

**BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW DELHI**

ID.NO. 151/2018

Sh.Jasveer Singh, S/o Sh. Sukh Pal Singh,

R/o 152, Village- Khichripur, Delhi-110091

Through-Delhi Plumber Employees industrial Worker Union,

Address: 118/2, Govind Puri, Near Kalka Ji Bus Depot,

Kalkaji New Delhi- 110019

...Applicant/Claimant

VERSUS

1. M/s. Tata Communication Ltd.

Address:- 2, Bangla Sahib Road, Connaught Place, New Delhi-110001.

2. M/s. Pregrine Guarding Pvt. Ltd.

**Address: Plot No.- 13, Sector-18,
Electronics City, Gurgaon-122015.**

Managements/Respondents

AWARD/ORDER DATED

Succinctly, the Workman's case is that he has been working with management-1 through management-2 since 01.08.2014 at the last drawn pay of Rs. 12,500/- month. His service record was clean and management has no complaint of any kind against his work. At the time of appointment his signature

were obtained on blank papers by the management. Management-2 was the contractor by namesake though, he was doing his work with management-1. Since beginning he has not been providing any appointment letter, leave, attendance card, weekly holiday etc. He had demanded the same from the management and for this reason management got annoyed and he was thrown up from the job on 23.05.2017 in cross violation of Industrial dispute Act. He had tried to get his service back and for this he had applied through labour department however management had not co-operated. Hence, he had filed the present claim.

Respondent had appeared and filed their respective reply. Management-1 had denied that workman had been terminated by him. Workman was related to respondent-2 through it distinct and independent service provider i.e. M/s. Pregrine Guarding Pvt. Ltd. Which is a independent and distinct entity. The grievance of the workman if any is against the management-2. Hence, he submitted that claims of the workman be dismissed qua him.

Respondent-2 had admitted that workman was on the rolls of respondent-2, one of the contractor of the respondent-1 for providing security services under the agreement executed between them. He submitted that the claimant was very careless and always preferred sit ideally. Management-2 repeatedly receiving complaint with regard to the act of misbehavior and misconduct, un-necessary argument and using un-parliamentary language with officers of management-1. He was warned by many times but he did not change his habits. He submitted that claimant had lastly attended the duty on 11.04.2017 and remained absent thereafter illegally. He submitted that he still ready to take back the claimant on duty.

Rejoinder has been filed by the claimant denying the averment made by the management in their WS.

From the pleading of the party, following issues have been framed vide order dated 24.10.2019.

ISSUES

1. Whether the proceeding is maintainable.
2. Whether the workman was illegally terminated from service by management no.1.
3. Whether there exist any employer and employee relationship between the management no.1 and the workman.
4. To what relief the workman is entitled to and by whom.

Claimant is asked to examine the witness. During the course of proceeding this court has asked from the workman AR, how the claim of the workman is maintainable before this tribunal because none of the respondent is the central government institutions or industry. Respondent no-1 is M/s TATA COMMUNICATION LTD. And respondent-2 is M/s PEREGRINE GUARDINEG Pvt. LTD.

Section-2 (a) of I.D Act (hereinafter is called as an Act) define the expression 'appropriate government'.

Appropriate government is the central government in relation to any industrial dispute which pertain to any industry carried on by all under the authority of central government.

Section-2(a)(1) of the Act give the detail expression of covering the industry which falls under the definition of central government controlled industry. It is reproduced

'in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company [or concerning any such controlled industry as may be specified in this behalf by the Central Government] or in relation to an industrial dispute concerning [a Dock Labor Board established under Section 5A of the Dock workers (Regulation of Employment) Act, 1948 (9 Of 1948), or [the Industrial Finance Corporation of India Limited formed and registered under the Companies

Act, 1956 (1 of 1956)] or the Employees State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees Provident Fund and Miscellaneous provisions Act, 1952 (19 of 1952), or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [the Oil and Natural Gas Corporation Limited registered under the companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporations of India established under section 3, or a Board of Management established for two or more contiguous States under section 16, of the Food Corporation Act, 1964 (37 of 1964), or [the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994), or a Regional Rural banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India Limited], [the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or [[an air transport service, or a banking or an insurance company,] a mine, an oil field,] [a cantonment Board,]

or a [major port, any company in which not less than fifty-one percent of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and]

Ld. AR of the workman is unable to tell how this tribunal has the jurisdiction to try their claim particularly when the appropriate government is not the central government in respect of the respondent herein. Ld. AR has only stated that the Sh. Jagmohan Singh, Assistant Labour Commissioner (Central) Delhi had given the failure report U/s 2 A of the Act and for this reason he had filed his claim. He further asserted that this tribunal has the jurisdiction in view of the failure report given by the Assistant Commissioner (Central).

Section-2 A have been inserted by Act 35 of 1965 in the Act and provide that the dismissal, discharge, retrenchment and termination of individual employee/workman shall be deemed to be an Industrial Dispute and give an option to the workmen to file the claim directly by filing an application to the labour court or tribunal for adjudication. However, it is subject to the condition that first, he will make an application to the conciliation officer of the appropriate government for conciliation of the dispute. However, the application has to be made before the tribunal after expiry of the Forty-five days of moving the application before the conciliation officer.

Section-2 A of the Act is reproduced herein for the sake of convenience

'[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. [(1)]

where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute]

Section 2 A (2) which has been inserted by Act 24 of 2010 has categorically mentioned that the application has to be made to the conciliation officer of the appropriate government. However, the Assistant Commissioner (Central) Delhi is not the conciliation officer of the appropriate government herein because none of the respondent has come within the definition of the Central Government. He has exercised the jurisdiction which has not been vested upon him.

In these circumstances, this tribunal has found that it has no jurisdiction to try the claim of the workmen. Hence, the claim of the workmen stand dismissed for want of jurisdiction. Award is accordingly passed. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. A copy of this award is also sent to the Central Labour Commissioner for information and action.

Date 29th January, 2024

ATUL KUMAR GARG
Presiding Officer.
CGIT-cum-Labour Court-II.

