

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. 205/2019

Date of Passing Award- 18.11.2022

Between:

Shri Prabhakar Pokhriyal,
S/o Shri C P Pokhriyal,
R/o House No. 36-A, 3rd Floor, Cheema House,
Begampur, Mahavir Nagar, New Delhi-110017.

Workman

Versus

1. MMTC,
Scope Complex, Core-I, 7 Industrial Area,
Lodhi Road, New Delhi-110003.
2. Shri Arun D Rosary, CGM, MMTC,
Scope Complex, Core-I, 7 Industrial Area,
Lodhi Road, New Delhi-110003.
3. Shri Girish Kumar Bhowal, Manager, MMTC,
Scope Complex, Core-I, 7 Industrial Area,
Lodhi Road, New Delhi-110003.
4. Shri Puroshattam Kumar Jha, Care Taker, MMTC,
Scope Complex, Core-I, 7 Industrial Area,
Lodhi Road, New Delhi-110003.
5. Prominent House Keeping,
F-67-68, 1st Floor, Manish Global Mall,
Dwarka, New Delhi-110077.

Managements

Appearances:-

Shri S B Shelly
(A/R)

For the claimant

None for the management
(A/R)

For the Management

A W A R D

This is an application filed u/s 2A by the claimant Shri Prabhakar Porkhriyal alleging illegal termination of his service by respondent No.5 and advancing a claim of Rs. 272400/- towards unpaid salary etc.

The facts pleaded in short is that the claimant was working as a supervisor under management No.5 i.e Prominent Housekeeping who had deployed his employees for the job of housekeeping in the office of MMTC at Lodhi Road New Delhi. His job was to supervise the work of other persons employed by the contractor prominent Housekeeping to execute the work of housekeeping. Respondent No.1 is the Principal Employer and respondent no.2, 3 and 4 are the lower functionaries of management No.1. The respondent No.2 , 3 and 4 were acting contrary to their responsibility and collecting a share from the remuneration paid to the employees deployed by the contractor. The claimant had raised complaints in this regard with the higher authorities of management No.1. This created a hostile atmosphere around the claimant. Though he was discharging his duty with utmost sincerity, the respondent no.2, 3 and 4 in connivance with respondent No.5 with the sole intention of harassing him transferred him from MMTC Scope Office to the office at Manesar Haryana Gurgaon by letter dated 14.03.2019. The claimant being a physically handicap person and a low paid employee staying in a rented house in Begampur Area New Delhi was unable to commute from Delhi to Manesar daily meeting the travelling expenses. However, the claimant pursuant to the letter dated 14.03.2019 reported at Gurgaon office. But he was not allowed to join there. In the transfer letter dated 14.03.2019 it was mentioned that his service in New Delhi is no more required. For the non acceptance of joining in Gurgaon Office the claimants service stood terminated w.e.f 14.03.2019. Finding no other way he raised the present dispute praying reinstatement into service and payment of his wage from June 2018 till filing of the claim amounting to Rs. 272400/-. Before filing of this claim the claimant had raised a dispute before the labour commissioner where the conciliation was taken up. But for the adamant attitude of the management the conciliation failed. Hence, this proceeding.

Notice was served on all the managements. Management No.1, 2 ,3 and 4 though appeared and took time for filing WS, later on abandoned the proceeding without filing WS. Management No.5 entered appearance

and filed an application praying rejection of the claim petition for the grounds stated therein. Subsequently management No.5 neither filed WS nor moved the application filed for rejection of the claim. Thus, by order dated 27th April 2022 all the four managements were proceeded exparte and the application filed by M5 was rejected as not pressed. Thereafter the claimant filed his affidavit.

In the affidavit the claimant has fully supported the averments made in the claim petition. In addition to that he has filed the photocopies of his ESI Card, the representations made to the authorities and photocopies of the complaint made by the claimant to NHRC and other authorities. He has also filed the copy of the dispute raised before the Labour Commissioner alleging illegal termination of the service and the reply filed by the MMTC to the said complaint. In the said reply the MMTC has denied its liability as the employer of the claimant. However, the management No.5 had not appeared before the Labour Commissioner.

The evidence of the claimant since has not been disputed and the documents filed by him has remained unchallenged and uncontroverted it is concluded that the claimant was subjected to unfair labour practice for the illegal termination of his service without following the procedure of law laid u/s 25F of the Id Act since, the documents filed by the claimant clearly proves that he had worked for more than 240 days in the calendar year preceding the termination of service pursuant to the letter dated 14.03.2019. On that account the claimant is entitled to one month pay amounting to Rs. 13500/- as one month notice pay alongwith the arrear salary of Rs. 272400/- as claimed by him. Hence, ordered.

ORDER

The claim be and the same is answered in favour of the claimant. The management No.5 being the employer of the claimant is directed to pay Rs. 272400/- towards the arrear salary and Rs. 13500/- equal to one month pay in lieu of one month notice to the claimant. This amount shall be paid to the claimant by M5 i.e. Prominent Housekeeping within two months from the date of publication of this award failing which the amount accrued shall carry interest @ 6% per annum from 14.03.2019 and till the 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.
18th November, 2022.

Presiding Officer.
CGIT-cum-Labour Court.
18th November, 2022.