

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

I.D. No. 56/2009

Sh. Sumit Goswami vs. I.G.L.

Sh. Sumit Goswami

C/o IGL CNG Shramik Sangh, 108,
Kishanganj Market, Old Rohtak Road,
Kishanganj,
New Delhi-110001.

...Applicant/Claimant

Versus

M/s Indraprastha Gas Ltd.,

14th & 15th Floor, 29, Dr. Gopal Das bhawan,
Barakhamba Road, Connaught Place,
New Delhi-1.

...Management/respondent

Counsels:

For Applicant/ Claimant:

Sh. B.S. Rawat, Ld. AR.

For Management/ Respondent:

Sh. Anil Bhatt, Ld. AR.

Award

19.05.2026

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, through the Ministry of Labour and Employment, vide its Order No. L-30012/12/2008-IR(M) dated 16.09.2009, has been pleased to refer the following dispute between Sh. Sumit Goswami and M/s IGL Ltd. for adjudication by this Tribunal in the following terms:

“whether there was any employee and employer relationship between the workman Shri Sumit Goswami, Ex-technician and M/s IGL Ltd., New Delhi? If so, whether the action of the management of M/s IGL, New Delhi in terminating the services of Shri Sumit Goswami, Ex-technician w.e.f. 22.09.2006 is just and legal? To what relief the workman is entitled and from which date?”

On receipt of copy of the reference, the claimant filed his statement of claim. He submitted that he had been in permanent and continuous employment of the management since 01.10.2004, working at the post of Technician under the supervision and control of the management, and drawing a last monthly wage of Rs. 4,742/-. The claimant further submitted that during his tenure, his record was neat, clean, and unblemished. He was entitled to legal benefits as per law and had raised verbal demands in this regard from time to time. Allegedly, this led to annoyance on the part of the management, and on 22.09.2006, his services were terminated without any reason by not assigning him further duty.

He sent a legal notice dated 07.11.2006 to the management, which went unanswered. Thereafter, he approached the Assistant Labour Commissioner, New Delhi, by filing a statement of claim. Though the management appeared in the conciliation proceedings, it filed a false and frivolous reply.

Upon failure of conciliation, the claimant filed the present claim before this Tribunal, praying for reinstatement with full back wages and continuity in service.

In response, the management filed its written statement stating that the claimant is not a ‘workman’ as defined under Section 2(s) of the Industrial Disputes Act, 1947. According to the management, Sh. Sumeet Goswami was employed with M/s Unitech, a contractor earlier engaged by the management for providing certain services, which engagement ended in 1996. The management claimed to be the principal employer under the Contract Labour (Regulation and Abolition) Act, 1970, and M/s Unitech was one of its contractors who had obtained a valid license under the Act.

The management further contended that the claimant was, at times, deployed by M/s Unitech with the respondent company. It was also submitted that the claimant failed to implead M/s Unitech in the present dispute and approached the Tribunal with unclean hands by suppressing material facts. Hence, the claim is liable to be dismissed with costs.

Rejoinder had been filed by the claimant where he denied the averments made by the management in its written statement and affirmed the averments in his claim statement.

From the pleadings of the parties, the following issues were framed for adjudication:

1. Whether there was any employee-employer relationship between the claimant, Sh. Sumit Goswami, Ex-Technician, and M/s IGL Ltd., New Delhi? If so, its effect?
2. Whether the action of the management of M/s IGL, New Delhi, in terminating the services of Sh. Sumit Goswami, Ex-Technician, w.e.f. 22.09.2006 is just and legal? If so, its effect?
3. To what relief is the workman entitled, and from which date?

In order to prove his case, the claimant examined himself as WW1/1 and reiterated the facts as stated in his claim. He relied upon the following documents:

- A copy of the demand notice dated 07.11.2006 sent by the claimant. (Mark A).
- Postal receipt (Mark B).
- G.I. Removal/Modification form dated 03.11.2004 to 17.10.2005 (Page 01 to 36 (Colly)). (Mark C).

During cross-examination, the claimant admitted:

- He did not place on record any document proving that he was employed by M/s IGL.
- He did not lodge any complaint with the police or any authority regarding non-issuance of an appointment letter.
- He did not make any written complaint to M/s IGL in this regard.
- He denied being employed by M/s Universal Energy Ltd./M/s Unitech, a contractor of IGL.

- He denied receiving wages from M/s Universal Energy Ltd. or M/s Unitech.
- He denied that EPF contributions were made by M/s Unitech and deposited under Account Code No. UP/31102 with the Provident Fund Office at the relevant time.
- He admitted that he did not make any written complaint regarding non-payment of PF or ESI benefits.

On behalf of the management, one witness, Sh. Madhav Raman, was examined. He reiterated the contents of the written statement and relied on the following documents:

- A copy of the registration certificate under Contract Labour (Regulation and Abolition) Act, 1970 (Ex. MW1/1).
- A copy of Form 6A of the EPF scheme 1952 and the Employees' Pension Scheme 1995 for the period of 01.04.2005 to 31.03.2007 (Ex. MW1/2).
- A copy of return of contributions deposited by the Employer of the claimant M/s Unitech under ESIC for period of 01.04.2005 to 30.09.2006 (Ex. MW1/3).

During his cross-examination, he admitted:

- The documents shown and marked as 'C' (colly, containing pages 1 to 36) were photocopies of GIC removal/modification forms bearing the claimant's and customers' signatures.
- That in 2005 and 2006, IGL had an agreement with M/s Unitech; however, no document was produced to substantiate the agreement, except the labour license obtained by the contractor under the CLRA Act.
- The documents he referred to were obtained from the EPF office, Lucknow, and pertained to May 2007, while the claimant's alleged termination was in September 2006.

I have heard the arguments addressed by both parties and perused the records. The Ld. AR for the management has emphasized upon the fact that the workman has failed to produce any document to substantiate his claim that he was employed directly with the management. Rather, it has been contended that M/s. Unitech was a vendor and employer of the claimant, which used to provide certain

services and had deployed its employees at the premises of the management. In support of his contention, the management produced a copy of the certificate obtained under the CLRA Act engaging M/s. Unitech as its contractor during the relevant period. The management has also placed a record of a copy of form-6A of the EPF scheme, 1952 and the Employees' Pension Scheme, 1995 for the period from 01.04.2005 to 31.03.2007 concerning the claimant. Further, the management proved on record the returns of contribution deposited under the ESIC by the employer of the claimant i.e., M/s. Unitech under ESIC for the period from 01.04.2005 to 30.09.2006.

The management relied upon the judgments of **Nilgiri Coop. Mkt. Society Ltd. vs. State of Tamil Nadu and Ors., MANU/SC/0100/2004 (decided on 05.02.2004)**, **Shankar Chakravorty vs. Britannia Biscuits Co. Ltd. 1979**; **Manager, Reserve Bank of India, Bangalore vs. S.Mani and Ors. 2005(5) SCC100**, **Range Forest Officer vs. S.T. Hadimani 2002 (3)SCC25**, **Kanpur Electricity Supply Co. Ltd. vs. Shamim Mirza, (2009/1 SCC 20)**, **Automobile Association Upper India vs. P.O. Labour Court-II and Anr., 130(2006) DLT 160**, **Bank of Baroda vs. Ghemarabhai Harijibhai Rabari (2005(10)SCC792)**; **N.C. John vs. Secretary, Thodupuha Taluk Shop and Commercial Establishment Workers' Union and Ors. [1973 Lab. I.C. 398]**, **Babu Ram vs. Govt. of NCT of Delhi and Anr., 247 (2018) Delhi Law Times 596.**, where it was held that the burden of proving the relationship of employee and employer lies entirely upon the claimant/workman. It has been argued that the claimant has failed to discharge the said burden. It was further submitted that even before the conciliation officer, the claimant had admitted that he was employed through M/s. Unitech, yet he failed to implead the said contractor as a party. Accordingly, the management prayed that the claim is liable to be dismissed for non-joinder of necessary parties.

Per contra, the claimant argued that he had been working with the management since 01.10.2004 on the post of Technician at the last drawn salary of Rs. 4,472/- per month and when he demanded legal facilities, his services were terminated on 22.09.2006. The claimant further submitted that the records produced by the ESIC and EPFO authorities are incomplete. It was argued that the record produced by

the PF authority pertains to the year 2007, whereas his services had already been terminated in the year 2006; therefore, the plea of the management that he was employed through M/s. Unitech is false and fabricated.

The claimant relied upon the judgment of Raj Kumar Dixit vs. Vijay Kumar Gauri Shanker, (Civil appeal no. 4370 of 2015, decided on 12.05.2015) [(2015) 9 Supreme Court Cases 345], wherein the Hon'ble Supreme Court held that where the respondent firm had authorized the appellant/workman through a special power of attorney to undertake work on its behalf, the relationship of employer and employee was established. Relying upon the said judgment, the claimant contended that MW1, in his cross-examination, admitted that in the year 2006 the office of IGL was situated at Gopal Das Bhawan, 14th-15th Floor, 29, Barakhamba Road, Connaught Place, and further admitted having received the notice sent by the claimant through registered post in the year 2006. The claimant also drew attention to the admission of MW1 that upon receipt of technical complaints, employees of IGL used to visit the houses of customers to resolve the problems.

It was further pointed out that MW1 admitted the documents marked as 'C' (pages 01 to 36), consisting photocopies of GI removal/modification forms containing the signatures of the claimant as well as the concerned customers. The claimant further highlighted the admission of MW1 that no document evidencing the award of contract to M/s. Unitech had been filed except the labour licence obtained under the CLRA Act. MW1 also admitted that the documents relied upon by him were records obtained from the EPF Office, Lucknow, pertaining to May, 2007. He further admitted that no document had been filed to establish that during the relevant period the claimant was working under the said contractor.

It is a well-settled principle of law that the onus to prove the relationship of employer and employee rests upon the claimant. His appointment letter, wage slip and the mode of payment are essential ingredients for establishing the relationship. However, it cannot be said that in the absence of these documents, the relationship of employer and employee cannot be established from the material available on record. It can be established by circumstantial evidence, ancillary evidence or secondary evidence.

Here, the MW1 admitted that the document marked as 'C' (pages 01 to 36) consisting photocopies of GI removal/modification form containing the signatures of the claimant as well as the concerned customers. Here, the management has failed to produce any documentary evidence in rebuttal that at the relevant time, it had entered into contract with M/s. Unitech Ltd. for the above said period and the wages bills had been paid to the contractor of the claimant.

The labour license obtained by the CLRA Act has nothing to do with the present matter. Even the record produced by the management from the office of EPFO, Lucknow pertaining to May, 2007 while the claimant alleged that his services were terminated by the management in the year 2006 itself.

Non-production of the contract entered by management with M/s. Unitech Ltd. as alleged of the relevant period has established that the claimant was the employee of the management. Further, non-production of the record coupled with the fact that the management has not called witnesses from M/s. Unitech Ltd. to establish that the claimant was employed by M/s. Unitech Ltd. at the premises of the management, the claimant has, therefore, proved that it was an employee of the management of I.G.L., and the issue no. 1 goes in favour of the claimant and against the management.

Coming to issue no. 2, Section 2(oo) defines the term 'retrenchment' while section 25F of the Act has set out the conditions to be complied by an employer before retrenching a workman. Definition of section 2(oo) and section 25F of Act are as follows:

[(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or] (

c) termination of the service of a workman on the ground of continued ill-health;]

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].

The said section itself created four exceptions where the termination of services of the claimant does not come within the definition of 'retrenchment'. The section itself creates a bar upon the retrenchment when the services were terminated by way of punishment.

From the pleadings and evidence placed on record, it stands established that the claimant had been working continuously with the management and that his services were terminated on 22.09.2006 by not assigning him any further duty. The management has failed to place on record any material to show that the claimant's services were

terminated for any misconduct or under any exception carved out under Section 2(oo) of the Industrial Disputes Act, 1947. The termination of the claimant, therefore, squarely falls within the definition of “retrenchment” as provided under Section 2(oo) of the Act.

If the management intended to retrench the claimant, it was required to comply with the mandatory provisions of Section 25F of the Act by giving one month’s prior notice or wages in lieu thereof. Additionally, the management was also required to pay retrenchment compensation equivalent to 15 days’ average pay for every completed year of continuous service.

However, there is nothing on record to show that prior to terminating the services of the claimant, the management had complied with the mandatory provisions of Section 25F of the Act by giving one month’s notice or wages in lieu of notice and by paying retrenchment compensation to the claimant at the time of termination. Non-compliance of the mandatory conditions prescribed under Section 25F renders the retrenchment illegal and unjustified. Accordingly, the termination of the services of the claimant is held to be illegal and unjustified.

Now, the question that arises is with regard to the relief to which the claimant is entitled to. As a general rule, where termination is declared illegal, the appropriate relief is reinstatement with full back wages. However, it has been held by the Hon’ble Supreme Court of India in **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 where the termination is held illegal and compensation can be granted instead by the industrial adjudicator. Similar views were expressed by the Hon’ble High Court of Delhi in **Indian Hydraulic Industries Pvt. Ltd. vs. Kishan Devi and Bhagwati Devi & Ors.**, wherein it was held 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, including grant of compensation in lieu of reinstatement and back wages. The same principle has been reiterated by the Hon’ble Supreme Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik (2025 (INSC) 218)**, wherein it was held that reinstatement with full back wages is not an

automatic relief and, in appropriate cases, lump sum compensation may be a more suitable relief.

Considering the facts and circumstances of the present case and prolonged litigation faced by the claimant, lump sum compensation of Rs. 5,00,000/- (Rupees Five Lakhs Only) is considered an appropriate relief in lieu of reinstatement. Accordingly, a lump sum compensation of Rs. 5,00,000/- (Rupees Five Lakhs Only) is awarded to the claimant in lieu of reinstatement and back wages. The management is directed to pay the said amount within two months from the date of publication of this Award, failing which the amount shall carry interest @ 8% per annum from the date of Award till its realization.

A copy of this Award be sent to the Appropriate Government for notification under Section 17 of the Industrial Disputes Act, 1947. The file is consigned to the Record Room.

Dated 19.05.2026

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