

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

I.D. No. 108/2014

Sh. Rajveer vs. Bureau of Civil Aviation Security and Anr.

Sh. Rajveer, S/o Sh. Ram Charan

R/o C/o Sh. Shashi Kumar,
Gali No.3, Block-D,
Near Purana Shiv Mandir,
Rangpuri Extn., Mahipalpur,
New Delhi.

...Applicant/Claimant

Versus

1. Bureau of Civil Aviation Security

Through Manager, Plaintiff-3, IGI Airport Airport-37

2. ETA Engineering Pvt. Ltd.

ETA House B-13, Sector-63, Noida, U.P.-201307.

...Managements/respondents

Counsels:

For Applicant/ Claimant:

Sh. Narendra Kumar, Ld. AR.

For Managements/Respondents:

None for management-1 (Bureau of Civil Aviation).

Sh. Abhay Singh, Ld. AR for management-2 (ETA Engineering Pvt. Ltd).

Award

30.06.2025

The present application has been filed **under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act')**. The claimant claims to be a peace-loving and law-abiding citizen of India. He

was appointed as an HVAC Assistant with the management w.e.f. 10.01.2011 on a monthly salary of Rs. 6,084/- (Rupees Six Thousand and Eighty-Four only).

Upon successful completion of the six-month probation period, the management confirmed the service of the workman/claimant w.e.f. 01.06.2011 vide office letter dated 11.11.2011, appreciating his hard and devoted service. His salary was increased to Rs. 14,508/- (Rupees Fourteen Thousand Five Hundred and Eight only) upon confirmation. The workman worked honestly, sincerely, and with full devotion to his duty, without giving any cause for complaint.

However, on 21.02.2013, he was fined Rs. 1,000/- for the first time on the charge of walking on a belt, which he claims was baseless. On the same day, his services were terminated. He claims to have approached the management repeatedly to allow him to resume duty, but was not permitted to do so. Accordingly, after exhausting legal remedies, he filed the present claim praying that his termination be declared unlawful and illegal, and he be reinstated with full back wages.

In response, Management-1 filed its written statement. It submitted that the Bureau of Civil Aviation Security (BCAS) is a regulatory body responsible for the implementation, enforcement, and regulation of civil aviation security at civil airports in India. RDCOS, BCAS is the regional office responsible for security functions at Delhi Airport. It stated that in practice, the employer forwards duly filled and signed forms to RDCOS, BCAS along with requisite documents to enable issuance of Aerodrome Entry Pass (AEP), but BCAS has no locus standi concerning the terms of employment or duties of any individual at the airside. Therefore, it submitted that the claim against it be dismissed as there doesn't exist any employer-employee relationship between them and the claimant.

Management-2 also filed the written statement, taking preliminary objections stating that claim petition is not maintainable before this tribunal and is liable to be dismissed as misconceived. It alleged that the claimant misbehaved with a female staff member at T-3, IGI Airport, New Delhi, and thereafter chose to abandon his services, and therefore, the present claim is without any merit. On merits, it didn't dispute the claimant's employment. Its only defence was that the claimant committed misconduct and abandoned the services of the company himself.

Rejoinders to the written statements of both managements were filed by the claimant, wherein he denied the averments made by the managements and reaffirmed the assertions made in his claim statement.

After completion of the pleadings, following issues had been framed:

- Whether the claim petition is maintainable under I.D. Act? If so, its effect?
- Whether this tribunal has jurisdiction to try instant Industrial Dispute? If so, its effect?
- Whether workman is entitled to be reinstated in service with full back wages along with other benefits including continuity in service? If so, its effect?
- Whether workman is entitled for compensation for his illegal termination along with bank interest on the pending wages till date.

To prove his case, the claimant entered the witness box and relied upon three documents:

- Appointment letter issued by ETA Engineering Pvt. Ltd. (Management-2) (Ex. WW1/1).
- Confirmation letter issued by ETA Engineering Pvt. Ltd. (Ex. WW1/2).
- Appreciation letter issued by Home Tech Services Pvt. Ltd. (Ex. WW1/3).

During cross-examination, he admitted that his salary for December 2012 was paid on his last working day, i.e., 21.02.2013. He also admitted that he was fined Rs. 1,000/- on 21.02.2013. However, he denied having misbehaved with any female staff member at the IGI Airport site or that he had voluntarily left the company after the incident.

Management-1 filed affidavits of two witnesses, Sh. Yudhvair Singh, sub-inspector, and Sh. Rupesh Singh Diler, inspector, both posted at the office of the Regional Deputy Commissioner of Security, Bureau of Civil Aviation Security, however, neither has appeared before the tribunal for deposition, and hence their affidavits hold no evidentiary value.

Management-2 initially examined Sh. Vinod Rana, but during the pendency of proceedings, he passed away. Management-2 sought and was granted permission to examine another witness and filed an affidavit of Sh. Israr Ahmad. However, it later submitted that it no longer wished to examine him, and the affidavit was treated as withdrawn.

The claimant's case entirely rests on the documents exhibited by him. The claimant's claim is that his services were terminated illegally and without assigning any reason on 21.02.2013 in violation of section 25F of the Act, and he has remained unemployed ever since. Nothing substantial was made out in his cross-examination to rebut this. The claimant categorically denied the allegation of misconduct and reiterated that he was not permitted to resume duty.

In its defense, the management-2 failed to produce any evidence to substantiate that the claimant voluntarily left the job or committed any misconduct.

In light of the above discussion, my issue-wise findings are as follows:

Issue no.-1

The proceedings are held to be maintainable before this tribunal because the claimant was employed as an 'HVAC Assistant' and the managements have not produced any evidence to prove that the claimant doesn't fall within the definition of 'workman' as defined under section 2(s) of the Act.

Issue no.-2

It is an admitted fact that the claimant was an employee of management-2 whose office is situated in Noida, U.P. Therefore, it is held that this tribunal has jurisdiction to adjudicate the present dispute.

Issue no.3 and 4

The claimant's case is that his service was terminated by Management-2 without assigning any reason or giving any prior notice, in violation of Section 25F of the Act.

Section 2(oo) defines the term 'retrenchment', while Section 25F of the Act sets out the conditions to be complied with by an employer before retrenching a workman. The definitions under Section 2(oo) and Section 25F of the Act are as follows:

[(oo)] "Retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—
(a) voluntary retirement of the workman; or
(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
[(bb)] termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry, or of such contract being terminated under a stipulation in that behalf contained therein; or
(c) termination of the service of a workman on the ground of continued ill-health.

Section 25F – Conditions precedent to retrenchment of workmen:

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be

specified by the appropriate Government by notification in the Official Gazette.

From the perusal of the above sections, it is clear that in industrial law, there is no absolute protection against retrenchment under the Industrial Disputes Act, 1947. An employee can be retrenched by an employer if certain conditions are fulfilled. The first exception has been provided within the definition itself, namely when the a workman is terminated by way of disciplinary action. Other exceptions include voluntary retirement, superannuation as per contract, non-renewal or termination of a contract on its expiry, and termination due to continued ill-health.

The entire case of the claimant rests on the fact that his services were terminated illegally and without assigning any reason. Management-2's case is that the claimant was fined Rs. 1,000/- because he was found misbehaving with a female staff member at T-3, IGI Airport, New Delhi. However, to substantiate its defence, Management-2 failed to produce any witness for cross-examination, nor has it been stated anywhere that a domestic enquiry was held against the claimant. Mere bald assertion does not give the management any leverage to escape liability. Moreover, if a workman is to be punished, an enquiry is mandatory prior to imposing such punishment. In this case, neither was an enquiry proved, nor did any witness appear to support the allegation that the claimant had misbehaved with any female staff.

Coming to Section 25F of the Act, although Management-2 took the defence that the claimant abandoned his services, it failed to produce any record in this regard. Therefore, the question of compliance with the mandatory provisions of Section 25F before retrenching the claimant does not arise.

The Hon'ble Supreme Court in ***Nand Kishore Yadav v. State of Punjab***, AIR 1981 SC 2045, held that:

"If the employer takes the plea that the workman has abandoned his service, the burden of proof lies on the employer to establish such abandonment by cogent and reliable evidence. Mere absence from duty does not amount to abandonment unless it is proved that the workman had no intention to return to work."

In another matter, ***G.T. Lad v. Chemicals & Fibres India Ltd., (1979) 1 SCC 590***, the Apex Court expressed similar views.

During cross-examination, the claimant denied that he voluntarily left the company and stated that he regularly approached the management to allow him to resume duty, but was denied. On the other hand, Management-2 alleged that the claimant misbehaved with a female staff member and abandoned service, but failed to produce any evidence to substantiate either claim. No domestic enquiry was conducted, nor was any notice issued to the claimant regarding misconduct or abandonment.

In view of the above facts and Management-2's failure to prove either abandonment or misconduct, and the claimant having made a prima facie case of termination without notice, the termination is held to be **illegal**.

As far as Management-1 is concerned, the claimant has not stated that he was employed by Management-1. His case is that he was deployed by Management-2. Therefore, **no relief** can be granted to the claimant against Management-1, due to the **absence of an employer-employee relationship**.

Now, the question that arises is what relief the claimant is entitled to. As a general rule, when termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. However, much time has already passed and there is no positive evidence that the claimant was unemployed since his termination from service. It is held by the Hon'ble Supreme Court of India in the case titled as **Employers, Management of central P & D Inst. Ltd. Vs Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator. Similar views were expressed by Hon'ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt. Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219** wherein it was held by the court that even if the termination of a claimant is held illegal, the industrial adjudicator is not supposed to direct reinstatement along with full back wages and the

relief can be moulded according to the facts and circumstances of each case and the court can allow compensation to the claimant instead of reinstatement with back wages. The same view has been expressed by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC** stating that upon dismissal, being set aside by a court of Law, reinstatement with full back wages is not an automatic relief. In some cases, lump sum compensation is a better relief.

Given these circumstances, a lump sum compensation of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** is considered an appropriate relief. Hence, management-2 (**ETA Engineering Pvt. Ltd.**) is hereby directed to pay a compensation of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** to the claimant within two months of notification of this award, failing which the management shall also pay interest @ 8% per annum on the aforesaid amount from the date of award till the date of realization. A copy of this award be sent to the appropriate government for notification under section 17 of the Act. The file is consigned to record room.

Dated 30.06.2025

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