

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. 248/2019
Date of Passing Award- 22nd May, 2023

Between:

Sh. Sanjay, S/o Sh. Roop Chand,
R/o House No. A-9, Gali No. 01,
Bank Colony Road, Mandoli Extn.
Delhi-110093

Workman

Versus

1. The Chief Engineer (Elect.)
NDMC Headquarter, Civic Centre,
New Delhi-110002.
2. Gyan Enterprises,
Office-68, Model Basti, Karol Bagh,
New Delhi-110005.

Managements.

Appearances:-

Sh. Santosh Singh. 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 application filed, the claimant workman was in continuous employment of the management w. e. f. 27.01.2018 and till 11.12.2018, when his service was illegally terminated by the management. During this period, he was discharging the duty as an

electrician and his last drawn salary was 15,000/- per month. He was engaged through the agency/S Gyan Enterprises, the management No 2 herein and deputed to work at Hindu Rao Hospital, under the direct supervision and control for management No 1. During this period he was working continuously under Mgt No 1 and worked for 240 days in the calendar year preceding the illegal termination. During the course of his employment, he was discharging his duty with utmost sincerity and had never gave the employer any scope of complaint. But the employer was not providing him the legal facilities like minimum wage, bonus, facilities under the EPF&ESI Act. He was not provided with appointment letter and wage slip. On account of this, the workman was often raising complain. Being annoyed by the same, on 11.12.2018, the management terminated his service illegally. At the time of termination, he was neither served with a notice of termination nor the termination compensation was paid to him in compliance to the provisions of ID Act. The action of the management in terminating his service is illegal and contrary to the provisions of ID Act. Hence, the claimant has prayed for a relifin the nature of a direction to the managements to reinstate him in service with full back wages and continuity of service.

Notice of the proceeding was served on both the managements. But the managements opted not to contest and did not appear. Hence by order dt 11th May 2022.

The claimant filed his affidavit as evidence supported by few documents. The documents are one appreciation letter issued by Management No 1 and the demand notice served on the managements before filing the claim.

In the affidavit filed the claimant has stated that for redressal of the grievance for termination of service, he had made a representation to the management. Since he received no response, on 14.01.2019, served demand notice and after a reasonable time, raised a dispute before the labour commissioner. Though a conciliation proceeding was initiated, for the adamant attitude of the management no fruitful result could be achieved. On receipt of failure report from the conciliation officer, he filed the claim. He has further stated that the respondent No 2, which is a manpower supply company had engaged him as an electrician. Later he was deployed to work under the management no 1 at Hindu Rao Hospital. There he was working under the supervision and control

of Mgt No 1. The Mgt no 2 had issued an appreciation letter to him. The said letter has been marked as WW1/1. In addition to this the claimant has filed the copy of the demand notice and failure report as WW1/2 & WW1/3. Except these documents, no other evidence has been adduced to prove the relationship of the claimant as the employee of Mgt No 1. But the document filed as WW1/1 proves the employer and employee relationship between the Mgt No 2 and the claimant. The evidence of the claimant to say that his service was terminated illegally without complying the provisions of ID Act has remained unchallenged and uncontroverted for the absence of the Respondents in this proceeding. Hence it is concluded that the service of the claimant was illegally terminated by Management No 2 without complying the provisions of sec 25 F of the ID Act and the said action of Mgt No2 has forced the claimant to this litigation and for the said illegal action of the Mgt No 2, the claimant is entitled to compensation and not reinstatement as the tenure of employment was too small and about one year only. Hence ordered.

ORDER

The claim is allowed ex parte against Mgt No 2 and dismissed against Mgt No 1. The management no 2 is directed to pay the earned wage of the claimant @15000/- per month for the period of 01/11/2018 to 11.12.2018 and an amount of Rs 25000/- as litigation expenses and further amount of Rs 7,500/- as termination compensation. This amount shall be paid to the claimant within one month from the date of publication of award without interest failing which the amount shall be payable with 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.

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