

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

I.D. No. 181/2018

Sh. Sunil Kumar, S/o Sh. Shyam Singh

**Address:- R/o House no.-D-2, J.J. Colony, Madanpur Khadar,
Sarita Vihar, New Delhi-110076.**

I.D. No. 92/2018

Sh. Krishan Singh, S/o Sh. Roshan Singh,

R/o Village & Post Office- Rajawali,

Thana- Narakhi, District- Firozabad, U.P.

Through- General Mazdoor Trade Union,

**Address:- S-195/076, Shiv Mandir, Opp. Old Labour Office,
Balmukund Khand, Giri Nagar, Kalkaji, New Delhi-110019.**

Versus

- 1. National Small Industries Corporation (PE),
NSIC Bhawan, Okhla Phase- III, New Delhi-110020.**
- 2. Ashwini Kumar Shukla Security Agency (Contractor),
House of Rohtas, New Line in front of Holi Chowk,
Village- Puchanpur, Sector-23, Dwarka,
New Delhi-110077.**

AWARD

These are the two cases filed by the different workmen against the same management. Having common respondents and same cause of action, these cases are taken together for disposal of these cases. Claims of the claimants are that they were appointed by the management at the post of Security Guards at their last drawn salary of Rs. 21,500/- and 24,900/- respectively. They have honestly worked with the management and no complaints of any kind were made against them. During the services, management had not been providing

any legal facilities i.e. appointment letter, Leave Book, bonus, overtime, weekly and events holidays etc. Management got annoyed with the demands raised by the claimants and had been thrown them out from the services of the management on 10.01.2018 and 30.10.2017 respectively. They had tried to take back their services but failed. They had sent the complaint to the labour commissioner, but, it has yielded no result. Hence, They have filed the present claims.

Management-1 & 2 had filed their W.S. Management-2 i.e. Ashwini Kumar Shukla Security Agency (contractor) denied the relationship of employer and employee. Even, Management-1 had submitted that the applicant/claimant has played a fraud in filing the present false and fabricated documents in order to extort money and to blackmail the answering parties, hence the claimant is not entitled for any relief and the present claims are liable to be dismissed.

Rejoinders have been filed by the claimants affirming the facts mentioned in their claim statement and denied the averments made by the respondents in their respective W.S. After completing the pleadings following issues have been framed vide order dated 21.12.2018 which are given below:-

1. If the proceedings is maintainable.
2. If there exists any employer employee relationship between the workmen and management-1 i.e. NSIC.
3. If the workmen are entitled to reinstatement with all service benefit and back wages.
4. To what other relief the parties are entitled to.

In order to substantiate their claims workmen asked to examine themselves at least. Both the workmen had filed their respective affidavit, however, since for the last four days adjournment had been sought for bringing the claimants into witness box for the purpose of cross-examination, however AR has failed to bring them before this tribunal.

In the absence of any cross-examination of the witnesses, it is the legal settled principle that the evidence should not be read in the cases, because, our country has the adversary system of trial. The cross-examination of the witness is only the matter available to the respondent or the opposite party to discredit the testimony of the witnesses.

In these circumstances when the workmen have not come forward for cross-examination, their testimony can not be read in evidence. Their claims are resulted into dismissal. Their claims stand dismissed accordingly. Awards are passed accordingly. Copies of these awards are sent to appropriate government for notification under section 17 of the I.D. Act. Files are consigned to record room. A copy of this order is placed in each of the file.

08th April, 2024

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