

Government of India
Ministry of Labour & Employment,
Central Government Industrial Tribunal-Cum-Labour Court-II, New Delhi.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 03/2013

Date of Passing Award- 01.11.2022

Between:

Shri Dhirender Prakash Kotnala,
Asst, Engineer,
C/P Bharat Electronics Ltd.
Kotdwar, Uttarakhand.

Workman

Versus

The General Manager,
Bharat Electronics Limited,
Kotdwar, Uttarakhand.

Management

Appearances:-

Claimant in person
(A/R)
Shri K K Tyagi
(A/R)

For the claimant

For the Management

A W A R D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Bharat Electronics Limited, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-40011/22/2012 (IR(DU) dated 21/01/2013 to this tribunal for adjudication to the following effect.

“Whether the action of the Management BEL, Kotdwar of not inducting Shri Dhirender Prakash Kotnala in wage group –VIII w. e. f. 01.06.1988 and thereby depriving him from consequential benefits is justified? If not, what relief the work man is entitled to”?

As stated in the claim petition, the claimant is working as an Asst engineer in the management and posted at Kotdwar in the district of Podhi in Uttarakhand. His initial appointment was as a Diploma Engineer w. e. f. 01.06.1987. on the same day another group of Diploma Engineers were appointed in Ghaziabad unit of BEL. The persons appointed in Ghaziabad as well as the claimant on successful completion of one year probation were given appointment as Technical Assistant-II in the wage group of VII i.e.01.6.1988. After some years the claimant and his counterparts in Ghaziabad came to know that they have been denied the appropriate wage Band VIII, which is applicable to them according to the carrier plan applicable to the employees of BEL. Thus the claimant and his counter parts in Ghaziabad made representations to their respective administrative authorities, requesting to allow them pay scale of wage group VIII instead of Wage group VII, w.e. f.01.06.1988. Whereas the representation made by the Technical Asst –II working in Ghaziabad was allowed by the administrative head there, by an order dated 27.09.2002, but the representation of the claimant was not considered. Not only that the Technical Assistant –II in Ghaziabad were given three promotions and up graded to the wage group-X .but the claimant and similarly placed employees in Kotdwar were not granted the said benefits. For the first time the carrier plan for the employees of BEL at was Kotdwar was made applicable with effect from 01.07.1992 and in the said plan it was clearly mentioned that in respect of persons appointed prior to 01.07.1992, the carrier plan applicable to the employees of Ghaziabad would be applicable. But for the denial of the management to extend the said benefit the claimant had suffered huge financial loss and carrier prospect. He was raising his demand on repeated occasions, but the management never considered the same. Finding no other way he raised an Industrial dispute before the labour commissioner, where attempt for conciliation was made. The said effort since failed, the appropriate Govt. referred the matter for adjudication.

The management being noticed appeared and filed written statement refuting the claim of the claimant. It took a stand that the claim is not maintainable for want of espousal. The maintainability has been challenged on that the claim has been raised after a considerable delay and thus hit by the unreasonable delay. On the facts, the management has stated that the BEL has nine units across India and each unit is run by the local management. The said local management notifies the vacancies for engagement of trainees,

which is purely on the basis of the man power requirement of that unit. The unit of BEL in Kotdwara was inaugurated in the year 1987 and in the same year, requisition was sent to the local employment exchange for sponsoring the names of eligible candidates for engagement as trainees in different Trades. In the offer letter given to the selected candidates it was clearly mentioned that on successful completion of one year Training and on passing the final gradation test, the successful Trainee shall, subject to availability of vacancy shall be appointed as Technical Assistant II in the wage Group VII and in the pay scale of 715-24-955-26-1215. The claimant is one of such Trainees in civil, who was offered the position of Technical Assistant-II with the aforementioned pay scale. Thus, he, on two separate occasions had accepted the pay scale in the wage group VII and joined in the service of the management. The claim raised by the claimant after 24 years of service is barred by limitation. More over the nature of the claim is of general demand and in absence of espousal, the same cannot be treated as an Industrial Dispute. Hence the claim is liable to be dismissed.

The claimant filed rejoinder reiterating the claim as stated in the claim petition demanding equal pay for equal nature of work.

On these rival pleadings the following issues were framed for adjudication.

ISSUES

- 1- Whether the claimant is a workman in terms of the definition given u/s 2(s) of The I D Act.
- 2- Whether the dispute is not an Industrial Dispute for want of Espousal.
- 3- Whether the Dispute is barred by Limitation
- 4- As in terms of Reference.

After framing of the issues the claimant was called upon to adduce evidence and prove the stand taken in the claim petition. Despite several opportunities granted the claimant did not adduce evidence. Though the affidavit to be read as evidence was filed the claimant did not tender the same and the right to adduce evidence was closed. Similarly the Management opted not to adduce any evidence. Hence in absence of evidence adduced by the claimant the reference is decided against the claimant. Hence, ordered.

ORDER

The Reference is answered against the claimant and the no dispute award is passed. It is held that the claimant is not entitled to the relief sought for. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
1st November, 2022.

Presiding Officer.
CGIT-cum-Labour Court.
1st November, 2022.