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

I.D. No. 150/2015

Sh. Khushi Ram & 5 Ors. vs. Air India and Anr.

Khushi Ram and 5 Other Workmen... **Workmen/Claimants**

Through:
All India General Mazdoor Trade Union (Regd.) – AITUC
170, BalmukundKhand, Giri Nagar, Kalkaji, New Delhi – 110019

Versus

1. The Chairman and Managing Director,
   M/s Air India Ltd.
   Registered Office: Airlines House,
   113, GurudwaraRakabGanj Road,
   New Delhi – 110001.

2. The Managing Director,
   M/s Livewell Aviation Services Pvt. Ltd.
   8/02, Mehram Nagar,
   Opposite Palam Airport,
   New Delhi – 110010. ... **Managements/Respondents**

Counsels:
For Applicants/ Claimants*:*
Sh. Anil Rajput, Ld. AR.

For Managements/ Respondents*:*
Sh. GautamDutta and Ms. Shalini Gupta, Ld. ARs for management-1 (Air India).
Management-2 (M/s. Livewell Aviation Pvt. Ltd.) was proceeded ex-parte vide order dated 30.03.2026.

Award
25.06.2026

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, through the Ministry of Labour and Employment, vide its Order NO-L-11012/48/2014- IR(CM-I) dated 23.09.2015 has been pleased to refer the following dispute between workmen and managements for adjudication by this Tribunal in the following terms:

"Whether termination of employment of Sh. Khushi Ram and five others (as per list enclosed) without making payment of legitimate dues etc. is just, fair & legal? If not, what relief the workmen concerned are entitled to?'

The case of the workmen, is that the six claimants, namely, Khushi Ram, Jeet Lal Yadav, Surendra Kumar Dika, Dinesh Kumar, Sushil Kumar and Shailendra Mahto, were employed as Helpers and their work was cleaning of aircrafts of Management No.1, M/s Air India Ltd., through Management No.2, M/s Livewell Aviation Services Pvt. Ltd. Their respective dates of appointment and last drawn wages were as follows:

S. No.	**Name of Workman**	**Designation**	**Date of Appointment**	**Last Drawn Wages**
1	Khushi Ram	Helper	03.08.2004	Rs. 7,400/- p.m.
2	Jeet Lal Yadav	Helper	12.04.2004	Rs. 7,500/- p.m.
3	Surendra Kumar Dika	Helper	01.04.2004	Rs. 7,500/- p.m.
4	Dinesh Kumar	Helper	01.07.2004	Rs. 7,500/- p.m.
5	Sushil Kumar	Helper	06.06.2006	Rs. 7,000/- p.m.
6	Shailendra Mahto	Helper	20.10.2003	Rs. 7,800/- p.m.

It is stated that throughout their service tenure the workmen discharged their duties diligently and honestly and no complaint was ever made against them. The workmen further stated that the managements failed to provide them with various statutory and service benefits, including appointment letters, annual uniforms, equal pay for equal work, overtime wages, wage revisions, salary slips, ESI, PF and other statutory facilities provided to regular employees of Air India Ltd. According to the workmen, despite repeated demands made by them orally, the managements did not grant the said benefits.

It is stated that the claimants sent a demand notice dated 16.05.2012 through Registered post. However, despite receipt of the demand notice, the managements neither replied to the said notice nor provided them with the demanded facilities. Instead, they allegedly started to threaten the claimants to terminate their services and obtained their signatures on blank papers and vouchers.

It is the specific case of the workmen that during the pendency of proceedings before the Assistant Labour Commissioner (Central), the managements without obtaining permission illegally terminated their services on 01.05.2013, in violation of section 33 of the Industrial Disputes Act, 1947. According to them, no reason was assigned for their termination, no prior notice was given and their earned wages for the period from 01.04.2013 to 30.04.2013, were not paid to them.

The workmen further averred that they sent another demand notice dated 16.05.2013 demanding reinstatement in service and payment of earned wages and other dues, but the managements neither responded to the said notice nor reinstated them and new employees were engaged in their place.

The workmen have also alleged that before terminating their services the managements neither issued any charge-sheet nor conducted any domestic enquiry, nor paid notice pay, retrenchment compensation, earned wages or other statutory dues. According to them, the termination was illegal, unjustified and in violation of Section 25-F of the Industrial Disputes Act, 1947. They have stated that since the date of termination they have remained unemployed, and therefore , they have prayed for reinstatement in service with continuity of service, full back wages and consequential benefits.

In response, management No. 1 filed its written statement taking a preliminary objection that no relationship of employer and employee ever existed between it and the claimants. It denied that the claimants were ever employed by Management No. 1 or any wages were due upon the claimants. According to Management No. 1, the claimants were admittedly employees of Management No. 2, **M/s Livewell Aviation Services Pvt. Ltd.**, which was engaged in the field of ground handling services, including aircraft cleaning activities. It was further stated that by way of present industrial dispute, the claimants were in fact seeking regularization and absorption with Management No. 1 despite the fact that there was no employer-employee relationship between them.

Management No. 1 further stated that it had entered into agreements with various domestic and foreign airlines for providing services at **Indira Gandhi International Airport, New Delhi** and had awarded a contract for deep cleaning, cargo aircraft cleaning, polishing and exterior cleaning of aircrafts at IGI Airport to Management No. 2 through a service agreement dated 01.07.2010. The said contract was later extended and remained in operation till 30.04.2013. It was the stand of Management No. 1 that the arrangement between the two managements was an independent commercial contract executed on a principal-to-principal basis and not a contractor-principal employer arrangement as alleged by the claimants.

Management No. 1 further asserted that under the terms and conditions of the agreement, Management No. 2 was responsible for recruitment, deployment, supervision and control of its employees and for compliance with all statutory requirements, including payment of wages, provident fund, ESI and other statutory benefits. It was further statedthat the claimants had nowhere stated that the contract between the two managements was sham, bogus or merely a camouflage and, therefore, no liability can be imposed upon management-1. According to it, the contract between Management No. 1 and Management No. 2 came to an end on 30.04.2013 and if the services of the claimants were discontinued thereafter, the same was a matter between the claimants and Management No. 2. On these grounds, Management No. 1 prayed for dismissal of the claim in its entirety, contending that no cause of action had been disclosed against it and that no relief could be granted to the claimants against Management No. 1.

In response, management No. 2 also filed its written statement. It was submitted that Management No. 2 had been awarded a contract by Management No. 1 for deep cleaning, polishing and cleaning of cargo aircrafts and allied works at IGI Airport, New Delhi. According to Management No. 2, the claimants had been engaged purely on contractual basis for execution of the said contract after being informed about the terms and conditions of their engagement. It was further submitted that the claimants were aware that their services were liable to come to an end upon expiry of the contract. Management No. 2 asserted that during the existence of the contract all wages and other dues were duly paid to the claimants and no complaint was ever raised by them. It was further stated that the contract between the managements came to an end on 30.04.2013, thereafter the claimants were requested to surrender their airport entry passes and collect their dues. On these ground, management-2 sought dismissal of the present claim.

Rejoinder had been filed by the claimants where they denied the averments made by the managements in their written statement and affirmed the averments in made in the claim statement.

From the pleadings of the parties, the following issues were framed for adjudication:

1. Whether termination of employment of Sh. Khushi Ram and Five others (as per list enclosed) without making payment of legitimate dues etc. is just, fair and legal? If so, its effect?
2. Whether there was any employer and employee relationship between management-1 and workmen? If so, its effect?
3. To what relief the workman is entitled to and from which date?

In order to prove their case, all of the claimants barring Sh. Sushil Kumar filed their affidavits of evidence to substantiate their claim and reiterated the facts as stated in the claim statement. The contents of their affidavits were mostly identical. The claimants deposed that they had been working as Helpers in connection with aircraft cleaning operations through Management No. 2 for Management No. 1 and had rendered continuous service to the satisfaction of the managements without any complaint. They further deposed that despite repeated demands, the managements failed to provide them with various

statutory and service benefits such as appointment letters, uniforms, overtime wages, salary slips, ESI, PF and other legal facilities.

The claimants further deposed that upon raising demands for statutory benefits, the managements adopted unfair labour practices by threatening them with termination, compelling them to submit resignation letters and obtaining their signatures on blank papers and vouchers. According to them, while the dispute regarding their demands was pending before the labour authorities, their services were terminated on 01.05.2013 without notice, charge-sheet, or payment of earned wages and other legal dues. They further deposed that despite service of demand notices and complaints before the labour authorities, the managements neither reinstated them nor paid their dues. The claimants also stated that since their termination they had remained unemployed despite making efforts, and therefore, they claimed reinstatement with continuity of service, full back wages and all consequential benefits.

The claimants relied upon the following documents:

1. Complaint/application dated 10.05.2013 filed under Section 33-A of the Industrial Disputes Act before the Assistant Labour Commissioner – **Ex. WW1/1**.
2. Demand notice dated 16.05.2013 issued to the managements seeking reinstatement and payment of earned wages and other dues – **Ex. WW1/2**.
3. Registered postal receipt in respect of service of demand notice upon Management No. 1 – **Ex. WW1/3**.
4. Speed Post receipt in respect of service of demand notice upon Management No. 1 – **Ex. WW1/4**.
5. Acknowledgement card/receipt evidencing service upon Management No. 1 – **Ex. WW1/5**.
6. Registered postal receipt in respect of service of demand notice upon Management No. 2 – **Ex. WW1/6**.
7. Speed Post receipt in respect of service of demand notice upon Management No. 2 – **Ex. WW1/7**.
8. Application/representation dated 16.05.2013 submitted before the Assistant Labour Commissioner – **Ex. WW1/8**.
9. Statement of claim/dispute raised before the labour authorities on 30.05.2013 – **Ex. WW1/9**.

10. Representation/application dated 10.03.2014 submitted by the claimants before the Regional Labour Commissioner – **Ex. WW1/10**.

During cross-examination by management-1, the claimants deposed that they did not possess any documentary evidence to establish their employment with Management No. 1. They stated that they had initially come to know about the availability of work through informal sources and were thereafter engaged through Management No. 2, **M/s Livewell Aviation Services Pvt. Ltd.** The claimants admitted that they had no document to show that their services were terminated by Management No. 1 and further admitted that Management No. 1 had never issued any appointment letter or service-related documents to them during their tenure. They also admitted that they had never submitted any representation to Management No. 1 seeking their absorption in service.

They also admitted that they had no documentary proof of any employer-employee relationship with Management No. 1. The claimants, denied that there existed no relationship of employer and employee between them and Management No. 1 and deposed that the managements had terminated their services illegally.

Subsequently, management-2's right to cross-examine the claimant was closed due to its continued non-appearance and it was proceeded ex-parte.

In support of its defence, Management No. 1 examined Ms. Rachna Arya, Manager, as MW-1, who tendered her affidavit in evidence. She reiterated the averments made in the written statement that there never existed any relationship of employer and employee between Management No. 1 and the claimants and that the claimants were employees of Management No. 2, which was engaged in the field of ground handling services, including aircraft cleaning operations. According to the witness, the arrangement between Management No. 1 and Management No. 2 was purely on a principal-to-principal basis and Management No. 2 was responsible for recruitment, deployment, supervision and control of its workforce as well as compliance with all applicable labour laws. She further deposed that under the terms of the agreement, employees engaged by Management No. 2 could not be treated as employees of Management No. 1. The witness further stated

that the claimants, having been engaged by Management No. 2, could not claim any employer-employee relationship with Management No. 1.

The witness relied upon the following documents:

- Authority Letter in favour of MW-1 – **Ex. MW1/1**.
- Agreement dated 01.07.2010 executed between Management No. 1 and Management No. 2 – **Mark A**.
- Extension Letter dated 30.03.2012 – **Mark B**.

During her cross-examination, MW-1 admitted that the claimants were working in the premises of Management No. 1, though according to her they were under the control and supervision of the contractor to whom the work had been awarded from time to time. She stated that she was not aware whether the claimants had been working since the year 2004 or whether they were working as Helpers. She further stated that Management No. 1 had not maintained any salary record pertaining to the claimants or she was not aware whether the claimants had raised any dispute seeking regularization or claiming equal pay for equal work against Management No. 1.

The witness further deposed that she did not know the name of the contractor engaged prior to 01.07.2010 and was not aware about the duty hours of the claimants. She admitted that the work of cleaning and sanitation was of a permanent nature, though no permanent employees had been appointed by Management No. 1 for carrying out such work. The witness denied that Management No. 1 had supervision and control over the claimants and management No. 1 was involved in terminating services of the claimants on 01.05.2013.

I have heard the arguments at bar and gone through the pleadings and evidence adduced by both parties, and my findings on the issues are as follows. For the sake of convenience, Issue No. 2 is taken up first. The whole of the argument of the workmen is centred around the fact that they had been working with Management No. 1 through Management No. 2 since the dates mentioned in their claim statement, and that their services had been terminated illegally by the managements. While the case of Management No. 1 is that it had entered into a contract/agreement dated 01.07.2010 with Management No. 2, and the contract had continued for ground handling services, including aircraft cleaning activities. Their contract had come to an end on 30.04.2013

with Management No. 2 and this fact had been admitted by the claimants in their cross-examination that they were employed through Management No. 2 and were getting their salaries etc. from Management No. 2, therefore, the claim qua Management No. 2 is not maintainable. Moreover, it has been stated by Management No. 2 in its written statement that it had explained the terms of appointment to the workmen that their employment would be subject to the continuance of its contract with Management No. 1.

Since it is an admitted position and has been conceded by the claimants that their claims are qua Management No. 2, and the reference itself has been made by the Appropriate Government while sending the same for adjudication to this Tribunal that an industrial dispute exists between the claimants and Management No. 2 (M/s Livewell Aviation Services Pvt. Ltd., 8/141, Mehram Nagar, Ground Floor, Opp. Palam Airport, New Delhi-110010), therefore, it has been proved on record that no relationship of employer and employee existed between Management No. 1 and the claimants. Hence, Issue No. 2 goes in favour of Management No. 1.

Admittedly, the above-mentioned workmen are employees of Management-2, which has also been admitted in its written statement. However, its stand is that the claimants had been explained the nature of their jobs and were told that their employment would be subject to the continuation of the contract with Management-1.

Now the question arises whether Management-2 fulfilled any condition before retrenching these claimants.

Before proceeding further, the language of Section 2(oo), which defines the term 'retrenchment', and Section 25F of the Act, which sets out the conditions to be complied with by an employer before retrenching a workman, is required to be reproduced herein:

> ***[(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;]

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 2 [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 3 [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 given to the claimant/workman 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 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.

Management No. 2 has not brought any evidence in rebuttal nor has it cross-examined the workmen in this respect that it had explained the terms to the workmen that their services would continue only till the continuance of his contract with management-1, nor has any document been annexed therewith regarding the conditions of employment. Therefore, the conditions enumerated in Section 2(oo) that their services came to an end after the expiry of the contract are not fulfilled.

Therefore, it has been proved that the workmen were retrenched from service.

Now, the next question that arises for consideration is whether the services of the claimants were retrenched lawfully. Admittedly, Management No. 2 failed to bring any evidence nor did it examine any witness to the effect that it complied with the provisions set out in Section 25F of the Act by giving one month's notice or wages in lieu of notice and by paying retrenchment compensation to the claimants at the time of termination. Non-compliance with the mandatory conditions prescribed under Section 25F renders the retrenchment illegal and unjustified. Accordingly, the termination of all workmen barring Sh. Sushil Kumar (as he did not contest the claim) is held to be illegal and unjustified. Since the workmen have not brought any evidence to the effect that they worked with Management No. 2 since their respective dates of appointment, therefore, it is assumed that they worked for the period from 01.07.2010 to 30.04.2013 with Management No. 2.

Further, the question that arises is with regard to the relief to which the claimants are entitled to. As a general rule, where termination is declared illegal, the appropriate relief is reinstatement with full back wages**.** However, it has been held by the Hon'ble Supreme Court of India in **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 where the termination is held illegal and compensation can be granted instead by the industrial adjudicator. Similar views were expressed by the Hon'ble High Court of Delhi in Indian Hydraulic Industries Pvt. Ltd. vs. Kishan Devi and Bhagwati Devi &Ors., wherein it was held that even if the termination is found to be illegal, the relief of reinstatement with full back wages need not be granted automatically and the relief may be moulded according to the facts and circumstances of each case, including grant of compensation in lieu of reinstatement and back wages. The same principle has been reiterated by the Hon'ble Supreme Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik (2025 (INSC) 218)**, wherein it was held that reinstatement with full back wages is not an automatic relief and, in appropriate cases, lump sum compensation may be a more suitable relief.

Considering the facts and circumstances of the present case and the prolonged litigation faced by the claimants, lump-sum compensation

of Rs. 2,00,000/- (Rupees Two Lakhs Only) to each of the claimants (barring Sh. Sushil Kumar) is considered an appropriate relief in lieu of reinstatement. Accordingly, a lump-sum compensation of Rs. 2,00,000/- (Rupees Two Lakhs Only) is awarded to each of the claimants in lieu of reinstatement and back wages. Management No. 2 (M/s Livewell Aviation Services Pvt. Ltd.) is directed to pay the said amount within two months from the date of publication of this Award, failing which the amount shall carry interest @ 8% per annum from the date of the Award till its realization.

A copy of this Award be sent to the Appropriate Government for notification under Section 17 of the Industrial Disputes Act, 1947. The file be consigned to the Record Room.

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

Dated 25.06.2026