

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

Between: **Date of Passing Award- 24th March, 2023.**

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

Claimant

Versus

1. The General Manager,
Bharat Electronics Ltd.
Bharat Nagar,
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

off(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 that relief the workmen are entitled to?”

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 new leave rule and rule relating to encashment of earned leave which was changed from the divisor 26 to divisor 30. The unions representing the workman made demand for restoration of the old rule and policy. But the mgt never paid any heed to the same. A General Body meeting of the unions was held and it was unanimously resolved that a demand notice shall be served on the mgt for implementation of the old rule regarding the leave and encashment of leave. The mgt. did not reply to the demand notice and as such a dispute was raised by the workman union before the conciliation officer Dehardun. In the said conciliation proceeding the mgt did not cooperate leading to failure in conciliation. Thus, the appropriate Government referred the matter for adjudication in terms of the reference.

Being noticed the mgt appeared and filed w/s denying the stand taken by the workmen unions. It has been sated that the mgt is public sector company and having its own rules regulating the service condition of the employee. By officer order dated 03.12.1997 the company had farmed a scheme for encashment of annual leave by the employee. This scheme was

modified from time to time. As per the scheme of 1997, the computation of encashment to annual leave amount per day was to e arrived by dividing monthly wage that is basic wage plus DA by 30 days. That office order of 03.12.1997 was modified with effect from 30.05.1982 by virtue of which the computation of encashment of annual leave per day was to be arrived by dividing the monthly basic wage and DA by 26 days instead of 30days. That office order was again modified on 04.04.1985 and as per the modification the mgt reserves the right to interpret modify, reverse or withdraw this above scheme at its discretion. During the annual audit in the year 2005 carried out by CAG objection was raised on computation of encashment of annual leave by dividing monthly wage by 26 days instead of 30 days. Thus, the mgt modified the scheme for use of divisor 30 instead of 26. The objection and demand taken by the unions is baseless illegal and liable to be rejected.

The claimants filed rejoinder re-writing the stand taken in the claim petition.

On this rival pleadings. The following were framed for adjudication.

Issues

1. Whether the action of the mgt BEL Ghaziabad not allowing encashment of annual leave as is being done in other units of BEL amounts to violation of section 9 A of the ID Act1947.If so, it's effect?
2. Whether the dispute has been espoused as required under law, if so it's effect?
3. To what relief the workman entitled?

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.
24th March, 2023

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