

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. 22/2014

Date of Passing Award- 24th March,2023.

Between:

The General Secretary,
Bharat Electronics Union (CITU),
Bharat Electronics Workers Union(HMS) &
Bharat Electronics Shramik Trade Union (INTUS)
Ghaziabad (U.P)

Claimant

Versus

The General Manager,
Bharat Electronics Ltd.
Bharat Nager,
Ghaziabad (U.P)

Management

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 Nager, 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-14011/19/2013(IR(DU) dated 05/03/2014 to this tribunal for adjudication to the following effect’;

“Whether the demand of unions of Bharat Electronics Ltd. Ghaziabad for the payment of PPI for their excellent performance instead of very good for the non executive workmen for the year 2011-2012 is just and fair? If not, for what relief the workmen are entitled?”

As per the claim statement jointly filed by the unions representing the employees of Bharat Electronic Ltd. have stated that the unions have been recognized by the mgt. The mgt is a public sector undertaking own by Government of India registered under the provisions of Factory Act. The mgt is engaged in manufacturing and production of high and electronic component used by the defense establishment of the country.

The mgt introduced a rule regarding attendance and late coming of the workman in Ghaziabad by incorporating Section 8 in the original satisfy standing order as per this all workmen shall report for work in the factory at the time fixed and notified as per the standing order no. 5. The attendance of all workmen except the casual workers will be recorded on the time card. This time card will constitute the primary record of attendance and the workmen will lose their attendance and wage if they do not clock in or clock out in time. The location of the time recording clock will be decided by the mgt keeping in view the convenience of the staff. The workmen coming late or leaving early without permission shall be liable to proportionate deduction in wage. However, a grace period of ten minute shall be allowed for late attendance which shall be for three times in a month. When this system was in bough for several years and accepted by all as a service condition, the mgt suddenly changed the same by issue a circular dated 02.04.2009. While introducing a new system of attendance which was found detrimental to the interest of the workmen, the mgt had never consulted or negotiated with the unions of the workmen. Being aggrieved the unions raised objections and demanded implementation of the old system. But the

mgt. remain adamant in the meeting held between the mgt and workmen union the mgt explained that the change in attendance procedure is a simple administrative act which falls under section 22 of the standing order. But the union demanded implementation of the old system on the ground that the change amount to violation of section 9A of the ID Act. Finding no other way in industrial dispute was raised before the labor commissioner (Central) were steps were taken for conciliation. Since the conciliation failed the appropriate Government referred the matter for adjudication in terms of the reference.

The mgt being noticed filed w/s stating there in the proceeding is not maintainable. In addition to that it is pleaded that the claimants for alleged violation of section 10 of the Industrial Employment Standing Order Act should have approached the satisfying officer appointed under the Standing Order Act. While admitting about the introduction of new attendance system in the unit at Ghaziabad with effect from 02.04.2009 the mgt has stated that the said introduction has no way caused prejudice to the workmen. Rather the mgt reserves the right of introduced such changes for effective functioning of the mgt. Thereby the mgt had prayed of dismissal of the claim as not maintainable ON the rival pleadings. The following issues are framed by order dated 11.04.2017

Issues

1. Whether the action of the mgt BEL Ghaziabad vide order dated 02.04.2009 introducing new attendance system SAT without following the procedure provided in clause 10 of the standing order act 1946 is just and fair? if so , its effect?
2. Whether the dispute has been espoused as required under law, if so it's effect?
3. To what relief the workman 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 unrebutted. 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.
24th March, 2023

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