

**BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW
DELHI**

I.D. No. 77/2015

**Sh. Shashi Dhar Suman,
S/o Sh. Kartik Narayan Jha,
Address: B-87, Ambedkar Colony,
Bijwasan, New Delhi-110061**

Versus

- 1. Director General,
Employee State Insurance Corporation,
Pancheep Bhawan, CIG Marg,
New Delhi-110002.**
- 2. Bapu Nature Cure Hospital & Yogashram,
Gandhi Nidhi, Mayur Vihar, Phase-1,
Delhi-110091**

AWARD

This is the claim petition/application filed by the petitioner U/S 2A of the Industrial Disputes Act 1947 (herein after referred as an Act) against his illegal termination. It is the workman case that he was appointed as part time Yoga Therapist by management-2 in the dispensary of Management-1 on 05.11.2007. He was shown as attached to management-2 with effect from 05.11.2007. His last drawn salary was Rs. 10,000 per month which was lastly credited in the saving bank account maintained in SBI Okhla industrial Estate. Management-2 & 3 were only nominal agency as this neither paid wages to the claimant nor supervise his work. He was terminated in the year on 31.03.2014 as a retaliatory measure to teach a lesson to the workman for having dare to demand justice and fair treatment. His dispute was pending with Sh. Dinesh Narayan, Assistant Labour Commissioner (Central) in violation of the U/s 33 of the I.D Act. Hence he made prayer that he be reinstated with full back wages.

Respondent-1 had filed the reply and stated that claimant has not approached this tribunal with clean hand. In the month of February 2004 management of ESIC had appointed non-governmental agency namely M/s Bapu Nature Care Hospital & Yogashram for providing Yoga Therapist in ESIC dispensary and hospital in Delhi. The agreement was initially for a period of three month and got extended few times. Scheme was finally withdrawn from 01.03.2006. The management of ESIC had appointed the aforesaid independent agency on contractual basis. Management of ESIC have been making payment to the NGO from time to time for the services provided by them. He submits that the claimant falls in the employment of NGA not with the ESIC. Hence, he submits that claim be dismissed.

Management-3 had also filed the reply he has also submitted that claim be dismissed.

Rejoinder has also been filed affirming the fact made in the claim statement and denied the averment made in the WS.

Vide order dated 09.11.2016 following issues have been framed:

- 1. Whether the services of the workman Sh. Shashidhar Sharma have been illegally terminated by the management of E.S.I.C- respondent-1? If so its effect?**
- 2. Whether the contract between E.S.I.C- respondent-1 and its contractor- respondent-2 is illegal and invalid being a Shan and bogus contract? If so its effect?**
- 3. Whether there exists employer and employee relationship between respondent No.1 and workman? If so its effect?**
- 4. Whether claim is maintainable? If so its effect?**
- 5. To what relief workman is entitled and from which respondent?**

Workman was asked to examine its witness however for the last eight years, witness has not come forward for tendering the affidavit and cross-examination.

In the absence of any evidence on record, claim of the workman is resulted into failure. Claim of the claimant stands dismissed. Award is passed accordingly. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D Act 1947. File is consigned to record room.

02nd April, 2024

ATUL KUMAR GARG
Presiding Officer.
CGIT-cum-Labour - Court-II