

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. 175/2019

Date of Passing Award- 06th July,2022.

Between:

Smt. Nazirun Khatun,
Through:- Bhartiya Engineering & General Mazdoor Union,
Bharat Mill Charkhi Gate, Plot No.1, Nr. D-Block,
Karpura, New Delhi-110015.

Workman

Versus

1. The Director,
Employees State Insurance Corporation of India,
ESI Hospital, Basi Darapur, New Delhi-110015.
2. Vayudoot Security Services Pvt. Ltd.
Shop No. D-7, Block-H, Sector-22,
Noida-201301.

Managements

Appearances:-

Shri Bake Lal
(A/R)

For the Workman.

None for the management
(A/R)

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 Vayudoot Security Services Pvt. Ltd. and other, 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- 15011/4/2019 (IR(M) dated 21.06.2019 to this tribunal for adjudication to the following effect.

“Whether termination of the services of Smt. Nazirun Khatun, worker w.e.f 17.05.2016 by M/s Vayudoot Security Services Pvt. Ltd., contractor under ESI Hospital, Basi Darapur, New Delhi is just, fair and legal? If not, what relief Smt. Nazirun Khatun is entitled to and from which date? What other directions, if any, are necessary in the matter?”

As per the claim petition the management No.1 ESIC is running hospitals at different locations. For providing service in such hospitals contractors are engaged through tender for providing manpower. Previously one Vishakha Group of company was the contractor and thereafter management No.2 M/s Vayudoot Security Services Pvt. Ltd. was selected as the contractor. The said contractor had engaged the claimant to work in the ESI Hospital and she was working as a housekeeping staff for 5 years. Her last drawn salary was Rs. 9000/- per month. When the claimant was discharging her duties sincerely without giving opportunity of complaint, the management No.2 subjected her to unfair labour practice by not providing appointment letter, annual leave, casual leave, attendance card, bonus and benefits under the EPF and ESI Act. The claimant was very often demanding the same as a legitimate right. She was also demanding the minimum wage declared by the Government of Delhi. Being aggrieved by her demand the management No.2 on 17.05.2016 illegally terminated her service. While doing so neither the notice of termination nor termination compensation or duty pay were paid to her. She visited the office of the management no.2 on several occasions and requested for taking her back to duty. But the management No.2 never considered her request. Having no other remedy available she approached the employees union who filed a complaint on her behalf before the labour commissioner. Though the labour commissioner initiated a conciliation proceeding, the same failed and the Appropriate Government referred the matter to this tribunal for adjudication as per the terms of the reference.

Notices were sent to the respondent no.1 and 2 from this tribunal. Despite service of the notice none appeared on behalf of the managements. Thus, by order dated 19th February 2020 the managements were proceeded exparte and the claimant was called upon to adduce evidence. Pursuant thereto the claimant filed his affidavit and produced certain documents. The documents include the ESI Card the representation sent to management no.1 requesting reinstatement into service documents showing the duty chart of the claimant and endorsement of the authorities on the same on different dates the photocopy of the cheque paid by management no.2 to the claimant towards the salary etc. No cross examination was done to the said statement of the claimant.

The undisputed documents filed by the claimant and the uncontroverted evidence filed by her lead to a conclusion that she was working as a housekeeping staff in the premises of management no.1 by her employer management no.2 for 5 years preceding to 17.05.2016 i.e the date of her illegal termination. The documents filed by her and marked as exhibit WW1/6 (Colly) clearly proves that she had worked for more than 240 days in the preceding calendar year to the date of her termination. But the management no.2 on 17.05.2016 illegally terminated her service and at the time of termination, the provisions of section 25F of the Id Act was not complied. Not only that no list of seniority was displayed and the rule of last

come first go was not followed. Hence, it is held that action of the management no. 2 in terminating the service of the claimant is in gross violation of the provisions of section 25F is illegal and the claimant is entitled to the relief sought for. Hence, ordered.

ORDER

The reference be and the same is answered in affirmative in favour of the claimant. it is held that the action management No.2 M/s Vayudoot Security Service Pvt. Ltd. the contractor under ESI Hospital Basi Darapur New Delhi in terminating the service of the claimant is illegal and unfair for non compliance of the provisions of section 25F of the ID Act. It is directed that the management No.2 shall reinstate the claimant into service within one month from the date of publication of the award with her last drawn salary and shall also pay her 40% of the back wages from the date of termination and till the date of reinstatement without interest within a further period of one month from the date of reinstatement. If the management would fail to pay the back wages as directed, the amount shall carry interest @6% per annum from the date of termination and till the actual payment is made. 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.
6th July, 2022.

Presiding Officer.
CGIT-cum-Labour Court.
6th July, 2022.