

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

ID No. 47/2018

Sh. Satbir Singh Vs. B.W.F.S.

Counsels:

For Applicant/ Claimant:

Sh. Sunil Kumar, Ld. AR.

For Management/ Respondent:

Sh. Kunal Mehta, Ld. AR.

Award

Sh. M.K. Singh, Section Officer, Ministry of Labour and Employment, Government of India vide letter dated 19.03.2018 had sent the reference to this tribunal in the following words:

“Whether Sri Satbir Singh, Vigilance Officer is a workman under Section 2(s) of ID act, 1947, if so his termination of services by the management of M/s Bird Worldwide Flight Services(I) Pvt. Ltd. W.e.f. 10.10.2013 is proper, legal and justified? If not, what relief the concerned workman is entitled to and from which date?”

2. After receiving the said reference, notices were sent to both the parties. Both claimant and management had appeared. Claimant in his claim statement stated that he had joined the

management/ respondent on 13.05.2013 as a 'Vigilance Officer' at the last drawn salary of Rs. 19,300/-. He was performing his regular duty with utmost satisfaction with the management and he never gave any chance of complaint to the management. On 10.10.2013, he was refused to resume his duty and his services were terminated without assigning any valid reason. Mr. AshitMahresh (CGM) and Mr. Sukhdev Singh (DGM) forcefully took resignation from him. Hence, he submits that his termination be declared as illegal and he be reinstated with full back wages.

3. Respondent had appeared and filed his written statement stating that Sh. Satbirsingh was employed by him to the post of 'Vigilance Officer' so he cannot be termed as 'workman' as defined in Section 2(s) of the Industrial Disputes Act, 1947. He was initially appointed for a period of six months however he had submitted his resignation on 10.10.2013 within the probation period of his employment. On merit, he submits that his claim is liable to be dismissed.

4. Rejoinder had been filed by the claimant where he denied the averment made by the respondent in its written statement and affirmed the averment made by him in the claim statement.

5. Following issues had been framed vide order dated 27.05.2019:

1. Whether the proceeding is maintainable. Whether the claimant is a workman as defined U/s 2(s) of the ID Act.
2. Whether the service of the workman was terminated illegally.
3. To what relief the workman is entitled to.

6. The claimant had tendered his affidavit in evidence affirming the facts made in his claim statement stating that he was a 'Vigilance Officer'. He was cross-examined where he admitted that he had joined the respondent on 13.05.2013. His service condition was regulated according to the terms mentioned in appointment letter. He admitted that his initial appointment was for a period of six months on probation. He further admitted that before joining the respondent, he was an employee of Delhi Police and had retired on 31.01.2013 from the post of Assistant Sub-inspector. While he was in the service as per his job profile with the management, his duty was to check the misconduct if any by the loaders/workers of the management.

7. This tribunal while going through the testimony of this witness has noticed that the claimant had nowhere mentioned that he was a workman either in his claim statement or in the affidavit of evidence. His counsel Sh. Sunil Kumar had admitted the above said fact. The claimant who was present himself admitted that he was a Vigilance Officer and his job was to detect the misconduct of any loader/worker.

8. To invoke the jurisdiction of this tribunal, first the claimant has to assert that he was a workman within the definition of Section 2(s) of the Industrial Disputes Act, 1947. Section 2(s) is required to be reproduced herein:

2 [(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and

for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

9. From the evidence discussed above, it appears that the claimant is not a workman as defined in the Section 2(s) of the Industrial Disputes Act, 1947. Nowhere has he mentioned either in his affidavit or in his claim petition that he had been given designation of Vigilance Officer only by namesake and his work was of a workman or mechanical work. He admitted that his job profile was to detect the misconduct.

In view of the above discussion, Issue no. 1 is decided against the claimant and in favour of management.

In view of the findings in issue no. 1, there is no need to decide issue no. 2 & 3. Claim of the claimant stands dismissed. Award is accordingly passed. Copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. File is consigned to record room.

Dated 29.08.2024

ATUL KUMAR GARG
Presiding Officer
CGIT – cum – Labour Court – II