

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-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 233/2021

Date of Passing Award- 10th Feb.,2023

Between:

Shri Zakir Hussain, S/o sh. Iqramul Haq,
R/o House No. RZ-52, Sayed Nangloi, Paschim Vihar,
Delhi-110087
Through Hindustan Engineering & General Mazdoor Union,
D-2/24 Sultanpuri, Delhi-110086.

Workman

Versus

1.The Branch Manager, Indian Bank,
53, West Avenue Road, Punjabi Bagh, New Delhi-110026.

2.Sood Enterprises,
Plot No. 39, Block -10 Connaught Place,
New Delhi-110001

Managements

Appearances:-

Shri Kailash Kumar,(AR)

For the claimant .

None for the management

For the Managements

A W A R D

This is an application filed u/s 2- A of the ID Act by the workman against the management No.1 and 2 praying a direction to the management to reinstate the workman to service with full back wages and all other consequential benefits.

As per the claim statement the claimant was working as a housekeeping staff in the branch of Indian bank at 53, West Avenue Road, Punjabi Bagh, New Delhi on monthly salary 14000 since 01.5.2014. Though

he was a direct employee of the management bank, the later in order to deprive him of his lawful rights, had shown him employed through a contractor having name M/s Sood enterprises, C.P, New Delhi. The claimant was working under the direct supervision and control of the mgt bank and getting salary from it. The mgt bank was never granting him the appropriate wage nor extending other statutory benefits for which he was often raising objection and demand. In a bid of revenge, on 2.09.2019 his service was terminated by the mgt bank illegally. At the time of termination, neither any notice, notice pay or termination compensation was paid to him. The said act of termination was in gross violation of provision of section 25-F, H and G of the Id. Act. The claimant, through the union gave a demand notice to the mgt which was not considered. He then raised a dispute before the Conciliation Officer where steps were taken for conciliation. But for the adamant attitude of the management the conciliation failed and he filed this case before this Tribunal invoking the provision of Section 2A of the Act.

Though notice was sent and served, none of the management appeared and by order dated 1st June, 2022 they were proceeded ex-parte.

The claimant examined himself as WW1 and filed a series of document which have been marked as WW1/1 to WW1/9. These documents include the appointment letter, the demand notice, the claim filed before the conciliation Officer, the reply filed by the mgt no. 2 before the conciliation officer etc.

The claimant in his affidavit evidence has stated that he was working as an employee of mgt no. 1 bank and the introduction of the agency of mgt 2 is sham and designed to defeat his right and the mgt no. 1 be directed to reinstate him to service with all back wages and continuity of service.

Perusal of the documents filed by the claimant it appears that the appointment letter marked as WW1/9 was issued by the mgt no. 2 ie. M/s Sood Enterprises. The said Sood Enterprises while filing reply before the conciliation officer has admitted to have appointed the claimant w.e.f

01.11.2015. The said management admitted to have enrolled the claimant under the ESIC scheme. The claimant has also filed the documents relating to his ESIC membership wherein mgt no. 2 has been described as his employer. Thus, it is held that the mgt no. 2 M/s Sood Enterprises is the employer of the claimant. Now, it is to be seen what benefit the claimant is entitled to. The claimant has stated that his service was illegally terminated without assigning any reason. He was not served with a notice nor the notice pay or termination compensation was paid to him. This evidence of the claimant stands unrebutted and unchallenged. For non compliance of the provisions of Section 25 F and 25 G of the ID act, the order of the termination is held to be illegal and the claimant is held entitled to the reliefs sought for. Hence ordered.

ORDER

The claim be and the same is allowed against the mgt no. 2 and dismissed against the mgt no. 1 bank. The mgt no. 2 is directed to re-instate the claimant in service forthwith and pay him Rs. 2,00,000/- (2 lac) as a lump sum towards back wages and maintain continuity of his service. The mgt no. 2 is further directed to reinstate him in service and pay the compensation within 1 months from the date of the publication of award failing which the lump-sum amount payable towards back wages shall carry interest @ 9% p.a from the date of this order and till the final 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.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
10th February, 2023.

Presiding Officer.
CGIT-cum-Labour Court.
10th February, 2023.

