

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

I.D. No. 217/2021

Sh. Girish Chand, S/o Late Sh. Kamal Singh,

Through- The President Ms. Nitika Bhola,
Rashtriya General Mazdoor Union, B-40, 1st Floor,
Boulaward Road, Tis Hazari, Delhi-110054.

Versus

The Director Establishment,

Ministry of Finance, DFS,

New Delhi-110001.

Counsels:

For Claimant: Armaan Bhola, Ld. AR.

For Respondent: Sh. B.C Bhatt, Ld. AR.

AWARD

The present claim has been filed **U/s 2A of the Industrial Dispute Act (herein after referred as an Act)**. In the entire claim, claimant has not stated anything about his employment with the respondent. Entire crux of the case of the workman is that his father was a regular and permanent employee of the management and he was working at the post of MTS (Multi Tasking Staff). He has unblemished and uninterrupted record. His father was expired on 07.09.2013 leaving behind his family member in harness. He has applied for job on compassionate ground, but not given. Nowhere, he has stated that he has ever been given a job temporarily or regular.

Section 2A of the ID Act in which the application has been filed deals with the termination. 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)].

Ld. AR for the workman **Sh. Armaan Bhola** has no answer about the fact, how his application U/s 2A of I.D Act is maintainable. Section 2A has been inserted in the I.D Act in 1965. It gives the individual workman the right to approach the industrial tribunal/labour court directly in case of his discharge, dismissal, retrenchment without sponsoring his case by any union. However, the right is not an absolute. It is conditional that first respondent has to approach the conciliation officer for conciliation and, if the conciliation does not have yielded any result within 45 days. Secondly, this right has to be exercised within three years of dismissal, termination, and discharge.

But, the fact of the claim does not reveal that workman has ever got any job on compassionate ground, therefore, there is no question arises of his termination, discharge or dismissal.

In view of the facts mentioned above, claim filed by the claimant deserves dismissal being not maintainable. Hence, claim is 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- 23.07.2024

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