

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

NO. CGIT/LC/C/1/2017

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Rajeshwar Prasad Tiwari
S/o Kedarnath Tiwari,
S.630 Nehru Nagar, Bhopal(M.P.)**

Workman

Versus

**Project Manager
Indian Telephone Industries Ltd.
Network Systems Unit
Western Zone Office, E-7/657
1st Floor, Arera Colony, Bhopal(M.P.)**

Management

(J U D G M E N T)

(Passed on this 4th day of April 2024)

The award holder applicant has filed this petition U/S. 33(c-2) of Industrial Disputes Act 1947, hereinafter referred to by the word 'Act' for computation of his claim regarding arrears of his salary from 15.06.2015 to 31.12.2016 and direction to management to pay this amount alongwith interest.

According to the applicant workman he was engaged as Office Assistant/ Clerk by the management of Indian Telephone Industries at Bhopal on 01.07.1999 on a monthly wage of Rs. 3100/- per month. His services were terminated from 01.03.2004. He raised a dispute against his termination which was referred to this Tribunal and a case R/55/2005 was registered. Final award was passed in this case by this Tribunal on 15.06.2015 holding the termination of the services of workman against law and directing the management to reinstate him with continuity of service but without back wages. The management preferred a writ petition W.P. No.- 16587/2015 before Hon'ble High Court MP at Jabalpur against this award and interlocutory order dated 14.10.2015 was passed by Hon'ble High Court staying the operation and effect of the impugned award till next date of hearing, subject to compliance of provisions of Section 17-B of the Act. It is the allegation of

applicant workman that this order was never complied with by management and compliance of Section 17-B of the Act was never made by the management. Since the said interlocutory order staying the operation and effect of the award was conditional, hence management cannot be permitted hide itself under the cover of this order and the workman is entitled to be reinstated and to get his wages after 30 days i.e. from the date of the award becomes enforceable as per Section 17-A(1) of the Act.

In its reply to the petition, management has taken the case that though there a conditional stay order against the award passed by the Hon'ble High Court but looking to the facts that the applicant has already joined some service elsewhere and is not interested in performance his duties with the management, hence he is not interested for the compliance Section 17-B of the Act. Also it has been stated that the applicant has also filed a writ petition no.- 15623/2015 against the award before Hon'ble High Court of MP and both the writs have been linked together for hearing by Hon'ble High Court. Both shall be decided together. Thus, according to management the whole petition is misconceived and is liable to be dismissed.

The applicant has filed a rejoinder wherein he has denied the case of management that he is employed somewhere and is not interested in compliance of 17-B of the Act. He has further stated that inspite of all his effort, management has not reinstated him nor is paying him wages.

In evidence, the workman has filed his two affidavits which are uncross examined. Management has filed photocopy of the interim order dt. 14.10.2015 staying the operation of award subject to compliance of provisions of Section 17-B of the Act, by management till next date fixed. The workman has further filed web copy of order of Hon'ble High Court dated 28.11.2023 passed in W.P. No. 16587/2015 in which on the point raised by the workman (respondent in the writ) that Section 17-B is not being complied with in terms of interlocutory order dated 14.10.2015 passed in the petition, the learned Counsel for petitioner (management) was granted two weeks time to file an affidavit behalf of management regarding compliance of the condition.

I have heard argument of Shri Ashok Shrivastava Advocate appearing for the applicant. The management side is absenting itself since dates and at the stage of argument also, their side of arguments could not be heard. I have gone through the record as well.

In his recent affidavit dated 17.01.2024 the workman has specifically stated that he had present before the management for joining his duties on 24.07.2015 itself in the light of the award the management is well aware of the conditional stay order but has not complied with the condition regarding fulfilment of provisions of Section 17-B of the Act and has not paid his last drawn wages which he

was getting at the time of his termination. Management has not filed any counter affidavit denying the allegations made in the affidavit and the petition nor has filed any document to show that this conditional order is being complied with. Management has also failed in substantiating its case that the workman is working somewhere else and is not interested in his reinstatement. In his affidavit dated 23.02.2020 the workman has filed and has detailed the amount with respect to his claim.

Since, there is nothing on record filed by management to rebut the claim of the workman that condition imposed in the interlocutory order dated 14.10.2015 for staying the effect and operation of the award in question has been complied with, holding that due to non compliance of the said condition, the workman is entitled to get the award executed and the petition stands disposed accordingly. However it is made clear that if it is shown that time has been extended by Hon'ble High Court in the said writ for compliance of the condition or the condition has been complied with, this petition shall stand dismissed.

DATE:- 04/04/2024

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**