

**Item No. 45**

I.D. No. 222/2021  
03<sup>rd</sup>, December, 2024

**Sh. Hukum Chand, Ld. AR with the claimant.  
None for the managements.**

A letter has been received from Sh. Hukum Chand through post where it has been mentioned that he had made complaint to the Regional Labour Commissioner to correct the certificate issued U/s 2A and made the reference accordingly. Along with this letter, he had also enclosed the copy of the claim filed by him to the Labour Commissioner.

I have heard the claimant as well as his AR Sh. Hukum Chand. The presence of Sh. Hukum Chand is necessiated because of the fact that on 21.11.2024, this Tribunal had noticed that claim has been filed U/s 2-A of the **Industrial Disputes Act, 1947 (hereinafter refered as an Act)** which deals with termination, discharge or dismissal of service. The claim filed by the claimant does not mention anything regarding retrenchment, discharge or dismissal of service.

The claimant in his claim statement had stated that he had joined the employment at Sub-Division-IV of the management w.e.f. 07.08.1985 as Enquiry Clerk vide must-roll no. 117/65/85-86 and he was treated as a daily rated/casual/must roll worker and being wages as fixed and revised from time to time under the Minimum Wages Act by the appropriate government while their counterparts and to the identical work and the work of the same value but who was being treated as regular employees and were paid salary in proper scale. He was working against the vacant post and discharging his service with the utmost faith and having unblemished and uninterrupted record of service to their credit. He has made prayer that award be passed in favour of the workman holding therein that the workman concerned are entitled to be regularized in the services with retrospective effect from their initial date of joining.

Before proceeding further, text of Section 2-A of the Act is required to be reproduced herein:

**[2A. Dismissal, etc. of an individual workman to be deemed to be an industrial dispute**

*[(1)] Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]*

*[(2)] Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*

*(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge,*

*dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)].*

A perusal of the aforesaid section would go to show that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman U/s 2-A of the act and it is not necessary that such disputes should be sponsored by the trade union or a substantial number of workmen. However, what is required is that workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2-A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after expiry of 45 days from the date he has made an application to conciliation officer of appropriate government for conciliation of dispute. Sub-section 3 of section 2-A lay down the time limit for making such application to Labour Court or the tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without any effect upon remedy available in section 10 of the Act.

### **Observation**

The facts of the present dispute does not fall within the definition of U/s 2A of the Act, which deals exclusively with retrenchment, discharge & dismissal.

### **Order/Award**

Considering the above facts on record, claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. Further in future, if, any reference has been received in respect of the party concern, this file be attached with them. Ordered accordingly.

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