

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

I.D. No. 219/2021

Sh. Sant Lal, S/o Sh. Ram Ashrey,
Through- The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No-04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana-122001.

Versus

1. The Director General,
Central Public Work Department,
Nirman Bhawan, New Delhi-110001.

2. **Dy. Director (Horticulture), CPWD,**
1st Floor, C-Wing, Room No.-104
Container Corporation of India Ltd.
Inland Content Depot, Tughlakabad, New Delhi-110020.

3. **Til Ltd.**
Plot No-11, Site-IV, Shibabad Industrial Area,
Uttar Pradesh-201005.

AWARD

This is an application of **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)**. Claimant had stated in their claim statement that he had joined into the employment of CPWD w.e.f. 18.01.1983 as a Mali. His wages was fixed and was revised from time to time under the Minimum Wages Act by the appropriate government while their counterparts has been getting more wages who were regular with the respondent, but he was not given. Job against which

the workman aforesaid have been working is of permanent and regular in nature. Not providing the Equal pay for Equal work is unfair practice, hence he made prayer that an award be passed in favor of the workman holding therein that the workman concerned are entitled to be regularized.

In the present case, reply has been filed by the CPWD. Issues have been framed. But this tribunal, while going through the record had come to the fact that the present case have been filed U/s 2A of the Act while his service have not been terminated yet.

U/S 2A of the I.D Act which has been inserted 1967 has given the option/liberty to individual workman to approach directly before this tribunal against their termination, retrenchment, dismissal without being referred by the appropriate Government for deciding the disputes.

In the present case failure report has been obtained by the claimant and he has filed the claim petition. Before we proceed further, text of the Section 2A is required to be reproduced which are given under:

[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)].

From the perusal of the above said section, it makes clear that individual workman has given the rights/option to approach directly before this tribunal against discharge, dismissal & retrenchment, however, further rider have been made by adding Sub-section 2 that first the workman has to approach to the conciliation officer for conciliation and the forty-five days have been passed therein. Sub-clause-3 further impose the condition that the claim has to be filed with three year from the date of the dismissal.

From the fact of this case, it is revealed that the service of the workman has not been terminated nor he was retrenched, therefore the claim U/s 2A is not maintainable. Hence claim of the claimant stands dismissed. Award is passed accordingly. 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 21st May, 2024

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