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

I.D. No. 151/2015

Sh. Pramod Kumar and 08 Ors.v. Air India and Anr.

Sh. Pramod Kumar and 08 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-11012/47/2014- 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. Pramod Kumar and 08 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 nine claimants were employed as Utility Hand 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	Pramod Kumar	Utility Hand	06.01.2007	Rs. 6,000/- p.m.
2	Deep Chand	Utility Hand	13.02.2004	Rs. 6,500/- p.m.
3	RatanLal Gupta	Utility Hand	16.01.2004	Rs. 6,500/- p.m.
4	Ajay Kumar	Utility Hand	23.03.2004	Rs. 6,500/- p.m.
5	Dal Chand	Utility Hand	20.06.2005	Rs. 6,200/- p.m.
6	Anil Kumar Sharma	Utility Hand	03.08.2004	Rs. 6,500/- p.m.
7	Vijendra Singh	Utility Hand	28.05.2004	Rs. 6,500/- p.m.
8	Dhirendra Kumar Rana	Utility Hand	26.07.2007	Rs. 6,000/- p.m.
9	UmeshYadav	Utility Hand	23.03.2004	Rs. 6,500/- 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 stated that 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. Pramod Kumar and 08 others 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, five out of nine of the claimants, Sh. Deepchand, Sh. RatanLal, Sh. Pramod Kumar, Sh. Ajay Kumar and Sh. Vijendrakumarfiled 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. However, only three out of these five claimants, Sh. Deep Chand, Sh. RatanLal and Sh. Pramod Kumar entered the witness box.

The claimants relied upon the following documents:

- Letter issued by the Vice President of All India General Mazdoor Trade Union – **Ex. WW1/1**.
- Postal receipt – **Ex. WW1/2**.
- Postal receipt – **Ex. WW1/3**.
- Demand letter dated 16.05.2012 – **Ex. WW1/4**.
- Industrial dispute addressed to the Regional Labour Commissioner – **Ex. WW1/5** (objected to by the management).
- Dispute/complaint submitted before the Assistant Labour Commissioner – **Ex. WW1/6** (objected to by the management).
- Office copy of representation dated 10.03.2014 addressed to the Regional Labour Commissioner – **Ex. WW1/7**.

- Office copy of registered letter addressed to the Chairman-cum-Managing Director, Air India – **Ex. WW1/8** (objected to by the management).
- Postal receipts evidencing dispatch of communications to various authorities of Air India – **Ex. WW1/9 to Ex. WW1/13**.
- **WW2/1 (colly)** is a copy of EPF scheme showing contribution of **WW2 RatanLal**for period of 2006-07 made by management-2 as well as the pay-slip for the month of January, 2012 issued by management-2.
- **WW3/1 (colly)** is a copy of the ESI card and salary slip of January 2012 issued by management-2 to WW3 Sh. Pramod Kumar.

During his cross-examination by the AR for Management No. 2, **Deep Chand (WW1)** deposed that he had passed Senior Secondary and was presently working as a helper electrician, though he did not have any document to establish the same. He stated that he had been issued an entry pass by Management No. 2, Livewell Aviation, and claimed that he could produce the same if directed. The witness admitted that his name did not appear in Ex. WW1/1 and that he had not filed any document to prove his membership of the Union. He further admitted that the documents exhibited as Ex. WW1/2, Ex. WW1/3 and Ex. WW1/9 to Ex. WW1/13 had not been personally dispatched by him and that he had no personal knowledge regarding the contents of the envelopes sent under the said postal receipts. He also admitted that the original of Ex. WW1/8 was not available with him.

During his cross-examination by the AR for Management No. 1, the witness deposed that he had come to know about the vacancy of Utility Hand in the year 2004 and thereafter started working with Management No. 2, Livewell Aviation. He admitted that he possessed no document to establish that his services had been terminated by Management No. 1. The witness further admitted that he was never under the employment of Management No. 1, Air India, and that the demands had been raised only against Management No. 2.

During his cross-examination by the AR for Management No. 1, **WW2 RatanLal** deposed that he did not possess any document to establish his employment with Management No. 1. He stated that in the year 2004, he came to know about vacancies for Utility Hands and after submitting his biodata, he started working with Management No. 2, and an entry pass had also been issued to him. The witness further admitted that he had no document to prove that his services had been terminated by Management No. 1. He admitted that he was never under the employment of Management No. 1, Air India, and that the demands had

been raised only against Management No. 2. He further admitted that he was a subscriber of ESI and Provident Fund during his employment with Management No. 2. He admitted that after becoming a member of the Union, he had never raised any demand through the Union regarding ESI or PF benefits.

During his cross-examination by the AR for Management No. 1, **WW3 Pramod Kumar** deposed on the same lines as WW2 RatanLal. He admitted that he did not possess any document to establish his employment with Management No. 1 and stated that he had started working with Management No. 2, after he came to know about vacancies for Utility Hands. He further admitted that he had never made any representation to Air India seeking absorption in service and that he had no document to establish that his services had been terminated by Management No. 1.

The witness also admitted that he was never under the employment of Management No. 1, Air India, and the demands had been raised only against Management No. 2. He further admitted that he was a subscriber of ESI and Provident Fund during his employment with Management No. 2.

Management No. 2 cross-examined only one of the claimants, namely, WW-1 Sh. Deep Chand. The remaining claimants were not cross-examined by Management No. 2. Thereafter, Management No. 2 stopped appearing before the Tribunal despite opportunities afforded to it and was consequently proceeded ex parte vide order dated 27.03.2025. Accordingly, the evidence led by WW-2 Sh. Ratan Lal and WW-3 Sh. Pramod Kumar remained unrebutted and unchallenged with regard to management-2.

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 and that 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 it 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.

Now the question arises whether the claimants have proved their relationship with management-2. For this, evidence and provisions of retrenchment are required to be looked into.

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.

Coming to the claim of WW-1 Sh. Deep Chand, he has failed to discharge the burden of proving his employment with Management No. 2. No documentary evidence has been placed on record to establish that he worked under Management No. 2. None of the documents exhibited by him, namely Ex. WW1/1 to Ex. WW1/10 establish his appointment, payment of wages, attendance, identity, ESI, provident fund or any other service record with Management No. 2. The said documents are only

related to the industrial dispute raised by him before the labour authorities after the alleged termination.

Furthermore, during his cross-examination, WW-1 stated that he did not possess any document to establish his employment with Management No. 1 and also admitted that he was not under the employment of Management No. 1. So his claim against Management No. 1 is liable to fail on his own admission. So far so Management No. 2 is concerned, except for his bald assertion, there is no evidence on record to prove the relationship of employer and employee. It is well settled that the initial burden to prove the employee-employer relationship lies upon the workman. Since WW-1 has failed to establish the relationship of employer and employee with either of the managements in his evidence, he is not entitled to any relief. Accordingly, the claim of WW-1 Sh. Deep Chand stands dismissed.

Coming to the claims of WW-2 Sh. RatanLal and WW-3 Sh. Pramod Kumar, both the claimants were cross-examined by Management No. 1. During their cross-examination, they admitted that they had no documentary evidence to establish any employer-employee relationship with Management No. 1. Thus, they have failed to establish that they were employees of Management No. 1 and, therefore, no relief can be granted against Management No. 1.

However, Management No. 2 did not cross-examine WW-2 and WW-3. Thereafter, it stopped appearing in the proceedings and was proceeded ex parte vide order dated 27.03.2025. Consequently, the testimony of WW-2 and WW-3 against Management No. 2 remained unrebutted and unchallenged to the effect that they were the employees of management-2. Ex. WW2/1 (colly) and Ex. WW3/1 (colly) which is document of EPF contributions and ESIC I.D. card showing names of the employer as management-2, has buttressed the fact that they were the employees of management-2. It did not bring any evidence in rebuttal nor did it cross-examine the workmen in this respect that it had explained to the workmen that their services would continue only till the continuance of the contract, 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 namely Sh. Ratan Lal

and Sh. Pramod Kumar were retrenched from services by management-2.

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 WW-2 Sh. Ratan Lal and WW-3 Sh. Pramod Kumar 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.

So far as the remaining claimants are concerned, they did not enter the witness box or lead any evidence in support of their respective claims. In the absence of any oral or documentary evidence, their claims are hereby dismissed.

Now, 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 Sh. Ratan Lal and Sh. Pramod 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 both claimantsin 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