

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

**I.D. NO. 90/2014**

**Sh. Vishram Meena and Sh. Moti Lal Meena, S/o Sh. Nanag Ram Meena, (Loader),**

Through General Secretary,

All India Central PWD (MRM) Karamchari Sangathan (Redg),

House No. 4823, Gali No. 13, Balbir Nagar Extension,

Shahdra, Delhi-110032.

Versus

**1. The General Manager,**

**Air India, IGI Airport Terminal No.-2, New Delhi.**

*Appearance:*

*For Claimants: Manish Kumar and Sh. Animesh Verma, Ld. ARs with the claimant Sh. Vishram Meena.*

*Managements: V.P. Gaur, Ld. AR for the management.*

**AWARD**

This is an application **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by Sh. Vishram Meena and 07 others including Sh. Moti Lal Meena for reinstatement in their respective services. Sh. Moti Lal Meena S/o Sh. Nanak Ram Meena was appointed as a Loader with above management w.e.f. 18.03.1998 and his services were terminated by the management w.e.f. 10.06.1998. They had filed an Industrial Disputes before the Hon'ble Assistant Labour Commissioner (Central) New Delhi for reinstatement. During the course of hearing on 09.03.2004, the management had agreed to reinstate the services of the workmen subject to availability of sanctioned posts and the workmen were also given the liberty that if their services are not regularized within the reasonable time, workmen will be free to approach the competent judiciary for reinstatement of their services.

Out of eight workmen two workman Sh. Ram Lakhan Meena and Sh. Ram Prasad Meena have died and Sh. Gopal Prasad Meena have been appointed as Teacher under Rajasthan Government, Sh. Shiv Lal Meena have been appointed by Post Office in Rajasthan, Sh. Goyla Ram Meena have got a govt. job at TJ Airport, Jaipur and Sh. Shiv Charan Meena have also been appointed as Motor Lorry Driver with Rajasthan Police. Only two workmen Sh. Vishram Meena and Moti Lal Meena are still unemployed. These two workmen are in regular touch with the management and verbally requesting them since long for reinstatement of their services but the management is not entertaining them. The workman Sh. Moti Lal Meena has sent his representation to the management on 28.02.2014 but, no reply has been given by the management till date. These workmen belong to the poor family and Schedule Tribe. The Junior workman connected to this case i.e. Sh. Banwari Lal Meena, Chottey Lal Meena, Chutan Lal Meena and Sh. Hem Raj Meena are still working there. That to employ the junior workmen and terminate the services of senior workman is severe violation of provisions of the ID Act, 1947 and also comes under the definition of unfair labour practices. The management had not given any notice, notice pay and retrenchment compensation to the workman at the time of their termination. The workmen have again filed their case before the appropriate authority on 11.06.2014, but, it was resulted into failure. Hence, they have filed the present claim.

W.S has been filed by the respondent. He denied the averment made in his claim statement. He also submitted that in the statement of claim prayer mentioned therein is in respect of Sh. Motilal Meena and the same has also been signed by the same person but, in the contents of this statement claim at various places, Sh. Vishram Meena's name is appearing as one of the claimants. The statement of claim has also not been signed by Sh. Vishram Meena. He has submitted that claims are liable to be dismissed.

After completion of the pleadings, following issues has been framed vide order dated 25.02.2016 i.e.:

1. Whether the workman Sh. Moti Lal Meena is entitled to be reinstated from date of his termination of his services with full back wages? If so its effect?
2. Whether the workman Sh. Moti Lal Meena had completed 240 days in calendar year during the tenure of service? If so its effect?
3. Whether there is relationship of workman of the management between the employee and employer? If so its effect?
4. Whether the workman Moti Lal Meena was casual labour for short period due to exigency of the work by the management.
5. To what relief the workman is entitled to and from which date?

Evidence of WW1 i.e. Sh. Moti Lal Meena and MW1 i.e. Ms. Rachna Aarya have been concluded and their examination have also been done. Now, the matter is listed for argument.

I have heard the argument on behalf of both the parties at bar. At that time of argument, this tribunal found that this claim petition was filed by the claimants in the year 2014, much beyond the period of limitation prescribed U/s 2-A (3). Before we proceed further, it is necessary to produce the text of section 2-A:

*“2-A. 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).*

A perusal of the aforesaid section would go to show that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman U/s 2-A of the act and it is not necessary that such disputes should be sponsored by the trade union or a substantial number of workmen. However, what is required is that workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2-A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after expiry of

45 days from the date he has made an application to conciliation officer of appropriate government for conciliation of dispute. Sub-section 3 of section 2-A lay down the time limit for making such application to Labour Court or the tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without any effect upon remedy available in section 10 of the act.

Here admittedly, workmen had filed their claim in the year 2014 after more than 16 years of their termination which is beyond the prescribed limit for filing the claim U/s 2(A) of the I.D Act. Hence, claim petition stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required U/s 17 of the I.D Act. File is consigned to record room.

Date 23<sup>th</sup> October, 2024

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