

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

ID No. 269/2021

Sh. Gurcharan Sharma vs. T.R.A.I. & Ors.

**Sh. Gur Charan Sharma, S/o Sh. K.K. Sharma,
R/o J-1802 Exotica Fresco, Sec-137, Noida-201304.**

**Through- Indian National Migrant Worker's Union,
1770/8, 3rd Floor Govind Puri Extn. Main Road, Kalkaji,
New Delhi-110019.**

...Claimant/Applicant

Versus

- 1. Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru
Marg, Next to Zakir Hussain College, New Delhi-110002.**
- 2. Cyberlink Technologies Pvt. Ltd.,
202, 2nd Floor, SAS Tower, Sector-38, Next to Medanta
Medcity, Gurgaon-122001**
- 3. Multiv Tech. Solution Pvt. Ltd.,
202, 2nd Floor, SAS Tower, Sector-38, Next to Medanta
Medcity, Gurgaon-122001**
- 4. Mobito Technologies Pvt. Ltd.,
202, 2nd Floor, SAS Tower, Sector-38, Next to Medanta
Medcity, Gurgaon-122001**

....Managements/Respondents

Counsels:

For Applicant/ Claimant:

None for the claimant.

For Management/ Respondent:

Sh. Arjun Natrajan, Ld. AR for TRAI (management-1)

Ms. Sonali Jain, Sh. Vivek Singh and Ms. Harshita Tyagi, Ld. ARs for management-2, 3 & 4.

Award

04.12.2024

This is an application filed **U/s 2-A of Industrial Disputes Act, 1947 (herein after referred as 'the act')**. The claimant in his claim statement submits that he had been working at the post of sales head for management-1 through management-2, 3 & 4 at the salary of Rs. 2,25,000/- per month since 01.02.2012. He neither gave the managements any reason for complaint nor was there any allegation against him. He alleged that the managements were violating labour laws and were not paying him full salary since February 2018 He also alleged that the managements used to deduct Rs. 30,000/- to 1,50,000/- per month from his salary till December 2018. He further submitted that by withholding his salary, the managements coerced him into tendering his resignation, when he refused to do so; the managements got frustrated and terminated his service on 18.07.2019 which is a clear violation of section 25F of the act. He prayed that he be reinstated in service with full back wages and be declared as a regular employee of principal employer.

2. In rebuttal, all the managements herein had appeared and filed their written statements. Management-1 (TRAI) in its W.S. stated that it has been established for regulation of telecommunication services, to protect the interest of service providers and consumers of telecom sector and to promote and

ensure orderly growth of the telecom sector and for the matters connected therewith or incidental thereto. It further submitted that it is a recommendatory, regulatory and tariff functions, detailed in Section 11 of TRAI Act. Pertinently, the regulations made by the authority, in exercise of its powers under TRAI Act, are in the nature of subordinate legislation and they are laid before each house of parliament. It also submitted that the claimant has never been employed by the authority, hence, it has no role to play in the disputes, if any, between the claimant and the other three respondents. Management-1 lastly prayed to be deleted from array of the parties.

3. Management-2 in its written statement submitted that the claimant has wrongly filed the present case and same doesn't fall under the Industrial Disputes Act, 1947; the present case has been malafidely filed by the claimant with ulterior motive to wrongfully gain and extort money from the opposite party herein; the claimant is a 'Director' in Cyberlink Technologies Pvt. Ltd. (management-2) since the year 2016. The fact that he was a 'Director' of the company was observed and recorded by the Ld. authority under the payment of wages act, Jeevandeep Building, New Delhi in P.W.A. No. 93 of 2019 filed by the applicant against the opposite party, where the Ld. authority vide its order dated 17.11.2021 had dismissed the claimant's claim on several grounds out of which one of the grounds was that the claimant was employed as a director in the company. Hence, in view of the above mentioned facts, the application filed by the claimant becomes infructuous and non-maintainable under the act. It also submitted that the claimant during his tenure in the company was drawing a remuneration of Rs. 1,25,000/- per month initially and his last drawn salary was Rs. 2,25,000/- per month which is reflected in the salary slip filed by the claimant himself. The fact that the claimant was drawing Rs. 2,25,000/- per month as salary is an exorbitant amount of remuneration received to be argued as a dispute

which is covered under the act. It is important to mention herein that the Ministry of Labour and Employment vide its gazette notification dated 28.08.2017 had specified Rs. 24,000/- per month as the wages under said sub-section (6) of the act. Therefore, the claimant is not eligible to be considered under the said act, as the claimant in the present dispute is not a 'workman' as defined U/s 2(s) of the act. Lastly, management-2 prayed that claim of the claimant being not maintainable be dismissed.

4. Management-3 in its W.S. stated that the claimant had wrongly issued notice to Multiv Tech solutions pvt. Ltd. in lieu of his alleged dues. It further submitted that the claimant has produced nothing on record to show his employment with management-3 apart from certain agreements which are incomplete and inadmissible. It also averred that Ld. authority under the payment of wages act, Jeevandeep Building, New Delhi vide its order dated 17.11.2021 had dismissed the claimant's claim on several grounds. It also submitted that the claimant is a resident of Agra, Uttar Pradesh which is reflected in the Aadhar card of the claimant and annual tax statement annexed by the claimant, therefore, under no circumstance, the present matter can fall under the jurisdiction of Delhi. Lastly, it also prayed that the present claim be dismissed with cost.

5. Management-4 in its W.S. took various objections *inter alia* that the present claim doesn't fall under the Industrial Disputes Act, 1947; the claimant has wrongly issued the notice to management-4 (Mobito Technologies Pvt Ltd.) in lieu of his alleged dues; the claimant's claim is doesn't fall under the definition of 'workman' as defined under section 2(s) of the act. It also prayed for dismissal of the present claim.

6. Thereafter, the claimant was required to file his rejoinder. However, despite being given a number of opportunities, he

has neither filed his rejoinder nor appeared to pursue his claim. In these circumstances, his 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. The file is consigned to record room.

Dated 04.12.2024.

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