

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

I.D. No. 175/2021

Sh. Badri Prasad Mishra, S/o Sh. Ram Ji Mishra,
R/o- RC-109, Dharam Vihar, Khoda Colony,
Near Tiwari Medical Store, Ghaziabad, Uttar Pradesh-201309.

Versus

1. The Managing Director,
Kotak Mahindra Bank Ltd.
Registered Office At: 27-BKC, C-27,
G-Block, Bandra Kurla Complex Mumbai-400051.

Also At : Plot No. 07 Sector-125, Near Amity University,
Noida-201313.

2. Avon Solutions & Logistics Pvt. Ltd.,
Registered Office At: No.01, Deepak Complex,
3rd Floor, Bharathi Nagar, 4th Street, T Nagar, Chennai-600017.

Also At : Roots Tower, Near-V3S Mail, 7th Floor 711,
Laxmi Nagar, Delhi-110092.

AWARD

This is an application U/S 2A of the **Industrial Disputes Act (here in after referred as an Act)**. It is the case of the claimant that he was appointed as “Mailroom Staff (Runner)” in the management on 01.09.2016 and had been working with management at the last drawn salary of the workman of Rs. 13,350/- per month. The management no.-1 is the principal employer and the management no.-

2 is the contractor of the workman. Workman performed his duties with hard labour and due diligence and to the entire satisfaction of the management and he never gave a single chance of any type of complaint to the management during his service period. Workman used to work for management for more than the time scheduled for his duty and even on Sundays and holidays. The salary of the workman was less than the minimum wage Act determined by the Delhi Government under the Minimum Wages Act 1948. Workman was aware of his legal rights and wanted his full wages as determined under the Act. On 22.07.2019 the workman received a charge-sheet cum show-cause notice from the management. Management with the person of his choice as Enquiry Officer namely **Puneet Saini**, started enquiry into the charges leveled against the workman but no intimation was given to the workman regarding the said enquiry. The inquiry report was also submitted by the inquiry officer on 09.11.2019 which held the workman liable of creating chaotic situation for company's business prospects and not maintaining of discipline and based on the same inquiry report the services of the workman were dismissed w.e.f 22, October 2019 when in reality no such situation at work place ever arose and because the workman was aware of his rights and was asking for the same from the management he had to pay for the same in the way of his dismissal from his duty. The enquiry conducted by the management is liable to be set aside/quashed on the grounds that the workman was not provided with the documents relied upon the management in enquiry and as such the workman was not given any opportunity to rebut the same. Neither notice of enquiry was served upon the workman nor was notice of enquiry ever received by the workman. The proceedings of the enquiry were not taken place in the presence of the workman. The workman was not provided any opportunity to cross-examine the witnesses produced by the management in the enquiry. Management has produced the witness without supplying any list of witness before starting the evidence by the management. No proceeding/order sheets pertaining to enquiry were ever supplied to the workman. The enquiry conducted by the management is against the principles of natural justice and further enquiry report submitted by the enquiry officer is perverse and therefore the enquiry allegedly been conducted by the

management is liable to be set aside/vitiated. Management had taken revenge from the workman only falsely accused him and terminated the services of the workman based on these false accusations. That after termination of services, the workman visited the office of the management time and again for his reinstatement, but all in vain. The above said acts of the management are highly illegal, unjust, improper, arbitrary, & unconstitutional against the provision of I.D Act. He has gone to the conciliation officer, but, no result was yielded. Hence he has filed the claim. He is unemployed since from his illegal termination by the management i.e. 22.10.2019.

Management-1 & 2 had filed their WS respectively. They had denied the averment made in the claim. Respondent-2 submits that the service record of the workman never been clear many times he alongwith his two other colleague namely **Ravi Kant Tiwari & Vijay Tiwari** remained unauthorized absent from the duties, all these person without any reason wrote a false and fabricated complaint to the management-1. The undersigned management decided to conduct the domestic enquiry against the workman, **Mr. Puneet Saini**, was appointed as “Enquiry Officer” who conducted domestic enquiry to enquire the authenticity of charged leveled in the charge-sheet. Intimation of next date as 30.09.2019 was sent to the workman on 19.09.2019 via speed post at his address as available with the management. The enquiry was conducted on principal of neutral justice and equity, equal and fair opportunity was given to the workman and on 30.09.2021 workman despite having knowledge of holding of domestic enquiry never appeared before the enquiry officer. Thus, due to the non-appearance of the workman in the enquiry, enquiry was conducted an ex-parte. Since the workman was ex-parte and despite having knowledge of next date i.e. 17.10.2019 also did not appear and on that date the undersigned management produced two witnesses i.e. **Sh. Pardeepan C, Manager HR & Finance (MW1)** and **Sh. Nidhin Kumar, Branch Manager, Delhi NCR (MW2)** and after recording their statement the Enquiry Officer submitted his report on 22.10.2019. Since all the charges were duly proved against the claimant accordingly, he was dismissed from the services and the undersigned management also made full and final

and paid amount of **Rs. 43,335/-** to the workman through account transfer. The claim of the claimant is not maintainable and is liable to be dismissed.

From the completion of the pleadings, following issues have been framed Vide order dated 11.01.2023 i.e.:-

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between claimant and management No. 1.
3. Whether the service of the claimant was illegally terminated by management No. 2.
4. To what other relief the workman is entitled to and from which date.

Now, the matters are listed for workman evidence. Today, the AR of the workman submits that he has no contact with the workmen since long; as such he is unable to file the affidavit of evidence of workmen.

In the absence of claimant. Claim of the claimant stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date:- 16.05.2024

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