

**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM –  
LABOUR COURT NO. II, NEW DELHI**

**I.D. No. 258/2021, 260/2021, 263/2021, 265/2021**

**Sh. Bhram Pal, Sh. Kailash Kumar, Sh. Rajender, and Sh. Tinku vs. Ministry of  
Culture and Ors.**

**I.D. no. 258/2021**

**Sh. Bhram Pal, S/o Sh. ShyamLal,**  
Through- BhartiyaMazdoorSangh,  
5239- Ajmeri Gate, Delhi-110006.

**I.D. no. 260/2021**

**Sh. Kailash Kumar, S/o Sh. Bhram Singh,**  
Through- BhartiyaMazdoorSangh,  
5239- Ajmeri Gate, Delhi-110006.

**I.D. no. 263/2021**

**Sh. Rajender Singh, S/o Sh. ShyamLal,**  
Through- BhartiyaMazdoorSangh,  
5239- Ajmeri Gate, Delhi-110006.

**I.D. no. 265/2021**

**Sh. Tinku, S/o Sh. Mangal Singh,**  
Through- BhartiyaMazdoorSangh,  
5239- Ajmeri Gate, Delhi-110006.

...Applicants/Claimants

Versus

- 1. The Secretary, Ministry of Culture,**  
ShastriBhawan, New Delhi-110001.
- 2. O/o DG, Archaeological Survey of India,**  
DhroharBhawan, 24-Tilak Marg, New Delhi-110001.
- 3. The Dy. Superintending, Archaeological Chemist,**  
Archaeological Survey of India,

Delhi Zone, LalQuila, Delhi-110006.

**4. The Director of Science,**

Archaeological Survey of India,  
29, New Cantt. Road, Dehradun,  
Dehradun, Uttarakhand, 248001.

...Management/respondent

**Counsels:**

For Applicant/ Claimant:

*Sh. Ajit Kumar Singh, Ld. AR.*

For Management/ Respondent:

*Sh. Sahil Aggarwal, Sh. Ritik and Ms. Ruby, Ld. ARs.*

**Award**

**17.07.2025**

By this Composite order, I shall dispose of four applications filed under section 2A of the Industrial Disputes Act (**herein after referred to as 'the Act'**) filed by the above-named claimants against the same respondents. Since these applications involve common respondents and same cause of action, these cases are being taken together for deciding the issue of maintainability under section 2A(3) of the Act which sets out the limitation for filing claims. Name and particulars of their employment are given below:

<b>S. No.</b>	<b>Name of Workmen</b>	<b>Designation (Post)</b>	<b>Date of Joining</b>	<b>Date of Termination</b>	<b>Last Drawn Salary</b>
1	Sh. Bhram Pal	Mali	01.11.2014	01.04.2016	Rs. 13538/-
2	Sh. Kailash Kumar	Mali	12.06.2015	31.03.2016	Rs. 9700/-
3	Sh. Rajender Singh	Mali	01.11.2014	31.03.2016	Rs. 9700/-
4	Sh. Tinku	Mali	18.06.2013	12.10.2016	Rs. 9700/-

The present applications have been filed under section 2A of the Act. The claimants were engaged by the management for several years and worked continuously without being given any appointment letter. Their work was regular and sincere, and they were never found guilty of any misconduct or non-attendance. Although they worked for long durations, even beyond 240 days in a year, the management did not give them legal benefits like ESI, PF, bonus, yearly leave, or revised minimum wages. The claimants raised these demands many times, including compliance with the office order dated 15.07.2015 that gave certain benefits to similar workers. However, instead of granting these, the management terminated them without any prior notice, charge-sheet, enquiry, or justified reason. Later, the same work was outsourced to private contractors who demanded illegal money from workers; the claimants refused and were thus not rehired. They sent a demand notice in April 2019 and also approached the Labour Commissioner, but the management didn't settle the issue. The matter was then referred for adjudication. The claimants allege that junior workers were regularized while they were left out, violating Sections 25F and 25G of the Industrial Disputes Act. Since their termination, they remain unemployed and pray for reinstatement with full back wages and benefits.

In response, the management filed a written statement stating that Archaeological Survey of India (ASI) is a Central Government Department functioning under the Ministry of Culture, responsible for the preservation and conservation of ancient monuments and archaeological sites of national importance, as per the AMASAR Act, 1958, and associated rules. It discharges sovereign functions of the State, and by its nature, is not an industry, industrial establishment, or undertaking as per the Act. Consequently, IDA provisions are not applicable to the management or its daily wagers, casual laborers, and the present proceedings are not maintainable before this Tribunal.

It was further submitted that the management's Delhi Circle manages over 111 centrally protected monuments, requiring periodic, short-term maintenance and preservation activities. While it has sanctioned regular staff governed by CCS Rules and DoPT instructions, it occasionally engages casual laborers (like beldars, maalis, bhistis, masons, etc.) purely on a need basis, for short durations (typically 3 to 11 weeks), and wages are paid per Minimum Wages Act. These casual laborers are not part of any sanctioned posts, nor do they hold any right

to regularization or parity with permanent staff. It was submitted that the applicants herein were engaged intermittently against seasonal or estimate-based work and were never appointed against any sanctioned or regular post. Their names do not figure in the alleged office order dated 15.07.2015, and no evidence exists to support any claim of continuous service or entitlement under the IDA. All engagements were strictly casual and non-continuous, in line with government instructions, particularly DoPT OM No. 49014/2/86-Estt. (C) dated 07.06.1988, and subsequent office memoranda dated 14.06.2016 and 26.07.2016, which directed strict compliance regarding engagement of casual labor. In light of these policies, the applicants were disengaged w.e.f. 01.04.2016.

With the implementation of the 6th Pay Commission, Group D posts were upgraded to Group C (MTS), and future recruitments to such posts are to be made only through the Staff Selection Commission. Therefore, any request for regularization or reinstatement is untenable in law. Moreover, all maintenance tasks at centrally protected monuments have since been outsourced under GFR Rule 197, further negating the scope of any continued or future engagement of casual laborers. The management relied upon the judgment of the Hon'ble Supreme Court's ruling in ***State of Karnataka vs Uma Devi [(2006) 4 SCC 1]***, where it was held that casual workers cannot claim regularization or parity with regular employees. Lastly, the management prayed for dismissal of these claims.

After completion of pleadings, the following issues were framed for adjudication:

1. Whether the proceeding is maintainable?
2. Where there exists employer and employee relationship between the claimant and the management?
3. Whether the claimant was engaged as a casual worker in the site of the management?
4. Whether the service of the claimant was illegally terminated by the managements?
5. To what relief the claimant is entitled to and from which date?

During the pendency, an application under 11 (3) (b) of the Act was filed by the AR for the claimants, seeking direction to the managements for production of certain documents. At that time, this

tribunal observed that these claim petitions were filed beyond the period of limitation prescribed under section 2A (3) of the Act.

Before we proceed further, it is necessary to produce the text of section 2A:

*“2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.- [(1)] where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*

*(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this act and all the provisions of this act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*

*(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).*

A perusal of the aforesaid section clearly establishes that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman Under section 2A of the act, and it is not necessary that such disputes should be sponsored by a trade union or a substantial number of workmen. However, what is required is that a workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after the expiry of 45 days from the date he has made an application to the conciliation officer of the appropriate government for conciliation of the dispute. Sub-section (3) of section 2A lay down the time limit for making such application to the Labour Court or Tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without affecting the remedy available under section 10 of the act.

Reading of section 2A (3) leads to an irresistible conclusion that time stipulated for invoking jurisdiction of the Labour Court or the Tribunal as the case maybe, has to be necessarily before the expiry of three years from date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1). It is mandatory, not directory.

Now, in the present cases, admittedly, the services of workmen were terminated in 2016 (Specific dates given in the table above). The failure of conciliation certificate was issued by the Assistant Labour

commissioner (Central), New Delhi on 26.11.2020 and the claims were filed almost a year after receiving the failure certificate, i.e. on 09.11.2011 almost five years after their termination.

In view of the above discussion, all these four petitions are not maintainable in light of the specific bar of section 2A(3) of the Act. Hence, these claim petitions stand dismissed. The awards are accordingly passed. A copy of this award is placed in each of the files. A copy of this award is also sent to the appropriate government for notification as required under section 17 of the Act. These files are consigned to record room.

Dated 17.07.2025

ATUL KUMAR GARG  
Presiding Officer  
CGIT – cum – Labour Court – II