

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, JABALPUR

NO. CGIT/LC/M/02/2025

Present: P.K.Srivastava

H.J.S..(Retd)

Prabhudayal Dubey
S/o Shri Asharam Dubey
Resident of Village Madumar
Prof. Papaura
Tehsil or District Tikamgarh (M.P.)

Workman

Vs

- 1. Assistant Manager / Manager Food Corporation of India Branch
Dhonga Tikamgarh,
District Tikamgarh (M.P.)**
- 2. District Manager / Regional Manager
Satna M.P. Rewa Road,
Hotel Pratap, Satna, District Satna (M.P.)**
- 3. Senior Regional Manager / General Manager
Food Corporation of India,
Chetak Building
Maharana Pratap Nagar,
Zone 2 Habibganj, Bhopal M.P.**

Management

(JUDGMENT)

(Passed on 1st day of September - 2025)

The Applicant Workman has filed the petition under Rule 10(9) of the Industrial Disputes (Central) Rules 1957 (hereinafter referred to by the word '**Rules**') seeking recall of order dated 22.02.2024, passed by this Tribunal in the case C/03/2018 under Section 33(c)(2) of the Industrial Disputes Act, 1947 (hereinafter referred to by the word '**Act**') whereby his petition has been dismissed.

An affidavit has been filed in support. The OP/Management has preferred written objections with affidavit.

I have heard Learned Counsel for the Applicant workman and for the OP Management. I have gone through the record as well.

Facts connected in brief are mainly that, the Applicant Workman filed an application before this Tribunal under Section 33 (c) (2) of the Act with the case that he had filed a case against the Management in 1982 before the Labour Court at Sagar which was decided by the Labour Court vide its judgment and order dated 22.01.1982 holding him entitled to wages for the period June, 1982 to June, 1983. This order became final between the parties as a Writ Petition No. 2263/1984 filed by the Management against this order was dismissed after hearing. Thereafter, he filed another case before Labour Court at Satna on the basis of reference against termination of his services by Management. This case was registered as Case No. 72/2012 and was finally decided by Labour Court on 14.09.2015 holding that the Labour Court did not have jurisdiction to entertain the reference. It was also observed by the Labour Court that, the Workman was at liberty to file a case against termination of his services by Management before the Central Government Industrial Tribunal at Jabalpur. It is thereafter, he filed the petition under Section 33(c) (2) of the Act, seeking relief of setting-aside the order of his termination of services on the ground that no notice or compensation was paid to him. The Management appeared and contested the petition. The Workman filed certain documents in support of his case, Management filed affidavit of its witness which were not cross-examined by the Workman side. The Workman did not appear at the stage of arguments, hence, after hearing argument from Management, the petition was decided vide order dated 22.02.2024 holding that the relief of setting-aside the termination sought by the petitioner Workman cannot be granted in his petition under Section 33(c)(2) of the Act.

It is thereafter, the applicant workman has filed this application for setting aside the said order dated 22.02.2024.

The grounds are mainly that, the advocate Mr. Ajay Kumar Mehta engaged by the Applicant Workman and L.C. Chourasia used to appear before this Tribunal. There was no Presiding Officer in the Tribunal during the period 2018 to 2020, hence dates were fixed in this period from Office, thereafter Corona spread and his Learned Counsel Mr. Mehta could not note the dates. After Corona period, he handed over the file to Mr. L.C.

Chourasia. Through him, the Applicant Workman came to know that the said petition was fixed for order. It is thereafter, his Learned Counsel Mr. Pandey appear before the Presiding Officer and requested to take his Vakaltnama on record which was not granted by the Presiding Officer. He was assured that order will be passed making his presence in the case.

In its reply to the petition, the Management of F.C.I. has taken a case that, the petition was registered on 16.05.2018 and from the very next date the petitioner never appeared before the Tribunal. He was given sufficient opportunities from 2019 to 22.02.2024, but no one cared to appear for the petitioner. Thereafter, the petition was decided by this Tribunal. Management has prayed that the petition be dismissed.

I have heard arguments of Learned Counsel for the Petitioner and Management. I have also gone through the record as well.

The first ground taken by the petitioner is that, there was no Presiding Officer in the Tribunal within the period 2018 to 2020 this is factually incorrect because though the Tribunal was vacant in 2018 but the Presiding Officer took over the charge on 19.01.2019 and worked till 06.12.2022. **The second ground** that, during Corona period no work was done is also not correct because during the Corona period its cases were fixed for hearing and were heard and decided. This case was also fixed for hearing during Corona period. The Management side did appear during this period before the Tribunal. During the Corona period more than ten dates were fixed in this case. **The third contention** is that, some Mr. Pandey appeared on the date of order before Tribunal and his Vakalatnama can not be accepted is also not corroborated from record.

Rule 10 (9) of the Industrial Disputes (Central Rules), 1957 mentions about setting aside of ex-parte orders passed by Tribunals. **The period for limitation is one month from the date of order.** It is beyond comprehension that according to the petitioner himself, his counsel Mr. Pandey appeared on the date of judgment i.e. 22.02.2024, then why he failed to file the recall application within prescribed time of limitation. Photocopy of the judgment is on record as **Annexure P-9** of the petition filed by the workman himself shows that certified copy of judgment was obtained by him on 29.08.2024. He filed the Miscellaneous Writ Petition before Hon'ble High Court which is M.P. No. 15/2025 which he withdrew after filing.

Hence, the present petition for recall is also held bard by limitation and there are no grounds at all to condone the limitation.

This petition can be dismissed on the on the basis of above discussion and findings only, but since the Learned Counsel has submitted arguments on the merits of the order, which are not really needed to be enquired into at the stage of hearing of the petition for recall of the order, but for his satisfaction the arguments and the respective merits of the order are also being mentioned and discussed.

Learned Counsel has submitted that in fact the related provision was mentioned in the petition. The petition was not filed under Section 33(c)(2) of the Act, rather it was filed under Section 10 of the Act. The Tribunal decided this petition considering it a petition under Section 33 (c) (2) of the Act. This argument is simply inappropriate.

The Industrial Disputes Act provides two modes for filing case before this Tribunal. **Section 2(A)** of the Act requires to be referred to in this respect. This provision is being reproduced as follows –

- 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.*
- (2) *Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
- (3) *The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the*

date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

A perusal of this provision reads that, 'Section 10' of the Act reflects that a case can be filed either on the basis of reference sent by the Appropriate Government or on the basis of petition if the dispute is raised before the Labour Commissioner and is not conciliated between the parties within 45 days. There is no reference sent to this Tribunal by appropriate Government. There is nothing on record of the case to inform that the dispute was raised before the Labour Commissioner concern and it could not be conciliated within 45 days. Hence the arguments of Learned Counsel on this point also fail.

On the basis of above discussion and findings the petition for recall filed by the petitioner Workman seeking recall of order dated 22.02.2024 passed in Case No. C/03/2018 is held within merit and case/petition is dismissed accordingly.

No order as to cost.

DATE:- 01/09/2025



(P.K.SRIVASTAVA)
PRESIDING OFFICER