

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-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 201/2021
Date of Passing Award- 22nd May,2023

Between:

Sh. Shyam ji, S/o Sh. Ram Narayan,
C/o All India Central PWD (MRM)
Karamchari Sangathan, House No-4823,
Gali No.13, Balbir Nagar Extension,
Sahadra, Delhi-110032.

Workman

Versus

1. Larsen & Toubro Ltd.
Pragati Maidan Project, Bhairo Road
T Junction, Near Pragati Maidan Power
Station, Ring Road, New Delhi-110001.
2. Nihal Enterprises,
301, 3rd Floor, Samrajya Complex,
Near Srawan Chokdi,
Bharuch, Gujrat-392001.

Managements.

Appearances:-

Sh. Vijay Pal. Ld. A/R for the claimant
None for the management

A W A R D

This is an application filed u/s 2- A of the ID Act by the
workman against the managements praying a direction to the

managements to reinstate the workman into service with full back wages and all other consequential benefits.

As per the narratives in the claim statement, the claimant had joined in the establishment of Mgt No 1 i.e M/S Larsen& Turbo Ltd. on 05.03.2010 as a civil mate through the sub contractor Nihal Enterprises and continued to work till 06.01.2021, when his service was illegally and abruptly terminated. His last drawn salary was 21,178/- per month. During this period the claimant/ work man had worked continuously and uninterruptedly for Mgt No 1, under it's direct supervision and control as the said Mgt being a contractor was executing one construction project having name "Integrated Transit Corridor Development Plan in and around Pragati Maidan" and the Mgt No 2 is another contractor engaged for supply of materials to Mgt No 1. The Mgt No 1 was indulged in unfair labour practice by not depositing the PF and ESI contribution deducted from monthly wage. When his service was terminated by a verbal order, no notice of termination, notice pay or retrenchment compensation was paid by the Management No 1 or 2. Not only that his duty pay for one month and five days was not paid, even if demanded. Being aggrieved, the claimant filed an application before the conciliation officer. But for the adamant attitude of the managements, no conciliation could be arrived. On receipt of failure report, the claimant filed this application invoking the provisions of sec 2A of The ID Act. In the claim petition, the claimant has prayed for reinstatement in to service with full back wages, payment of appropriate wage and overtime allowances and all other benefits as would deem fit.

Notice of the claim was served on both the managements. But they did not appear and no WS was filed. Hence by order dt 17.08.2022, they were proceeded ex parte.

The claimant testified as WW1 and produced few documents in support of his stand. The documents filed include the ID card issued to him by L&T Ltd, the wage slip of Dec 2020 and Jan 2021 issued by Mgt No 2, the safety instruction card issued by Mgt No 1, 4nos of service certificate issued by Mgt No 1, the reply given by Mgt No1 to the conciliation officer and the Adhar card of the claimant. No evidence in rebuttal was adduced by the managements since they were proceeded ex parte.

In his sworn testimony, the claimant has stated that he had joined the employment of Management No 1 on 05.03.2010 and was working under its supervision and control till the date of his illegal termination. The management No 2 is a sub contractor working under Management no 1 and the claimant had no relationship whatsoever with the management No 2. From the initial date of employment he was working for Management No 1 as a civil mate against a vacant and permanent post and his last drawn salary was Rs 21,178. But the management was indulged in unfair labour practice and not paying the minimum wage and not extending the benefits of EPF and ESI. The claimant was not getting overtime allowance, though he was working for 12 hours a day. No appointment letter was issued to him. Since he was raising demand in respect of his legitimate claims, the management No 1 illegally terminated his service without complying the provisions of sec 25F of the ID Act.

This statement of the claimant has remained unchallenged and un rebutted as the management did not cross examine him. So far as the documents filed by the claimant are concerned, it is found that two salary slips issued to the claimant by Management No 2 have been filed. On the other hand the claimant has filed three service certificates issued by L&T Ltd in the name of the claimant. As per these documents the claimant is working for the Mgt no 1 since the year 2010 in different projects at different sites executed by the Mgt no1 as the contractor. Even if few salary slips have been issued by Mgt no 2, the oral evidence coupled with the documents like service certificate, ID Card, Safety Card etc lead to a conclusion that the claimant was under the employment of Mgt no 1 till termination of his service.

Now it is to be decided as to what relief the claimant is entitled to. The learned AR for the workman argued that the service of the workman has been terminated without complying with the mandatory provisions of sec 25F of the ID Act. On that ground only the order of termination of service is liable to be set-aside. Since the claimant had worked continuously for the management no 1 for more than 10 years and he is unemployed despite his effort to find out an alternative job, ends of justice would be met by an order of reinstatement. He also pointed out that before terminating the service of the claimant the provisions of sec 25G were not complied too. This again makes the order of termination illegal. To support his argument, he placed reliance in

the case of **Harjinder Singh vs Punjab State Warehousing Corp & another AIR 2010 SC 1116** and submitted for compliance of the provisions of sec 25G of the ID Act, it is not necessary on the part of the claimant to show that he had worked for 240 days in a calendar year before termination. He also argued that the termination is also in violation of sec 25 N of the ID Act and the claimant is entitled to the relief of reinstatement with full back wages. To support his argument he has placed reliance in the case of **Deepali Gundu Surwasevs Kranti Junior Adhyapak Mahavidyalaya and others (2013) 10 SCC 324.**

Thus on hearing the argument and considering the evidence the conclusion is that the service of the claimant has been illegally terminated by Mgt no 1 and he is unemployed since the date of termination. The circumstances justify his reinstatement into service with full back wages. Hence ordered.

ORDER

The claim petition be and the same is allowed. The termination of service of the claimant by Mgt No 1 is held illegal. The management no 1 is directed to reinstate the claimant in to service with full back wages from 06/01/2021 and till the date of reinstatement. The management no 1 is further directed to release the unpaid wage of the claimant for one month and five days. The above said direction shall be carried out by Mgt No 1 within two months from the date of publication of the award failing which the financial benefits accrued in favour of the claimant shall carry interest @6%per annum 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.

Dictated & Corrected by me.

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

Presiding Officer.
CGIT-cum-Labour Court.
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