

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

ID.No. 40/2020

Sh. Prem Prakash, and 12 others,
R/o House No.-389, 3rd Floor,
Sant Nagar, New Delhi-110083.

VERSUS

South Delhi Municipal Corporation,
South Zone, KD Colony, Sector-9,
Rama Krishna Puram, New Delhi-110022.

AWARD

This is an application **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimants for their illegal termination. Claim of the claimants is that vide letter dated 16.03.2013, the SDMC through its office of the Assistant Commissioner, Central Zone, Lajpat Nagar informed workman Sh. Prem Prakash that his application has been shortlisted for engagement as a temporary daily wage safai karamchari and he was required to be present before the Assistant Commissioner, Central Zone, Lajpat Nagar, SDMC on 23.03.2013 at 11 AM with the list of documents for verification.

Thereafter, on 26.07.2013, the terms of appointment were drawn up by the Assistant Commissioner, Central Zone and he was agreed. SDMC vide its office order bearing No. 1674/SS/DEMS/CNZ/13 dated 19.08.2013 deployed twenty people along with the workman Prem Prakash as newly engaged safai karamchari in Ward No. 203. After two months of the service, the workman Prem Prakash along with other was removed as

Safai Karamchari which is an illegal and unjust. The workman Prem Prakash had been visiting to the SDMC office seeking re-employment, but, yielded no result. He had filed the RTI application bearing ID No. 26654 on 16.03.2016 stated that the requisite information as sought is not available with them. He had again made a RTI application on 11.04.2016 bearing ID No. 26885 to the SDMC seeking information regarding his appointment and vide reply dated 09.05.2016, the SDMC through its office of the Executive Engineer (DEMS), Central Zone, Lajpat Nagar, New Delhi stated that the information sought does not pertain to their office. He has preferred the appeal before the First Appellate Authority. Workman Sh. Prem Prakash appeared on 12.08.2016, he was told that the relevant authority is not present and was asked to come again on 19.08.2016. Thereafter, the workman appeared on the said date, and to his utter shock and dismay, the relevant authority of the SDMC said that they had provided the information as sought beforehand, whereas, the truth was, the workman never received any response from them. As such he had preferred, being disappointed from every field, and then, he had filed the claim before the conciliation officer, however, conciliation became failure. Hence, they had filed the claim petition with the prayer that SDMC be directed to reinstate them in job with full back wages.

Management had already been proceeded ex-parte on 16.01.2023. Matter is listed for ex-parte evidence of workmen.

It is a matter of fact that claim of the claimants has been filed U/s 2A of the Act for their illegal 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)].

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 the claim in the year 2020 after more than seven years of their illegal 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: 23.12.2024

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