

# ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,  
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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**Case No. CGIT/LC/R/47/2018**  
**Union V/S S.E.C.L**

18.06.2024	<p>Matter taken up.</p> <p>Shri D.P. Saraf union representative present for Workman Union. Shri Jayant Kumar Mishra management representative is present for Management. He files his authorization. Taken on record.</p> <p>Management representative pressed his application dated 21/03/2024 (paper no. 124) seeking modification of order dated 17/09/2019 and permit the management to avail the service of an Advocate in this case.</p> <p>Union has filed its objection which is on record.</p> <p>I have heard both the sides on this application and have perused the record.</p> <p>The Union filed an application under section 36(4) of ID Act seeking relief that Management be denied to avail service of an Advocate to defend itself. No written objection was field by Management on this application. This application was heard and decided vide order dated 17/09/2019 and in the light of Law propounded by Hon'ble Supreme Court in the case of Paradip Port Trust Vs Workman (1977) SCC 339 and management was not permitted to engage an Advocate in this case.</p> <p>In the application for modification of the order, It has been stated that Shri D.P. Saraf claiming himself to be an office-bearer of the Workman Union and Union representative in himself a practicing Advocate. According to management this fact could not be brought before this Tribunal when order dated 17/9/2019 is passed. It is further the case of management that when the workman union representative, a practitioner Advocate having knowledge and experience in law</p>	
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	<p>appearing from one side, not permitting management to engage an Advocate for them will not be justified in Law as it will create an imbalance.</p> <p>On the other hand case of union is that, the Judgment of Hon'ble Supreme Court in the Paradip Port Case (supra) has been affirmed in the case of Thyssen Krupp Industries Vs Suresh Maruti Chougule &amp; others CA No. 6586/2019 vide Judgment dated 04/10/2023.</p> <p>I have gone through both Judgments referred. In the case of Paradip Port (supra) paragraph 16 of the Judgment requires to be referred and is been referred as follows' :-</p> <p><b>“16. If, however, a legal practitioner is appointed as an officer of a company or corporation and is in their pay and under their control and is not a practicing advocate the fact that he was earlier a legal practitioner or has a legal degree will not stand in the way of the company or the corporation being represented by him. Similarly if a legal practitioner is an officer of an association of employers or of a federation of such associations, there is nothing in Section 36(4) to prevent him from appearing before the tribunal under the provisions of Section 36(2) of the Act. Again, an office-bearer of a trade union or a member of its executive, even though he is a legal practitioner, will be entitled to represent the workmen before the tribunal under Section 36(1) in the former capacity. The legal practitioner in the above two cases will appear in the capacity of an officer of the association in the case of an employer and in the capacity of an office-bearer of the union in the case of workmen and not in the capacity of a legal practitioner. The fact that a person is a legal practitioner will not affect the position if the qualifications specified in Section</b></p>	

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	<p><b>36(1) and Section 36(2) are fulfilled by him.”</b></p> <p>These observations are binding on this Tribunal, hence the union representative Shri D.P. Saraf appearing on behalf of Union of Workman will be taken to have appeared as office-bearer of the Union and not as an Advocate. The facts that he is a practitioner Advocate will not make any difference.</p> <p>Hence, the application for modification of order dated 17/09/2019 deserves to be dismissed and is dismissed accordingly.</p> <p>List on <b>30-07-2024</b> For <b>cross examination of workman witness.</b></p> <p style="text-align: center;"><b>Presiding Officer</b></p>	