

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. 50/2015

Date of Passing Award- 24.08.2022

Between:

Shri Rahul Batra,
S/o Shri Kulbhusan Batra,
R/0 BG/14-C, DDA Flats
Munirka
New Delhi-110067.

Workman

Versus

The management of
M/s. Cambata Aviation Pvt. Ltd.,
R/o 9/9A, 3rd Floor, Vasant Square Mall,
Vasant Kunj,
New Delhi-110037.

Management

Appearances:-

None for the claimant
(A/R)

For the claimant

None for the management
(A/R)

For the Management

A W A R D

This is an application filed u/s 33A of the Id Act wherein the complainant workman has alleged that he was working in the management Cambata Aviation and a member of the Cambata Aviation Karamchari Union. Being the General Secretary of the said Karamchari Union which is the majority union recognized by the management, he is a protected workman as define under the ID Act. The Cambata Aviation Karamchari Union has raised a dispute with regard to the General demand of its member and the dispute is pending before this tribunal as Id No. 169/2010. The management has full knowledge about the said proceeding which is pending. But on 08.01.2015 the management passed the order of dismissal against the claimant which is illegal having the effect of change in service condition for the industrial dispute pending between the parties and for the claimant being a protected workman. Thus, by filing this application the claimant has alleged that the management has violated the provisions of section 33(3) of the ID Act and the order of dismissal passed against him is nonest. Hence, in this claim petition he has prayed for an award to be passed in favour of the workman directing the management to reinstate him in service with all back wages and consequential benefits with continuity of service.

Copy of the claim petition being served the management Cambata Aviation filed the reply stating therein that the complainant had earlier made similar complaint just to harass the management and the said complaints are

pending subjudice. The other stand taken by the management is that the complainant is not a workman within the meaning of section 2(s) of the Id Act as he was appointed as a supervisor Grade II and discharging the duties of a supervisor. While admitting about the dependency of Id No. 169/2010 the management has stated that the Cambata Aviation Karamchari Union is one of the three Registered Trade Union in the establishment of the management. Id No. 169 of 2010 was raised on behalf of the complainant against the punishment imposed on him and subsequently he withdrew the same. Hence, there is no industrial dispute pending between the management and the claimant. The management has also denied the status of the claimant as a protected workman and submitted that no order recognizing the claimant as a protected workman was ever passed. Thus, the management has prayed for dismissal of the application filed u/s 33A of the ID Act.

The claimant filed rejoinder reiterating the stand taken by him in the claim petition. alongwith the rejoinder several documents were filed.

On completion on the pleading the parties were called upon to adduce evidence. At this juncture the claimant filed an application for amendment of the claim petition. But subsequently the same was rejected as not pressed. By order dated 10.09.2018 the management was proceeded exparte and the claimant was called upon to adduce exparte argument. Several adjournments were made for argument. Instead of advancing argument the petitioner on 14.01.2019 filed an application under Order 6 Rule17 of the CPC praying amendment in the claim petition. The application was allowed and the claimant workman was directed to file the amended claim. Again several adjournments were made till 22.09.2019 for filing of amended claim petition but the same was not filed. On 23.09.2019 the claimant was called upon to adduce evidence to substantiate the complaint made. Inspite of several opportunities since the claimant didn't file the evidence his right was closed and this award is being passed. For no evidence adduced by the claimant it is held that the complaint petition filed by the claimant stands unproved. Hence, ordered.

ORDER

The complaint petition be and the same is dismissed as without merit and this award is accordingly passed. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
24th August, 2022.

Presiding Officer.
CGIT-cum-Labour Court.
24th August, 2022.