

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGIT/LC/C/09/2022

Present: P.K.Srivastava

H.J.S..(Retd)

1. Varun Malviya,
S/o. Shri Shyam Sunder Malviya,
Office Boy/Mechanic CSD
Gas Service Ordinance Factory Estate Itarsi,
District Hoshangabad (M.P.)
Pin Code No. 461122

Workman



Versus

1. Secretary Defense Production,
South Block New Delhi 110001
2. Chairman & DGOF
[Presentably Director of Ordinance
(Coordination & Service)] Ordinance Factory
Board 10-A S.K. Bose Road Kolkata
Pin 700001
3. General Manager,
Ordinance Factory Itarsi,
District Hoshangabad M.P.
Pin- 461122
4. O.I.C., CSD Gas Service Ordinance Factory Estate Itarsi,
District Hoshangabad M.P.
Pin- 461122

Management

(J U D G M E N T)

(Passed on this 22nd day of August-2025)

The workman has filed this petition under Section 33(c)(2) of the ***Industrial Disputes Act 1947*** (in short the 'Act') with a case that he was initially appointed in July, 2011 on the post of Office Boy/Mechanic and was sent on training. After successful completion of training, he is continuously working with the department for atleast 12 years to the satisfaction of his seniors. As per the circular of the department dated 11.03.2020, after completion of 240 days excluding holidays, the employees get temporary status and become entitled to be regularized as per the Scheme of the Department & Consolidated Instructions of Department of Personnel & Training dated 13.02.2002.

The petitioner has given the details of salary paid to him and the period and has further alleged that he was being paid salary lesser than what he was entitled to. He raised a complaint before the Regional Labour Commissioner (Central) Bhopal, an order dated 17.10.2022 was passed by him, directing the Department to pay his salary as per schedule and also bonus of three years which he has been paid but arrears of salary from the date of his appointment have not been paid to him. According to the petitioner, this action of the department is unjust, illegal and arbitrary. The petitioner has prayed that the department be directed to pay salary to him as per minimum wages and also pay the arrears with penalty.

The department has filed its reply, wherein it has taken a case that Ordinance Factory Itarsi provides the facility of L.P.G. Service to its employees through C.S.D. Gas Service for welfare activities. This gas service is not a part and parcel of the Ordinance Factory. Labourers were hired by the C.S.D. Gas Service, the petitioner was also one of the hired labourers and worked as part time boy cum mechanic in January, 2011 and thereafter only for 3:30 hrs i.e., 16:30 hrs to 2000 hrs he was paid the accorded honorarium on monthly basis, details mentioned in the reply.

He was engaged to work on full time basis at C.S.D. Gas Service from 01.01.2019 to attend online as well manual complaints within the period 1100 hrs to 2000 hrs and was paid Rs. 5,000/- (Rs. Five Thousand only) per month, the minimum wage for unskilled labourers were revised. Accordingly, his honorarium was also revised from Rs. 5,000/- to Rs. 8,000/- per month w.e.f. 26.10.2019, which he willingly accepted. Now he is claiming arrears for 10 years which is barred by limitation and is not cognizable by this Tribunal.

The department has requested that the petition be dismissed.

The petitioner has filed a rejoinder in which he has reiterated his case.

Both the sides have filed affidavits and photocopy documents, to be referred to as and when required.

I have heard arguments of the Learned Counsel for the petitioner Mr. R.K. Soni and Learned Counsel, Gopi Chaurasia for the Department. Both the sides have filed written submissions, also which are part of record. I have gone through the record as well.

Though, it has been submitted on behalf of the Department that the petitioner is not a workman as defined under the Act, but in light of section 2(s) of the Act, I am not inclined to accept this argument.

The Payment of Wages Act, 1936 provides for payment of wages under section 15:-

15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.— (1) The appropriate Government may, by notification in the Official Gazette, appoint—

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,—

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years" experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years" experience; or

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate,

as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within twelve months from the date on which the deduction from

the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of twelve months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any bona fide reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a bona fide error or bona fide dispute as to the amount payable to the employed person; or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(c) the failure of the employed person to apply for or accept payment.]

(4) If the authority hearing an application under this section is satisfied—

(a) that the application was either malicious or vexatious, the authority may direct that a penalty not exceeding three hundred seventy-five rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application; or

(b) that in any case in which compensation is directed to be paid under sub-section (3), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty not exceeding three hundred seventy-five rupees be paid to appropriate Government] by the employer or other person responsible for the payment of wages.

(4A) Where there is any dispute as to the person or persons being the legal representative or representatives of the employer or of the employed person, the decision of the authority on such dispute shall be final.

(4B) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

(5) Any Amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by the Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

It is established that in light of Section 15, this claim is not cognizable by this Tribunal.

Hence, on the basis of above discussion and findings, the petition lacks merit and is liable to be dismissed.

Petition dismissed.

DATE:- 22 / 08 / 2025

(P.K.SRIVASTAVA)
PRESIDING OFFICER