

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR [M.P.]

NO. CGIT/LC/ R/27/2023

Present: P.K.Srivastava

H.J.S..(Retd)

**Sattar Khan,
Sardar Ward Gali No. 2 Pipariya,
Hoshangabad,
(M.P.)-461775**

Workman

Vs

**The Chief General Manager,
MP Telecom Circle BSNL,
Hoshangabad Road Bhopal,
Narsinghpur (M.P.)-461775**

Management

(JUDGMENT)

(Passed on this 18th day of February, 2026)

सत्यमेव जयते

As per letter dated **30/03/2023** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under **Section-10 of Industrial Disputes Act, 1947** (in short the 'Act') as per Notification **No. J-5(31)/2022-RLC** dt. **30/03/2023**. The dispute under reference relates to:-

“Whether the action of the management of Chief General Manager, MP Telecom Circle, BSNL Bhopal in terminating the service of Shri Sattar Khan w.e.f. 20.07.1986 is legal, fair and justified? If not what relief the workman is entitled to and from which date?”

The case of the workman is that he was engaged as casual labour with the management company and was getting wages Rupees Nine Hundred per month. He worked continuously from 1985 to 1992 for more than 240 days in every year thus, acquired the status of

regular employee, the management issued a scheme vide letter dated 18.11.1998 by which regular status was conferred to the casual labour who worked for more than 240 days in a year, he is entitled to be conferred regular status. In light of the said letter also, similarly situated employees filed a case before the Central Administrative Tribunal, which was decided after hearing. It was directed by the Central Administrative Tribunal that the employees who had worked for more than 240 days with the management will be reinstated in service and shall be deemed in continuous service. The workman is also entitled to parity in light of the said order of Central Administrative Tribunal but, the management did not grant him any permanent and regular status. He was advised to file petition u/s 33(C)(2) of the Act, which he filed in 2001 which was registered as case No. C/15/2001. This petition was filed through the Secretary of the Union and was decided by this Tribunal after hearing vide order dated 24.08.2021, with an observation that the petition u/s 33(C)(2) was not maintainable as such. Thereafter, he raised a dispute in this respect after failure of conciliation, reference was sent to this Tribunal for adjudication.

According to the workman, he was not paid any retrenchment, compensation or notice pay at the time of his disengagement, he was not conferred permanent and regular status though, which he was entitled to in light of the circular of the department issued in 1998 as referred to above. The management has thus acted arbitrarily in not granting the reliefs claimed. He has prayed for setting aside his retrenchment, he be held entitled to be reinstated in service with all back-wages and benefits, also be held entitled to permanent and regular status of employee.

The case of the department is mainly that the workman never worked for 240 days in any year, he was not engaged at any point of time. They are a public sector undertaking established in 2000. Before that, there was Department of Telecommunication. The workman was not a petitioner in the said petition No. 411/1990 filed before the Central Administrative Tribunal, Jabalpur which he has referred to. Hence, is not entitled to benefit of any order passed by the Central Administrative Tribunal, department has prayed that the reference be answered against the workman.

In evidence, the workman has filed his affidavit as his Examination-in-chief, he has been cross-examined by the department, he has filed and proved Ex-W/1 which is the statements, all with regard to the works he has said to be have done with the department. Management has filed affidavit of its witness S. K. Gupta, as his Examination-in-chief. He has been cross-examined by the workman side.

I have heard argument of Learned Counsel for workman Mr. Harry Bamoriya and Mr. S.K. Patel, Learned Counsel for department. I have gone through the record as well.

The initial burden to prove his case that he was engaged with the department and worked for 240 days or more in the year preceding the date of his termination, is on the workman.

Section 25-B of the Act, which defines '*continuous service*', is being reproduced as follows:-

"25-B. Definition of continuous service.—For the purposes of this Chapter,—

- (1) ***a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;***
- (2) ***where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—***
 - (a) ***for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which***

calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case."

Pleadings of the parties on this issue have already been detailed earlier. The workman has reiterated his allegations on this point in his affidavit as his Examination-in-chief. He has filed and proved the statement issued by the Engineer of the Department, it goes to show that, within the period from July, 1985 to July, 1986, he worked for 253 days.

In his cross-examination, he has stated that his work was to lay telephone lines, dig pits and erecting poles. On the other hand, the management witness has denied the allegations in this respect and have stated in his affidavit that workman never worked for 240 days in any year. In his cross-examination, this witness states that muster roll was maintained in the department. Regarding Ex-W/1, he states that it is not issued by the department.

When, the initial burden that the workman worked for 240 days in a year has been discharged by him by way of his affidavit and documentary evidence, the onus shifts on the department to rebut it

atleast by production of muster rolls which has not been produced. Hence, in light of above discussion, **the case and evidence of the workman on the point of his regular employment of 240 days in the year preceding the date of his termination is held more reliable and is held proved accordingly.**

Section 25-F & 25-G of the Act, is being reproduced as follows:

25-F. 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.***

25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

It is further the case of workman that he was not paid any notice or compensation. The management witness also pleads ignorance on

this point. Hence holding that, no notice pay or retrenchment compensation was paid to the workman, his **termination is held in violation of section 25-F & 25-G of the Act.**

As regards relief, it has been submitted from the side of workman that delay is due to wrong advise and **secondly**, he is entitled to parity with petitioners who filed the case bearing case No. 411/1990 before the Central Administrative Tribunal. The said order of the Central Administrative Tribunal will be applicable to the petitioners only; the workman was at liberty to claim this parity before the Central Administrative Tribunal itself. He cannot claim parity before this Tribunal.

Keeping in view, the facts and circumstances of the case in hand, a lump sum compensation quantified Rs. 3 Lac/- (Three Lac Only) in lieu of all his claims will meet the ends of justice which the workman is held entitled to be paid by the department within 60 days from the date of publication of the Award, failing which interest @ 6% p.a. from the date of Award till payment.

In light of above discussion and findings, the reference is answered as follows.-

AWARD

“Holding the action of the management in terminating the service of Shri Sattar Khan w.e.f. 20.07.1986, illegal and unjustified, he is held entitled to a lump sum amount of Rs. 3 Lac/- (Three Lac Only) in lieu of all his claims, to be paid to him by the Department within 90 days from the date of Award, failing which interest @ 6% p.a. from the date of Award till payment, in lieu of all his claims.”

No order as to cost.

DATE:- 18-02-2026

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**