

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 Comp.no. 03/2016 arising in ID. No. 23/2016

Date of Passing Award- 8th May, 2023

Between:

Smt Chitra,
W/o Sh. Prakash Kanti,
C/o Sh. Balvir Saini,
R/o 31/114, Street No. 6,
Bhikam Singh Colony,
Vishwas Nagar, Shahdara,
Delhi-110032.

Workman

Versus

1. Central Board of Secondary Education,
Sikha Kendra, 2- Community Centre, Preet Vihar,
Delhi.

2.M/s New Grown Software Solution (p) Ltd.
Through its Managing Director,
DLF Tower -341, Moti Nagar,
Third Floor, New Delhi.

3. M/s Neha Aviation Management Pvt. Ltd.
Through Its managing Director,
RZA-83 Road No. 4, Gali No.6,
Mahipalpur Extension, New Delhi.

Management

Appearances:-

Shri B.K Prasad, Ld .A/R for the claimant.

Shri M.A Niyazi, Ld. A/R for the management.

AWARD

This is an application filed by the complainant invoking the provision of section 33 A of the Id. Act for violation of the provisions of 33 of the ID. Act during the pendency of ID. No. 23/2016 .

The fact mentioned in the application is that the applicant had been employed by mgt no. 1 w.e.f 14.06.2012 as a computer assistant. Subsequently, on 19.1.2013 she appeared in the walk in interview conducted by the mgt no. 1 and was selected. Thereafter, she was appointed on a monthly wage of Rs.10000/- on contract basis for a period of 6 months. This appointment was renewed from time to time . The mgt no. 1 had barred the claimant from taking any employment outside during the tenure of the contract. She was assured by the mgt no. 1 that her service would be regularized . Suddenly the mgt engaged a contractor who is the mgt no. 2 of this proceeding and the service of the applicant was placed under the said contractor. That contractor was changed after May, 2015 and a new contractor i.e mgt no. 3 was brought in. Though, the contractors were changed, the claimant continued to serve the mgt uninterruptedly . But the claimant was insisting for regularization of her service. Her last drawn wage was 13000/- p.m when the mgt asked her to deposit Rs. 3000/- for their registration under the contractor. The claimant refused to do so. At that time she became pregnant and expecting to deliver a baby in September 2016.

Having ESI no. she was visiting the ESI hospital and as per the advice of the doctor she remained on leave till 18.11.2016 . On 19.11.2016 though she was to join , that was a holiday being Saturday . On 21.11.2016 when she reported for duty, the mgt no. 1 did not allow. By marking her attendance in biometric system she left the office. At that time she was verbally informed about termination of her service. All the efforts made by her to convince the mgt for joining became futile. As there was a dispute pending for regularization of her service the order of termination was illegal and the claimant filed the present application invoking the provision of Section 33 of the ID. Act . In the claim a prayer has been made to declare the order of the termination as illegal and a direction for her reinstatement.

The mgt no. 1 appears and filed written statement denying employer employee relationship and maintainability of the proceeding.

The mgt no. 2 and 3 did not appear and proceeded ex-parte. On the rivals pleading issues were framed by order dated 15.03.2018 in the following manner:

1. Whether there is no relationship of employer and employee between the claimant and management no. 1 CBSE?
2. Whether termination of the claimant is against the provisions of the ID and against the principles of natural justice?
3. Relief.

When the matter was adjourned to workman evidence. The claimant workman filed an application on 15.11.2022 stating therein that w.p.c no. 12994 of 2021 and other connected writ petition are pending before the Hon'ble High Court of Delhi in which the dispute which is the subject matter of this dispute is to be decided as ordered by the High Court . Copy of the order dated 12.08.2021 and 17.11.2021 have been filed. In the petition has stated that the dispute being pending before the Hon'ble High Court does not want pursue the matter before this tribunal and thus wanted to withdraw . The mgt raised no objection. Hence, this award is being passed.

ORDER

The reference be and the same is answered against the claimant since he has no dispute raised against the mgt in this proceeding.

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.
8th May, 2023

Presiding Officer.
CGIT-cum-Labour Court.
8th May, 2023