

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. 20/2016

Date of Passing Award- 8th May, 2023

Between:

The General Secretary,
Delhi Offices And Establishment Employees Union,
13-A, Rouse Avenue, ITO,
New Delhi-110002.

Workman

Versus

1. Central Board of Secondary Education,
Sikha Kendra, 2- Community Centre, Preet Vihar,
Delhi-110092.

2. The Contractor
M/s B. K Enterprises,
B-578, Madi Pur,
Delhi-110063.

Managements

Appearances:-

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

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

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 Central Board of Secondary Education, Sikha Kendra, 2- Community Centre, Preet Vihar, Delhi-110092 and the Contractor M/s B.K Enterprises,B-578, Madi Pur,Delhi-110063 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-42011/19/2016 (IR(DU)) dated 30.03.2016 to this tribunal for adjudication to the following effect.

“ Whether termination of Sh. Inderjeet Singh S/o Sh. Digamber Singh by the management of Central Board of Secondary Education/ B. K Enterprises, w.e.f 16.04.2015 without complying with the provisions of ID Act, 1947 is just, fair and legal? If not what relief the workman concerned is entitled to?”

In the claim petition the claimant has stated that he started working for the mgt no. 1 in the year 2011 in the post of pump operator and his last drawn salary was 7400/- p.m . When he was discharging his work with dedication and continuously the mgt was treating him with unfairness as no letter of appointment, wage slip , leave book etc were granted to him. The benefit of EPF and ESI was not extended to him. Suddenly, the mgt no. 1 outsourced the service of the claimant and the persons like him by introducing a contractor who is the mgt no. 2. The contract between the mgt no. 1 and 2 was sham and intended to camouflage the right of the claimant. Against the will of the

claimant his name was shown in the record of mgt no. 2 even though he was working under the supervision and control of mgt no. 1. When he raised objection, his service was verbally terminated on 15.04.2015. The claimant raised a dispute through the union against this arbitrary order of termination. The conciliation officer though tried for conciliation, the same failed and the appropriate government referred the matter for adjudication. In the claim petition the claimant has prayed for a direction to the management to reinstatement him into the service and grants the legal benefits.

The mgt no. 1 appeared and filed written statement denying his relationship with the claimant as its employer. It has been stated that the claimant was working through the contractor and getting the payment from the contractor. Any person appointed on temporary basis for a contractual work and not through a proper selection process cannot claim regularization and reinstatement.

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

1. Whether the claim is not legally tenable in view of the various preliminary objections taken by the management?
2. In terms of reference.

When the matter was adjourned to workman evidence. The claimant workman filed an application on 15.11.2022 stating therein that w.p 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

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