junior Assistant, Timekeeper, 'B' Scale, Timekeeper 'A' Scale, Programmer and others appointed on or after 01.11.1996. It is submitted that, since the dispute is resolved, the Second Party Union is not interested to prosecute the Reference further, therefore requested for withdrawal of the same. This fact is corroborated by the officers of the First Party present before the court.

In view of this, the Reference is disposed off as withdrawn. No order as to costs. The proceeding is closed.

Hence, I pass the following Order-

ORDER

i. The Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The copy of Award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 05-12-2024

नई दिल्ली, 26 मार्च, 2025

का.आ. 517.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई- 2 के पंचाट (34/2014) प्रकाशित करती है।

[सं. एल- 12012/24/2014-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.34/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Mumbai -2* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/24/2014- IR (B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/34 of 2014

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

STATE BANK OF INDIA

The Regional Manager,

State Bank of India

Regional Business Office,

Dist. Solapur (Maharashtra).

AND

THEIR WORKMEN.

Mr. Devidas Rohidas Bagade

1544, Opp. to Jaishankar Mill, Lahuji Wastad Nagar,

Agalgaon Road, Barshi,

Dist. Solapur (Maharashtra) – 413403.

APPEARANCES:

Party No. 1 : Mr. S. Alva
Advocate

Party No. 2 : In person.

AWARD

(Delivered on 22.01.2025)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-12012/24/2014 (IR(B-I) dated 27.05.2014. The terms of reference given in the schedule are as follows:

> *"Whether the action of the Management of that Regional Manager, State Bank of India, Solapur by not giving regular appointment to Shri Devidas Rohidas Bagade inspite of having his name at Sl. No. 39 in the wait list is legal and justified? If not, what relief the workman is entitled to?"*

2. The Second Party-employee belongs to S.C. Category, working in the Subhash Nagar, Barshi Branch of the First Party since July 1988. Initially he worked as a part time sweeper and waterman, performing various miscellaneous work such as sweeper, watchman, dusting, filling drinking water for customers including helper in the office work also. The work performed by him was continuous and permanent in nature however the First Party engaging the employees on daily wages and used to terminate their services. The First Party has prepared seniority list for sweeper and waterman on permanent basis accordingly the Second Party was called for oral interview in the zonal office Pune of the First Party on 12.07.1989, prepared seniority list, in which the Second Party was at Sr. No. 39.

The Second Party contends that, as per the seniority list some were absorbed in permanent service. Similarly absorbed all the employees from the seniority list prepared in 1989 and the employees whose names were not in the seniority list were also made permanent in service by ignoring the Second Party and thereby violated the Rules. The Second Party further contends that, the First Party terminated his services without following provisions of Sec. 25 (F), 25 (G) & 25 (H) of the I.D. Act. The act of the First Party is illegal, amounts to unfair labour practice, thus the Second Party prays for direction to the First Party to absorb him on the post of sweeper-watchman alongwith continuity of service and back wages and thereby requested that, the Reference be answered in the affirmative.

3. The First Bank resisted the claim of the Second Party by reply Ex-6, denied all the contentions of the Second Party employee in totality. The First Party submitted that, the Party No.2 was disengaged by the Bank on 20.12.1994 and the present dispute was raised on 25.10.2013 i.e., after a lapse of 18 years and 10 months, there are no convincing reasons for delay in raising dispute. The dispute between individual workman and employer is not an "Industrial Dispute" except those disputes falling within the ambit of Sec.2(A) of the I.D. Act, the dispute raised by the Second Party pertains to demand of absorption in the Banks service, therefore the dispute is not Industrial Dispute as such the present Reference is not tenable under Law.

4. The First Party further submitted that, the Bank used to employing temporary employee on regular scale and daily wage earners, on ad-hoc basis due to exigencies as per urgent need and since 1975 and 1987 Bank completed discontinuance of employment of such temporary and daily wage earner. All India State Bank of India Staff Federation (for-short Federation) pressed for regularization of such temporary employee engaged between 1975 and 1987, subsequently Bank and Federation entered into various settlement u/s. 2(p) R/W 18 (1) of Industrial Dispute Act on 17.11.1987, 16.07.1988, 09.01.1991 & 30.07.1996, in which temporary employees were classified in three categories-

(A) Those who completed 240 days of temporary service in calendar year after 01.07.1975.

(B) Those who completed 270 days aggregate of temporary service in continuous block of 36 months after 01.07.1975.

(C) Those who completed minimum 30 days of temporary service in any calendar year after 01.07.1975 or 70 days aggregate of temporary service in continuous block of 36 months after 01.07.1975.

These settlements laid down eligibility criteria, suitability of temporary employee for permanent employment and selection committee will prepare wait list on the basis of length of accrued service between 11.07.1975 and 31.12.1987 or any day fixed by the Bank. Subsequently by another settlement dated 16.07.1988 the period was extended upto 1992 and settlement dated 09.01.1991 the period was extended upto 1994 and remaining candidates will have no claim for permanent employment in the Bank by settlement dated 30.07.1996. It was further agreed that, the panels would be kept alive upto March 1997 for filling up existing vacancies upto 31.12.1994 as per norm agreed.

4. The First Party also submits that, the Second Party was engaged in purely temporary capacity as watchman/part time sweeper for a period of 53 days during January 1988 to July 1988, he was eligible to be considered for regular appointment in the Bank as per settlement, after oral interview his name was also included in wait list C at Sr. No. 39, however he couldn't be absorbed in permanent vacancy till December 1997 when the wait list was scrapped and remaining candidates would have no claim. Lastly, the First Party urged that, the Second Party was eligible to be considered for regular employment as per settlement, however due to scrapping of waiting list the Second Party could not be absorbed, as such the Second Party is not at all entitled to any relief and ultimately prayed that, the Reference be answered in the negative.

My learned predecessor has framed the issues at Ex-9. My findings and reasons to them are as follows-

ISSUES	**FINDINGS**
1. Whether First Party proves that, the reference is not maintainable on the ground of limitation?	No.
2. Whether the Dispute raised by the Workman and referred for adjudication in the present Reference is an Individual Dispute and not an Industrial Dispute and hence it cannot be adjudicated under the provisions of the Industrial Disputes Act, 1947?	Yes.

3. Whether the Second Party proves that his name is entered in the seniority list prepared by the First Party for absorbing in their service?	Yes.
4. Whether Second party proves that First Party has indulged into discrimination by giving appointments to junior persons in the seniority list and so also by absorbing persons whose names are not mentioned in seniority list?	No .
5. Whether First Party has committed breach of Section 25 G of I.D. Act?	Does not survive.
6. Whether Second Party is entitled for relief of reinstatement/ absorption with continuity of service and back wages?	No . Not as per order of Reference.
7. What order?	As per Award.

REASONS

6. Issue No.1 & 2- Both these issues are inter-related therefore answered together. It will not be out of place to mention here that, the Reference made to this Tribunal is in respect of not giving regular appointment to Shri Devidas Rohidas Bagade inspite of having the name at Sr. No. 39 in the wait list is legal and justified, "however the Second Party employee by way pleadings attempted to alleged in the settlement of claim about violation of the provisions of Section 25 (F), 25 (G) & 25 (H) of the I.D. Act, however in the prayer clause there is no prayer of against such violation of the provision alleged in the statement of claim. In such circumstances and in the light of Reference order, it can be safely said that, the Tribunal cannot go beyond the scope of Reference order, therefore the claim in respect of violation of the provisions of I.D. Act deserves no consideration at all.

It is clear from the Reference order as well as pleadings of Second Party that, the present Reference is in respect of permanency of Second Party in the employment of the First Party on the basis of wait list and it has been alleged by the First Party that, the dispute in respect of permanency is not an "Industrial dispute" and this court has no jurisdiction to entertain the same.

It is worthwhile to mention here that, Section 2(A) of the Industrial Dispute Act deals with an Industrial Dispute in respect of dismissal of an individual workman, however Section 2(A) is not limited to the instances of discharge, dismissal, retrenchment or termination alone. The word "any difference or dispute which is connected with arising out of". The present Reference of the Second Party was referred to this Tribunal for adjudicating the Industrial Dispute, as such it is very difficult to accept that, the dispute in respect of permanency of the Second Party is not an Industrial Dispute. The contention of the First Party to that effect is devoid of substance therefore cannot be accepted.

Mr. Alva learned counsel appearing on behalf of the First Party strongly contended that, the Second Party has raised the dispute before Conciliation Officer somewhere prior to May 2014 alleging that inspite of wait list, he was not given permanency in service, however the wait list was scrapped in March 1997, as such the dispute has been raised after more than 17 years as such barred by limitation and not tenable under law.

True it is that, the present Reference has been filed after more than 17 years belatedly, however no limitation is prescribed for raising Industrial Dispute under the I.D. Act. The same has been observed by the Apex Court of the land and also other higher Courts. Moreover such long delay needs to be considered while granting relief. In such circumstances it is very difficult to accept that, the present Reference is barred by limitation. In short, the Reference can be adjudicated under I.D. Act and Reference is maintainable on the ground of limitation, hence I answer these issues accordingly.

7. Issue No.3- In support of his claim the Second Party filed an evidence affidavit at **Ex-13,** subjected himself for cross-examination submitted an evidence affidavit of Sunil Sarvade at Ex-20, but he was not cross examined and also examined Sanjay Shinde at **Ex-23** and was cross examined by the counsel for the First Party. Whereas the First Party filed an evidence affidavit of Vijaysingh Balaram Rajput H.R. Manager at **Ex-25** and he was cross examined by the Second Party in person.

It has come on record that, the First Party Bank decided to discontinue employment of temporary employees and casual/ daily wage earners, however Bank entered into settlement with the Federation on 17.11.1987, accordingly temporary employees were categorized into three categories and it was also decided to conduct oral interview by selection committee, that panel was valid till December 1991. It has further come on record that, accordingly settlement dated 16.07.1988, 27.10.1988 and also 09.01.1991. Separate panels were provided for temporary employees and daily wagers and wait list was prepared after oral interview, in which the name of the Second Party was at Sr.No.39 in waiting list C, however the Second Party couldn't be absorbed till 31 December 1997 and the wait list prepared by the selection committee in which the Second Party was at Sr.No.39 came to be scrapped. The fact submitted by the witness of the First Party is supported by documentary evidence, such as various copies of settlement executed by First Party Bank with the federation. The fact that, the name of the Second Party was at Sr.No.39 in the wait list is not disputed. The witness of the First Party was fully cross examined by the Second Party in person, however nothing substantial has been brought on record through the cross examination, as such there is no hitch to accept that, the name of the Second Party was entered in the wait list prepared by First Party for absorbing in their service, hence I answer this issue in the affirmative.

8. Issue No.4- I have observed earlier that, the name of the Second Party was at Sr.No.39 in the wait list C, however though, the Second Party alleged that, the First Party has given appointment to junior employees, namely Aaradhyey, Veerappa and Bhoomer was taken in service, however nothing has been brought on record to that effect. During cross examination the Second Party deposed that, document in respect of regularization of Veerapa and Bhoomer has not filed on record.

Not only this but, the witness examined on behalf of the Second Party, who served with the Bank also not stated about the employment of Aaradhyey, Veerappa and Bhoomer in the affidavit filed before the Court and in absence of that it will be unsafe to say that, there was discrimination by giving permanency to junior employees in the seniority list, hence I answer this issue in the negative.

9. Issue No.5- The claim of the Second Party is in respect of permanency on the basis of seniority list, in which his name was at Sr.No.39 in the wait list and the Reference is also referred to this Tribunal for adjudicating the dispute regarding permanency. Though, the issue in respect of breach of Section 25 (H) of I.D. Act has been framed still in my opinion this Section is relevant in case of deciding the matter of retrenchment and not in the case of permanency as per wait list as such this issue is redundant and does not survive, hence I answer this issue accordingly.

10. Issue No.6- This issue is in respect of relief such as reinstatement, continuity of service and back wages. In fact, in the order of Reference the dispute has been referred to this Tribunal for deciding the industrial dispute in respect of not giving regular appointment inspite of having name at Sr.No.39 in the wait list and it is expected to consider, whether this action on the part of the First Party is legal or justified. In such circumstances, it is expected to decide the legality of action of the First Party is not giving permanency, therefore the relief mentioned in this issue cannot be answered.

Moreover, it has sufficiently come on record that, on the basis of settlement between Bank and the Federation, the wait list was prepared, in that list the name of the Second Party was at Sr.No.39, however the Second Party could not get appointment till the scrapping of wait list, therefore the Second Party couldn't get permanency in service in the categories decided by the Bank and the Federation, therefore the Second Party is not entitled for any relief.

Furthermore, as per document such as certificate of Temporary Service **(Ex-17)** placed before the Tribunal by Second Party, it seems that, the Second Party worked with the First Party during 01.07.1975 to 31.12.1975, 01.01.1976 to 31.12.1976, 01.01.1977 to 31.12.1987 and 01.01.1988 to 31.07.1988 for 53 days only, as such even otherwise also the Second Party is not entitled for any relief much less as prayed, hence I answer this issue in the negative.

Issue No. 7- As per Award below-

AWARD

i. The Reference is answered in the negative.

ii. The Second Party is not entitled for relief or regular appointment on the basis of wait list.

iii. The parties to bear their own cost.

iv. The copy of Award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 22-01-2025

नई दिल्ली, 26 मार्च, 2025

का.आ. 518.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **पूर्वोत्तर रेलवे** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (41/2017) प्रकाशित करती है।

[सं. एल- 41012/10/2017-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 41/2017*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Purvottar Railway and their workman.

[No. L-41012/10/2017- IR (B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

I.D. No. 41 of 2017

Reference No.L-41012/10/2017-IR(B-1) dated 22.8.2017

Ram Bhawan, aged about 60 years,
S/o Late Ram Pher,
R/o EM-248, Avas Vikas Colony,
Bharatpuri, Gonda through P.K.Tiwari,
Authorized Representative, 96/201,
Old Ganeshganj, Lucknow ----- Workman

Versus

1. Mandal Rail Prabandhak (Karmik)
   Purvottar Railway, DRM Office,
   Ashok Marg, Lucknow;
2. Pravar Mandal Vidyut Rail Abhiyanta,
   Purvottar Railway, DRM Office,
   Ashok Marg, Lucknow;
3. Section Engineer (Power),
   Purvottar Railway, Gonda;
4. Vidyut Foreman (Vi/T.L.)
   Gonda ----Respondents

Judgment

By means of order/reference no. L-41012/10/2017-IR(B-1) dated 22.8.2017, the Central Government considered it desirable to refer the dispute for adjudication to the following effect:-

> "क्या प्रबन्धन पूर्वोत्तर रेलवे, लखनऊ व गोण्डा द्वारा श्री राम भवन, विद्युत टेक्नीशियन ग्रेड–1 को दिनांक 01.11.2013 से ग्रेड पे 13630 प्लस 4200 स्वीकृत कर उक्त पद की पदोन्नति व आर्थिक लाभ व श्रमिक को एम0सी0एम0 पद समस्त हित लाभ न दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का पात्र है?"

In response to the reference dated 22.8.2017 the present I.D. Case had been registered before this Tribunal.

On 15.1.2019 the claimant filed his statement of claim and the respondents filed their defence statement on 21.8.2019 to which the rejoinder reply was also filed by the claimant.

On 20.12.2022 Sri Ranjeet Kumar on behalf of respondents filed evidence (examination in chief) on affidavit in support of version of respondents.

Further from the records it also transpires from the order sheet that in spite of repeated opportunities the workman/claimant did not turn up for cross examination on evidence which he had filed by way of affidavit and on 21.4.2024 an order was which is quoted below:-

> "*Sri Prateek Tiwari for claimant.*
>
> *Sri N.Nath for respondent alongwith Mr.Ranjeet Kumar, APO.*
>
> *Since workman has not led any evidence, so list the matter for ex-parte hearing on 20.6.2023*."

Accordingly Heard Learned Counsels for parties and gone through the records.

Taking into consideration the law as laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194*** as under:

> "*It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief*."

The ***Hon'ble High Court of Allahabad vide its judgment and order dated 19.10.1983 passed in Civil Misc. Writ Petition No.6741 of 1983(Airtech Private Ltd. Versus State of U.P. & others)*** has held as under:-

> "*The matter can be looked at from another angle, which party will fail if the evidence is not led before the Labour Court in proceedings in a reference made to it for adjudication by the State Government? The obvious answer is that the workman will fail. Here the reference was made by the State Government at the instance of the workmen and for the benefit of the workman. In the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workmen. In such a situation it is not necessary for the employers to lead any evidence at all. This matter was dealt with by the Supreme Court in Sankar Chaudhary Vs. Britannia Biscuits Co. Ltd. In paragraph 30th Court held that the Labour Court or the Industrial Tribunal have all the trappings of a Court. In paragraph 31 it held that any party appearing before a Labour Court or Industrial Tribunal 'Must' make a claim or demur the claim of the other wise and when there is a burden upon it to prove or establish the fact so as to invite a decision in its favour, it has to lead evidence. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led. It must seek an opportunity to lead evidence*."

In the case of ***M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> "*The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led*."

The Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has been held as under:

"*The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed*."

Keeping in view the above said established principles of law as the workman/claimant did not turn up for cross-examination in spite of ample opportunities, so the present case is liable to be dismissed.

Award

For the foregoing reasons, the case is dismissed. Thus the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

Lucknow

24th February, 2025

नई दिल्ली, 26 मार्च, 2025

का.आ. 519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **बैंक ऑफ बडोदा** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (14/2005) प्रकाशित करती है।

[सं. एल- 12012/215/2004-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.14/2005*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workman.

[No. L-12012/215/2004- IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

I.D. No.14 of 2005

Reference No.L-12012/215/2004-IR(B-II) dated 20.4.2005

Jag Jeevan Ram

S/o Sri Ram Kumar

R/o Nirala Nagar, Naya Purva

(Near Harish Chandra Ata Chakki)

Rae-bareli Applicant/Workman

Versus

1. Branch Manager,
   Bank of Baroda (Main Branch)
   Kacheri Road, Rae-bareli;
2. Assistant General Manager
   Bank of Baroda, Regional Office,
   19-Way Road, Lucknow ----Respondents

Judgment

By means of order/reference no. L-12012/215/2004-IR(B-II) dated 20.4.2005, the Central Government considered it desirable to refer the dispute for adjudication to the following effect:-

"Whether it is a fact that Sri Jagjeevan Ram, S/o Sri Ram Kr.R/o Nirala Nagar, Nayapurva (Near Harish Chandra Atta Chakki) was engaged on daily wages by the management of Bank of Baroda, Main Branch, Rae-bareli during the period from 16.06.1998 to 31.03.2012? If so, the action of the management in terminating Sri Jagjeevan Ram by orala order dated 01.04.2001 is legal and justified? If not to what relief the workman concerned is entitled?"

In response to the reference dated 20.4.2005 the present I.D. Case had been registered before this Tribunal. The workman Sri Jagjeevan Ram, S/o Sri Ram Kumar filed a Claim Statement and in brief the workman stated that –

- On 16.6.1998 the workman was engaged in the main branch of Bank of Baroda, Rae-bareli by the Branch Manager as casual employee. In the said capacity he worked and discharged his duties upto 31.3.2001.
- On 31.3.2001 the services of the workman was terminated orally without assigning any reason and in violation of provisions as provided under Section 25-F of the Industrial Disputes Act. The workman further stated that at the time of terminating the services w.e.f. 31.3.2001 he worked more than 240 days in each calendar years. Accordingly the main prayer which has been sought by the applicant in the Claim Statement is quoted below:-

    (a) To set aside the impugned oral order of termination of services, dated 31.3.2001, the applicant/workman reinstate the service of the applicant alongwith all consequential benefits including back wages.

The respondents filed their written statement in which it has been pleaded, in brief, as under:-

- The appointment in the Bank is governed by certain statutory rules and guidelines received from Government of India in terms of the directives issued by Central Govt. the employment of persons in sub-staff cadre should be done through employment exchange only. The statutory bodies and Government Organization should adhere to the rules that not merely vacancies should be notified to the Employment Exchange but the vacancies should also be filled in by the candidates sponsored by the Employment Exchange. If only, no suitable candidate is available and a certificate is issued by the Employment Exchange to that effect, other sources of recruitment are to be considered. It is mandatory for the Bank to abide by the aforesaid directives of the Central Government. The workman was never sponsored by Employment Exchange and on this ground only his claim seeking employment in the bank is to be rejected.
- A person who is engaged purely on temporary basis without following the due laid down procedures as stop gap arrangement and that too by an officer who has no authority for recruitment of any person including temporary employee would not get any right to be appointed permanently. Any claim for regularization is depended upon the fulfilment of the eligibility criteria laid down by the Bank, their sponsorship to the employment exchange and most importantly whether their engagement was against sanctioned vacancy duly authorized by the competent authority. Admittedly Sri Jag Jeevan Ram was engaged as daily wagers and his engagement was not done as per the laid down procedures and not against any sanctioned vacancy duly authorized by the competent authority. Hence, on this ground the claim of workman for his reinstatement in the bank is to be rejected.
- There was absolutely no appointment on the basis of policies and practices and the alleged continuation was without sanction and authority as per the norms and rules, hence, there was no termination. In fact when there is no vacancy at all the question of any appointment or termination of such appointment does not arise. The Hon'ble Supreme Court of India held that if there is no sanctioned vacancy, back door entry, in employment cannot be claimed merely on the basis of such temporary work.
- When such engagement is in violation of rules, the number of days the person works does not become the criteria for claiming any permanency in employment. The contention regarding having worked for more than 240 days is hardly of any relevance because even the claimant has stated that he was engaged as a daily wager and does not say that there was any sanctioned vacancy at all against which he was engaged. The bank maintains that the every entry of the claimant as daily wager was without sanctioned vacancy and hence any relief based on such contention is against the provisions of law.

Accordingly, it was submitted on behalf of respondent that the claim regarding reinstatement and also the claim for full back wages is without any substance and even the workman has not been able to produce any evidence to substantiate his contention.

Finding & conclusion:

Heard Learned counsel Sri A.P. Singh on behalf of workman and Sri A.K. Singh Learned Counsel for the respondent and gone through the records.

First point to be considered whether services of the workman were retrenched in violation of section 25 F of the Act?

As per admitted facts of the present case Sri Jag Jeevan Ram was appointed as casual employee in the Bank of Baroda by the then Branch Manager of the Bank and in the said capacity he worked and discharged his duties till 31.3.2001, the date on which his services were orally terminated without complying the provisions of Section 25-F of the Industrial Disputes Act. It is relevant that the workman in support of his case filed the payment vouchers on 12.11.2005 which are on record as document no.14/1 to 14/45 and on behalf of respondents on 14.12.2005 list of documents in support of their case were filed as documents no.19/10 to 19/12. Further on behalf of respondents on 20.1.2006 list of vouchers had been filed which are on record as documents no.20/2 to 20/34. On behalf of respondent evidence of one Sri Ram Kumar was filed who was working at that time as Senior Manager of Bank of Baroda, Hewatt Road Branch, Lucknow. During his course examination he has not disputed the payment vouchers filed on behalf of workman as documents no.14/1 to 14/45 and vouchers filed on behalf of respondents as 20/10 to 20/34. On behalf of workman a chart had been filed in respect to working by him which is quoted below:-

S.No.	Month	Financial year			
		1998	1999	2000	2001
1.	January	O	27	23	30
2.	February	0	22	24	24
3.	March	0	22	14	28
4.	April	0	14	22	0
5.	May	0	24	24	0
6.	June	11	26	17	0
7.	July	18	27	18	0
8.	August	27	19	22	0
9.	September	24	28	17	0
10.	October	22	23	20	0
11.	November	22	24	28	0
12.	December	22	27	28	0
Total working days		146	283	257	82

Further inspite of time granted to the Learned Counsel for the respondent, no objection/reply was filed to the above said chart which was filed by the workman. Thus the above said fact remained non-rebuttal one.

Accordingly in view of documentary evidence and details of working filed by the workman the position which emerges out prior to date of termination/retrenchment of service on 31.3.2001 that he had worked for more than 240 days in the last preceding calendar years.

Further from the material available on record it is clearly established that service of the workman had been retrenched w.e.f. 31.3.2001 without following the provisions of Section 25-F of Industrial Disputes Act.

Taking into consideration said fact, the next point to be decided that whether the workman has worked for more than 240 days in a year preceding one year from the date of alleged termination.

In this regard the Hon'ble Madhya Pradesh High Court in its judgment and order dated 4.4.2024 passed in the case of ***Chief Medical & Health Officer Versus Umrao Singh reported in 2024 (182) FLR 882*** has held as under:-

> "*5. The Supreme Court in the case of Bharat Sanchar Nigam Limited Vs. Bhurumal, reported in (2014) 7 SCC 177 has held as under:-*
>
> > *"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary*

compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious."

6. The Supreme Court in the case of Jayant Vasantrao Hiwarkar Vs. Anoop Ganpatrao Bobde and others reported in (2017)11 SCC 244 has upheld the grant of compensation in lieu of reinstatement as the respondent had merely worked for a period of one year.

7. The Supreme Court in the case of Hari Nandan Prasad and another Vs. Employer I/R to Management of Food Corporation of India and another, reported in (2014) 7 SCC 190 has held as under:-

> *"19. The following passages from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement:(BSNL case, SCC pp. 187-88, paras 29-30)*
>
> *"29. The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In BSNL v. Man Singh, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right. In Incharge Officer v. Shankar Shetty, it was held that those cases where the workman had worked on daily-wage basis, and worked merely for a period of 240 days or 2 to 3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.*
>
> *30. In this judgment of Shankar Shetty, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp. 127-28, paras 2-4)*
>
> > *'2. Should an order of reinstatement automatically follow in a case where the engagement of a daily-wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "the ID Act")? The course of the decisions of this Court in recent years has been uniform on the above question.*
> >
> > *3. In Jagbir Singh v. Haryana State Agriculture Mktg. Board, delivering the judgment of this Court, one of us (R.M. Lodha, J.) noticed some of the recent decisions of this Court, namely, U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey, Uttaranchal Forest Development Corpn. v. M.C. Joshi, State of M.P. v. Lalit Kumar Verma, M.P. Admn. v. Tribhuban, Sita Ram v. Moti Lal Nehru Farmers Training Institute, Jaipur Development Authority v.Ramsahai, GDA v. Ashok Kumar and Mahboob Deepak v. Nagar Panchayat, Gajraula and stated as follows: (Jagbir Singh case, SCC pp. 330 & 335, paras 7 & 14)*
> >
> > *"7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure.Compensation instead of reinstatement has been held to meet the ends of justice.*
>
> *14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily-wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily-wager who does not hold a post and a permanent employee."*
>
> *21. We make it clear that reference to Umadevi, in the aforesaid discussion is in a situation where the dispute referred pertained to termination alone. Going by the principles carved out above, had it been a case where the issue is limited only to the validity of termination, Appellant 1 would not be entitled to reinstatement....."*

8. The Supreme Court in the case of O.P.Bhandari Vs. Indian Tourism Development Corporation Limited and others reported in (1986) 4 SCC 337 has held as under :-

> *"6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer- employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to "blue collar" workmen and "white collar" employees other than those belonging to the managerial or similar high level cadre,*

reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective -- a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co-existence with the private sector. The public sector can never fulfil its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the "policy-makers" of such undertakings. Then and then only can the public sector undertaking achieve the goals of (1) maximum production for the benefit of the community,

(2) social justice for workers, consumers and the people, and

(3) reasonable return on the public funds invested in the undertaking.

7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their managements to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success in the aforesaid three-dimensional sense as their common goal. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court."

9. The Supreme Court in the case of Ghaziabad Development Authority Vs. Ashok Kumar, reported in (2008) 4 SCC 261 has held that statutory authorities are obligated to make recruitments only upon compliance of Articles 14 and 16 of the Constitution of India. Any appointment in violation of the said constitutional scheme as also the statutory recruitment rules, if any, would be void and, under these circumstances, it was held at Workman is entitled for compensation in lieu of reinstatement.

10. The Supreme Court in the case of Mahboob Deepak Vs. Nagar Panchayat, reported in (2008) 1 SCC 575, has held that merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized. At the most, interest of justice will be subserved if payment of sum of Rs.50,000/- by way of damages is made to the Workman.

11. Similar law has been laid down by the Supreme Court in the case of Uttar Pradesh State Electricity Board Vs. Laxmi Kant Gupta, reported in 2009(16) SCC 562, Senior Superintendent Telegraph Vs. Santosh Kumar Seal, reported in 2010(6) SCC 773, Assistant Engineer Rajasthan Development Vs. Gitam Singh, reported in 2013(5) SCC 136."

Accordingly in view of the facts of the present case as well as law referred hereinabove it is clear that retrenchment/termination of service of workman is in contravention to the provisions of Section 25-F of the Industrial Disputes Act. Thus he is entitled for compensation and not for reinstatement. Further in the present case the workman Sri Jag Jeevan Ram was engaged as casual employee on 16.6.1998 and his services were terminated/retrenched on 31.3.2001 thus he worked for about 02 years & 09 months. So taking into consideration the facts of the case the workman is not entitled for reinstatement in services rather it will be appropriate to award a compensation of sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) to the workman/applicant against the respondents.

AWARD

For the foregoing reasons the workman/applicant is only entitled for compensation of sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) and the same should have been paid to the applicant within a period of three months by the respondents.

Further the workman is not entitled for reinstatement in services.

Justice ANIL KUMAR, Presiding Officer

Lucknow.

27th February, 2025

नई दिल्ली, 26 मार्च, 2025

का.आ. 520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (43/2022) प्रकाशित करती है।

[सं. एल- 12011/68/2022-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.43/2022*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workman.

[No. L-12011/68/2022- IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

I.D. No. 43 of 2022

Reference No.L-12011/68/2022-IR(B-II) dated 12.8.2022

Central Bank Employees Congress (U.P.)

Office MIG, C-1241, Rajajipuram,

Lucknow -----Workman

Versus

1. Managing Director & CEO,
   Central Bank of India, Central Office,
   'Chandra Mukhi', Nariman Point,
   Mumbai-40021;
2. Zonal Manager,
   Central Bank of India,
   Zonal Office, Central Bank Building,
   Ist Floor, Hazratganj, Lucknow-226001
3. Regional Manager,
   Central Bank of India,
   Regional Office, Hazratganj,
   Lucknow-226001 ----Respondents

Judgment

By means of order/reference no. L-12011/68/2022-IR(B-II) dated 12.8.2022, the Central Government considered it desirable to refer the dispute for adjudication to the following effect:-

> "Whether the demand raised by the General Secretary, Central Bank Employees Congress (UP) vide its representation dated 21/06/2021 against the action of the management of Central Bank of India in denying all consequential benefits of service and promotion of Sri R.S. Maurya service, who had already been retired from the services of the aforesaid bank w.e.f. 31/07/2010, is fair, legal and justified? If yes, to what relief the concerned workman is entitled?"

In response to the reference dated 12.8.2022 the present I.D. Case had been registered before this Tribunal. On

21.3.2023 on behalf of claimant Sri J.P. Mishra in the capacity of General Secretary of Central Bank Employees Congress filed the claim statement stating therein the following averments :

- The workman Sri Ram Sajeevan (R.S. Maurya) was appointed by the opposite party at it's Ganhasand branch to work as Agricultural Assistant w.e.f. 16.4.1974.
- The workman retired from the Bank service on 31.7.2010 from Barabanki branch which comes under Lucknow Region of the Bank.
- There are promotional opportunities in the Bank and the same is completed through process from eligible candidates in the Bank.
- There existed vacancies for the post of Agriculture Finance Officer under officer cadre (Scale-I). The workman was one of the eligible candidate for promotion and hence he applied to the opposite party on 16.4.1983 for promotion to Agriculture Finance Officer and accordingly he passed the written test followed by interview on 12.10.1983.
- On not releasing the promotion the workman applied to the opposite party for his promotion w.e.f. 1.1.1984 and he was informed vide letter dated 23.3.1984 having been withheld his promotion in view of a D.A./Vigilance case pending against him.
- The opposite party did not inform the details of D.A./vigilance case nor recorded in writing the valid and cogent reason as required under the Rule. The workman was charge sheeted vide charge sheet dated 4.10.1980 for which he was awarded a punishment vide order dated 21.7.1981 as 'stoppage of one increment for six months'.
- By awarding and inflicting the above punishment, the process of departmental inquiry in DA/vigilance case came to an end and it cannot be said that the case is pending.
- The action on the part of opposite party in denying the promotion w.e.f. 1.1.1984 to the workman is illegal, unjustified against the rules of the bank and against law.

It has been stated in the Claim Statement that the workman is entitled to his promotion not only to the post of Agriculture Finance Officer w.e.f. 1.1.1984 but also for further consequential promotions where he has been superseded by his such juniors or batch mates from the date of their promotions.

On the above said strength the workman prayed that this Tribunal be pleased to order for the notional promotion to workman w.e.f. 1.1.1984 as Agriculture Finance Officer and further his consequential promotion to higher promotions where he has been superceded by his juniors or batch mates and w.e.f. the dates of their promotions and also to provide consequential benefits had the workman was promoted w.e.f. 1.1.1984 and onwards.

On behalf of respondents the Central Bank of India filed written statement and the defence as taken in the written statement is as under:-

1. The present reference order is legally not maintainable on the ground that no alleged date of effectuating the alleged demand of promotion, nor any post to which he was allegedly required to be promoted was mentioned in the reference order. Therefore in the absence of specific date of demand of promotion and lack of the specific post, the present reference order is itself vague and invalid in the eye of law.
2. The present reference is bad in law also on mis joinder of parties. The workman was award staff and as such, Managing Director & CEO as well as Zonal Manager (now Zonal Head) has nothing to do directly with administrative function relating to award staff.
3. The present reference order is bad in law for the reason that the demand in claim application had been made for granting promotion w.e.f. 1.1.1984 and present claim has been filed in the year 2023 i.e. after inordinate delay of more than 38 years in raising such dispute, and such in ordinate and unexplained delay had resulted into making the present claim application as stale claim and such stale claim which are referred by the authorities without proper reason and justification are bad in law and not liable to be proceeded on merits.
4. The present reference order as well as claim application is bad in law as the applicant has already retired from the bank services on 31.7.2010 and therefore claiming the promotion as matter of right would be contrary to law laid down by Hon'ble Supreme Court and thus the present claim application is liable to be rejected.
5. The present reference order is itself vague and legally not sustainable on the ground that the present complaint of the alleged promotion has been raised by the Union after retirement of claimant Sri R.S.Maurya on 31.7.2010 and after retirement the employer and employee relationship had already been seized to exist between bank and the employee, therefore present dispute is not an 'industrial dispute' under the provisions of Industrial Disputes Act 1947 and reference of alleged dispute seeking promotion w.e.f. 1.1.1984 after retirement is legally not maintainable and bad in law.

Further by means of order dated 19.2.1985 the competent authority had rejected the claimant's case for promotion to the post of Agriculture Finance Officer.

Needless to mention that during the course of argument a query had been put to the Learned Counsel for the workman that once the case of promotion of the workman on the post of Agriculture Finance Officer has already been rejected then in what manner the workman/claimant is entitled for the relief as claimed by him as per reference dated 12.8.2022.

Learned Counsel for the claimant submits that as the order dated 19.2.1985 by which the claimant's case for promotion was rejected is contrary to law and in violation of principles of natural justice, so the said order is liable to be set aside and the relief as claimed by the claimant in the present case as per the reference may be granted.

Sri S.K.Shukla learned counsel for the respondents in rebuttal submits that the prayer made on behalf of claimant cannot be granted as the same is beyond the scope of reference. So the present case is liable to be dismissed.

Sri J.P. Mishra learned counsel for the workman after arguing some length did not dispute the said submission/objection made by the Learned counsel appearing on behalf of respondents.

Thus keeping in view the said facts and as per settled preposition of law undoubtedly the Labour Court gets its jurisdiction from the reference and it is not like the Civil Court that any one Court, which entertains every suit. The Labour Court cannot go beyond the terms of reference nor it can travel beyond the pleadings and arrogate the power to raise issues which the parties to the reference are precluded to raise. The terms of reference determine the scope of power and jurisdiction of the Labour Court from case to case. Whether certain points of dispute have been referred to the Industrial Tribunal for adjudication it may, while dealing with the aforesaid points, deal with matters incidental thereto. However, such power cannot be exercised by the Court/Tribunal so as to enlarge materially the scope of reference itself for the reason that the Court/Tribunal derives its jurisdiction from the order of reference passed by the appropriate Government.

The above said preposition of law has been set up by the Hon'ble Supreme Court in the following cases :-

i) Hochtief Gammon Versus Industrial Tribunal, Bhubaneshwar, Orrisa & others, AIR 1964 SC 1746;

ii) Pottery Mazdoor Panchayat Versus The Perfect Pottery Co. Ltd. & another AIR 1979 SC 1356; and

iii) Mahendra L. Jain & others Versus Indore Development Authority & others AIR 2005 SC 1252.

Once the matter in respect to promotion of the claimant-workman on the post of Agriculture Finance Officer (AFO) had already been rejected as far as back on 19.2.1985 coupled with the fact that there is no reference by the appropriate authority whether said order dated 19.2.1985 is in accordance with law or not, the validity of the said cannot be adjudicated/decided in the present case as the same is beyond the scope of reference.

AWARD

For the foregoing reasons the workman/claimant is not entitled for any reliefs as claimed by him in the Claim Statement. The reference is answered accordingly.

Justice ANIL KUMAR, Presiding Officer

LUCKNOW.

24th February, 2025

नई दिल्ली, 26 मार्च, 2025

का.आ. 521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **यूको बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (31/2017) प्रकाशित करती है।

[सं. एल- 39025/01/2025-आईआर(बी-II)-06]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2025

S.O. 521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 31/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workman.

[No. L-39025/01/2025- IR (B-II)-06]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 31/2017

BETWEEN

Ajit Kumar, aged about 31 years, son of Sri Suraj Nath, Resident of Village Semra, Post Gaura, District Bhadohi. (U.P)

Vs

1. Union of India through Secretary (Finance & Banking), South Block, New Delhi.
2. General Manager (Personnel)/Appellate Authority, UCO Bank, 3 & 4 DD Block, Sector -1, Salt Lake City, Kolkata 700064 (West Bengal)
3. Chief Manager/Disciplinary Authority, Zonal Office, Dhanshari Complex, 1st Floor, D-63/8-1M, Tulsipur, Mahmoor Ganj, Varanasi 221010.
4. Branch Manager, UCO Bank, Main Branch, Suthatti Crossing, Shivam Hotel, 1st Floor, Jaunpur-222001.
5. Institute of Banking Personnel Selection through its Managing Director, IBPS House, 90 Feet, D.P. Road, Near Thakur Polytechnic of Western Express Highway, P.B. No. 8587, Kandivali (East) Mumbai - 400101.

AWARD

Claimant, Ajit Kumar was working on the post of clerk in the main branch of UCO Bank at Jaunpur, UP filed the present case u/s 2A of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), with following relief:

> *"(i) Issue an appropriate order or orders setting aside the impugned order dated 08.03.2016 passed by Disciplinary Authority as well as order dated 20.09.2016 passed by the Appellate Authority, and/or*
>
> *(ii) Issue an appropriate order or orders with regard to the reinstatement of the workman in service with all consequential service benefits including full back wages, and/or*
>
> *(iii) Issue an appropriate order or orders, direction or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*
>
> *(iv) Issue an appropriate order awarding the cost of present proceedings in favour of the workman and against the opposite parties/employers."*

Sri Rahul Agarwal, learned counsel for respondent raised a preliminary objection that as at the time of dismissal of his services the claimant was working at Jaunpur, so, this Hon'ble Tribunal at Lucknow has no jurisdiction to entertain the present industrial dispute, filed by claimant.

Sri B.P. Singh, learned counsel for workman, after arguing at some length does not dispute the above said objection taken on be half of respondent and requested that preset industrial dispute may be dismissed as not pressed, with a liberty to file afresh before appropriate CGIT.

Learned counsel for respondent has no objection.

Accordingly, present industrial dispute is dismissed as not pressed, with a liberty to the applicant, if so advised, to file afresh before appropriate fourm/Tribunal.

Award as above.

Lucknow. Justice ANIL KUMAR, Presiding Officer

27th February, 2025

नई दिल्ली, 17 मार्च, 2025

का.आ. 522.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **भारतीय पुरातत्व सर्वेक्षण, धरोहर भवन, 24-तिलक मार्ग, नई दिल्ली; सुरक्षा कौशल परिषद (आई) लिमिटेड, ओखला फेज-I, नई दिल्ली,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अनूप सिंह, कामगार , द्वारा-ओखला इंडस्ट्रियल वर्कर्स**

यूनियन, तेहखंड, ओखला फेज-1, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 314/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.03.2025 को प्राप्त हुआ था।

[सं. एल-42025-07-2025-65-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 17th March, 2025

S.O. 522.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 314/2022) of the **Central Government Industrial Tribunal cum Labour Court– II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Archaeological Survey of India, Dhrohar Bhawan, 24-Tilak Marg, New Delhi ; Security Skills Council (I) Ltd., Okhla Phase-I, New Delhi,** and, **Shri Anoop Singh, Worker,Through- khla Industrial Workers Union, Tehkhand, Okhla Phase-1, New Delhi,** which was received along with soft copy of the award by the Central Government on 12.03.2025.

[No. L-42025-07-2025-65-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID No. 314/2022

Sh. Anoop Singh vs. Archaeological Survey of India and Anr.

Sh. Anoop Singh, S/o Sh. Babu Lal,

R/o-67, Near Rehman Basti, Santrook, Bharatpur, Rajasthan-321025.

Through- Okhla Industrial Workers Union,

B-577, Gola Kuan, Tehkhand, Okhla Phase-1, New Delhi-110019.

…Applicant/Claimant

Versus

1. **Archaeological Survey of India**,
   Dhrohar Bhawan, 24-Tilak Marg, New Delhi-110001.
2. **Security Skills Council (I) Ltd.,**
   A-28, 29, Okhla Phase-I, New Delhi-110020.

…Managements/respondents

Counsels:

For Applicant/ Claimant*:*

None for the claimant.

For Management/ Respondent*:*

Archaeological Survey of India (Management-1) has already been proceeded ex-parte.

None for management-2.

Item No.- 34

I.D. No. 314/2022

04th March 2025

Present:

None for the claimant.

Management-1 has already been proceeded ex-parte.

None for management-2.

AR for the claimant Sh. Amit Tripathi was present in another case titled as *Sh. Sonu Kumar vs. NBCC & Ors.* (I.D. no. 321/2021). However, when this matter was called, he didn't appear.

Record perused. On the last date of hearing, when this tribunal had orally inquired from the claimant, he had answered that he had been working with the management as a supervisor, and there were Thirty Security Guards in his supervision, and he used to deploy them on different sites.

These averments made by the claimant orally, in response of the Tribunal's enquiry, are contrary to that of the claim statement filed by him.

Section 2(s) of Industrial Disputes Act, 1947 **(Herein after referred as 'The Act')** has carved out four exceptions from the definition of 'workman'. The act excludes any such person:

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

In the present case, the claimant admitted that he was employed in a supervisory capacity, and there were 30 guards under his supervision, he used to deploy them at different sites. Furthermore, he had been drawing more than an amount of Rs. 17,500/- per month. Therefore, he doesn't fall within the definition of a 'workman' as defined under the Act.

In view of the discussion above, the claim of the claimant is not maintainable before this tribunal. Hence, the same stands dismissed. The award is accordingly passed. A copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. These files are consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Dated 04.03.2025

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.