

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. 146/2021
Date of Passing Award- 22nd May, 2023

Between:

1. All India ITDC Trade Union Federation
(HMS & Independent Federation),
Through- Sh. S.S. Upadhyaya, The President,
C-47, Ashok Hotel Staff Quarters,
50-B, Chanakyapuri, New Delhi-110021.

2. All India ITDC Worker's Federation(INTUC
Affiliated Unions Federation),
Through- Sh. S.K Khurana, C-201,
Ashok Hotel Quarters,
50-B, Chankyapuri, New Delhi-110021.

Workmen

Versus

India Tourism Development Corporation(ITDC),
Scope Building, Core-08,6th floor,
7 Lodhi Road, New Delhi-110003.

Management

Appearances:-

Shri S.S Upadhaya , Ld. A/R for the claimant.

None for the Management ITDC

A W A R D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. India Tourism Development Corporation(ITDC) and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/74/2021IR(DU))

dated 06.08.2021 to this tribunal for adjudication to the following effect.

“ Whether the action of the management of ITDC is non payment of HRA to non-Executive employees on revised wages w.e.f 22.05.2018 i.e. the date from which Executive of the Corporation are being paid revised HRA, and recovery of food allowance of Rs.250/-w.e.f. 01.01.2017 from non Executive employees, amounts to violation of partite settlement dated 20.03.2019, as raised by All India Union Federation (HMS and Independent Federation) and All India ITDC Worker’s Federation (INTUC Affiliated Unions Federation) vide letter dated 24.07.2020? If yes, what relief from non-executive cadre of ITDC are entitled to and what directions, if any, are necessary in this regard?”

As per the claim statement the claimants are two unions functioning for the rights and wellbeing of the employees working for ITDC and both the unions have been recognized by the Management of ITDC. The ITDC on intervals signs the bipartite wage settlement to ensure payment of due wage and other benefits to the employees. This has been in practice since the date ITDC came in to existence. The last settlement was for the period 01.01.2007 to 31.12 2016. The next settlement was due from 01.01.2017. Hence the Management started negotiating on the said issue with the Federation, which started in August 2018 and concluded on 20.03.2019 and a memorandum to that effect was signed on 20.03 2019 between the Federation and the committee constituted for the purpose by the C M D of ITDC. As per clause 8 of the said memorandum of settlement, HRA is payable to all the non executive employees of ITDC on the revised pay as per the settlement w. r. f. 22.05.2018, the date on which the executive employees were paid HRA on the revised pay. But the management in stead of paying HRA to the non executive employees from that date on the revised pay, paid it w. e. f. 06.06.2019 in contravention of the terms of the Bipartite settlement. Not only that, the management of ITDC, also withdrew the meal allowance paid to the non executive employees @Rs 250/- per month and also recovered the amount already paid from the arrears, where as the executive employees working in HCE unit are enjoying the free meal facility. Being aggrieved by such discrimination, the claimant unions raised the demand. But no solution could be arrived. Hence, the claimant unions raised a dispute

before the Labour Commissioner and steps were taken for a conciliation. But for the adamant attitude of the management, conciliation failed and the appropriate Govt. referred the matter for adjudication of the dispute in terms of the reference. A prayer has been made to direct the management of ITDC to pay HRA to the non executive employees on the revised pay w. e. f. 22.05.2018 the date from which it has been paid to the executive employees and to continue payment of food allowance @Rs 250/- per month from 01.01.2017, and refund of the food allowance recovered from the arrear with interest.

Notice of the claim petition was served on the management of ITDC. But the said management though had appeared on receipt of the notice, opted not to contest the proceeding and did not file written statement. Hence by order dt 27.09.2022, it was proceeded ex parte.

The claimant unions filed the documents in support of their stand and expressed that no oral evidence need to be adduced since their claim is based upon the bi partite settlement and other documents.

The claimant unions have filed the copy of the resolution passed in the meeting of the two claimant unions to raise the demand with the management as has been stated in the claim petition. In addition to this the claimants have filed the copy of the demand notice sent in respect of the demands to the CMD, ITDC and the memorandum of settlement signed between the claimant unions and the management of ITDC on 20.03.2019. as per clause 8 of the said memorandum, the rates of HRA has been revised variably in respect of different category of cities. It was also agreed that therevised HRA along with the revised pay shall be paid to the executive employees w. e. f. 24.05.2018 and the demand for payment of revised HRA to the non executive employees from that date shall be referred to the Board of Directors for their approval and till then the HRA shall be paid in the pre revised rate. Surprisingly, more than four years have elapsed in the mean time. The management has not come up with information as to what happened to the recommendation. There is no evidence before this tribunal to believe if any reference in this regard has been made or not. The delaying action of the management in this regard amounts to denial of the benefit to a section of the employees without any convincing reason amounts to unfair labour practice defined under law.

In clause 12 of the memorandum of settlement it has been mentioned that the Meal Allowance shall stand dispensed with in respect of all the employees. It is the stand that the executive employees are still enjoying the benefit whereas the facility has been denied to the non executive employees and the food allowance paid has been recovered. But this stand as taken in the claim petition has not been substantiated by the claimant either through oral or documentary evidence. Hence the Tribunal has no evidence to hold that the management has exhibited a discriminatory attitude towards the non executive employees by discontinuing the food allowance and by making recovery of the amount already paid. Hence relief in this regard can not be granted to the claimants. Hence ordered.

ORDER

The reference be and the same is partly allowed in favour of the claimants and partly rejected. It is held that the decision of the management in not paying House Rent to the Non Executive employees on revised wage w. e. f. 22.05.2018, as has been paid to the executive employees is illegal and contrary to the terms of settlement dt 20.03.2019. the management is directed to extend the said benefit to the non executive employees from the date it has been paid to the executive employees and continue payment of the same along with each month salary. management shall give effect to this direction within one month from the date of publication of the award and pay the arrear house rent of the employees within two months from the publication of the award without interest failing which the amount accrued in favour of individual employee shall carry interest @6% from the date of accrual and till the final 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.

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
22nd May, 2023

Presiding Officer.
CGIT-cum-Labour Court.
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