

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. 87/2018**

**Date of Passing Award- 23.08.2022**

Between:

BSNL Casual and Contract workers Union (Regd.),

Workman

Versus

Bharat Sanchar Nigam Limited

Management

Appearances:-

None for the claimant

For the claimant

(A/R)

Shri Atul Bhardwaj

For the Management

(A/R)

**A W A R D**

This award is intended to dispose of the application filed u/s 33(1)(a) of the Id Act by the workman as the claimant. Perusal of the record shows that the claimant has alleged in this application that a dispute between him and the management is pending wherein the claimant has claimed the relief of regularization in service by the management. Though, the management has appeared in the said proceeding and has full knowledge about the same, in gross violation of the provisions of section 33 threatened to change the service condition of the claimant and also gave out threatening to terminate his service. Being aggrieved the present application was filed.

Notice of the application being served the management BSNL filed its reply stating that the present proceeding is not maintainable as the same has been filed on an apprehended cause of action. While denying employer and employee relationship between the parties the management has stated that the petition is liable to be dismissed for want of cause of action as well as for false statement of the claimant.

It is evident from the record that after completion of the pleading the claimant was called upon to adduce evidence. But no evidence was adduced and agreed by both the parties the matter was listed for argument. Today no argument was advanced by the claimant.

The Ld. A/R Mr. Bhardwaj representing the BSNL oppose the claim of the claimant and submitted that the entire application is based upon imaginary allegations and infact the claimant has no cause of action.

Admittedly the claimant except filing the application has not adduced any oral or documentary evidence to support his stand. The claim petition contains a statement regarding the apprehension of the complainant of termination for the industrial dispute pending. The claim petition has not disclosed the details and the number of the industrial dispute pending between the parties. The management in its reply has denied about the industrial dispute pending. The provision of law laid u/s 33 of the Id Act provides that during the pendency of an industrial dispute before the labour court or tribunal, no employer shall in regard to any matter connected with the said dispute alter to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding. Section 33A prescribes that if any such alteration in service condition as referred u/s 33 happens the person aggrieved can agitate the matter before the labour court or tribunal who shall adjudicate upon the complaint as if it were a dispute referred to or pending before it. On a plain reading of the provisions of section 33 and 33A thus, leads to a conclusion that for invoking the provision the requirements are that an industrial dispute between the parties must have been pending and during such pendency the employer changes the service condition of the employee. But here is a case the claimant has not furnished the detail of the industrial dispute pending between the parties. Not only that there is absolutely no evidence laid by the claimant to prove how his service condition was changed by the employer during the pendency of the proceeding. Hence, there being no evidence on record it is held that the claimant has failed to prove the allegations made in the complaint petition filed u/s 33 of the ID act. Hence, ordered.

### **ORDER**

The complaint be and the same is dismissed on contest and answered against the complainant. 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.  
23<sup>rd</sup> August, 2022.

Presiding Officer.  
CGIT-cum-Labour Court.  
23<sup>rd</sup> August, 2022.

