

**BEFORE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL CUM – LABOUR COURT NO. II, NEW
DELHI**

ID No. 208/2021

Sh. Heatlal, S/o Sh. Harkesh,
Through-Sh. Markandey Shukla,
The General Secretary, Jagriti Labour Union,
5/511, Sangam Vihar, Wazirabad, Delhi-110084.

Versus

1. The Commissioner,
South Delhi Municipal Corporation,
Dr. S.P. Mukherjee Civic Centre, J.L. Nehru Marg,
Minto Road, New Delhi-110002.

2. The Dy. Commissioner,
South Delhi Municipal Corporation,
Lajpat Nagar, New Delhi-110024.

Award

1. This is an application U/S 2A of the **Industrial Disputes Act (here in after referred as an “Act”)**. Claimant had stated in his claim statement that he was working with the management as Breeding Checker from the year 1996 at the last drawn salary Rs. 6,750/- per month. He used to go to the area and check the coolers etc. and also did other related work as per the orders of the management. He did his work with great hard work and

honesty and never given any chance to complain during his service period. He was deprived of legal facility like appointment letter, Pay Slip, Bonus, Annual Leave, Casual Leave and minimum wages declared by the government. When he demanded the same, the management adopted a evasive attitude towards him and gave false assurance to him. When he repeatedly demanded the above mentioned legal facilities, his services were terminated by the management on 11.06.2010 without giving any charge-sheet, without giving any notice, without conducting any domestic investigation which is a violation of 25F of the ID Act, 1947. He had repeatedly visited the office of the management, but inspite of repeated efforts, he was not taken on job. He had worked continuously more than 240 days in a year. He had sent the demand letter to the management through speed post on 19.12.2019, but the management did not respond to the demand letter. He had gone to the conciliation officer, but, it was resulted into failure. Hence, he filed the present claim with the prayer that he be reinstated with full back wages.

2. Management-1 & 2 had filed its WS denying the averment made in the claimant's claim. He also submitted that claim has been filed in the year 2021 after the lapse of more than 11 years of his alleged termination which is debarred from limitation. He submitted that claim of the claimant is liable to be dismissed.

3. After completion of the pleadings, following issues have been framed on 31.08.2022 i.e.-

1. If the proceeding is maintainable.
2. If the service of the claimant was illegally terminated by the management by letter dated 11.06.2010.
3. Whether the claimant is entitled to the relief of reinstatement with back wages.

4. Now, the matter is listed for workman evidence. Workman is not appearing since long to substantiate his claim, inspite of providing a number of opportunities.

5. I have gone through the record of this case. At the time of proceedings, this tribunal found that this claim petition was filed by the claimant in the year 2010, much beyond the period of limitation prescribed U/s 2-A (3). Before we proceed further, it is necessary to produce the text of section 2-A:

“2-A. 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 not withstanding 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).

6. 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 dispute 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.

7. Here admittedly, workman had filed his claim in the year 2021 after more than 11 years of his termination

which is beyond the prescribed limit for filing the claim U/s 2(A) of the I.D Act. Hence, claim petition stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required U/s 17 of the I.D Act. File is consigned to record room.

Dated: 04.03.2025

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