



भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित
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सं. 40] नई दिल्ली, अक्टूबर 6—अक्टूबर 12, 2024, शनिवार/ आश्विन 14—आश्विन 20, 1946
No. 40] NEW DELHI, OCTOBER 6—OCTOBER 12, 2024, SATURDAY/ASVINA 14—ASVINA 20, 1946

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)

सड़क परिवहन और राजमार्ग मंत्रालय

(राजभाषा अनुभाग)

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1896.—केंद्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (4) के अनुसरण में क्षेत्रीय कार्यालय, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, रायपुर और क्षेत्रीय कार्यालय, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, चंडीगढ़, जिनके 80% से अधिक कर्मचारियों ने हिंदी कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई.-12012/1/2023-विविध/हिंदी]

कमलेश चतुर्वेदी, संयुक्त सचिव

MINISTRY OF ROAD TRANSPORT AND HIGHWAYS**(Official Language Section)**

New Delhi, the 27th September, 2024

S.O. 1896.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notify Regional Office, National Highway Authority of India, Raipur and Regional Office, National Highway Authority of India, Chandigarh, where more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E.-12012/1/2023-Misc. /Hindi]

KAMLESH CHATURVEDI, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1897.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट(एलसी-आर/62/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2024 को प्राप्त हुआ था।

[सं. एल-22012/62/2018-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 27th September, 2024

S.O. 1897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. LC/-R/62/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L., and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/62/2018 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR****NO. CGIT/LC/R/62/2018****Present: P.K.Srivastava****H.J.S..(Retd)**

Shri Sanjay Kumar Vishwas,
Mahamantri, Koyla Shramik Shakti Congress
Vishwas Niwas, High School Road,
Near Mongra Gas Agency, Mongra
Ward No.-63, P.O. Banki Mongra,
Korba, Chhattisgarh.

Workman**Versus**

The General Manager ,
SECL, Korba Area
Mudapar, Korba
P.O. Korba, Distt.- Korba (CG)

Management

A W A R D

(Passed on this 04th day of September-2024.)

As per letter dated 13/11/2018 by the Government of India, Ministry of Labour & Employment, New Delhi, this reference is received by this Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number No. L-22012/64/2018-IR(CM-II) dt. 13/11/2018. The dispute under reference related to:-

“Whether the action on the part of the local management of SECL Bagdewa Project under Korba Area and the management of Area Headquarter Bilaspur after completing the procedural formalities including screening procedure in respect of Shri Sawan Sai S/o. Late Lagan Singh and afterwards rejecting the compassionate appointment on belated ground and not as per NCWA as espoused by the union is appropriate and justified ? If not, what relief Shri Sawan Sai S/o. Late Lagan Singh is entitled to ?

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. The parties appeared and filed their statements of claim and defence.

The undisputed facts related to the controversy in hand is that Lagan Singh, who was an employee of management died on 11.11.2004. His widow Smt. Dil Kunwar applied for compassionate appointment on 30.04.2011. Between the period from 01.01.2004 to 30.04.2011, there was a litigation regarding issuing of succession certificate between the two wives of the late workman with regard to debts and assets of the deceased workman, in which Dil Kunwar succeeded. Thereafter, Dil Kunwar withdrew her application and filed another application on 19.07.2013 seeking appointment of her son Sawan Sai on compassionate grounds. This application was processed at area level and the screening committee of management at area level forwarded it with its recommendation to the headquarter for approval.

The headquarter refused to approve this proposal on the ground that the application was belatedly filed. This action of headquarter has been challenged by the workman union on behalf of the applicant by an allegation that it is arbitrary, capricious and against the provisions of NCWA. According to the workman side, the delay was due to legal proceedings and not on the part of the applicant. Management has defended its action with a case that compassionate appointment is not a right rather it cannot be claimed as a matter of right.

In evidence, both the sides have filed affidavits of their witnesses, who have been cross examined. Parties have filed documents which are admitted by the opposite party and will be referred to as and when required.

I have heard argument of Union representative Shri Sanjay Vishwas and learned Counsel for management Shri Neeraj Kewat and have gone through the record.

After having gone through the record in the light of rival arguments it comes out that the reference itself is the issue for determination.

Rule 9.3 of NCWA-VIII requires to be referred here and is being reproduced as follows :-

9.3.0 Provision of Employment to Dependants

9.3.1 *Employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service. The provision will be implemented as follows.*

9.3.2 Employment to one dependant of the worker who dies while in service

In so far as female dependants are concerned, their employment/payment of monetary compensation would be governed by para 9.5.0.

9.3.3 *the dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependant of the deceased.*

9.3.4 *the dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.*

The settled proposition of law crystallized through various decisions is that compassionate appointment cannot be claimed as a right. The decision of Hon'ble the Apex Court in the case of **State of H.P. v. Shashi Kumar, (2019) 3 SCC 653** can be referred to in this respect. The relevant paragraph of the Judgment is being reproduced as follows:-

This extract is taken from State of H.P. v. Shashi Kumar, (2019) 3 SCC 653 : (2019) 1 SCC (L&S) 542 : 2019 SCC OnLine SC 80 at page 664

18. While considering the rival submissions, it is necessary to bear in mind that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. Dependants of a deceased employee of the State are made eligible by virtue of the policy on compassionate appointment. The basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service. It is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a dependent member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfil the terms of the policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment. But, where there is a policy, a dependent member of the family of a deceased employee is entitled to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State.

21. The decision in **Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289 : 2005 SCC (L&S) 590]** has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in **Umesh Kumar Nagpal v. State of Haryana [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930]**. The principles which have been laid down in **Umesh Kumar Nagpal [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930]** have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract : (**Umesh Kumar Nagpal case [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930]**, SCC pp. 139-40, para 2)

“2. ... As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

It comes out from perusal of record and evidence that a case for issuing succession certificate with regard to assets and liabilities of Late Lagan Singh was filed by his widow Smt. Dil Kunwar in the year 2005 and was registered as Case No.-14/2005. The judgment in this case was passed on 24.04.2007 and succession certificate was issued on 09.03.2009. On the basis of this succession certificate, Dil Kunwar the widow of the deceased workman and her sons, including the applicant were given the gratuity amount. Also it comes out that the application for compassionate appointment was first filed on 30.04.2011 by Dil Kunwar claiming herself to be the widow of late workman. She sought appointment for herself. Later on, she changed her mind and filed second application on

06.02.2013 seeking compassionate appointment for her son, the applicant. She withdrew her first application. The point arises for consideration is whether this delay was beyond the control of the applicant and whether the management was justified in not approving the recommendation for compassionate appointment of the applicant sent by the screening committee on the ground of delay.

As the chronology of events discloses, the order issuing the succession certificate was passed in 2007, the certificate was issued after completion of formalities on the part of the widow and other successors in 2009 and first application for compassionate appointment for widow was filed in 2011. The application seeking compassionate appointment for the present applicant was filed in 2013. Hence, it cannot be said that the delay was due to lengthy litigation before Civil Court. No doubt the applicant side was also responsible for delay in filing the application.

In the case of *BSNL Vs. Vidya Prasad, 2021 SCC OnLine SC 840*, when there was delay in processing or filing application for compassionate appointment, refusal of appointment on the ground of delay was approved by Hon'ble the Apex Court. The relevant paragraphs of the Judgment are being reproduced as follows :-

This extract is taken from *BSNL v. Vidya Prasad, (2021) 13 SCC 212 : (2023) 1 SCC (L&S) 428 : 2021 SCC OnLine SC 840 at page 214*

“7. In the given case, either on the death of his father or on the date on which he submitted his application for compassionate appointment, the Scheme of 1998 was in vogue for seeking compassionate appointment, and as observed he was eligible under the Scheme 1998 but his application remained pending until the new Scheme was introduced on 27-6-2007 and thereafter rejected by a letter dated 15-9-2007.

8. The facts are conspicuous and manifest in that the delay in entertaining the application for fair consideration in seeking employment submitted by the respondent is indisputably attributable to the appellants and for the afore stated reason, he has been deprived of seeking compassionate appointment, which he was otherwise entitled to under the Scheme of 1998. It is always said that delay denies justice and the present respondent became victim of the total inaction on the part of the appellants and its officials in not putting heed to the application which was submitted by the family of the deceased employee, who died while in service. The indigent family who has lost their breadwinner in seeking compassionate appointment to which one of the dependants was otherwise entitled to under the law because of irresponsible attitude and redtapism which is prevalent in the office of the appellants.

10. Taking into consideration the totality of the matter, we consider it appropriate that the respondent be entitled at least for a cost of Rs 5 lakhs to be imposed on the appellants of causing delay in passing appropriate orders on his application which was furnished by him for seeking compassionate appointment.

9. At the same time, it cannot be ignored that by the time the matter travelled to the Division Bench of the High Court, the respondent crossed the age of 50 years and certainly it was not possible to consider him for employment at such a belated stage, but the respondent at least could not have been left in lurch.

11. Consequently, the judgment of the High Court impugned dated 13-12-2017 [BSNL v. Vidya Prasad, Writ-A No. 22369 of 2014, order dated 13-12-2017 (All)] is modified as stated above and the appeal is accordingly disposed of. The payment of Rs 5 lakhs shall be made over to the respondent within a period of four weeks from today, failing which he will be entitled for interest @ 9% p.a. until actual payment.”

The relevant paragraphs of another Judgment of Hon'ble the Apex Court in the case of *Punjab State Power Corpn. Ltd. v. Nirval Singh, 2019 SCC OnLine SC 757* are being reproduced as follows :-

This extract is taken from *Punjab State Power Corpn. Ltd. v. Nirval Singh, (2019) 6 SCC 774 : 2019 SCC OnLine SC 757 at page 775*

*“6. The learned counsel for the appellants has also drawn our attention to the judgment of this Court in *SBI v. Raj Kumar [SBI v. Raj Kumar, (2010) 11 SCC 661 : (2011) 1 SCC (L&S) 150]* where paras 8 and 13 are as under: (SCC pp. 664-65)*

“8. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand, it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant.

13. Further, where the earlier scheme is abolished and the new scheme which replaces it specifically provides that all pending applications will be considered only in terms of the new scheme, then the new scheme alone will apply. As compassionate appointment is a concession and not a right, the employer may wind up the scheme or modify the scheme at any time depending upon its policies, financial capacity and availability of posts.”

This extract is taken from Punjab State Power Corpn. Ltd. v. Nirval Singh, (2019) 6 SCC 774 : 2019 SCC OnLine SC 757 at page 776

“ In our view there is more than one impediment in the way of the respondent.

8. The first is the delay in approaching the courts for redressal after a period of 7 years even if he is making representations. The very objective of providing immediate amelioration to the family is extinguished. The second is that the earlier policy having been abolished and the new policy having coming into force, the application has been considered under the new policy and the options available were offered to the respondent who failed to avail of the same.

9. Our attention has been drawn to the relevant clause of the new policy which reads as under:

“The above policy instructions shall be applicable from the date of issue of instructions. The cases, where compassionate employment has not been given due to discontinuance of the earlier policy since 4/2002, shall also be considered and requisite relief, in lieu of compassionate employment, shall be granted as per the above policy instructions.”

10. We are thus of the view that the offer of solatium could be the only remedy available, more so at this stage of time.

11. The solatium of Rs 3 lakhs was offered immediately on 19-9-2004. We are informed that as per the current policy the solatium has been revised to Rs 5 lakhs. That being the position and the respondent having been deprived of the benefit of the amount, albeit by his own conduct, the interest of justice would be served by directing that the sum of Rs 5 lakhs be paid to the respondent within two months from today.”

According to the Union Representative, time from 2004 to 2011 was taken in litigations because the workman had two wives. It is evident from evidence on record that order was passed by the Court in 2007. The first application was filed in 2011 and the second application requesting compassionate appointment to the applicant son of the deceased employee was filed in 2013, hence it cannot be said that the delay was beyond the control of applicants because there is no evidence in this respect. Accordingly, the application for compassionate appointment of the applicant son of deceased employee is held to have been filed with unexplained delay.

As regards, the argument that screening committee had recommended appointment of the applicant, hence headquarter i.e., the competent authority had no occasion to reject the recommendation cannot be accepted because recommendation of the screening committee is not binding on the competent authority and it is within its right to accept or reject it.

In the light of the principle of law mentioned above the action of the competent authority in not approving the proposal of compassionate appointment of the applicant Sawan Sai is held legal and justified.

Before parting, reference of **Para 9.5.0 of NCWA-VIII** is necessary which is being reproduced as follows :-

9.5.0 Employment/Monetary compensation to female dependant

Provision of employment/monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 above would be regulated as under:

(i) *In case of death due to mine accident, the female dependant would have the option to either accept the monetary compensation of Rs. 4,000/- per month or employment irrespective of her age.*

(ii) *In case of death/total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0., If the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs. 3,000/- per month or employment.*

In case the female dependant is above 45 year of age she will be entitled only to monetary compensation and not to employment.

(iii)

As provided in Para 9.5.0, the widow of the deceased workman is held entitled to monetary compensation of Rs. 3000/- per month from the date of death of the workman.

In the light of above discussion, the reference is answered as follows:-

AWARD

Holding the action on the part of the local management of SECL Bagdewa Project under Korba Area and the management of Area Headquarter Bilaspur after completing the procedural formalities including screening procedure in respect of Shri Sawan Sai S/o. Late Lagan Singh and rejecting the compassionate appointment on ground of delay, appropriate and justified in law, Smt. Dil Kunwar W/o. Late Lagan Singh is held entitled to monetary compensation of Rs. 3000/- per month from the date of death of the workman Lagan Singh within 30 days from the date of publication of Award, failing which interest @ of 8% p.a. from the date of Award till payment. No order as to cost.

DATE: 04/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1898.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, जबलपुर के पंचाट (एलसी-आर/37/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2024 को प्राप्त हुआ था।

[सं. एल -22012/143/2006-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/-R/37/2007**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L., and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/143/2006 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR**

NO. CGIT/LC/R/37/2007

Present: P.K. Srivastava

H.J.S..(Retd)

Raghunath Napit

S/o. Late Rekhai Napit

At Bakho, OPM Shahdol ... Deceased during the proceedings

and represented by legal representatives

1/1. Radha Bai Napit

W/o. Late Raghunath Napit

1/2. Kushlesh Napit

S/o. Late Raghunath Napit

1/3. Rajesh Napit

S/o. Late Raghunath Napit

1/4. Mukesh Napit

S/o. Late Raghunath Napit

1/5. Annu Napit

S/o. Late Raghunath Napit

All R/o. 1339, Ward No.-1, Bhakho

Jhagra, Sohagpur, Distt.-Shahdol (M.P.)

WORKMAN

Versus

The Chief General Manager,

Sohagpur Area of SECL,

PO Dhanpuri, Distt.- Shahdol (MP)

MANAGEMENT

(J U D G E M E N T)

(Passed on this 02nd day of September-2024)

As per letter dated 06/03/2007 by the Government of India, Ministry of Labour, New Delhi, the reference is received under Section -10 of Industrial Disputes Act, 1947 as per Notification No. L-22012/143/2006/IR(CM-II) dt. 06/03/2007. The dispute under reference relates to:

“Whether the action of the management of SECL, in terminating the services of Shri Raghunath Napit w.e.f. 05.09.2001, is legal, proper and justified ? If not, to what relief the workman is the entitled ? ”

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and file their respective Statement of Claims and Defense.

According to the workman, he fell ill in the year 2002. He was under treatment from 04.07.2002 to 14.07.2002. Thereafter he was under treatment in colliery hospital. His condition did not improve. He requested the management to refer him to the District Hospital. The management did not grant his request, hence he received the treatment of Senior Doctor J.N. Garg in Buddhar in his private hospital and was under his treatment from 20.07.2002 to 28.12.2002. He presented himself for assuming his job on 30.12.2002. He came to know that he was terminated by the management on the ground of unauthorized and willful absence. According to him no inquiry was conducted.

The case of the management is that the workman has been a habitual absentee. His attendance has been irregular since 1998 till issue of charge sheet on 01.08.2001, details of his presence mentioned in the written statement of claim. He was issued a charge sheet which was unsatisfactory, hence management decided to conduct a Departmental Enquiry. He participated during the enquiry. He cross-examined the witness and produced his evidence. The Enquiry Officer submitted his enquiry report holding him guilty of misconduct. A copy of enquiry report was served to him with show cause notice. He did not make any representation and thereafter punishment order dated 16.08.2002 was passed. Thus according to the management the enquiry was conducted properly and legally. During the proceedings, the workman died, his legal representatives were substituted. Three of his legal representative i.e. his widow and two sons filed their affidavit on preliminary issue no.-1. All of them appeared for cross-examination by the management. The management has examined its witness and has proved its enquiry papers M1 to M8.

During proceedings, the workman died and his legal representatives were substituted.

Following preliminary issue was framed by my learned Predecessor :-

1. *Whether the departmental enquiry conducted is legal and proper or not?*

On the basis of evidence, this issue was decided vide order dated 10.10.2022 holding the Departmental Enquiry legal and proper. This order is part of this Award.

Following additional issues were framed thereafter :-

2. *Whether the charges are proved from the enquiry report ?*

3. *Whether the punishment is disproportionate to the charge proved ?*

4. *Relief to which the workman is entitled ?*

Parties were directed to file their evidence on remaining issues in form of documents/affidavit. They did not file any evidence.

None appeared for workman at the stage of argument, no written argument was filed, I have heard argument of learned Counsel for workman Mr. Rakesh Soni and learned Senior Counsel Mr. Anoop Nair, assisted by Mr. Neeraj Kewat for management. I have gone through the record.

Issue No.-2 :-

Learned Senior Counsel for management has referred to the enquiry papers, specially the statement of the workman and the statement of management witness in support of his argument that the charge was rightly held proved by the Enquiry Officer.

Learned Senior Counsel has submitted that the standard of proof required for charge to be proved in a departmental enquiry is not the same as it is in a criminal trial.

The settled proposition of law is that the charges need not be proved beyond reasonable doubt in a departmental enquiry. Following judgments are being referred to in this respect.

Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255

Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10 , 11, 12 & 13). (ii) M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)

In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."

In the case of T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.

In the cases of Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425, the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the

service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "

I have gone through the enquiry papers. The charge against the workman was as follows:-

26.24. Habitually absenting from work without sufficient reason or habitual late coming.

26.30. Absenting from work without sufficient reason or without getting leave sanctioned or overstaying on leave.

It also comes out that basis of the charge against the workman was i.e., total presence on work during the year 2001 only 35 days.

There is evidence of two management witnesses who have deposed on the basis of records that the workman came on work only for 35 days in 2001. Also is presence was 72 days in 1998, 113 days in 1999 and 55 days in 2000. They have filed and proved the documents regarding attendance of the workman, they have been cross examined by the workman. The defense of the workman is that he has been under treatment due to his prolonged illness for which no evidence was produced during the enquiry. The management witnesses also stated that no information regarding absence was given by the workman. Hence, I find no occasion to disagree with the finding of the Enquiry Officer and Disciplinary Authority that the charges of misconduct as mentioned above, are proved against the workman.

Issue No.-2 is answered accordingly.

Issue No.-3 :-

Learned Senior Counsel for management has submitted that regular presence is the core value that has to be maintained by an employee while in service. No employer can afford to have an employee on its rolls who is so casual in his presence.

The settled proposition of law is that the punishment can be interfered by this Tribunal only when it is so disproportionate to the charge that it shocks the conscience of this Tribunal. Following judgments are being referred to in this respect.

Hon'ble Apex Court in *B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749* while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."

In *DG, RPF vs. Sai Babu (2003) 4 SCC 331*, Hon'ble Apex Court has observed that:

"6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."

In *United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364* Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

*"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.*

12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."

In *Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257* Hon'ble Supreme Court reiterated the legal position as follows:

"8. The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

In *State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580* Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review."

Hon'ble Apex Court in *Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101* has observed that

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts."

This extract is taken from *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721 : 2011 SCC OnLine SC 416* at page 587

7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44]*, *Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806]*, *Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036]* and *High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1 SCC 416 : 2000 SCC (L&S) 144]*.)

In *Air India Corporation Bombay vs. V.A. Ravellow 1972 (25) FLR 319 (SC)* it has been observed that:

"Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed."

In *Knhaiyalal Agarwal and others vs. Factory Manager, Gwalior Sugar Co. Ltd. AIR 2001 SC 3645* Hon'ble Apex Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

"Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved."

Charges proved are that the workman willfully absented himself from duty in 2001. He was also absent from duty for the period of 1998 to 2001. No employer can afford such absenteeism. Hence, holding the punishment not disproportionate to the charge, issue no.-3 is answered accordingly.

Issue No.-4 :-

On the basis of findings recorded above, the workman is held entitled to no relief.

Accordingly, the Reference is answered as follows :-

A W A R D

Holding the action of the management of South Eastern Coalfields Limited (SECL), in terminating the services of Shri Raghunath Napit w.e.f. 05.09.2001 legal, proper and justified, the workman is held entitled to no relief.

No order as to cost.

DATE:- 02/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1899.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 243/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2024 को प्राप्त हुआ था।

[सं. एल-22012/68/2014-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 243/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C. Ltd.** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/68/2014 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 29th day of July, 2024

INDUSTRIAL DISPUTE No. 243/2014

Between:

The President (Bandari Satyanarayana)
Telengana Trade Union Council,
Rajkumar Complex, Saibaba Temple Road,
Jaffar Nagar, Mancherial-504208.
Adilabad Distt. (AP)

.....

.Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area,

Mandamarri (PO)-504231.

Adilabad Distt.

...

Respondents

Appearances:

For the Petitioner : Shri M.V.L Narasaiah, Advocate

For the Respondent: Shri Ranjeeth Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/68/2014 (IR(CM-II)) dated 25.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Distt., in terminating the services/Disempannelling the services of Sri Pagidi Venkataiah, Ex-Badli Coal Filler, SMG-1 Incline, Mandamarri Area with effect from 7.4.1997 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 243/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 29th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1900.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.लि.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 78/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/84/2011-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 78/2011) of the Central Government Industrial Tribunal-cum-

Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/84/2011 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 20th day of June, 2024

INDUSTRIAL DISPUTE No. 78/2011

Between:

Sri Gandham Mallesham,
Ex- Head Overman,
SCCL,/SMG-1 Inc.,
R/o H.No. 28-4-69, HB Colony,
Adilabad Dist.,
Bellampalli-504251.

.....Petitioner

AND

The General Manager
M/s. Singareni Collieries Company Ltd.,
Mandamarri Divn.,
Mandamarri-504231.

...

Respondents

Appearances:

For the Petitioner : Ms G. Sudha , Advocate

For the Respondent: Sri Y Ranjeeth Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/84/2011 (IR(CM-II)) dated 13.10.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of M/s. Singareni Collieries Company Ltd., Mandamarri Division, Adilabad Dist. In terminating the service of Shri Gandham Mallesham, Ex. Head Overman, SCCL/SMG-I Inc., 21-10-2006 with a reason that, the applicant workman has accepted the alternative employment is legal and justified? To what relief the concerned workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 78/2011 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 20th day of June, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1901.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.लि.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 1/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/98/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 1/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd**, and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/98/2022 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12th day of July, 2024**INDUSTRIAL DISPUTE No. 1/2023**

Between:

The Singareni Collieries Workers
Union (AITUC), Bellampalli
Mancherial District
Telengana-504251.

.....Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandmarri Area
Mancherial-504231

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/98/2022-IR(CM-II) dated 07/12/2022 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“WHETHER THE ACTION OF THE MANAGEMENT OF M/s. Singareni Collieries Company Ltd., MANDAMARRI FOR NON-CONSIDERING FOR 9 MONTHS SALARY SRI M. RAJARATNAM, EX-ASSISTANT DURING UNFIT PERIOD IS JUSTIFIED OR NOT? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED FOR?”

The reference is numbered in this Tribunal as I.D. No. 1/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.लि.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 13/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/33/2023-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 13/2023**) of the **Central Government Industrial Tribunal-cum-**

Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd**, and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/33/2018 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5th day of July, 2024

INDUSTRIAL DISPUTE No. 13/2023

Between:

The General Secretary,

The Singareni Collieries Workers

Union (Regd No. 7), Seshagiri Bhawan,

Kothagudem-507101.

.....

.Petitioner

AND

The Director (PA & W),

M/s. Singareni Collieries Company Ltd.,

Kothagudem, Bhadadri

Telangana-507101.

...

Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/33/2023-IR(CM-II) dated 27/04/2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“Whether the demand of Singareni Collieries Workers Union (Regd. No.7), Kothagudem against the management of M/s. Singareni Collieries Company Ltd., Kothagudem for periodical promotions of Turners, Machinists, Moulders, Welders, Motor Mechanics as chargehands (Mech) on account of change of technology, closure of mines and non-availability of vacancies are legal and justified. If yes, what relief the workmen are entitled to?

The reference is numbered in this Tribunal as I.D. No. 13/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 5th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.लि.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 6/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/85/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 6/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd**, and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22012/85/2022 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 19th day of July, 2024**INDUSTRIAL DISPUTE No. 6/2023**

Between:

The Singareni Collieries
Workers Union (AITUC)
Bellampalli,
Mancherial-504251.

.....

.Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandmarri Area
Mancherial-504231.

...

Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/85/2022-IR(CM-II) dated 05/01/2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“Whether the charter of demands raised by the Singareni Collieries Workers Union (AITUC), Belampalli vide letter dated 03.04.2017 (copy enclosed) against the management of Singareni Collieries Company Ltd. (SCCL), Mandamarri Area is proper, legal & justified? If yes, what relief to the union is entitled to and what directions, if any, are necessary in this respect?”

The reference is numbered in this Tribunal as I.D. No. 6/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice served on Petitioner but none present on behalf of Petitioner. Therefore, in absence of Petitioner and non-filing of claim statement by the Petitioner, the case is a ‘No-Claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 19th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1904.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 31/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-11012/3/2021-आई.आर. (सी.एम-1)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 31/2021**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Air India Ltd** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-11012/3/2021 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5th day of August, 2024**INDUSTRIAL DISPUTE No. 31/2021**

Between:

Smt. S. Gayathri & 4 others,
C/o Shri A. Nagendra Rao
S/o Late A. Suryachandra Rao,
R/o Flat No.207, Block-B,
Sai Keerthi Estates,
Near Lukshmi Ganpati Temple, Friend colony,
Hyderabad-500050.

.....

.Petitioner

AND

The General Manager
M/s Air India Ltd,
MRO Complex, Near Gate No.3,
RTI Airport, Shamshabad,
Hyderabad-500040.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

A W A R D

The Government of India, Ministry of Labour by its order No.L-11012/3/2021 (IR(CM-I)) dated 19.04.2021 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the Decision of Management of M/s Air India Ltd., Hyderabad in not paying the wages for weekly Offs and public Holidays w.e.f. 27.09.2020 and also changing the service conditions of the workmen i.e. Smt. S. Gayatri Devi, Typist; B. Aruna, Typist; B. Srinivas Goud, Driver; J Shiva Kumar, Driver and G.L. Ganapathi Driver is legal, proper and justified in the view of section 9(A) of ID Act 1947? If not, what relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 31/2021 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice sent to petitioner returned un-served with endorsement as ‘addressee left’ hence returned to sender. In spite of providing sufficient opportunity no claim statement is filed. Hence, a ‘no-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 5th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1905.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद** के पंचाट (पहचान संख्या **122/2015**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **20/09/2023** को प्राप्त हुआ था।

[सं. एल-11012/30/2015-आई.आर. (सी.एम-1)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1905.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 122/2015**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Air India Ltd** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-11012/30/2015 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12th day of August, 2024**INDUSTRIAL DISPUTE No. 122/2015**

Between:

Sri Shaik Abdullah,

S/o Shaik Chand,

H.No. 12-1-1030, Near Badi Masjid,

North Lalaguda,

Secunderbad-500028.

..Petitioner

AND

1. The CMD,

Air India Ltd., Airlines House,

113, Gurudwara Rakabganj Road,
New Delhi-110001.

2. The Dy. General manager (Pers)
Air India Ltd., Engineering Complex,
Begumpet, Hyderabad-500016.
3. The Regional Director,
Air India Ltd, Chennai-

...

Respondents

Appearances:

For the Petitioner : Shri A. Nagendra Rao, Advocate

For the Respondent: None

A W A R D

The Government of India, Ministry of Labour by its order No.L-11012/30/2015 (IR(CM-I) dated 02.11.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of Air India Ltd., Hyderabad in not regularizing the services of Sri Shaik Abdullah S/o Shaik Chand in the post of Helper (Canteen) is justified? To what relief is the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 122/2015 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 107/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **20/09/2023** को प्राप्त हुआ था।

[सं. एल-11012/07/2018-आई.आर. (सी.एम-1)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 107/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Air India Ltd** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-11012/07/2018 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12th day of August, 2024

INDUSTRIAL DISPUTE No. 107/2018

Between:

The Regional Secretary,
Air Corporation Employees Union,
Air India Ltd., CTE, Ferozguda
Hyderabad-500011.

..Petitioner

AND

1. The Sr. Manager (P),
Air India Ltd., MRO, AIESL,
GMR Airport, Shamshabad
Hyderabad-500011.
2. The Executive Director (South),
Air India Ltd., Airline House,
Meenambakkam,
Chennai-600027.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

A W A R D

The Government of India, Ministry of Labour by its order No.L-11012/07/2018(IR(CM-I) dated 29.10.2018 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

- i. Whether the decision of the Management of Air India to outsourcing the canteen staff at Hyderabad Airport without consulting/intimation to the Union is legal, proper and justified? If not, what remedy will be available for them?
- ii. Whether decision of the Management in enhancement of canteen tariff without notice and the executive canteen tariff applied to the workmen is legal, proper and justified? If not, what directions are necessary in this regard?"

The reference is numbered in this Tribunal as I.D. No. 107/2018 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice sent to petitioner returned un-served with endorsement as 'incomplete addressee' hence returned to sender. In spite of providing sufficient opportunity no claim statement is filed. Hence, a 'no-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 सितम्बर, 2024

का.आ. 1907.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, जबलपुर के पंचाट:एलसी.आर/86/2018**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **20/09/2024** को प्राप्त हुआ था।

[सं. एल-22011/17/2016-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 27th September, 2024

S.O. 1907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/R/86/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **20/09/2024**.

[No. L-22011/17/2016 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No.- CGIT/LC/R/86/2018

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Arjun Patel,

S/o late Bharelal Petel Village &

PO. Lamhetaghat,

Jabalpur M.P. 482003

Shri Abdul Khalid Danish,

S/o late Najir Ahmad Danish, 3093,

Talib Sah Chowk,

Takkar Gram, Jabalpur M.P.

Workman

Vs

The Area Manager,

Food Corporation of India,

Vikas Asha Kendra Buld 2722, Napier Town

Jabalpur M.P. – 482002

The General Manager,

Food Corporation of India, Regional Office,

Chetak Building, Zone-II. M.P. Nagar,

Bhopal M.P. - 462011

Management

(J U D G E M E N T)

(Passed on this 2nd day of May 2024)

As per letter dated 29/10/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22011/17/2016 IR(CM-II) dt. 29/10/2018. The dispute under reference relates to:

“Whether the action of the Area Manager, Food Corporation of India 2722, Napier Town, Jabalpur (MP) / General Manager, Food Corporation of India, Regional Office, Bhopal (MP) / Contractor M/s Laxmi Narayan Khandelwal R/o Waraseoni Distt. Balaghat in terminating the services of (1) Shri Arjun Patel S/o. late Bhurelal Patel Ex-Waterman/peon and (2) Shri Abdul Khalid Danish S/o late Shri Najir Ahmad Danish Ex-Waterman/Peon w.e.f. 12.02.2016 is fair, legal, & justified ? If not, to what relief the concerned workmen are entitled to ?”

After registering a case on the basis of the reference, notices were issued to the parties and were served.

In their statement of claim, the applicant Workmen, they were initially appointed by the management of Food Corporation of India (in short, FCI) in the year 1984 and have since then working for management of FCI as their employees. They were not paid their wages by the management. Hence they filed a case before the competent authority in the payment of wages act for getting their wages, which was registered and was decided by the competent authority wide its judgment in the August, 7th 2018 and February 13, 2017. The management was directed by the competent authority, the Regional Commissioner Labour Central and management was directed to pay wages of these workmen for the period February 2015 2 September 2015 total nine months, which was Rs. 27,000 /-for each of the Workman along with compensation at the rate of Rs. 5000 payable by management to each of the Workman and for the period October 2015, 2 February 2016 Rs. 52,316 /-to each of the workmen. According to the workmen, they had raised a dispute before the Labour Commissioner for regularization of their services with the management.

The management has showed them to regularize their services as DPS Labour, and it is on this assurance from management, they withdrew their petition for regularization filed by them before the Labour Commissioner. The management passed an order on September 29th 2003 for regularizing them as DPS Labour, but without back wages and benefits. It is the case of the applicant Workman that the management did not keep promise and continued them as daily wagers. Ultimately, the management disengaged them on February 12th 2016 without any notice or compensation. According to the workmen, this action of management is against section 25G, 25F & 25H the industrial Disputes act 1947 (in short, the 'Act'). According to the workmen, by continuously working with the management, since 1984 till the date of their termination against law, they have matured their right to be regularized on their post. The management has thus acted against the Act in refusing regularization to these workmen and also this engaging them without notice or compensation. The Workmen for have accordingly sought the relief of his reinstatement with all back wages and benefits, and they are regularization, holding his termination against law.

According to the management of FCI, please workmen were never engaged by them in any capacity. Hence, there has never been any relation of an employer and workman as defined in the Act. They are not Workman as per section 2(7) of the Act, hence there is no question of their termination by the management. Management further, has pleaded that they have filed an appeal before the District Judge against order of the Competent Authority passed by it in proceedings before it under Payment of Wages Act. According to management, it gets some jobs done through contractors engaged by it. These workmen were the employees of the contractor. The management has accordingly prayed that the reference be answered against the Workmen.

In evidence, the work & filed the affidavit's of the workman Arjun Patel and Abdul Khalik Danish as their examination in Chief. They have been cross-examined by management. The Workman said has also filed affidavits of M.R. Khan, K.L. Tiwari, Ira Srivastava, G.P. Tiwari and Madhve Rao Pasi as their examination in Chief, out of which two witnesses, GP Tiwari and Madhve Rao Pasi have been cross-examined by management. Management has filed affidavits of its witnesses Anil Kumar Verma Sangeet Verma , who are the officers of the management.

The Workman side has proved documents which are Ex. W/1, three work slips together, Ex. W/2, office order dated September 29th, 2003, directing the workman Arjun Patel to work as DPS worker as per the terms and conditions as contained in the DPS regulations from the date of the order ,Ex. W/3,4 freight receipts, Ex. W/4 & are 18 & 6 photocopy documents connecting the Workman, with the management and certificates issued by different officers at different times, some of them have been examined from the side of Workmen and have been cross-examined by management, Ex. W/6, RTI documents 8 pages. The management has not proved any document.

I have heard the argument of learned counsel for the workmen, Mr A.K.Soni and Mr Mukesh Kumar Agarwal for management. The Workman side has also filed memorandum of arguments which is part of the record. I have gone through the record in the light of oral and written submissions.

The following issues arise for determination. On perusal of record in the light of rival arguments. They are –

1. **Whether the applicant Workmen have successfully proved their continuous engagement from 1984 till date of termination of their services. February 12th, 2016 ?.**
2. **Whether the action of management in this engaging these workmen is in violation of the Act?**
3. **Whether the Workman are entitled to any relief ?**

Issue number one-

Before entering into any discussion, following provisions of the 'Act' required to be mentioned and are being reproduced as follows-

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

3(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

- (c) termination of the service of a workman on the ground of continued ill-health;

[25B. Definition of continuous service.-

For the purposes of this Chapter,--

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case. Explanation.- For the purpose of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-

a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;

b) he has been on leave with full wages, earned in the previous year;

c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

d) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

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 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 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 2[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

The pleadings of the parties on this issue have been detailed earlier as above. According to the applicant Workmen, they were first engaged in the year 1984 and continued with the management till February 12th 2016. Management has completely denied their this allegation and has pleaded that they were never engaged by the management of FCI at any point of time in any capacity, even as a daily wager. According to management, they might have been the employees of the contractors who were given contracts by management for different jobs of loading and unloading.

The workmen have filed their affidavits as their examination in Chief in which they have corroborated their case on this point as stated in their statement of claim. In his cross-examination, the workman Arjun Patel has stated that there was an attendance register in the office, which was not meant for them. The attendance registers were section wise. He further stated that since 1984 to December 2014, he was paid his wages in cash by the office of FCI in Jabalpur. His co-worker Abdul Khalid Danish was also paid his wages by the office of FCI in Jabalpur in cash. This witness admits that he was not issued an appointment letter and also that he is in the knowledge of the fact that the management has referred an appeal before the Court of the District Judge against the order of competent authority passed by him in the case relating to Payment of Wages , filed by the applicant Workmen. He denied that he was engaged by the contractor. The other workman Abdul Khalid has stated in his cross-examination that he and his co-worker were paid his wages by the admin office, the wages were paid in cash and that he was not an employee of the contractor. These statements of these workmen are corroborated by Ex. W/1 to Ex. W/6. Most are relevant among these is the office order dated September 29th 2003, issued by the District Manager wearing he has directed the Workman Arjun Patel to work as DPS Labour in the DPS regulations act at Ramu Depot from the date of the order. The 2nd workman has also stated that the same order was issued by management with respect to him, but he could not file, the copy of the order. Management has not cross-examined, these two workmen on the point of their statement that orders were issued by management, allowing them to work as DPS Labour on the date mentioned above. Hence, the management shall be deemed to have not disputed this fact. Further, the various officers of the management, names mentioned earlier in this judgment, have filed their affidavits as their examination in Chief, out of which two have been cross-examined. Learned counsel for management has challenged the certificates issued by these officers of management on the ground that firstly, they did not have authority to issue the certificates and secondly, since they have retired and are no more in service of the management, they have conspired with these workmen. Even if these certificates are not taken into account, their statements, at least they statements of two of these officers who have been cross-examined by management may be looked into for corroboration of the case of the Workmen. These witnesses have categorically stated that these workmen were working in the office of management, as employees of management during their tenure. There is nothing in cross-examination of these witnesses to discredit them on their statements on this point. Documentary evidence. The two judgments of the competent authority in the cases relating to payment of wages, filed by these workmen(details mentioned earlier in this judgment) , the finding of the competent authority that these workmen worked with the management, as their employees also corroborates the case of the workmen and their continuous service under an employment of the management of FCI.

On the other side, the management witness Sangeet Verma has stated in his affidavit as his examination in Chief that these workmen were never engaged in any capacity by the management. No records with respect to these workmen is available with the management. The names of these workmen is not in the list of workmen who have been paid wages by the management, an appeal is pending in the Court of the District judge against the payment of wages order. Hence this order is not final. In his cross-examination, this witness has stated that he was posted in Jabalpur office of management, only in August 2022. There is nothing more in his cross-examination and relevant on this issue number one. The other witness of management, Anil Kumar Verma has not been cross-examined by the Workman said and he has been discharged by management on August 29th 2022, as it is apparent from the order sheet of the date. Hence, his affidavit as no relevance.

Thus, there is on record, at least statements of two workmen and their two witnesses who have been cross-examined by the management who corroborated the case of the workmen that firstly, they were engaged by the management of FCI as daily wager, secondly, they were accorded status of DPS Labour by management wide its order dated September 29th 2003. That statements of these witnesses are supported by the documents Ex. W/1 to Ex. W/6, details mentioned above. It has to be kept in mind that there is no stay order with respect to operation of the judgments are with respect to payment of wages to these Workmen. They are binding on party till they are in force/not set aside by higher Court. Opposed to it is the statement of one management witness who claims knowledge of the fact from the record maintained by Management but not produced before this Tribunal. It is in part to mention here that during pendency of the proceedings, the workmen side files an application on March, 19th 2020 with affidavit seeking direction to management to file the original documents mentioned in the application Management. The management filed written objection. This application was allowed vide order dated March 20th 2020. The management was directed to file these documents mentioned in the application in original or filed an affidavit of someone authorized by management. If these documents were not available. The management did not file the original documents nor did they file the affidavit that these documents were not available.

Thus, in the light of above discussion, the evidence from the side of the workmen on number one, seems more reliable and accordingly, the workmen are held to have successfully proved their continuous engagement from 1984 till date of termination of their services. February 12th , 2016 and issue number one is answered accordingly.

Issue number two-

Since it is the case of the applicant Workmen that no notice or compensation was paid to them before this engaging them. The management has flatly denying the engagement of these workmen hence submits that there was no question for any notice or compensation or any disengagement of these workmen by management. In these

circumstances, and in the light of findings recorded on issue number one, **the action of management terminating the services of these workmen without compensation is held against violation of section 25F & 25G of the 'Act' & is law and unjust. Issue number two is answered accordingly.**

Issue number three-

In the light of findings on issue number one and two, the question arises as to what relief the Workmen are entitled to.

Learned counsel for the workmen has relied on five Judges judgment of **Hon'ble the Apex Court in the case of Secretary State of Karnataka and others Vs Umadevi reported in 2006AIRSCW 1991**. In paragraph 44 of this judgment, referred to by the learned counsel, the Supreme Court had issued directions to the union of India, state governments and their instrumentalities to take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for 10 years or more in a duly sanctioned posts. But not under the cover of orders of sports or tribunals. It was also directed that this exercise should be completed within six months of this judgment. The learned counsel has submitted that the management never complied this direction of Supreme Court.

From the record, it has been held proved that these workmen have put in about 30 years under the engagement of the management, also, it is true that the order of the management itself, granting DPS status to these workmen on September 29th 2003 was also not complied with.

There is also on record, a judgment of High Court of MP passed in WP number 5142/1997 against the present management on August 18th 1998 in which the High Court has directed the Workman who was working as a daily wager with the management and there was an order of his reinstatement passed by this Tribunal, confirmed by High Court, SLP dismissed by Supreme Court to regularize him when after this much of litigation, the workmen was reinstated in compliance of the said order as a casual daily wager only.

It is the settled proposition of law that when the termination of a Workman is held against law, he is entitled to any one of the two reliefs, ie; either reinstatement or without back wages or compensation. In the case in hand, keeping in view the period of engagement of these workmen and also the fact that these workmen were granted DPS status by management. Long back in 2003 (details mentioned earlier) compensation to them will not be a just and proper relief. **In my considered view, reinstatement of these workmen with all the benefits of our DPS Labour, since September 29th, 2003 will meet the ends of Justice. They are also held entitled to be considered for the regularization according to rules and procedure in this respect, treating themselves to be DPS Labour, since September 29th 2003. They are also held entitled to litigation cost contributed at Rs. 25,000 /- to be divided between them equally. Management is held under obligation to complete this whole exercise and payment of any money due as a benefit of this exercise within 30 days from the date of publication of this award. In the official Gazette, failing which interest at the rate of 8% per annum from the date of award till payment. Issue number 3 is answered accordingly**

In the light of the above discussion, following award is passed.

AWARD

Holding the action of management in disengaging the Workman Arjun Patel and Abdul Khalid by the management of FCI against law and unjustified, they are held entitled to reinstatement with all the benefits of DPS Labour, since September 29th, 2003. They are also held entitled to be considered for the regularization according to rules and procedure in this respect, treating themselves to be DPS Labour, since September 29th 2003. They are also held entitled to litigation cost computed at Rs. 20,000 /-. Management is held under obligation to complete this whole exercise and payment of any money due as a benefit of this exercise within 30 days from the date of publication of this award. In the official Gazette, failing which interest at the rate of 8% per annum from the date of Award till payment.

DATE:- 02/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 अक्टूबर, 2024

का.आ. 1908.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **उत्तर मध्य रेलवे** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (06/2020) प्रकाशित करती है।

[सं. एल-12025 / 01 / 2024-आई आर (बी-I)-218]

सलोनी, उप निदेशक

New Delhi, the 3rd October, 2024

S.O. 1908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.06/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen.

[No. L-12025/01/2024-IR(B-I-218)]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/RC/06/2020

Present: P.K.Srivastava

H.J.S..(Retd)

Smt. Urmila Chouhan,

W/o late Lakshman Singh Chauhan,

R/o 1967 Railway Colony,

Kabra ka Tal, Gwalior (M.P.)

APPLICANT

Versus

The Divisional Railway Manager,

North Central Railway,

Jhansi (U. P.)

NON-APPLICANTS

ORDER / AWARD

(Passed on this 05Th day of September-2024.)

1. The Petitioner, who happens to be the widow of workman Lakshman Singh has filed this petition seeking relief of setting aside termination of her husband by management on 14/04/1986 as well for compassionate appointment as widow of the workman and also for recovery of dues of her late husband.
2. In spite of service of notice, the management did not appear hence, the petition proceeded ex-parte against management.
3. In evidence, petitioner filed some photocopied documents which she did not care to prove.
4. She did not file even her affidavit in support of her allegations in the petition.
5. None of the parties appeared at argument stage. I have perused the record.
6. The initial burden to prove her claim is on the petitioner, in absence of any evidence, the petitioner is held to have failed to discharge this burden.
7. Hence holding the case of petitioner not proved, The petition deserves to be dismissed.
8. Order; petition is dismissed.
9. Let the copy of the Order/Award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 05/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1909.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अहमदनगर के पंचाट (02/2018) प्रकाशित करती है।

[सं. एल-12012/70/2017-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 7th October, 2024

S.O. 1909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.02/2018) of the *Indus.Tribunal-cum-Labour Court Ahmednagar* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12012/70/2017-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL AT AHMEDNAGAR

(Before Shri. S.N. Sonawane Presiding Officer, Industrial Tribunal, Ahmednagar)

Reference (IDA) No. 02/2018

(CNR No. MHIC160000122018)

1. Zonal Manager,
Central Bank of India,
317, M.G. Road,
Pune 411001.
2. Regional Manager,
Central Bank of India
Regional Office,
Aurangabad Plot No. 113,5/5/72
New Oasmanpura, Auragabad 431 001.
3. Branch Manager,
Central Bank of India,
Branch Nighoj, At Po.: Nighoj,
Tal.: Parner, Dist.: Ahmednagar

...

First Party

Vs.

Shri Vijay Bhau Gund,
Age: 39 years, Occ.: Nil,
At Po.: Nighoj, Tal.: Parner,
Dist.: Ahmednagar.

...

Second Party

Appearances :-

Tejaswini T. Kakad, Advocate for First Party.

Shri. K.Y. Modgekar, Advocate for Second Party.

:AWARD:

(Date: 29-04-2024)

1. This reference is referred by the Government of India/Bharat Sarkar Ministry of Labour, New Delhi vide referral order dated 25-12-2017 for adjudicating the matter. Both the parties appeared before this Court. Thereafter, issues were framed on 1.10.2022 and matter was fixed for Evidence of second party workman. However, the second party consistently remained absent on each and every date. Learned Advocate Shri Modgekar on behalf of the second party filed purshis that he has informed to second party workman regarding date of hearing dated 6-1-2024. Furthermore the second party workman did not adduce any evidence before court. Matter was fixed for dismissal on 30-3-2024 and adjournment was granted with cost of Rs. 500/-. However, the second party workman and their Advocate did not deposit the cost and have not taken any steps in this matter. Today also second party is absent and no any application for adjournment is on record. Therefore, in my opinion the 2nd party is not interested in proceeding with the present reference. Second party failed to prove its case. Hence, I pass the following order:-

:AWARD:

1. The reference is answered in the negative and disposed of for non prosecution.
2. Four Copies of this award be sent to the Section Officer, Government of India/ Bharat Sarkar Ministry of Labour/ Shram Mantralaya, New Delhi for information and necessary action.

S. N. SONAWANE, Presiding officer

Dated :29.04.2024

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1910.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार महाप्रबंधक, दूरसंचार, बीएसएनएल, दूरसंचार भवन, एबी रोड, मुरैना (म.प्र.);मंडल अभियंता, दूरसंचार, बीएसएनएल, भिंड (म.प्र.), प्रबंधतंत्र के संबद्ध नियोजकों और , श्री करु @ करण, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट(संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/आर/04/2016, को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 01.10.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-173-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th October, 2024

S.O. 1910.—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. CGIT/LC/R/04/2016), 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 **The General Manager, Telecom, BSNL, Telecom Building, AB Road Morena (M.P.); The Divisional Engineer ,Telecom, BSNL, Bhind (M.P.), and Shri Karu @ Karan, Worker**, which was received along with soft copy of the award by the Central Government on 01.10.2024,

[No. L-42025/07/2024-173-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR****NO. CGIT/LC/RC/4/2016****Present: P.K.Srivastava****H.J.S..(Retd)****Karu @ Karan S/o. Sampat****R/o. Shri Krishna Colony,****Ahead of Virendra Vatika, Lahar Road****Bhind (M.P.)****Workman**

Versus

1. **The General Manager,**
Telecom, BSNL
Telecom Building, AB Road
Morena (M.P.)
2. **The Divisional Engineer**
Telecom, BSNL
Bhind (M.P.)

Management**A W A R D****(Passed on this 12th day of September-2024.)**

The workman has filed a petition U/S. 2-A (2 & 3) of Industrial Disputes Act 1947 as amended by the Amendment Act of 2010, against his disengagement by the management.

After registering the case on the basis of the reference received, 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 appointed as part time Sweeper by the management on 01.07.1986 and worked continuously till 26.08.2008 when his services were terminated without any notice or compensation, which is in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. Further alleged that the workmen, Shanti Bai, Hariom and Tanti Ram, who were engaged by management after him were regularized in service by management. He raised a dispute against his termination before the Assistant Labour Commissioner (Central) within 3 years which could not end in conciliation within 45 days, hence filed this petition and requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits and also entitled to be regularized as a Sweeper from the date of his termination.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker but never completed 240 days in any year including the year preceding the date of his termination. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. Hence, the workman, being a daily wager was not entitled to be management nor can he be regularized in service. Management has prayed that the petition be answered against the workman.

The workman side has filed rejoinder wherein he has mainly reiterated his allegations in the statement of claim.

In evidence, the workman has filed his affidavit, he did not appear for cross examination, hence his affidavit is of no relevance. He has also filed and proved photocopy documents, which are Ex. W/1 letter dated 06.05.1991 recommending payment according to the hours of work done by the workman, Ex. W/2 letter dated 08.03.1999 indicating that the workman was a part time sweeper, Ex. W/3 application of workman forwarded by SDO to Divisional Engineer for regularization, Ex. W/4 letter of Divisional Engineer regarding pay anomalies of workman, Ex. W/5 & W/6 letters of SDO sent to Divisional Engineer on 01.01.2000 recommending regularization of the workman, Ex. W/7, W/8/, W/9, W/10, W/11 to W/16 are also communications in the department with respect to the regularization of the workman.

Management side has filed affidavit of its witness Harish Kumar as his examination in chief, he has been cross examined by workman. No Document has been proved by management.

I have heard argument of Advocate Shri Praveen Yadav for workman and Sushma Pandey for management. I have gone through the written arguments as well, filed by the parties and had perused the record.

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

- 1) ***Whether, the workman has successfully proved his continuous engagement for 240 days in an year ?***
- 2) ***Whether, the disengagement of the workman is legal ?***
- 3) ***Whether, the workman is entitled to any benefit ?***

Issue No.-1 :-

Before, entering into any discussion, Section 25-B of the Act is being reproduced as follows :-

25B. Definition of continuous service.—*For the purposes of this Chapter,—*

(1) *a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;*

(2) *where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—*

(a) *for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—*

(i) *one hundred and ninety days in the case of a workman employed below ground in a mine; and*

(ii) *two hundred and forty days, in any other case;*

(b) *for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—*

(i) *ninety-five days, in the case of a workman employed below ground in a mine; and*

(ii) *one hundred and twenty days, in any other case.*

Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

(i) *he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;*

(ii) *he has been on leave with full wages, earned in the previous years;*

(iii) *he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and*

(iv) *in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.*

The initial burden to prove this issue is on the workman. Pleadings of the parties on this issue have been elaborated earlier. The workman has corroborated his allegations in his statement of claim in his affidavit filed as his examination in chief. He has filed and proved documents as mentioned above. Even if his affidavit is discarded the documentary evidence Ex. W/1 to W/25 which are admitted by management and against them, there is no document as well there is nothing in the cross examination of management witness, corroborate his allegations that he worked with management and completed 240 days continuously in a year. His second allegation that juniors were regularized is held not proved because there is no documentary evidence in this respect and the workman did not appear for cross examination by management with respect to his affidavit filed as his examination in chief.

On the contrary, the management witness, who is management states that he was never posted in the management, there was no record available regarding the applicant workman.

Hence, the claim of the workman that he worked continuously for 240 days in a year is held proved.

Issue No.-1 is answered accordingly.

Issue No.-2 :-

Before entering into any discussion on merit, Section 25-F & 25-G of the Act are being reproduced as follows :-

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 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 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.*

Case of the workman is that he was not issued any notice of retrenchment nor was he paid compensation, which he has corroborated in his evidence. It is not the case of management that he was paid any compensation or given prior notice. Hence, termination of his services is held in violation of 25-F & 25-G of the Act and issue no.-2 is answered accordingly.

Issue No.-3 :-

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

Learned Counsel for workman has submitted that keeping in view the long tenure of the workman, he should be reinstated with back wages. He has referred to a Division Bench Judgment of Hon'ble High Court of M.P. passed in W.A. No.- 1431/2018 and other connected writ appeals, in which a Division Bench of Hon'ble High Court has approved the Award of this Tribunal passed in the case of RC/09/2012 and other connected references, holding the workman entitled to be reinstated with 50% of back wages with respect to the workman who had completed about 20 or more years of continuous engagement with the management as daily wagger and their termination was found in violation of the Act.

Learned Counsel for management has submitted that compensation may be in the interest of justice in the case in hand because the workman was not appointed against a sanctioned vacancy following recruitment procedure.

In the case in hand, the workman has been under engagement since 1986 till 2008, thus has completed about 20 years as a part time sweeper. He has stated in his affidavit that he has been out of job after his disengagement but his this allegation cannot be held proved in absence of his cross examination as mentioned above. Though every person does make endeavor to survive it is not that only a street beggar will be considered a person out of job. Since, he was a part time worker, hence the benefit of the Division Bench Judgment referred to above cannot be given to him. After consideration of all the relevant facts and circumstances of the case in hand, I am of the considered view that a lump sum compensation of Rs. Four lacs only in lieu of all his claims, payable to him within 30 days from the date of publication of Award, failing which interest @ of 8% from the date of Award till payment will meet the ends of justice.

Issue no.-3 is answered accordingly.

AWARD

Holding the action of management in discontinuing the services of Shri Karu @ Karan S/o. Sampat, Ex-Sweeper w.e.f. 26.08.2008 and unjust invalid and unreasonable, the workman is entitled to a lump sum compensation of Rupees Four lacs only in lieu of all his claims, payable to him within 30 days from the date of publication of Award, failing which interest @ of 8% from the date of Award till payment. No order as to cost.

DATE: 12/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1911.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक (दूरसंचार जिला), भारत संचार निगम लिमिटेड सीटीओ कंपाउंड, जबलपुर (मप्र); जिला दूरसंचार अभियंता, भारत संचार निगम लिमिटेड, दमोह (मप्र), प्रबंधतंत्र के संबद्ध नियोजकों और, श्री दुर्गा प्रसाद, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट(संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/आर/28/2016, को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 01.10.2024 को प्राप्त हुआ था।

[सं. एल-40012/55/2015-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th October, 2024

S.O. 1911.—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. CGIT/LC/R/28/2016), 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 **The General Manager (Telecom Dist.), Bharat Sanchar Nigam Limited CTO Compound, Jabalpur (MP); the District Telecom Engineer, Bharat Sanchar Nigam Limited, Damoh (MP), and Shri Durga Prasad, Worker**, which was received along with soft copy of the award by the Central Government on 01.10.2024,

[No. L-40012/55/2015-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/28/2016

Present: P.K.Srivastava

H.J.S..(Retd)

Durga Prasad S/o. Laxman Prasad

R/o. Garhikhana, Naya Bazar No.-3,

District – Damoh - 481051 (MP)

Workman

Versus

1. **The General Manager (Telecom Dist.)**

Bharat Sanchar Nigam Limited

CTO Compound,

Jabalpur (MP) - 482001

2. **The District Telecom Engineer**

Bharat Sanchar Nigam Limited

Damoh (MP) - 481051

Management

A W A R D

(Passed on this 17th day of September-2024.)

As per letter dated 15/02/2016 by the Government of India, Ministry of Labour, New Delhi as made this reference to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number L-40012/55/2015 - IR(DU) dt. 15/02/2016. The dispute under reference related to :-

“क्या प्रबंधन टेलीकॉम डिस्ट्रिक्ट इंजीनियर, भारत संचार निगम लिमिटेड दमोह म0प्र0 के प्रबंधन द्वारा आवेदक श्री दुर्गा प्रसाद आत्मज लक्ष्मण प्रसाद को पार्ट टाइम स्वीपर के रूप में दिनांक 15.09.1984 से नियोजित करने के पश्चात् उनकी सेवाएं नियमित न कर अन्यथा सेवा से पृथक करने की कार्यवाही न्यायोचित है ? और माह सितम्बर 2009 से अगस्त 2010 तक आवेदक को वेतन के भुगतान न करने की कार्यवाही न्यायोचित है ? यदि नहीं, तो संबंधित कर्मचारी किस अनुतोश का हकदार है ?

The workman has filed a petition U/S. 2-A (2 & 3) of Industrial Disputes Act 1947 as amended by the Amendment Act of 2010, against his disengagement by the management.

After registering the case on the basis of the reference received, 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 appointed as part time Sweeper by the management in 1985 and is continuing in service as such till date of filing the petition and thereafter. The SDO Damoh sent a letter to District Telecom Engineer Sagar on 24.08.1995 mentioning the wages of part time sweeper is name finds mentioned in this letter. Thereafter, many letters were written by the officers of management regarding regularization of the workman but were not taken care of by higher management. The workman also sent various representations to management seeking his regularization but of not avail. There is a policy and rules of department with respect to regularization of part time workers. The workman has not been paid salary from September 2009 to August 2010. According to the workman, this action of management is arbitrary and is against law. The workman has thus sought his regularization as sweeper in the services of management as well arrears of his salary.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked

as a casual worker but never completed 240 days in any year including the year preceding the date of his termination. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. Hence, the workman, being a daily wagger was not entitled to be management nor can he be regularized in service. Management has prayed that the petition be answered against the workman.

In evidence, the workman has filed his affidavit, he has been cross examined by management. He has also filed photocopy documents which he never cared to prove. Management side has filed affidavit of its witness Harish Kumar as his examination in chief, he has been cross examined by workman. No Document has been proved by management.

I have heard argument of Advocate Shailendra Pandey for workman and R.S.Khare for management. I have gone through the written arguments as well, filed by the parties and had perused the record.

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

Whether, the workman, being a part time daily wagger has any right to be regularized as an employee of BSNL ?

Case of the workman is that he has been a part time daily wagger and working as a sweeper in the office of management. Except the statement of the workman, there is no other material proved, to corroborate this case of workman. Management witness has corroborated the case of management that the workman was never employed in any capacity by management at any point of time.

Though the case of the workman, as stated above, cannot be held proved in the light of evidence as discussed above, even if assuming that he has been working as a part time sweeper, since his appointment is not regular, he does not have any right to regularization in service of management. Following judgments are referred to in this respect :-

1. ***Assistant Engineer Rajasthan Development Corporation Vs. Gitam Singh, (2013) 5 SCC 136.*** Held – there is distinction between daily wagger and a person holding regular post. In wrongful termination of a daily wagger Award of reinstatement is not a proper relief.
2. ***Secretary, State of Karnataka Vs. Uma Devi & Others, (2006) 4 SCC 1 (5 Judges Bench).*** Held – casual labour/temporary employee do not have any right to regular or permanent public appointment.
3. ***M.P. State Agro Industries Development Corporation Vs. S.C. Pandey, (2006) 2 SCC 716.*** Held – a daily wagger does not hold a post as he is not appointed in terms of provisions of Act and Rules framed there under and therefore does not derive any legal right.

In the light of above findings, the petition fails.

AWARD

Petition dismissed. No order as to cost.

DATE: 17/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1912.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, बीएसएनएल, दीमापुर, नागालैंड और 1 अन्य, प्रबंधतंत्र के संबद्ध नियोजकों और, सर्कल सचिव, बीएसएनएल लिस्टेड कैजुअल वर्कर यूनियन, दीमापुर, नागालैंड, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, गुवाहाटी पंचाट(संदर्भ संख्या आईडी नंबर 15 of 2019), को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 01.10.2024 को प्राप्त हुआ था।

[सं. एल-40011/24/2019-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th October, 2024

S.O. 1912.—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. 15 of 2019), 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 **the General Manager, BSNL, Dimapur, Nagaland and 1 other, and Circle Secretary, BSNL Listed Casual Worker Union, Dimapur, Nagaland**, which was received along with soft copy of the award by the Central Government on 01.10.2024,

[No. L-40011/24/2019-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

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

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 15 of 2019.

PARTIES : Circle Secretary, BSNL Listed Casual Worker Union, Dimapur, Nagaland.

Workmen/Union.

-vrs-

The Chief General Manager, O/O the General Manager, BSNL, Dimapur, Nagaland and 1 other.

OP/Management.

REPRESENTATIVES:

For the Workmen/Union : Sri Rup Kumar Borgohai,
Circle Secretary, BSNLLCWU, NE-II Circle, Dimapur.
For the Management. : Sri Ashiho Kholi, AGM (HR/Admn), O/o the Chief General
Manager, BSNL, NE-II Circle, Dimapur, Nagaland.

INDUSTRY : BSNL

STATE : Nagaland.

Date of Award : 18-09-2024

A W A R D

Parties are absent without steps. This Reference has been made by the Govt. of India through Ministry of Labour and Employment by passing of order No.L-40011/24/2019-IR (DU) New Delhi dated 02-12-2019 in exercise of the powers conferred under clause (d) of sub-section (1) of sub-section (2A) of section 10 of the Industrial Dispute Act,1947 for adjudication of an Industrial Dispute, as to whether Management of BSNL, Nagaland, Dimapur is justified in not granting Temporary Status Mazdoor (TSM) to Sri Teyogsang and 146 other Casual Workers and not regularizing Smt. Ahoni Sumi and 38 other Temporary Status Mazdoor.

After reference of this Industrial Dispute to this Tribunal the concerned Union has filed an application through their District Secretary and Circle Secretary of their Union stating that the Case may be 'closed' as the Union wants to fight through Union procedure.

It is 12-30 p.m. now the Union representatives are not found available. BSNL, Dimapur has taken no steps. Since the Union is not inclining to contest the Industrial Dispute before this Tribunal, the Reference case is dismissed for non prosecution.

Let an award be drawn up in the light of above observation. Copies of the Award in duplicate be sent to the Ministry for information and notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1913.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, (प्रभारी) नेशनल फर्टिलाइजर लिमिटेड, नांगल यूनिट, नया नांगल, के प्रबंधतंत्र के संबद्ध नियोजकों और अध्यक्ष, नांगल खाद फैक्ट्री मजदूर दल, नया नांगल रोपड़, पंजाब; अध्यक्ष, राष्ट्रीय उर्वरक कर्मचारी संघ (पंजीकृत), नया

नंगल रोपड़; अध्यक्ष, नेशनल फर्टिलाइजर वर्कर्स, नया नंगल, रोपड़, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट(संदर्भ संख्या 69/2018)को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.10.2024 को प्राप्त हुआ था।

[सं. एल-42011/61/2018-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th October, 2024

S.O. 1913.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2018) of the **Central Government Industrial Tribunal cum Labour Court -1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager, (i/c) National Fertilizer Ltd. Nangal Unit, Naya Nangal, and The President, Nangal Khad Factory Mazdoor Dal, Naya Nangal Ropar, Punjab ; The President, National Fertilizer Employees Union (Regd), Naya Nangal, Ropar; The President, National Fertilizer Workers, Naya Nangal, Ropar**, which was received along with soft copy of the award by the Central Government on 07.10.2024.

[No. L-42011/61/2018-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.

ID No.69/2018

Registered on:-12.11.2018

1. President Nangal Khad Factory Mazdoor Dal, 165/ Type-I, Sector-1, Naya Nangal Ropar, Punjab.
2. President National Fertilizer Employees Union (Regd), H.No.13/11/111, Naya Nangal Ropar.
3. President National Fertilizer Workers Union. No.76, Type-II, Sector-1, Naya Nangal, Ropar.

.....Workman/ Unions

Versus

Chief General Manager, (i/c) National Fertilizer Ltd. Nangal Unit, Naya Nangal-140125.

.....Management

Order

Passed On:-18.07.2024

Central Government vide Notification No. 42011/61/2018-IR(DU) dated 29.08.2018, under clause (d) of Sub-Section (1) sub-section (2) 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 National fertilizers Ltd. Naya Nangal, Management action of transferring the workmen to different units of national fertilizers limited is legal, fair and justified? If not, what relief workmen are entitled to and from which date? 2. Whether the National Fertilizers limited, Naya Nangal, Management action of transferring the workmen to different units of national fertilizers limited amounts to violation of certified standing orders if yes, What relief the union and workmen are entitled to and from which date ?”

1. During the pendency of the proceedings before this Tribunal the case was fixed for filing replication by Workman Union. Three emails have been received from Union's who were applicants in this case that they withdraw the present reference and do not want to pursue it further. Counsel for Union Sh. SC Gupta made a statement that he is withdrawing the present reference. Ld. Counsel for Management has also made a statement that he has no objection if the reference is disposed off as withdrawn by the worker union which is recorded on separate sheet.

2. Since the Ld. Counsel of workman has withdrawn the present case, therefore there is no need to proceed the case further. Hence the present claim is dismissed as withdrawn. File after completion be consigned in the record room.

3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1914.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (30/2014) प्रकाशित करती है।

[सं. एल-12012/104/2013-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 7th October, 2024

S.O. 1914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.30/2014) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12012/104/2013-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/30/2014

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Arvind Rao

S/o. Basant Rao

H.No. 2360, Punjab Bank Colony

Cherital Ward, Damoh Naka, Jabalpur (MP)

Workman

Versus

1. The Chief General Manager,

State Bank of India,

L.H.O. Hoshangabad Road,

Bhopal (MP)

2. The Branch Manager

State Bank of India

Personnel Banking Branch

Sadar, Distt. Jabalpur (MP)

Management

A W A R D

(Passed on this 06th day of September-2024.)

As per letter dated 22/04/2014 by the Government of India, Ministry of Labour, New Delhi as made this reference to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number L-12012/104/2013 - IR(B-I) dt. 22/04/2014. The dispute under reference related to :-

“Whether the action of management of Branch Manager State Bank of India, Personal Banking Branch, Sadar, Jabalpur/ Chief General Manager, State Bank of India, Local Head Office, Bhopal (MP) in discontinuing the services of Arvind Rao S/o. Shri Basant Rao, Ex-Peon w.e.f. 31.08.2010 and not absorbing him into State Bank of India from State Bank of Indore is just valid and reasonable ? If not, what relief the workman is entitled to and from which date ?”

After registering the case on the basis of the reference received, 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 appointed as Peon initially in the Ranjhi Branch on 05.01.1997. Thereafter, he was transferred to Sadar Branch under oral order of the Branch Manager, dated 28.02.2004 and worked continuously till 31.08.2010 when his services were terminated without any notice or compensation, which is in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits and also entitled to be regularized as a Peon in the bank from the date of his termination.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker in the State Bank of Indore but never completed 240 days in any year including the year preceding the date of his termination. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It was further pleaded that in exercise of powers U/S. 35(2) of the State Bank of India Act 1955 (Act of 1955) Central Government accorded sanction to acquire the State Bank of Indore vide notification dated 28.07.2010 which was to come in force immediately on expiry of 30 days from the date of notification i.e., 27.08.2010. According to Clause 7 and 8 of the Notification, only the services of permanent officers or employees including those on probation serving in the transferor bank immediately before the effective date were to be transferred to the transferee bank i.e., State Bank of India, that too on the option of the officers/officials of the transferor bank i.e., State Bank of Indore prayed that the reference be answered against the workman. Hence, the workman, being a daily wager was not entitled to be taken into the services of State Bank of India. Management has prayed that the reference be answered against the workman.

The workman side has filed rejoinder wherein he has mainly reiterated his allegations in the statement of claim.

In evidence, the workman has filed his affidavit, he has been cross examined by management. He has also filed and proved photocopy documents regarding details of temporary/daily wage/ casual labour employed in the branch and amount paid to them, payment charges register (copy), details regarding bonus prepared on 08.08.2001 by the then State Bank of Indore.

Management side has filed affidavit of its witness Sanjay Kumar as his examination in chief, he has been cross examined by workman. Management has further filed photocopy invoice dated 25.03.2022 and bank certified statement of account of the workman from 01.05.2019 to 18.04.2020.

I have heard argument of Advocate Shri K.B. Singh for workman and Pranay Choubey for management. I have gone through the record.

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

- 1) **Whether, the workman has successfully proved his continuous engagement for 240 days in an year ?**
- 2) **Whether, the disengagement of the workman is legal ?**
- 3) **Whether, the workman is entitled to any benefit ?**

Issue No.-1 :-

Before, entering into any discussion, Section 25-B of the Act is being reproduced as follows :-

25B. Definition of continuous service.—For the purposes of this Chapter,—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

The initial burden to prove this issue is on the workman. Pleadings of the parties on this issue have been elaborated earlier. The workman has corroborated his allegations in his statement of claim in his affidavit filed as his examination in chief. In his cross examination, he admits that he was paid bonus for the days he worked. He further states that he was not issued any appointment letter, he used to work as a peon, his job was record keeping, maintenance of vouchers etc. He is filed and proved documents as mentioned above which corroborate his allegations that he worked with the bank of State Bank of Indore and completed 240 days continuously in a year.

On the contrary the management witness no.-1, who is an Officer of State Bank of India states that he was never posted in the state bank of Indore, there was no record available regarding the applicant workman. At present, these works are taken from persons engaged through outsourcing agencies. The management witness no.-2 Kalicharan has stated this fact in his affidavit and has filed copy of invoice regarding outsourcing and copy of statement of account of the workman for 2019 to 2020 to show that he was working through outsourcing agency.

The calculation sheet regarding bonus Ex. W/2, filed by the workman himself, admitted by management shows that he worked within the period. Hence, the claim of the workman that he worked continuously for 240 days in a year is held proved.

Issue No.-1 is answered accordingly.

Issue No.-2 :-

Before entering into any discussion on merit, Section 25-F & 25-G of the Act are being reproduced as follows :-

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 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 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.

Case of the workman is that he was not issued any notice of retrenchment nor was he paid compensation, which he has corroborated in his evidence. It is not the case of management that he was paid any compensation or given prior notice. Hence, termination of his services is held in violation of 25-F & 25-G of the Act and issue no.-2 is answered accordingly.

Issue No.-3 :-

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

Learned Counsel for workman has submitted that keeping in view the long tenure of the workman, he should be reinstated with back wages. He has referred to a Division Bench Judgment of Hon'ble High Court of M.P. passed in W.A. No.- 1431/2018 and other connected writ appeals, in which a Division Bench of Hon'ble High Court has approved the Award of this Tribunal passed in the case of RC/09/2012 and other connected references, holding the workman entitled to be reinstated with 50% of back wages with respect to the workman who had completed 10 years of continuous engagement with the then State Bank of Indore as daily wager and their termination was found in violation of the Act.

Learned Counsel for management has submitted that compensation may be in the interest of justice in the case in hand because the workman was not appointed against a sanctioned vacancy following recruitment procedure also that he has been in beneficial employment after termination of his services as shown in the statement of his account for 2019-20 filed by management.

In the case in hand, the workman has been under engagement since 1997 till 2010, thus has completed more than 10 years as daily wager. He has stated in his affidavit that he has been out of job after his disengagement. Every person does make endeavor to survive it is not that only a street beggar will be considered a person out of job. Relying on the Division Bench Judgment referred to above the workman in the case in hand is also held entitled to be reinstated with 50% of back wages, payable to him within 30 days from the date of Award, failing which interest @ of 8% from the date of Award till payment.

Issue no.-3 is answered accordingly.

AWARD

Holding the action of management of Branch Manager State Bank of India, Personal Banking Branch, Sadar, Jabalpur/ Chief General Manager, State Bank of India, Local Head Office, Bhopal (MP) in discontinuing the services of Arvind Rao S/o. Shri Basant Rao, Ex-Peon w.e.f. 31.08.2010 and not absorbing him into State Bank of India from State Bank of Indore unjust invalid and unreasonable, the workman is entitled to be reinstated with 50% of back wages, payable to him within 30 days from the date of Award, failing which interest @ of 8% from the date of Award till payment. No order as to cost.

DATE: 06/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1915.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (2/2016) प्रकाशित करती है।

[सं. एल-41012/43/2015-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 7th October, 2024

S.O. 1915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.2/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of West Central Railway their workmen

[No. L-41012/43/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/2/2016

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Govind Prasad

S/o. Shri Ayodhya Prasad

R/o. H.No. 5206, Seth Govinddas Ward

Chandmari, Near Lalmati, Ghamapur

Jabalpur (M.P.)

Workman

Versus

The Divisional Railway Manager

West Central Railway

Jabalpur (M.P.)

Management

(J U D G E M E N T)

(Passed on this 3rd day of September-2024)

As per letter dated 07/12/2015 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 as per Notification No. L-41012/43/2015/IR(B-I) dt. 07/12/2015. The dispute under reference relates to:

“Whether the action of management of Divisional Railway Manager, West Central Railway, Jabalpur in terminating the services of Shri Govind Prasad S/o. Shri Ayodhya Prasad, Ex. Porter w.e.f. 15.03.2002, is legal and justified ? If not, what relief the workman is entitled to ?”

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and file their respective Statement of Claims and Defense.

According to the workman, he was first appointed in 1990 as Porter at Railway Station Deori. He remained in service till 15.03.2002 i.e., the date of termination of his service by management without any departmental inquiry against him on the ground of his alleged unauthorized and willful absence from duty in the year 2001. According to him, he developed Peptic Ulcer for which he was under treatment in Railway Hospital and Victoria Hospital and it was due to this reason he could not attend his duties in the year 2001, though he had duly informed the management about his fact through his family members. The management issued a charge sheet but terminated his services vide order dated 15.03.2002 without any inquiry, which is arbitrary and against law.

He prayed that setting aside his dismissal, he be reinstated with all back wages and benefits.

Rebutting the allegations of the workman, management has taken a case in their written statement of defense that the workman has been in the habit of wilfully absenting himself from duty without informing management and getting leave sanctioned. According to management, he was earlier absent from duty from 30.03.1995 to 02.09.1996 for which he was issued a charge-sheet on 05.11.1996 and was punished with penalty of reduction to lowest stage in the initial grade for a period of one year with cumulative effect after departmental inquiry. A second charge-sheet issued against him on 22.09.1999 for the same charge with respect to his unauthorized absence from work in different periods during 1998 and 1999. He was again punished with reduction to lowest stage in the same time scale for a period of five years with cumulative effect after a departmental inquiry. It is further the case of management that again charge-sheet was issued against him on 21.08.2001 for unauthorized absence from duty for various periods from 15.02.2001 to 08.08.2001 (total 176 days). A departmental inquiry was conducted against him in which he was given opportunity to defend himself. The Inquiry Officer submitted his report holding the workman guilty of the charge. Taking account of the charge proved as well previous service record, he was awarded penalty of removal from service with immediate effect vide order of Competent Authority dated 15.03.2002. The workman did not raise any dispute against his termination till 2016, hence according to management, his claim is barred by laches also.

The workman has filed rejoinder in which he has mainly reiterated his claim. In evidence, the workman has filed his affidavit as his examination in chief. He has been cross examined by management. He has filed RTI document, obtained by him with respect to his service book and termination order.

Management has filed copy of termination order and charge-sheet certified by management official. Management further file affidavit of its witness D.A. Alvi the Inquiry Officer who never turned up for cross examination, thereafter the management filed affidavit of its other witness Mukesh Kumar. The workman did not avail the opportunity of his cross examination, hence opportunity was closed.

I have heard argument of learned Counsel Shri Rakesh Soni for the workman and Shri Gulab Suhane for management. Both the sides have filed written arguments, I have gone through the written arguments as well the record.

This case was earlier fixed for Award. Vide order dated 02.04.2024, management was directed to file the original inquiry papers because at no stage these papers were on record. The management did not file inquiry papers original or copy inspite of time given nor did file any affidavit in this respect.

The sole issue arises for determination in the case in hand is whether any departmental inquiry, just and legal, was conducted before passing the termination order ?

The case of the workman is that after charge-sheet was issued to him, the management did not conduct any departmental inquiry and passed the impugned order of punishment. The management has taken a case that departmental inquiry was conducted.

In his cross examination on his affidavit the workman admits that he was issued a charge-sheet in 2002 for unauthorized absence from duty but has specifically denied that any inquiry was conducted against him on the basis of this charge-sheet. He further states that he never filed any application admitting the misconduct and seeking apology. Management has filed a letter said to be written by the workman to the management in which he has admitted the charge according to management and sought apology. When confronted with this letter, the workman has denied having written this letter and having signed on this letter. It was on the part of management to prove this letter which they did not do. Management did not care to file the inquiry papers inspite of specific direction by this Tribunal nor has disclosed any reason for not filing it. This act of management leads to an adverse inference against management that these papers were withheld because either they did not exist or they would have militated against the case of management. After all when there is a specific assertion by workman that he was terminated without departmental inquiry, the burden lies on management to prove that inquiry was in fact conducted. I am constrained to observe that the management has contested this case half heartedly.

In the light of above evidence, it is held that management could not prove that the workman was terminated from service after a departmental inquiry.

The Railway Servants (Discipline & Appeal) Rules 1968, Part-III deals with penalties to the Railway Servants. According to Rule 6 termination from service is a major penalty. Rule 7 prescribes the procedure for imposing major penalty. According to this Rule no order imposing any major penalty under Rule 6 shall be made except after an inquiry held, as far as maybe, in the manner provided in Rule 9 and Rule 10, or in the manner provided in the Public Servants (Inquiries) Act 1850 where such inquiry is held under that Act.

In the light of above provisions and findings recorded above. The action of management in terminating the service of the workman cannot be held legal and justified in law. The termination is liable to be set aside.

As regards, the relief the workman is entitled in the light of finding above noted, there is nothing on record that the workman was out of job after his termination. The workman has also crossed the age of superannuation on the date of Award. Hence, he is held not entitled to back wages but is held entitled to all the consequential service and post retiral benefits.

Accordingly, the Reference is answered as follows :-

A W A R D

Holding the action of management of Divisional Railway Manager, West Central Railway, Jabalpur in terminating the services of Shri Govind Prasad S/o. Shri Ayodhya Prasad, Ex. Porter w.e.f. 15.03.2002 against law and unjustified, the workman is held entitled to all the in service and post retiral benefits except back wages, deeming him to be in continuous service till the date of his superannuation, payable to him within 30 days from the date of publication of the Award, failing which interest @ of 8% from the date of Award, till payment. No order as to cost.

DATE:- 03/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2024

का.आ. 1916.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (120/2018) प्रकाशित करती है।

[सं. एल-41012 / 16 / 2018—आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 7th October, 2024

S.O. 1916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.120/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway their workmen.

[No. L-41012/16/2018-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 18th September, 2024

Reference (CGITA) No. - 120 / 2018

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400020
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Vadodara (Gujarat) – 390004
3. The Director,
M/s Bharuch Dahej Railway Company Ltd.,
August Kranti Bhawan, 1st Floor, Bhikaji Cama Plac,
R. K. Puram, New Delhi – 110066
4. The Manager,
M/s Bharuch Dahej Railway Company Ltd., 304305,
Beline Building, 32, Ajitnagar Society, Nr. Urmi Cross Road,
Vadodara (Gujarat) - 390020

.....

..... First Party

V/s

Shri Sikandarali Fakirbax Shaikh,

AT Kasba Street, At Jambusar,

Bharuch – 392150

.....

.Second Party

For the First Parties : None
 For the Second Party : Shri Lalit M. Patil

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41012/16/2018-IR (B-I) dated 30.10.2018 for adjudication to this Tribunal.

SCHEDULE

“Whether the action of management of Bharuch Dahej Company Ltd. in terminating the services of Shri Sikandarali Fakirbax Shaikh, Ex-Pointsman / Gateman w.e.f. 05.03.2018 is legal, proper and just? If not, to what relief the concerned workman is entitled?”

1. The reference was received in this Tribunal on 15th November, 2018. The second party submitted statement of claim on 11.03.2019. The case is listed for filing of written statement by the first parties.
2. The matter is taken up today. None present on behalf of the first parties. Shri L. M. Patil, Ld. Counsel for the second party is present with his workman. He filed withdrawal application at Ex. 12. He also filed another application at Ex. 13 mentioning that no objection of advocates for first parties has already been taken by him on withdrawal application.
3. The application Ex. 12 is allowed. As the claim of the second party has been withdrawn by him, it is established that there is no dispute between the parties.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1917.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर बिहार ग्रामीण बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट [07 (C) of 2024] प्रकाशित करती है।

[सं. एल-12025/01/2024-आई आर (बी-1)-219]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07 (C) of 2024 of the Indus.Tribunal-cum-Labour Court Patna as shown in the Annexure, in the industrial dispute between the management of Uttar Bihar Gramin Bank their workmen.

[No. L-12025/01/2024-IR(B-I)-219]

SALONI, Dy. Director

ANNEXURE

Before The Presiding Officer, Industrial Tribunal, Patna.

Reference Case No.:-07 (C) of 2024

Between the management of Chairman, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur-842001 And the General Secretary, Uttar Bihar Gramin Bank Employees Federation & General Secretary, Uttar Bihar Gramin Bank Officers Federation, MKGB SB & SSSS Limited, Darbhanga, South West Corner of Harahi Pokhar, Near Railway Station Darbhanga, Post- Lalbag, Dist.- Darbhanga-846004.

For the management:- Sri Kuldeep Kumar Yadav, Senior Manager Law, UBGB.

For the workman:- Sri Sri Niraj Kumar Choudhary, General Secretary.
Sri Ranjeet Prakash, General Secretary.
Sri Praveen Kumar, Working Director.

Present:-**Manoj Shankar**

**Prisiding Officer,
Industrial Tribunal, Patna.**

A W A R D

Patna, dt- 10th September, 2024.

By the adjudication order no.- 1/ID(03)/2024/Dy CLC-Pt dated- 04/12.03.2024 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under sub-section-(5) of the Section-12 read with Sub-Section-(2A) of Section 10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between the management of the Chairman, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur-842001 And the General Secretary, Uttar Bihar Gramin Bank Employees Federation & General Secretary, Uttar Bihar Gramin Bank Officers Federation, MKGB SB & SSSS Limited, Darbhanga, South West Corner of HarahiPokhar, Near Railway Station Darbhanga, Post- Lalbag, Dist.- Darbhanga-846004 for adjudication to this tribunal:-

Schedule

- (1) “Whether the demand of the Uttar Bihar Gramin Bank Employees Federation and Uttar Bihar Gramin Bank Officers Federation to implement Key allowance @ 1940 per month for assistants holding the key of cash and safe and key allowance @ 1250 per month for all other office assistants employed in the bank with effect from 01.11.2017 is correct, legal and justified. If not, then what relief the Federation is entitled to and from which date”?
- (2) “Whether the demand of the Uttar Bihar Gramin Bank Employees Federation and Uttar Bihar Gramin Bank Officers Federation for payment of transport allowance to award staffs of the bank with effect from 01.11.2017 is correct, legal and justified. If not, then what relief the Federation is entitled to and from which date”?
- (3) “Whether the demand of the Uttar Bihar Gramin Bank Employees Federation and Uttar Bihar Gramin Bank Officers Federation to implement Leased Accommodation facility in the Bank is correct, legal and justified. If not, then what relief the Federation is entitled to”?
- (4) “Whether the demand of the Uttar Bihar Gramin Bank Employees Federation and Uttar Bihar Gramin Bank Officers Federation for abolition of existing transfer policy and creation of new transfer policy based on the guidelines given by Government of India and in participation of the federation is correct, legal and justified. If not, then what relief the Federation is entitled to”?

2. This reference is received to this tribunal on 13.03.2024. Upon receiving the reference schedule, notice was sent to both the sides accordingly both parties appeared through the representative on 31.07.2024 then they were directed to file their of respective written statement fixing 02.09.2024. Record shows, on 02.09.2024 the representative of the both the representative of the two workman / union filed a petition regarding redressal of their dispute with the management with a note both the union decided not to proceed in this case and it is prayed necessary order may kindly be passed. On this application the Mr. Rajesh Sahay learned counsel of the management bank also reported to this tribunal the dispute of the workman / union is now resolved with the mutual understanding of the management and the union and as well so “ No Dispute Award may kindly be passed.

3. Considering the facts and submissions as advanced on behalf of the both the unions of the workmen and management side, this tribunal finds that the grievance of the workman / union are settled by the mutual consent of the workman / union and management i.e evident from the application filed by the representatives of the workman / union, accordingly this tribunal has no option than to pass “ No Dispute Award. So “ No Dispute Award” is passed in this case. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Date :10.09.2024

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1918.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (210/2014) प्रकाशित करती है।

[सं. एल-12011/57/2014-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.210/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/57/2014-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 210/2014

Between:

The General Secretary,
All India Safai Amador Congress,
1382, Panajabgada,
Ramavaram-507118,
Khammam Dist.

.....Petitioner

AND

1. The Asst. General Manager,
SBI, Regional Office,
Kakinada
2. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad

...

Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/57/2014 (IR(B-I)) dated 29.09.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of State Bank of India, Kambalacheruvu Branch of East Godavari District Andhra Pradesh in terminating the service of Sri Vaddadi Subramanyam, part time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 210/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1919.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (203/2014) प्रकाशित करती है।

[सं. एल-12011/54/2014-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.203/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/54/2014-IR(B-I)]

SALONI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 203/2014

Between:

The General Secretary,
All India Safai Amador Congress,
1382, Panajabgada,
Ramavaram-507118,
Khammam Dist.

.....Petitioner

AND

1. The Asst. General Manager,
SBI, Regional Office,
Kakinada
2. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/54/2014 (IR(B-I)) dated 29.09.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of State Bank of India , Peddapuram Branch of East Godavari District Andhra Pradesh in terminating the service of Smt. v. Durga, part time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 203/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1920.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (8/2023) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई आर (बी-1)-220]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.8/2023) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen

[No. L-12025/01/2024-IR(B-I)-220]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 9th day of July, 2024

INDUSTRIAL DISPUTE LC No.8/2023

Between:

Sri V. Kirna Kumar,

C/o J Ventateswarlu

Aged 37 years, Occ: Senior Associate

PF No. 5084539, R/o. Plot No. 1, E Block,

H.No. 4-2-210, NDR plots,

Nellore-524002.

.....

.Petitioner

AND

1. The Asst. General Manager, (OAD)
LHO Amaravathi & Disciplinary Authority,
State Bank of India, Office Administration Department,
Amaravathi Local Head Office, Gunfoundry,
Hyderabad-500001.
2. The Deputy General Manager & CDO
State Bank of India, Gunfoundry-500001.
3. The General Manager (N.W.1)
Review Authority, State Bank of India
Gunfoundry-50001.

...

Respondents

Appearances:

For the Petitioner: Sri BKM Charkravarthy, Advocate

For the Respondent: Sri T Sashi Kumar, Advocate

A W A R D

Sri V Kiran Kumar, who worked as Senior Associate (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 set aside removal order No. VIG/GNT/OAD/989 dated 18-01-2021 passed and to reinstate the petitioner in service with all consequential benefits.

2. On the date fixed for hearing, Petitioner remained absent. Record reveals that Petitioner is not pursuing the proceedings since first date of hearing. Due to non-prosecution and absence of Petitioner, case is dismissed for default and a 'No claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 9th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1921.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (16/2015) प्रकाशित करती है।

[सं. एल-12011/02/2015-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/02/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 16/2015

Between:

The General Secretary,
All India Safai Amador Congress,
1382, Panajabgada,
Ramavaram-507118,
Khammam Dist.

.....Petitioner

AND

1. The Asst. General Manager,
SBI, Regional Office,
Kakinada
2. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/02/2015 (IR(B-I)) dated 12.02.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of State Bank of India , Tuni, Branch of East Godavari District Andra Pradesh in terminating the service of Sri Y.Arjun, full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 16/2015 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अक्टूबर, 2024

का.आ. 1922.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (17/2015) प्रकाशित करती है।

[सं. एल-12011/03/2015-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 8th October, 2024

S.O. 1922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.17/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/03/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 17/2015

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Khammam Dist.,

.....Petitioner

AND

1. The Asst. General Manager,
SBI, Regional Office,
Kakinada
2. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/03/2015 (IR(B-I)) dated 12.02.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

“Whether the action of the management of State Bank of India , Pithapuram Branch of East Godavari District Andra Pradesh in terminating the service of Sri Y.Saraswathi, Part time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 17/2015 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 अक्टूबर, 2024

का.आ. 1923.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, जबलपुर के पंचाट (एलसी-आर/52/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2024 को प्राप्त हुआ था।

[सं. एल-22012/41/2011-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 9th October, 2024

S.O. 1923.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/-R/52/2011**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L, and their workmen, received by the Central Government on **01/10/2024**.

[No. L-22012/41/2011 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/52/2011

Present: P.K.Srivastava

H.J.S..(Retd)

Secretary

Sanyukt Koyla Sangh (AITUC)

Pipariya Project, Umaria (MP)

Workman

Versus

The Chief General Manager

Johilla Area, SECL

Nowrozabad, Umaria (MP)

Management

A W A R D

(Passed on this 12th day of September-2024.)

As per letter dated 13/06/2011 by the Government of India, Ministry of Labour, New Delhi, made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-22012/41/2011/IR(CM-II) dt. 13/06/2011. The dispute under reference related to :-

“Whether the action of management of the Johilla Area of SECL in not regularizing Sidhnath, Tracer (the then General Mazdoor) to post of Works Supervisor, Civil in T & S Grade-D as recommended by the Sub-Area Manager Umariya Sub-Area of SECL, from the date of recommendation i.e., 17.03.1993 is legal and justified ? To what relief the workman is entitled ?”

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

Admitted facts in short are that the workman Siddhnath Gandhi was appointed as General Mazdoor and was selected to the post of Valve Attender in 1994. He was further promoted to Junior Tracer Grade-F on 29.07.1997. And then to Tracer Grade-E on 05.08.2002. According to the workman though he was working as works supervisor with the management. The regularization proposal of the workman was sent by a Committee of Officers of management consisting of the Sub-Area Manager Umariya, Senior Executive Engineer Civil Umariya and Staff Officer Johilla to the Deputy Chief Engineer Civil Johilla on 17.03.1993 but was not approved. This action has been challenged by the workman union on the ground that it is against law, unjust and unfair labour practice on the part of management, whereas the management has defended its action on the ground that there is no post of Work Supervisor Civil in the cadre scheme of Tracers.

In evidence, the workman has not filed his affidavit. He has filed office order dated 26/29 January 1997 and 05.08.2002 admitted by management marked Ex. W/2 & W/1.

Management filed affidavit of its witness which is uncross examined. Management has filed the copy of Ex. W/2 & W/1.

None appeared for workman at argument stage. Learned Counsel Mr. Neeraj Kewat for management appeared and submitted his argument. I have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman union. The Implantation Instructions No.-28 which deal with the cadre scheme, filed by management show that in the cadre scheme of drawing personnel, there are only four posts which are Tracer, Junior Draughtsman, Draughtsman and Senior Draughtsman which are of Technical Grade-E, D, C & B. In absence of any evidence to the contrary, it cannot be held proved that there is a post of Work Supervisor in the cadre. Since there is no post of work supervisor in the cadre scheme, the action of management in not promoting/appointing/regularizing the workman Siddhnath Gandhi on this post of work supervisor cannot be held to be unjust or illegal or arbitrary or unfair labour practice.

Hence, holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE: 12/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2024

का.आ. 1924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम लिमिटेड. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय अहमदाबाद**, के पंचाट (संदर्भ संख्या 59/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/10/2024 को प्राप्त हुआ था।

[सं. एल-22012/21/2022-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 9th October, 2024

S.O. 1924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 59/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court Ahmedabad** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **09/10/2024**.

[No. L-22012/21/2022 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 10th July, 2024

Reference (CGITA) No. - 59 / 2022

1. The Dy. Director,
Food Corporation of India, 16-20, Barakhambe Lane,
New Delhi – 110001
2. The Executive Director (D),
Food Corporation of India, FCI New Building, Rajendra Nagar, Dattapada Road, Borivali (E), Mumbai – 400066
3. The General Manager,
Food Corporation of India, B/H Nataraj Cinema, Ashram Road, Ahmedabad – 380009
4. The Manager,
Food Corporation of India,
Kaligam, Sabarmati, Ahmedabad – 380005

First Party

V/s

The General Secretary,

Kamdar Hit Rakshak Union, 10, Jivida Complex, Near Cadila Railway Crossing, Ghodasar, Ahmedabad -
380050 Second Party

For the First Party and Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-22011/21/2022-IR (CM-II) dated 09.11.2022 for adjudication to this Tribunal.

SCHEDULE

“Whether the action of the Management of Food Corporation of India in not providing employment so far on compassionate ground to Shri Vijaykumar Kantilal Doshi dependent son of Late Shri Kantilal A. Doshi, who expired on 11.08.2022 due to accident in Ahmedabad while in service at Food Corporation of India, Sabarmati as Ex-A.L., is fair, legal and justified? If not, to what relief the dependent of the deceased workman concerned is entitled and what directions are necessary in this respect?”

1. The reference was received in this Tribunal on 28th November, 2022. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. A period of more than one and half years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 9 अक्टूबर, 2024

का.आ. 1925.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 28/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/10/2024 को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 9th October, 2024

S.O. 1925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2022) of the Central Government Industrial Tribunal-cum-Labour Court, Godavarikhani as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 07/10/2024.

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI.****PRESENT:- SRI Dr.T. SRINIVASA RAO,****CHAIRMAN-CUM-PRESIDING OFFICER.****WEDNESDAY, ON THIS THE 11th DAY OF SEPTEMBER, 2024.****I.D.No. 28 of 2022****Between:-**

Bogena @ Bongoni Rayamallu, S/o. Rajaiah, Age:59 Years, Occ:Ex-SCCL Employee, E.C.No.2857542, General Mazdoor, ALP, APA, R/o.Q.No.ST2-2691, Shirke, Incline Colony, Godavarikhani, Peddapalli District-505211.

....Petitioner/Workman

A N D

1. The Director (PA & W), Appellate Authority, The SCC Ltd, Kothagudem Post & Mandal, Bhadradi Kothagudem District-507 101.
2. The Dy. General Manager, The SCC Ltd., Adriyala Project Area, Ramagundam Area-3, Centenary Colony, Ramagiri Mandal, Peddapalli District-505 212.
3. The General Manager, The SCC Ltd., Adriyala Project Area, Ramagundam Area-3, Centenary Colony, Ramagiri Mandal, Peddapalli District-505 212.
4. The Colliery Manager, The SCC Ltd., Adriyala Longwall Project, Ramagundam Area-3, Centenary Colony, Ramagiri Mandal, Peddapalli District-505 212.

.... Respondents/Management

This case coming before me for final hearing in the presence of Sri K. Karunakar, Advocate for the Petitioner and of Sri T. Ravinder Singh, Advocate for the Respondents and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

-:A W A R D:-

This petition is filed U/Sec.2-A (2) of I.D. Act praying to set aside the dismissal order dt.24.07.2019 passed by the Respondent No.3 and direct the Respondents' Company to reinstate the petitioner into service with continuity of service, together with all attendant benefits and full back wages.

2. The brief averments of the petition are as follows:-

2(a). The petitioner was appointed in the Respondents/SCCL, put in 32 years of service till his dismissal from service on 02.08.2019 vide order dt.24.07.2019 by Respondent No.3. The Respondents have not followed the principles of natural justice during enquiry into allegations leveled against the petitioner. Without furnishing documents to the petitioner, it is very difficult for him to defend his case being an illiterate and disprove the allegation leveled against him. The respondent No.3 dismissed the petitioner from service as per their whim and wish without following due process of law, which is not tenable. The petitioner served more than 32 years with hard work and dedication. He being an illiterate, does not have any technical knowledge in the law nor on the charge leveled against him. His wife died on 25.11.2017 due to mental agony with regard to dismissal from service of the petitioner. He submitted appeal dt.04.09.2019 to Respondent No.1, but did not take any action and he submitted representation dt.17.02.2020 with a request to dispose the appeal, but, there is no response, which is not tenable in the eye of law.

2(b). The petitioner being an illiterate, he did not have any technical knowledge in the law or on the charge issues and it is not correct to penalize him for the wrong done by others. He had no access to the computer or any of the company record to tamper them. The charge sheet issued under company' standing order Nos. 25.1 and 25.14 are not applicable to the petitioner and the charges framed against him are vague and created to cause harm to him. He had no computer knowledge to make fraud or tamper the record and the respondents obtained signatures of petitioner and his family members on blank papers and thereafter concluded the enquiry against the petitioner, which is not tenable in the eye of law. He had put-in (32) years of service without any stigma on his character and he maintained unblemished record throughout his service. Finally the petitioner got issued legal notice dt.21.02.2022 through his counsel to the respondents, in which requested the respondent No.1 to take decision on the appeal dt.04.09.2019 filed by the petitioner against dismissal from service, but there is no response till today.

2(c). The respondent No.3 issued dismissal from service letter dt.24.07.2019 and the same was served on the petitioner on 02.08.2019, in which he was dismissed from service with effect from 03.08.2019. The petitioner submitted appeal dt.04.09.2019 which was forwarded by the Respondent No.4 to Respondent No.1 and also sent through registered post and this petition is filed within the limitation. Therefore, the petitioner prayed to set-a-side the dismissal from service letter dt.24.07.2019 issued by the respondent No.3 and direct the respondents company to reinstate the petitioner/workman into service with continuity of service, all other attendant benefits and with full back wages.

3. On the other side, the Respondents'/Company have submitted counter by admitting the employment of Petitioner/Workman with the Respondents'-Company and inter-alia contended that petitioner was appointed in the Respondents' Company on 08.04.1987. He worked in the Respondent Company and was dismissed from the services of the company with effect from 03.08.2019 vide Lr. No. RG3/PER/IR/48/DA-762/2465, dt.24.07.2019 for the misconduct of dishonest intention and tampering of records. On receipt of the complaint from the DGM (IE)/RG alleging that fake musters were posted, concerned authorities of Respondents' Company took up investigation and found that the attendance of the petitioner was manipulated by posting attendance in the place of absent musters for the year 2013 to 2016. In the said checking by IT Department, it was found that the attendance of petitioner was manipulated due to which the petitioner received excess salary than that of actual days of attendance put-in by him.

3(a). The details as to how the records were manipulated are that on receipt of complaint from DGM (IE), RG-II the attendance date of the notification was checked on 29th August, 2016 in Muster Management System and SAP for the month of August, 2016. On verification it has been found that day wise absents were uploaded from Muster Management System to SAP from day wise extensible markup language (Coding language) files from 1st August, 2016 to 27th August, 2016 except 18th, 19th and 20th of August, 2016 days uploaded with attendance code. The month end files which are generated on 28th of every month to upload any changes in back dated data also checked. On verification, it has been found that all the absent codes are updated with attendance codes and control files to track the transactions and updating the above date also were checked. As no date found in the track files, it is observed that the data of petitioner was tampered by replacing the absents with attendance by connecting to backend. Unauthorized person logged in remotely from SRP Area into the ALP Under Ground Mine Management System and corrected absents musters into present musters and the details are filed as material papers before the Hon'ble Tribunal. Sri Bogena Sridhar, Elder Son of the petitioner, who is Hired Programmer (Contract Basis) at SRP Area has logged in remotely into the ALP Mine UGMMS and changed absents of the petitioner/workman into presents unauthorizedly.

3(b). Sri Bogena Sridhar is an unauthorized person to access or make changes in the ALP Mine UGMMS System and Login details are filed as material papers. Accordingly, the petitioner was issued charge-sheet dt.26.09.2016 for his misconduct under Company's Standing Orders No.25.1 & 25.14 which reads as follows:

- 25.1: Theft, fraud or dishonesty in connection with the employer's business or property.
- 25.14: Tampering with the company's records with ulterior motives.

A regular Domestic Enquiry was held on 24.10.2016, 03.11.2016, 14.11.2016, 01.04.2017, 03.04.2017 and 05.04.2017, petitioner has fully participated in the enquiry and he was given full & fair opportunity to defend the charges leveled against him. During the enquiry, it is observed from the statement of Presenting Officer that the number of musters of petitioner as per Lamp Room records and OM book are differing from 3/2013 to 8/2016. Even though the petitioner Sri Rayamallu is illiterate, he would be aware of excess amount paid in monthly salary. But, he never bothered to bring to the same to the notice of his Superiors about excess paid musters. Under disguise of his illiteracy and ignorance, the petitioner tried to take shelter by not accepting that he received more wages than that of actual wages. During cross-examination by Presenting Officer, it was pointed out that the petitioner has two sons viz., Sridhar (elder son) & Srikanth (younger son) and Sridhar is doing a Private Job and residing in Nagarjuna colony, SRP area. Further, the petitioner confirmed that he knew about excess paid musters only after issue of charge-sheet to him. As per statements of the Presenting Officer and petitioner in the enquiry, the cross-examination and submission of the relevant documents it is clearly evident that petitioner was benefited by extra wages dishonestly and tampering his masters in GMMS with the help of his son - Sri B. Sridhar who worked as hired programmer in SRP Area which amounts to misconduct.

3(c). Further, as per the statement given by Sri Bogena Sridhar son of the petitioner, Hired Programmer (Contract Basis) at SRP Area, he has accepted that he is logging to ALP mine computers remotely to see his father's musters, though he denied the fact of adding musters to his father whenever he absented for duty. It was evident that musters of petitioner were altered remotely as per remote login details. Enquiry Report was submitted by enquiry Officer holding the Petitioner guilty of the misconduct/Charges. A Copy of Enquiry Proceedings and Enquiry report was sent to the Petitioner vide 2nd Show cause Notice dt.07.11.2017 calling for his explanation on the enquiry. The said Notice was received on dt.22.11.2017 but the Petitioner failed to submit any explanation. The Enquiry report and proceedings were examined by Competent Authority, the same was concurred and the Petitioner was held guilty of misconduct as the charges proved were grave and serious in nature. As such the Respondents' Company was constrained to impose

the penalty of dismissal from service vide Office Order dt.24.07.2019 dismissing the Petitioner from the service w.e.f., 03.08.2019. The petitioner served for 32 years 3 months 25 days in the Respondents' Company till the date of dismissal his on 03.08.2019. The petitioner has preferred an appeal dt.04.09.2019 requesting to look into his case and relieve him for the charges and the same is under consideration by the Competent Authority. There is no justification in the Appeal submitted by petitioner to revoke the punishment of dismissal, as misconduct is grave and serious in nature. The other allegations which are not specifically admitted herein are hereby denied and therefore, the Respondents prayed to dismiss the petition, without granting any relief to the petitioner.

4. In support of the claim of the Petitioner/Workman, he got marked Ex.W-1 to Ex.W-10 and on the other side for the Respondents'/Company Ex.M-1 to Ex.M-11 were marked, with consent of both parties.

5. Heard, the learned counsel for Petitioner/Workman as well as Standing Counsel for the Respondents/Company.

6. ***Now the points for consideration are:-***

1. ***Whether the domestic enquiry conducted by the respondent is held valid or not?***
2. ***Whether the charges leveled against the petitioner are proved basing on the evidence?***
3. ***Whether the dismissal order dt.24.07.2019 is liable to be set aside, if so, the petitioner is entitled to reinstatement with continuity of service with all attendant benefits and full back wages?***

If not to what relief is the worker entitled to?"

7. From the pleadings of the Petitioner/Workman and Respondents' Company, these are the admitted facts that the petitioner/ workman was working in the Respondents'/Company and he was dismissed from service. Now coming to the documentary evidence of both sides, on behalf of the respondents'-company, Ex.M-1 to Ex.M-11 are marked, wherein, Ex.M-1 is copy of letter addressed to GM(IT), KGM and Ex.M-2 is copy of letter addressed to GM(IT), KGM along with the representation of B.Sridhar, Son of the Petitioner. Ex.M-3 is copy of letter from Director (P&P) addressed to GM, ALP. Ex.M-4 is copy of documents regarding checking/ enquiry by Dy. Manager (IT). Ex.M-5 is copy of Enquiry proceedings and Ex.M-6 is copy of charge sheet issued to the petitioner. Ex.M-7 is copy of Enquiry Report and Ex.M-8 is copy of Enquiry report of enquiry commenced on 03.04.2017. Ex.M-9 is copy of Notice issued to the petitioner and Ex.M-10 is copy of dismissal order. Ex.M-11 is copy of appeal by the petitioner before Director (PA&W).

7(a). On the other side, the petitioner/workman got marked Ex.W-1 to Ex.W-10 on his behalf, wherein, Ex.W-1 is Charge Sheet issued by Dy.GM, ALP to the petitioner and Ex.W-2 are the Domestic Enquiry Proceedings of the enquiry officer. Ex.W-3 is request letter addressed by the petitioner to the General Manager, SCCL, Adriyala Project Area, Ramagundam with a request to provide copies of exhibits marked during the course of enquiry. Ex.W-4 is Office Order issued by General Manager, Adriyala Project Area dismissing the petitioner from service and Ex.W-5 request letter addressed to the Director (PA & W), through proper channel by the petitioner for re-consideration of dismissal from service and acknowledged by the office of Colliery Manager, Adriyala Long wall Project. Ex.W-6 is Postal receipt of Indian Post and Ex.W-7 is acknowledgment card. Ex.W-8 is Postal receipt of Indian Post, Ex.W-9 is acknowledgment card and Ex.W-10 are four Postal receipts. The above documents of both sides are not in much dispute by either side.

8. Here, the learned Standing Counsel for the respondents' company has strenuously argued that the petitioner was dismissed from the services of the company with effect from 03.08.2019 by Office Order dt.24.07.2019 for misconduct of dishonest intention, tampering of records and fake musters were posted. It has been found that day-wise absents were uploaded through the Muster Management System to SAP through day wise extensible markup language (Coding language) files. Further, it has been found that all the absent codes are updated with attendance codes and it is observed that the data of the petitioner was tampered by replacing absents with attendance by connecting to backend unauthorizedly. Unauthorized person Sri Bogena Sridhar, Elder Son of petitioner, Hired Programmer (Contract Basis) at SRP has logged in remotely into ALP Mine UGMMS and changed absents of the petitioner (his father) into presents and his Login details to access and make changes in the ALP Mine UGMMS System were filed.

8(a). The learned Standing Counsel further strenuously argued that the petitioner has fully participated in the enquiry and he was given full & fair opportunity to defend the charges. During enquiry, it was clearly proved that the number of musters of petitioner as per Lamp Room records and OM book are differing from March 2013 to August 2016. During cross-examination, the petitioner has admitted that he got two sons viz., Sridhar (elder son) & Srikanth (younger son) and Sridhar is doing a Private Job Hired Programmer (Contract Basis) at SRP Area and residing in Nagarjuna colony, SRP area. Further, the petitioner confirmed that he knew about excess paid musters after issue of charge-sheet to him. It is evident that the petitioner was benefited by extra wages dishonestly and by tampering his masters in GMMS with the help of his son namely Sri B. Sridhar who worked as hired programmer in SRP Area which amounts to serious misconduct. Further, Sri Bogena Sridhar son of the petitioner, Hired Programmer (Contract Basis) at SRP Area has accepted that he is logging to ALP mine computers remotely to see his father's musters and it

is evident that musters of petitioner were altered remotely as per remote login details. Enquiry Report was submitted by enquiry Officer holding the Petitioner guilty of the charges and he failed to submit any explanation. The Enquiry report and proceedings were examined by Competent Authority, the same was concurred and Petitioner was held guilty of serious misconduct as the charges proved were grave in nature. Hence, Respondents' Company was constrained to dismiss the petitioner from service w.e.f., dt.03.08.2019 by Office Order dt.24.07.2019, which is quite justified. There is no justification in the Appeal of the petitioner to revoke the punishment of dismissal, as misconduct is grave and serious in nature. Hence, the respondents prayed to dismiss the petition without granting any relief to the petitioner.

9. Per contra, the learned counsel for the Petitioner/workman contended the Respondents have not followed the principles of natural justice during enquiry and without furnishing documents to the petitioner, it is very difficult for him to defend his case being an illiterate. The respondent No.3 dismissed the petitioner from service without following due process of law, which is not tenable. The petitioner being an illiterate, does not have any technical knowledge in the law nor on the charge leveled against him. His wife died on 25.11.2017 due to mental agony with regard to dismissal from service of the petitioner and it is not correct to penalize him for the wrong done by others. He had no access to the computers or any other records of company to tamper them. The charge sheet issued under company' standing order Nos. 25.1 and 25.14 are not applicable to the petitioner and the charges framed against him are vague and created to cause harm to him. He had no computer knowledge to make fraud or tamper the record and the respondents obtained signatures of petitioner and his family members on blank papers and thereafter concluded the enquiry against the petitioner. He had put-in 32 years of service and he maintained unblemished record throughout his service, but, the respondent No.3 dismissed him from service with effect from 03.08.2019 illegally and his appeal dt.04.09.2019 was not disposed till today, which is quite unjust and illegal.

9(a). The learned counsel for the Petitioner further argued that the petitioner is a poor man, even as per the enquiry proceedings the petitioner worked for 11 days in July 2016 but received wages for 26 days i.e., excess received 15 days wages only which is only an assumption and presumption. No authentic records are filed by the respondents to substantiate the allegation of tampering of musters and receiving excesses wages by the petitioner. Further, the date of birth of the petitioner is 12.02.1963 as per SCCL records and he attained the superannuation age of 61 years by 29.02.2024 and no other source of getting job at anywhere. He is the only one earning person in is family and having children and now idle, suffering badly and facing untold financial problems. He rendered continuous service of more than (32) years and this is a first dismissal case and there is no remark in his work. The punishment of dismissal from service is highly excessive and shockingly disproportionate. This court has wide powers U/Sec.11-A of the I.D. Act to grant every relief to the petitioner and hence, he prayed to set aside the dismissal order and direct the respondents company to pay full back wages, retirement benefits and pension benefits to the petitioner with all attendant benefits and continuity of service, as he already attained superannuation age of 61 years.

POINT No.1:

10. In this matter, initially the petitioner/workman denied the validity and legality of the enquiry report. But on 20.06.2024, the learned counsel for petitioner filed Memo U/Sec.11-A of I.D Act by accepting the procedure of domestic enquiry to be fair and valid. Hence, there is no dispute that the Enquiry Officer has followed the principles of natural justice. Now the next question is whether the misconduct is proved in the facts of the case and the findings are not perverse. So, this Tribunal is to re-appreciate the evidence and come to its own conclusion with regard to finding guilty or not based on evidence. Accordingly, the Point No.1 is answered.

POINT No.2 & 3:

11. In view of the pleadings of the Petitioner/Workman as well as Respondents/corporation as well as in view of the rival arguments of their respective counsel now this Court will go into the evidence on record. Admittedly, the petitioner was dismissed from service by Proc. dt.24.07.2019. From a perusal of the record, it shows that Charge Sheet dt.26.09.2016 was issued to the petitioner, which is marked as Ex.M-6. It appears from the charge sheet that the petitioner managed to alter his musters in the UGMMS and on verification of his musters with Lamp Room records and Over-man book, it was observed that the petitioner drawn wages for more number of days than that of actual days worked during the period from March 2013 to August 2016. Further, the petitioner did not brought to the notice of his superiors about the excess paid and committed fraud and tampering company's records with ulterior motive, which is a serious misconduct under Company's Standing Orders No.25.1 & 25.14 which reads as follows:

- 25.1: Theft, fraud or dishonesty in connection with the employer's business or property.
- 25.14: Tampering with the company's records with ulterior motives.

11(a). Further letter dt.30.08.2016 addressed by the General Manager/SRP is marked as Ex.M-1, wherein it shows that Sri B.Sridhar, Hired programmer working as SRP area, unauthorizedly logged into the ALP mine computer system remotely from SRP Area. The vigilance department has made discrete enquiry regarding his unauthorized acts of remote long-in and Sri B.Sridhar admitted that he has made remote long-in to find out the attendance details of his father Sri B.Rayamallu/petitioner, who is working at ALP mine as General Mazdoor. He further informed that his father is regular drinker, irregular to duty and staying at 8-Incline colony. Further, report dt.02.09.2016 of the General Manager, SRP along with representation of hired programmer is marked as Ex.M-2, wherein it shows that a statement of Sri B.Sridhar who is son of petitioner was recorded on 31.08.2016; he was instructed not to attend duty at SCCL with immediate effect from 01.09.2016 by the outsourcing agency (Jyothi computers).

11(b). Further, detailed enquiry was ordered to be conducted into the case by the Director (P&P) vide letter dt.09.09.2016 which is marked as Ex.M-3. The Dy.Manager (IT) report dt.20.09.2016 and logged-in details by the hired programmer are marked as Ex.M-4, wherein it shows that son of the petitioner who is working as Hired Programmer logged into the database from remove system, which is evident from computer name, user name, IP address and Time stamp; and deletion of "Absent" records was taken place from Flat file track data during the period from 2013 to 2016 in respect of the petitioner/B.Rayamallu. Basing on the above documentary evidence, the petitioner was issued charge sheet dt.26.09.2016 which is marked as Ex.M-6/Ex.W-1.

12. Apart from the above, the proceedings of domestic enquiry dt.24.10.2016 are marked as Ex.M-5/Ex.W-3, wherein, it shows that the petitioner/workman and Sri D.Ravindra Kumar, S.E/ Presenting Officer were examined at length. It appears from the enquiry statement of Sri D.Ravindra Kumar, Presenting Officer that on verification of musters of the petitioner/B.Rayamallu, General Mazdoor, it was found that the number of musters as per Lamp Room records and Over-man Book are differing and the petitioner has managed to tamper the company's records and the muster records from March 2013 to August 2016. Further, the petitioner was having two sons namely, Sridhar and Srikanth. The elder son Sridhar is working as Hired Programmer in SRP who managed to connect remotely to ALP computer to back hack his father's musters and tracking. Thus, the action of the petitioner amounts to dishonesty and tampering of UGMMS records with the connivance of his son with ulterior motive, which amounts to misconduct under the company's standing orders.

12(a). Further, it is evident from the enquiry statement of the petitioner that he is illiterate employee and he usually book his musters in man-way daily and go for his entrusted job. He deposed that he received the wages for the days he worked and he never seen his pay slip and not noticed any excess musters. He further deposed that change in UGMMS is not known to him and that there is every possibility of occurrence of mistakes in computers some times. He clearly deposed that wages will be paid as per the musters booked in UGMMS but not lamp room or OM Records. The petitioner admitted that he has two sons i.e., Sridhar (elder son) and Srikanth (younger son) and Sridhar is doing a private job and Srikanth is studying. To a question as to where Sridhar is working, the petitioner replied that his working company and place are not known to him. Further to another question that his elder son Sridhar is working as computer hired programmer in SRP Area in the SCCL, the petitioner replied that he don't know his job and place of work. Further the petitioner deposed that only after issuing charge sheet, he noticed that he received excess paid wages and earlier it was not known to him. He further deposed that he does not know whether he was paid excess wages or less wages. The Presenting Officer produced letter dt.31.08.2016 of son of the petitioner Sridhar, Hired Programmer, addressed to AGM, IE, SRP Area and letter dt.20.09.2016 addressed to the chief of vigilance by Smt.R.V.Rajyalaxmi, Dy. Manager, IT.

12(b). The Enquiry Report dt.06.05.2017 is marked as Ex.M-10, wherein, the Enquiry Officer concluded that based on the enquiry statements of the petitioner, Presenting Officer and documents produced during enquiry, the petitioner benefited by extra wages dishonestly and tampering his musters in UGMMS with the help of his son which amounts to misconduct under company's standing orders 25(1) & 25(14) and the charges were proved against the petitioner basing on record. Hence, the Enquiry Officer held the petitioner guilty of misconduct leveled against him vide charge sheet dt.26.09.2016. Hence, this Tribunal has no hesitation to hold that the charges leveled against the petitioner/workman are proved and misconduct of the workman is established basing on the evidence and the findings of enquiry officer are not perverse. Therefore, it can be said that the respondents/company has no axe to grind against the petitioner.

13. Here, the learned counsel for the petitioner contended that the Petitioner/Workman served the respondents' company for more than (32) years and this is his 1st time dismissal from service. He hails from a very poor family and has got no other livelihood and facing untold financial problems. The extreme punishment of dismissal from service is shockingly disproportionate to the gravity of the charges and hence, he prayed to consider the case U/Sec.11-A of I.D., Act. Further, as the petitioner retired from service on attaining 61 years superannuation age, full back wages may be granted to him with all attendant benefits and continuity of service, besides retirement and pension benefits.

13(a). In support of the above contentions, the learned counsel for the petitioner/workman has relied on the following decisions:

1) JUDGMENT OF HON'BLE HIGH COURT CHHATTISGARH AT BILAPUR REPORTED IN 2024 0 CGHC 166 – Between: Arun Kumar Vs. Coal India Limited, & ors:

Wherein their Lordships held that: *The termination order was passed in the year 1995, therefore, it is directed that the petitioner will be reinstated into service without back wages but his pay will be fixed notionally, he will be entitled to get gratuity and all other service benefits permissible under rules of company as he has attained the age of superannuation during pendency of writ petition, his services will be counted for grant of pensionary benefits under the Coal Mines Provident Fund applicable to the petitioner.*

2) HON'BLE SUPREME COURT JUDGMENT REPORTED IN AIR 1988 SC 303 – Between: Scooter India Ltd, Labour Court, Lucknow & ors:

Labour Court holding that enquiry had conformed to statutory prescriptions and principles of natural justice; and yet holding that order of termination was not justified and reinstating employee with 75% back wages. Wide powers are vested in Labour Court or Tribunal. Labour Court can temper justice with mercy and give an opportunity to an erring workman to reform himself. Order of Hon'ble Labour Court granting relief of reinstatement with 75% back wages upheld by the Hon'ble Supreme Court.

With due respect to the above cited decisions, the facts and circumstances of the above cited Judgments are different from the facts of the present case on hand. Further, as per the ratio laid down in the above cited decisions, Labour Court or Industrial Tribunal shall consider the question as to whether the punishment imposed on a workman is disproportionate to the charges of misconduct or not; and this Tribunal is adhering to the ratio laid down in the above cited decisions, with regard to the proportionality theory.

14. Here, it is clearly evident from the record that the petitioner served for 32-years 3-months 25-days till the date of his dismissal from service. It is also not in dispute that the appeal dt.04.09.2019 preferred by the petitioner is not disposed-off and the respondents contend that the same is under consideration by the competent authority. Further, the number of musters tampered in UGMMS with the help of son of the petitioner and the amount of extra wages benefited by the petitioner by tampering his musters in UGMMS, was not brought on record by the respondents'/company. During enquiry, the Presenting Officer suggested to the petitioner that he worked for 11-days, he received wages for 26-days and excess wages paid for 15-days during July 2016; and the said suggestion was denied by the petitioner. No oral or documentary evidence was produced before this Tribunal which would go to show the quantum of tampered musters and excess paid wages to the petitioner, and the reasons there-of are best known the respondents' company. In view of the above facts and mitigating circumstances of the case, this Tribunal is of the considered opinion that this is a fit case to exercise its discretion U/Sec.11-A of I.D. Act and relying upon a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships observed that:

“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. Merely because workman approached to Labour Court with delay, relief cannot be denied. No indication in the Act that delay extinguishes right conferred on the workmen under Industrial Law. The Labour Court is conferred with very wide discretion U/Sec.11-A. The Industrial Court conferred with very wide discretion U/Sec.11-A of the Act for granting appropriate relief”.

14(a). Here, their Lordships of the Hon'ble Kerala High Court in WPC No.9925/09 and 556/09 observed that: “The most satisfactory ideal, I have ever been able to form of justice is embodied in the picture of a Judge, courageous enough ‘to give the devil his due’, whether he be in the right or in the wrong”. Thomas Moore said: If the parties will, at my hand call for justice, then whether if my father stood on the one side and the devil on the other (his cause being good), the devil should have the right.” Further, one must not hesitate to give the devil his due and every act ought not to be viewed to an act of misconduct giving rise to departmental enquiry justifying the punishment.

14(b). Further, their Lordships of the Hon'ble Gujarat High Court in a case rendered on 04.05.1994, Between: Management of Glaxo India Ltd., Vs. State of Assam and 3 others categorically observed that “**a Labour Court is required to settle a dispute according to the principles of natural justice, equity and good conscience and law without attaching undue importance to legal technicalities**”.

15. Therefore, in view of the above cited decisions and the facts and circumstances of the case, if we come to quantum of punishment, it is settled law that the discretion of which can be exercised U/Sec.11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to shock the conscience of the Court, or existence of any mitigating circumstances which require the reduction of the punishment, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In view of the mitigating circumstances of the present case, this Tribunal is of the opinion that the extreme punishment of removal from service imposed by the respondents'/corporation against the petitioner/workman is harsh, disproportionate and shocks the conscience of this Tribunal. Hence, deserves to be modified since the disciplinary authority cannot be permitted to act arbitrarily and work like a *Roman Knight* and it cannot be allowed a *fight between David and Goliath*

as in the present case on hand. Moreover, facts of this case attracts the proverbial saying “*Every saint has a past and every sinner has a future*”.

16. At this juncture, it is not out of place to mention a small write-up of mine with regard to “*servant-master relationship*”, as under:-

“A Servant of Noble Character

1. *A servant of Noble character is worth far more than rubies.*
2. *His master has full confidence in him and lacks nothing of value.*
3. *He brings him good, not harm, all the days of his service.*
4. *He sets about his work vigorously and works with eager hands.*
5. *His master is respected in the public and before his higher ups.*
6. *He is clothed with strength and dignity.*
7. *He can laugh at the days to come.*
8. *He is faithful and wise.*
9. *He watches over the affairs of his branch and does not eat the bread of idleness.*
10. *His colleagues arise and call him blessed; his master also praises him “Many servants do Noble things but you surpass them all”.*
11. *Honour him for all that his hands have done, and let his woks bring him praise in the department.”*

17. This Tribunal has perused, analyzed and meditated upon the case at hand, the case laws and principles of law referred above. In view of the above facts and circumstances and keeping in view of the principle “*temper justice with mercy*” and to meet the ends of justice, this Tribunal is of the opinion that the punishment of removal from service imposed on the petitioner is disproportionate and shocks the conscience of this Tribunal and hence, it deserves to be modified appropriately. Further, the petitioner rendered long service of 32-years 3-months 25-days in respondents’ company. Hence, this Tribunal is of the considered opinion that the petitioner shall be treated as he was retired from service with continuity of service only, but without any back wages and without any attendant benefits since the petitioner might have gainfully employed during the intervening period from his dismissal till superannuation. Consequently, the petitioner/workman is entitled to retirement benefits and pensionary benefits only with continuity of service only and it shall not be counted for any other purpose, after deducting 15-days excess wages paid to the petitioner for July 2019. Denial of entire back wages and all attendant benefits from the date of his dismissal to till the date of his retirement on superannuation would be sufficient punishment to the petitioner/workman. Hence, the extreme punishment of dismissal from service imposed by the Respondents’/Company is hereby modified appropriately. Accordingly, the Points 2 & 3 are answered.

18. **IN THE RESULT**, the petition is partly allowed. The dismissal order dt.24.07.2019 under Ex.M-10 passed by the Respondent No.3 is hereby modified. The respondents’/company is directed to treat the petitioner/workman retired from service on attaining the superannuation age on 29.02.2024, with continuity of service only. The petitioner/workman is not entitled to any attendant benefits and any back wages during the intervening period from the date of his dismissal to till his retirement from service on superannuation. The respondents’ company is directed to pay all consequential retirement and pensionary benefits to the petitioner with continuity of service only and it shall not be counted for any other purpose, after deducting 15-days excess wages for July 2019. Copy of the Award be sent to the appropriate Government for publication. Both parties shall bear their own costs.

Typed to my dictation, corrected and pronounced by me in the open court, on this the 11th day of September, 2024.

Dr.T. SRINIVASA RAO, Chairman-cum-Presiding Officer,

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN:-

-Nil-

FOR MANAGEMENT:-

-Nil-

EXHIBITS MARKED**FOR WORKMAN:-**

Ex.W-1	Dt.	26.09.2016	Charge Sheet issued by Dy.GM, ALP to the petitioner.
Ex.W-2	Dt.	24.10.2016	Domestic Proceedings conducted by the enquiry officer.
Ex.W-3	Dt.	31.07.2018	Request letter addressed by petitioner to the General Manager, SCCL, Adriyala Project Area, Ramagundam with a request to provide copies of exhibits marked during the course of enquiry.
Ex.W-4	Dt.	24.07.2019	Office Order issued by General Manager, Adriyala Project Area – dismissal order.
Ex.W-5	Dt.	04.09.2019	Request letter addressed to the Director (PA&W) appellant authority for re-consideration of dismissal from service and acknowledged by Colliery Manager, Adriyala Long wall Project.
Ex.W-6	Dt.	18.11.2019	Original Postal receipt of Indian Post.
Ex.W-7	Dt.	-	Acknowledgment card.
Ex.W-8	Dt.	21.02.2020	Postal receipt of Indian Post.
Ex.W-9	Dt.	24.02.2020	Acknowledgment card.
Ex.W-10	Dt.	23.02.2022	Postal receipts addressed to respondents-employer (4).

FOR MANAGEMENT:-

Ex.M-1	Dt.	30.08.2016	Attested Copy of letter addressed to GM(IT), KGM
Ex.M-2	Dt.	02.09.2016	Attested Copy of letter addressed to GM(IT), KGM along with the representation of B.Sridhar, S/o. Petitioner
Ex.M-3	Dt.	09.09.2016	Attested copy of letter from Director (P&P) addressed to GM, ALP
Ex.M-4	Dt.	20.09.2016	Attested copy of documents regarding checking/Enquiry by Dy. Manager (IT)
Ex.M-5	Dt.	24.10.2016	Attested Copy of Enquiry proceedings
Ex.M-6	Dt.	26.09.2016	Attested copy of Charge sheet issued to the petitioner vide Lr.No.APA/ALP/ R6/2069
Ex.M-7	Dt.	06.05.2017	Attested Copy of Enquiry report
Ex.M-8	Dt.	06.05.2017	Attested Copy of Enquiry report of enquiry commenced on 03.04.2017
Ex.M-9	Dt.	06.05.2017	Attested copy of Notice issued to the petitioner vide Lr.No.RG3/PER/IR]48 /DA-762/3197
Ex.M-10	Dt.	24.07.2019	Attested Copy of dismissal order vide Lr.No.RG3/PER/IR/48/DA-762/ 2465
Ex.M-11	Dt.	04.09.2019	Attested copy of appeal by the petitioner before Director (PA&W).