

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. 143/2012**  
**Date of Passing Award- 24<sup>th</sup> March,2023.**

Between:

The General Secretary,  
Bharat Electronics Workers Union,  
C/o Bharat Nagar,  
Ghaziabad (U.P)-201008

Claimant

Versus

1. The General Manager,  
Bharat Electronics Ltd.  
Bharat Nagar,  
Ghaziabad (U.P)-201008

2. The General Secretary,  
Bharat Electronics Employees Union,  
Bharat Nagar,  
Ghaziabad (U.P)-201008

Managements

Appearances:-

Claimant in person

SH. Kamal Kant Tyagi, Ld.A/R for the management.

**A W A R D**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of (i) The General Manager, Bharat Electronics Ltd. Bharat Nagar, (ii) The General Secretary, Bharat Electronics Employees Union, Bharat Nagar, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-

14011/03/2012(IR(DU) dated 05/10/2012 to this tribunal for adjudication to the following effect’;

“Whether the action of management of Bharat Electronics Limited, Ghaziabad, for not allowing encashment of annual leave (is as being done in other units of BEL) amounts to a violation of section 9 (A) of the ID Act, 1947 is unjustified? If so, what relief the workmen are entitled to?”

A reference was received from the appropriate Govt. to adjudicate on the demand of three separate employees union of Bharat Electronics Ltd, Ghaziabad for payment of PPI for their excellent performance in stead of very good to the non executive workmen for the year 2011-2012 and to give a finding if the said demand is justified.

The unions filed their claim statement separately. But the common stand taken is that the claimants are the members of different unions, recognized by the management. The management is a public sector undertaking owned by the Govt. of India. The persons employed by the management are the employees of the company and their service conditions are regulated by the various enactments applicable to the management and some settlements arrived between the management and the employees union. It is also governed under the Bharat Electronics Standing Order updated till December 2007. The BEL is having altogether nine units functioning across India and the Head Office is located in Bengaluru. The head office and the units functioning at different places are having their own regulations governing the service condition of the employees, which by and large is the same. The management is engaged in production and manufacturing of different delicate electronic equipments and articles to cater the need of the defence establishments.

In passage of time many employees remained out of the purview of the Bonus Act and thus became deprived of the incentive in form of Bonus. Series of meetings were held between the management and the representatives of the union to resolve the issue and ensure fair distribution of the profit among the workers in form of incentives. Resultantly a settlement was arrived and a memorandum of settlement dt 03/11/2010 was signed for payment of incentives and a plant performance incentive (PPI) was prepared for the period of three years i.e from 2009 to 2012. It was decided

that the non executive employees existing from the date of coverage of the establishment under the Bonus Act, but not getting the bonus shall be paid PPI .under the scheme the method of calculation of the incentive and the manner of payment was envisaged. As per the prevailing practice, after closure of the financial year, the representatives of the unions were called on 02/04/2012 and congratulated for the outstanding performance of the unit. Sweets were distributed and it was decided that each non executive worker entitled to PPI shall get Rs 45,100/- though announced payment was delayed and the unions made repeated demand for the same. The corporate office by letter dt 06.09.2012, formally communicated about the PPI payable for the year 2011-2012 in which the performance of Ghaziabad unit was down graded and the PPI payable for 2011-2012 was declared to be 35330/- the union immediately protested by submitting a written memorandum. But the Bank unilaterally transferred the amount to the accounts of the eligible employees, which was complained off against the Bank. However the Management did not buzz from their anti labour activities. Finding no other way out the unions raised a dispute before the labour commissioner. For the failure in the conciliation proceeding the appropriate Govt. referred the matter for adjudication in terms of the reference.

Being noticed the management appeared and filed written statement refuting the stand taken by the claimant. It has been pleaded that PPI for the period 2009-2010,2010-2011 and 2011-2012 are strictly payable strictly in accordance to the terms of settlement dt 03.11.2010. Following the same the PPI to all the eligible employees was paid for the period 2011-2012. The settlement dt 03.11.2010 was for full and final settlement of the demand made for the PPI by the unions. After expiry of the settlement dt 03.11.2010, a fresh settlement dt 05.09.2014 was announced fro the period 2013-2014,2014-2015 and 2015-2016 and the PPI has been paid. The claim thus filed is untenable since no dispute relating to the amount was raised before accepting the PPI for the period 2013-2014. Hence the management pleaded for rejection of the claim.

On the rival pleadings the following issues were framed by order dt 11.04.2017.

### **ISSUES**

- 1- Whether the demand of the unions of Bharat Electronics Ltd , Ghaziabad for payment of PPI for their excellent performance

instead of very good for the non execution for the workmen for the year 2011-2012 is just and fair? If so effect.

2- If not, to what relief the workmen are entitled to.

The claimants thereafter were called upon to adduce evidence in support of their claim. Several opportunities were allowed for the purpose and for non appearance of the claimants fresh notices were also issued. Despite that when the claimants did not turn up, the opportunity for adducing evidence was closed. Thereafter the management was called upon to adduce evidence. But there being no evidence adduced by the claimants to discharge the burden of proof, the management expressed that no evidence by the management shall be adduced. Hence evidence was closed, argument was heard being advanced by the management.

During argument the learned AR for the management submitted that the burden of proof being on the claimant, they opted not to adduce evidence. Whereas the stand taken in the claim petition has not been substantiated the stand taken by the management stands un rebutted. Hence the claim be decided against the claimants.

On hearing the argument advanced by the management it is held that the claim advanced by the claimants has not been established. Hence a no dispute award is to be passed. Hence ordered.

### **ORDER**

The reference be, and the same is answered against the claimants. The claim having not been established, this no dispute award is passed.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.  
Dictated & Corrected by me.

Presiding Officer.  
CGIT-Cum-Labour Court.  
24<sup>th</sup> March, 2023

Presiding Officer.  
CGIT-cum-Labour Court.  
24<sup>Th</sup>March, 2023