

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – CUM –
LABOUR COURT-II, NEW DELHI**

I.D. NO. 97/2019

Sh. Santosh Singh,

Through-The General Secretary, All India Central PWD (MRM)

**Karamchari Sangathan, House No.-4823, Gali no. 13,
Balbir Nagar Extension, Shahdra, Delhi-110032.**

VERSUS

1. **Director General of Works, CPWD,**
Nirman Bhawan, New Delhi-110011.
2. **The Executive Engineer,**
Health Maintenance Division, South West, PWD, Police Line,
Vikas Puri, New Delhi-110018.
3. **Taksali Engineers Works,**
G-14/10A, 1st Floor, Rajouri Garden, Near Main Market, New Delhi-110027.
4. **Shanti Trading Co.**
9/5531, Old Seelampur, West Gali No. 3, Gandhi Nagar,
New Delhi-110031.

AWARD

13.05.2026

1. This is an application filed by the workman U/S 2A of the **Industrial Disputes Act (hereinafter referred as “the Act”)**, alleging his illegal termination by the management. Claimant had stated in his claim statement that he was appointed as a “Lift Operator” on 25.02.2012 at **BR Sur Hospital, Nanakpur, New Delhi**, for operation and maintenance of the hospital lifts. His work was perennial in nature, however, he was

appointed through contractors who were changed from time to time, but he remained in services under each new contractor. His services were terminated by the managements on 25.02.2018 without giving any notice, notice pay, retrenchment compensation, Bonus etc. Consequently, he was constrained to file his case before the Conciliation Officer, New Delhi, for redressal of his grievances, however, no result was yielded. Hence, he filed the present claim u/s 2A of the Act, praying for the following reliefs:

- (i) Reinstatement of his services with full back wages.
 - (ii) Regularization in service from the date of employment with the management of CPWD.
 - (iii) Grant of equal pay for equal work.
2. Respondent no. 1 & 4 had not appeared and were proceeded ex-parte vide order dated 21.10.2019. Respondent no. 2 & 3 have filed their respective written statements.
3. Respondent no. 2, in its WS, has stated that present petition filed by the workman against the management no. 2 is not maintainable in the eyes of law, as the workman had concealed the material facts from this Hon'ble Court. Workman had not stated true and correct facts; termination or appointment of contract is neither belongs to the management nor the workman, it is only belongs to the contractor not a workman. He stated that management no. 2 has no concern and have no liability about the appointment of the workman. Hence, he submitted that claim be dismissed qua him.
4. Respondent no. 3, in its WS, has stated that claim of the claimant is not maintainable in the present form as the "Relief No. 1 of reinstatement" sought by the workman against more than one management is totally incorrect and untenable. He submitted that workman was given the contract of maintenance and operation of the engineering works of **Dr. BR Sur Homeopathic College and Hospital, Nanakpura, New Delhi vide agreement no. 119/EE(E)/PWD HMED SW/2016-2017** for the maintenance and operation of engineering works i.e. **Pump Sets, Street/Compound Lights, DG Sets, Fire Fighting Systems,**

Lifts for a period of 2 years from 07.10.2016 to 06.10.2018, and that it was only by virtue of the said agreement, the workman herein who was already working as a lift operator, was retained by the management for the period of their contract agreement i.e. 07.10.2016 to 06.10.2018, and that beyond this period, the workman had no lien in any manner with the management, as his employment remained solely time bound. Even otherwise, claim of the claimant seems to be misconceived as after cessation of the contract agreement of the management, the new contractor i.e. management no. 4 stepped in, who though retained some of the earlier employees, but did not opt keeping the present workman. He further submitted that before the Office of Joint Labour Commissioner, S-W District, New Delhi, workman was offered employment at one of their sites at Gurugram, but, workman has refused the offer. Hence, he submitted that claim is liable to be dismissed.

5. After completion of the pleadings, vide order dated 26.04.2022 followings issues have been framed:

- (i) Whether the proceeding is maintainable.
- (ii) Whether there exist employer and employee relationship between the claimant and the management no. 1 CPWD.
- (iii) Whether the service of the claimant was illegally terminated by the management no. 1.
- (iv) Whether the claimant though offered the employment by management no. 3 refuse to accept the same.
- (v) To what relief the claimant is entitled to.

6. In order to prove his case, workman had entered into the witness box. He has reiterated the same facts as mentioned by him in his claim statement. He has filed his affidavit, exhibited as **Ex. WW1/A**. He has relied upon the seven documents i.e.:

- (i) **Ex. WW1/1**- Copy of letter dated 25.07.2018 sent to the Executive Engineer, Health Maintenance Board, South West, and PWD Maintenance.
- (ii) **Ex. WW1/2**- Copy of letter dated 27.11.2018 sent to the management through union.

- (iii) **Ex. WW1/3-** Copy of proceedings/complaint filed before the Conciliation Officer.
 - (iv) **Ex. WW1/4-** Copy of certificate issued under section 2-A of the Act.
 - (v) **Ex. WW1/5-** Copy of letter dated 29.09.2016 regarding award of contract to M/s Takshali Engineers Works.
 - (vi) **Ex. WW1/6-** Copy of letter dated 18.05.2018 denying the conversation held on 17.05.2018 in the presence of the Labour Enforcement Officer.
 - (vii) **Ex. WW1/7-** Copy of objection letter denying the alleged settlement receipt filed by management no. 3.
7. In rebuttal, management no. 3 filed its affidavit, exhibited as **Ex. M3W1/A**. He has reiterated the same facts as mentioned in his written statement. He has relied upon the documents i.e.:
- (i) **Ex. M3W1/1-** Copy of letter dated 29.09.2016 regarding award of contract for the period of two years from 07.10.2016 to 06.10.2018.
 - (ii) **Ex. M3W1/2-** Copy of e-mail dated 17.05.2018 extending the offer to the workman.
 - (iii) **Ex. M3W1/3-** Copy of reply dated 18.05.2018 sent by the workman showing his inability to resume duties at the said site.
 - (iv) **Ex. M3W1/4-** Copy of full and final settlement with the workman.
 - (v) **Ex. M3W1/5-** Copy of salary details of workman from 04.10.2016 to 25.02.2018.
8. The entire case of the claimant is centered around the fact that management no. 3 had been awarded the contract from 07.10.2016 to 06.10.2018 and had terminated the services of the workman on 25.02.2018 without any rhyme and reason. Though, the claimant filed the claim against the management no. 1, 2, 3 & 4, however, his primary grievance is against the respondent no. 3, who retained him as a "Lift Operator" and subsequently terminated his services. AR for the workman has drawn the attention of this Tribunal towards the cross-examination of the management witness (M3W1), wherein the witness admitted to have been awarded the contract already exhibited as Ex. WW1/5 and Ex. M3W1/1. It was admitted that he did not issue the appointment letter to the workman. AR for the workman further drawn the attention of the management-3, where he admitted that workman has worked for less

than two years with management no. 3 i.e. 04.10.2016 to 25.02.2018. On Feb, 2018, salary of the workman was Rs. 11,472/-. He further admitted that no compensation had been paid to the workman at the time of final settlement.

9. Per contra, counsel for the management no. 3 submitted that, in the year 2017, Delhi Government had enhanced the minimum wages by approximately 40% and he had written to the executive engineer for enhancement of the value of the contract, keeping in view of the enhancement of the minimum wages which was declined and for this he himself had written to the executive engineer to close the contract and the management has forfeited his security deposit after closing of the contract. Hence, the service of the workman stood came to an end on 25.02.2018. In the backdrop of these arguments, the issues in hands are decided.
10. Before proceeding further, text of section 25F, G and H of the Act are required to be reproduced herein:

25F. Conditions precedent to retrenchment of workmen: No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be

specified by the appropriate Government by notification in the Official Gazette].

25G. Procedure for retrenchment.—*Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*

25H. Re-employment of retrenched workmen.—*Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 4[to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman] who offer themselves for re-employment shall have preference over other persons.*

11. On perusal of the above said sections, it is inferred that the claimants have no absolute right to remain in the employment of the management. The management can discontinue or retrench the workmen who have completed not less than one year of service under the employer if he has given a one month notice in writing indicating the reason for retrenchment and the period of notice has expired or he has paid the wages in lieu of notice period. The second condition is that the retrenchment compensation shall also be paid equivalent to 15-days of average pay for every completed year of continuous service. Besides this, appropriate government shall also be informed regarding the retrenchment.

12. It is admitted fact that it is the management no. 3, who has retained the workman as “Lift Operator” upon initiation of the contract, which started from 04.10.2016 to 25.02.2018. He has terminated the services of the workman without complying with the provision of Section 25F of the Act. Whatever the reason may have been, the services of the workman could not have been terminated in such a manner. The offer given by the management no. 3 before the redressal forum does not absolve it of liability and appears to have been made only to avoid legal consequences. The offer was made for employment at Gurugram, whereas the workman had been performing duties in Delhi. Moreover, acceptance or refusal of such an offer does not provide any leverage to the employer against the act of illegal termination.
13. In the light of the above discussion, issue no. 1 is decided in favour of the workman and against the management, holding that the proceedings are maintainable. The evidence suggests that an employer and employee relationship existed between the claimant and the management no. 3 i.e. Taksali Engineers Works, because workman had admittedly been retained by the management no. 3 as “Lift Operator” upon initiation of contract by management no. 1 and 2. As earlier held that the services of the workman were illegally terminated by the management no. 3. Accordingly, issue no. 3 is decided in favour of the workman and against the management no. 3.
14. Now, the question arises as to what relief the workman is entitled. As a general rule, when termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. It has been held by the Hon’ble Supreme Court of India in the case titled as **Employers, Management of central P& D Inst. Ltd. vs. Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator. Similar views were expressed by Hon’ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt.**

Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219 wherein it was held by the court that even if the termination is found to be illegal, the relief of reinstatement with full back wages need not be granted automatically, and the relief may be moulded according to the facts and circumstances of each case, and the court can allow compensation to the claimant instead of reinstatement with back wages. The same principle has been reiterated by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC**, wherein it was observed that upon dismissal being aside by a court of Law, reinstatement with full back wages is not an automatic relief and in certain situations, lump sum compensation is a better relief.

15. Given these circumstances, a lump sum compensation of Rs. 3,00,000/- (Rupees Three Lac Only) is considered an appropriate relief. Hence, management-3 i.e. Taksali Engineers Works, is hereby directed to pay compensation of Rs. 3,00,000/- (Rupees Three Lac Only) to the claimant within two months of notification of this award, failing which the management-3 shall also pay interest @ 9% per annum on the aforesaid amount from the date of award until realization. A copy of this award be sent to the appropriate government for notification under section 17 of the Act. The file is consigned to record room.

Date: 13.05.2026

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