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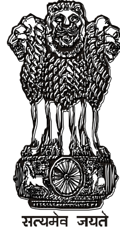

भारत का राजपत्र
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सं. 30] नई दिल्ली, अगस्त 4—अगस्त 10, 2024, शनिवार/ श्रावण 13—श्रावण 19, 1946
No. 30] NEW DELHI, AUGUST 4—AUGUST 10, 2024, SATURDAY/ SHRAVANA 13– SHRAVANA 19, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
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कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 26 अप्रैल, 2024

का.आ. 1450.—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार की अधिसूचना सं. सीबीआई 2021/सीआर/38/पोल-2 दिनांक 29.05.2023, गृह विभाग, मंत्रालय मुख्य भवन, मुंबई के माध्यम से जारी सम्मति से मेसर्स कॉक्स एंड किंग्स लिमिटेड, श्री अजय अजीत पीटर केरकर, प्रमोटर/निदेशक, सुश्री उर्शिला केरकर, प्रमोटर/निदेशक, श्री अनिल खंडेलवाल-सीएफओ, श्री पेसी पटेल, निदेशक, श्री एंटनी गुड, निदेशक, श्री महालिंगा नारायणन, निदेशक, अन्य अज्ञात व्यक्तियों और अज्ञात बैंक अधिकारियों के खिलाफ पुलिस स्टेशन दादर, मुंबई में पंजीकृत किए गए प्रकरण सी.आर. संख्या 0657/2021 दिनांक 23.06.2021 से संबंधित अपराध(धों), जो भारतीय दंड संहिता,

1860 (1860 की 45) की धारा 420, 465, 467, 468, 471 और भ्रष्टाचार निवारण अधिनियम, 1988 (1988 की 49) की धारा 13(2) सपठित धारा 13(1)(डी) के तहत दण्डनीय हैं, का अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/57/2023-एवीडी-II)]

कुंदन नाथ, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 26th April, 2024

S.O. 1450.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra, issued vide Notification No: CBI 2021/CR/ 38/ POL-2 dated 29.05.2023, Home Department, Mantralaya Main Building, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Maharashtra for investigation into the offence(s) relating to C.R. No. 0657/2021 dated 23.06.2021 registered at Dadar Police Station Mumbai against M/s. Cox and Kings Ltd., Mr. Ajay Ajit Peter Kerkar, Promoter/Director, Ms. Urrshila Kerkar, Promoter/Director, Mr. Anil Khandelwal-CFO, Mr. Pesi Patel, Director, Mr. Antony Good, Director, Mr. Mahalinga Narayanan, Director, unknown others and unknown bank officials for offences under section 420, 465, 467, 468, 471 of Indian Penal Code, 1860 (45 of 1860) and section 13(2) r/w section 13(1)(d) of the Prevention of Corruption Act, 1988 (49 of 1988) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/57/2023-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 8 मई, 2024

का.आ. 1451.—केंद्र सरकार, एतद्द्वारा, दिल्ली विशेष पुलिस स्थापना अधिनियम,1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तेलंगाना राज्य सरकार की अधिसूचना सं. जी.ओ. एमएस. सं. 16, दिनांक 16.03.2024 और उत्तरवर्ती अधिसूचना सं. जी.ओ. एमएस. सं. 23, दिनांक 04.04.2024, गृह (विशेष) विभाग के माध्यम से जारी सम्मति से श्री के. भारद्वाज, उप पोस्टमास्टर, कोइलकोंडा उप कार्यालय के रूप में कार्यरत, वर्तमान में, डाकघर अधीक्षक, महबूबनगर प्रभाग के कार्यालय में कार्यालय सहायक (निलंबन के अंतर्गत) के तौर पर कार्यरत एवं अन्य अज्ञात लोक सेवकों और अज्ञात अन्य व्यक्तियों के विरुद्ध भारतीय दंड संहिता की धारा 120बी सपठित धाराएं 409, 477ए & भ्रष्टाचार निवारण अधिनियम 1988 (1988 का केंद्रीय अधिनियम संख्या 49) (वर्ष 2018 में यथा संशोधित) की धारा 13(2) सपठित धारा 13(1)(ए) के तहत दिनांक 13.10.2022 को दर्ज सीबीआई मामला आरसी.16(ए)/2022 का अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 13.10.2022 से) समस्त तेलंगाना राज्य में करती है।

[फा. सं. 228/29/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 8th May, 2024

S.O. 1451.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Telangana, issued vide Notification No. G.O.Ms.No.16 dated 16.03.2024 and subsequent Notification

No. G.O.Ms.No.23 dated 04.04.2024, Home (Special) Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 13.10.2022) to the whole State of Telangana for investigation of CBI Case RC.16(A)/2022 dated 13.10.2022 under section 120B read with section 409, 477A of IPC & section 13(2) r/w section 13(1) (a) of Prevention of Corruption Act 1988 (Central Act No. 49 of 1988) (as amended in 2018) against Sri. K. Bharadwaj, working as Sub Post Master, Koilkonda Sub Office, presently working as Office Assistant (under suspension) O/o the Superintendent of Post Offices, Mahabubnagar Division and unknown public servants and unknown others and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/29/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 8 मई, 2024

का.आ. 1452.—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तेलंगाना राज्य सरकार की अधिसूचना सं. जी.ओ.एमएस.सं. 14, दिनांक 16.03.2024 एवं उत्तरवर्ती अधिसूचना सं. जी.ओ.एमएस.सं. 21, दिनांक 04.04.2024, तेलंगाना सरकार, गृह (विशेष) विभाग के माध्यम से जारी सम्मति से श्री किशोर रघुनाथ फुले, उप महाप्रबंधक (तकनीकी) और परियोजना निदेशक, परियोजना कार्यान्वयन एकक, वारंगल, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण और श्रीमती निशा किशोर फुले उर्फ निशा बर्बरे के खिलाफ भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केंद्रीय अधिनियम संख्या 49) (वर्ष 2018 में यथा संशोधित) की धारा 12, 13 (2) सपठित धारा 13(1) (बी) के तहत सी.बी.आई मामला आरसी15(ए)/2022, दिनांक 13.10.2022 का तथा ऐसे अपराधों से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 13.10.2022 से) समस्त तेलंगाना राज्य में करती है।

[फा. सं. 228/30/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 8th May, 2024

S.O. 1452.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Telangana, issued vide Notification No. G.O.Ms.No. 14 dated 16.03.2024 and subsequent Notification No. G.O.Ms.No. 21 dated 04.04.2024, Home (Special) Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 13.10.2022) to the whole State of Telangana for investigation of CBI Case RC.15(A)/2022 dated 13.10.2022 under section 12, 13 (2) read with Section 13(1) (b) of P.C. Act, 1988 (Central Act No. 49 of 1988) (as amended in 2018) against Shri Kishore Raghunath Fule, Deputy General Manager (Tech) & Project Director, Project Implementation Unit, Warangal, National Highway Authority of India and Smt. Nisha Kishore Fule @ Nisha Burbure and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/30/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 9 मई, 2024

का.आ. 1453.—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केरल राज्य सरकार की अधिसूचना सं. जी.ओ. (एमएस) सं.135/2023/गृह, दिनांक 26 मई, 2023 गृह (एम) विभाग, तिरुवनंतपुरम (एस.आर.ओ. सं. 610/2023 के रूप में प्रकाशित) का अधिक्रमण करते हुए अधिसूचना सं. जी.ओ. (एमएस) सं. 74/2024/गृह, दिनांक

12.03.2024, गृह (एम) विभाग, तिरुवनंतपुरम (एस.आर.ओ. सं. 275/2024 के रूप में प्रकाशित) के माध्यम से जारी सम्मति से, मेसर्स मूकंबिका होम्स & अपार्टमेंट प्रा. लि., श्री रामसेतुरमण, प्रबंध निदेशक, मेसर्स मूकंबिका होम्स & अपार्टमेंट प्रा. लि., श्री अजीत सी. शंकर, निदेशक, मेसर्स मूकंबिका होम्स & अपार्टमेंट प्रा. लि., श्रीमती उषा मोहन और श्री अजीत मोहन, भू-स्वामीगण व अन्य, यदि कोई हो, के खिलाफ भारतीय दंड संहिता, 1860 (वर्ष 1860 का केंद्रीय अधिनियम 45) की धाराएँ 120बी, सपठित धाराएं 420, 467, 468 और 471 के अंतर्गत दंडनीय अपराधों को अभिकथित रूप से कारित करने से जुड़े अपराधों तथा इस मामले से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है।

[फा. सं. 228/44/2023-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, 9th May, 2024

S.O. 1453.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Kerala, issued vide Notification G.O.(Ms)No.74/2024/Home dated 12.03.2024, Home(M) Department, Thiruvananthapuram [Published as S.R.O. No. 275/2024] in supersession of the Notification issued under G.O. (Ms)No. 135/2023/Home dated 26th May, 2023, Home(M) Department, Thiruvananthapuram [Published as S.R.O. No. 610/2023], hereby accord consent to the extension of powers and jurisdiction of the members of the Delhi Special Police Establishment within the whole State of Kerala for the investigation of offences punishable under section 120-B, read with sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 (Central Act 45 of 1860) against M/s. Mookambika Homes & Apartments Pvt. Ltd., Shri R. Sethuraman, Managing Director M/s. Mookambika Homes & Apartments Pvt. Ltd., Shri Ajith C. Shanker Director M/s. Mookambika Homes & Apartments Pvt. Ltd., Smt. Usha Mohan and Shri Ajith Mohan, Land Owners and others, if any, for commission of offences punishable under the said Act and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts, in regard to this case.

[F. No. 228/44/2023-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 27 मई, 2024

का.आ. 1454.—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का XXV) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार, गृह, कारागार एवं आपदा प्रबंधन विभाग, रांची, झारखंड की अधिसूचना ज्ञापन सं. 10/सी.बी.आई.-404/2024-2029/रांची, दिनांक 01.04.2024 के माध्यम से जारी सम्मति से श्री कृष्ण कुमार, पुत्र मोहन साव, निवासी बुकरू, टंडवा, जिला-चतरा (झारखंड) द्वारा श्री सुधांशु कुमार शर्मा, डिस्पैच अधिकारी, सीसीएल, आम्रपाली परियोजना, चतरा के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (वर्ष 2018 में यथासंशोधित) की धारा 7 के तहत कारित अपराधों के लिए दिनांक 13.03.2024 को दर्ज करायी गई शिकायत, जिसके आधार पर दिनांक 02.04.2024 को एक सीबीआई मामला सं. आरसी0242024ए0004 दर्ज किया गया है, से उत्पन्न अपराध(धों) का अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 02.04.2024 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/36/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 27th May, 2024

S.O. 1454.— In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No- 25 of 1946), the Central Government with the consent of the State Government of Bihar, issued vide Notification No.9/C.B.I-80-09/2023 HP 3864 dated 04.04.2024, Home Department (Police Branch) and Corrigendum Notification No.9/C.B.I-80-09/2023 HP 4818 dated 03.05.2024, Home Department (Police Branch) hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Bihar for registration and investigation of CBI Case pertaining to Cyber Tipline Report (CTR) No. 104564766 u/s 67-B of IT Act, 2000 against Anup Shanker Sahay S/o Aday Shanker Sahay r/o Flat No. -301, Raghunandan Lok, Anugrah Narayan Sinha Road, Kadamkuan (Near Congress Maidan), Patna Bihar-800003, mobile number +918789741011 and Lal Mohammad r/o- Ati Pichda Muslim Village, Harlakhi, Madhubani, Bihar-847230, Mobile number +919708747437, both are involved in sexual abuse of a minors and in collection/transmission/publishing of Child Sexual Abuse Material (CSAM), depicting children in sexually explicit manner offences punishable under provisions of IT Act, 2000 and any other offence that may come to the light during investigation of this case including any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/36/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 27 मई, 2024

का.आ. 1455.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार की अधिसूचना सं. 9/सी.बी.आई-80-09/2023 एचपी 3864, दिनांक 04.04.2024, गृह विभाग (पुलिस शाखा) एवं शुद्धिपत्र अधिसूचना सं. 9/सी.बी.आई-80-09/2023 एचपी 4818, दिनांक 03.05.2024, गृह विभाग (पुलिस शाखा), के माध्यम से जारी सम्मति से अनूप शंकर सहाय पुत्र अदय शंकर सहाय निवासी फ्लैट नंबर -301, रघुनंदन लोक, अनुग्रह नारायण सिन्हा रोड, कदमकुआं (कांग्रेस मैदान के पास), पटना, बिहार-800003, मोबाइल नंबर +918789741011 और लाल मोहम्मद निवासी- अति पिछड़ा मुस्लिम गांव, हरलाखी, मधुबनी, बिहार- 847230, मोबाइल नंबर +919708747437, दोनों नाबालिगों के यौन शोषण और बाल यौन शोषण सामग्री (सीएसएएम) के संग्रह/प्रसारण/प्रकाशन में संलिप्त हैं, सूचना प्रोद्योगिकी अधिनियम, 2000 के प्रावधानों के तहत बच्चों को स्पष्ट रूप से यौन रूप में चित्रित करना दंडनीय अपराध है, के खिलाफ सूचना प्रोद्योगिकी अधिनियम, 2000 की धारा 67-बी के तहत साइबर टिपलाइन रिपोर्ट (सीटीआर) संख्या 104564766 से संबंधित सीबीआई मामला और इस मामले के अन्वेषण के दौरान प्रकाश में आने वाले अन्य अपराध तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का पंजीकरण और अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त बिहार राज्य में करती है।

[फा. सं. 228/38/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 27th May, 2024

S.O. 1455—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No- 25 of 1946), the Central Government with the consent of the State Government of Bihar, issued vide Notification No.9/C.B.I-80-09/2023 HP 3864 dated 04.04.2024, Home Department (Police Branch) and Corrigendum Notification No.9/C.B.I-80-09/2023 HP 4818 dated 03.05.2024, Home

Department (Police Branch) hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Bihar for registration and investigation of CBI Case pertaining to Cyber Tipline Report (CTR) No. 104564766 u/s 67-B of IT Act, 2000 against Anup Shanker Sahay S/o Aday Shanker Sahay r/o Flat No. -301, Raghunandan Lok, Anugrah Narayan Sinha Road, Kadamkuan (Near Congress Maidan), Patna Bihar-800003, mobile number +918789741011 and Lal Mohammad r/o- Ati Pichda Muslim Village, Harlakhi, Madhubani, Bihar-847230, Mobile number +919708747437, both are involved in sexual abuse of a minors and in collection/transmission/publishing of Child Sexual Abuse Material (CSAM), depicting children in sexually explicit manner offences punishable under provisions of IT Act, 2000 and any other offence that may come to the light during investigation of this case including any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/38/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1456.—केन्द्र सरकार, एतद द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार की अधिसूचना ज्ञापन सं.-10/सी.बी.आई.-406/2024-2600 रांची, दिनांक 25. 04. 2024, गृह, कारागार एवं आपदा प्रबंधन विभाग के माध्यम से जारी सम्मति से श्री संजीव कुमार, पुत्र स्व. मिथलेश्वर प्रसाद सिन्हा, सामान्य मजदूर, हरियाजाम कोलियरी, सीबीएच ग्रुप ऑफ माइन्स, मुगमा क्षेत्र, ईसीएल धनबाद द्वारा दिनांक 10. 04. 2024 को दर्ज कराई गई शिकायत, जिसके आधार पर श्री राम प्रकाश पांडे, एजेंट/उप महाप्रबंधक, हरियाजाम कोलियरी, सीबीएच ग्रुप्स ऑफ माइन्स, मुगमा क्षेत्र, ईसीएल धनबाद के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (2018 में यथा संशोधित) की धारा 7 के अंतर्गत दंडनीय अपराध(धों) के लिए दिनांक 01. 05. 2024 को आरसी.2(ए)/2024-डी पंजीकृत किया गया है, का पंजीकरण एवं अन्वेषण करने तथा इस मामले के अन्वेषण के दौरान सामने आने वाले किसी अन्य अपराध तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना (01. 05. 2024 के प्रभाव से कार्योत्तर) के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त झारखंड राज्य में करती है।

[फा. सं. 228/41/2023-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1456.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification Memo No.-10/C.B.I-406/2024-2600 Ranchi, dated 25.04.2024, Home, Prisons and Disaster Management Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f 01.05.2024) to the whole State of Jharkhand for registration and investigation into the offence(s) in RC.2(A)/2024-D registered on 01.05.2024 punishable under section 7 of Prevention of Corruption Act, 1988 (as amended in 2018), against Shri Ram Prakash Pandey, Agent/DGM, Hariajam colliery, CBH Groups of Mines, Mugma Area, ECL Dhanbad arising out of the complaint dated 10.04.2024 lodged by Shri Sanjeev Kumar S/o Late Mithleshwar Prasad Sinha, General Mazdoor, Hariajam Colliery, CBH Group of Mines, Mugma Area, ECL, Dhanabad and any other offence that may come to light during investigation of this case and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/41/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1457.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का केंद्रीय अधिनियम XXV) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तेलंगाना राज्य सरकार की अधिसूचना सं. जी.ओ.एमएस.सं.27, दिनांक10.05.2024, गृह (विशेष) विभाग, तेलंगाना राज्य सरकार के माध्यम से जारी सम्मति से श्री टी. जानकी राव, अपर महाप्रबंधक, मिश्रा धातु निगम लिमिटेड (एमआईडीएचएएनआई), हैदराबाद के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केंद्रीय अधिनियम सं. 49) (2018 में यथा संशोधित) की धारा 7(ए) के अंतर्गत दंडनीय अपराध(धों) से जुड़े मामले को पंजीकृत एवं अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त तेलंगाना राज्य में करती है।

[फा. सं. 228/43/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1457.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act XXV of 1946), the Central Government with the consent of the State Government of Telangana, issued vide Notification No. G.O.Ms.No. 27 dated 10.05.2024, Home (special) Department, Government of Telangana, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole State of Telangana to register and investigate regarding the case against Sri T. Janaki Rao, Addl. General Manager, Mishra Dhatu Nigam Ltd. (MIDHANI), Hyderabad for the offence(s) punishable under section 7(a) of the Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988) (as amended in the 2018) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/43/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1458.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, झारखंड राज्य सरकार की अधिसूचना ज्ञापन सं.-10/सी.बी.आई.-407/2024-2778, दिनांक 03.05.2024, गृह, कारागार एवं आपदा प्रबंधन विभाग, रांची के माध्यम से जारी सम्मति से (i) बलजीत सिंह, C027517 बीएसएल (ii) बलराम कुमार, C028119 बीएसएल (iii) कुमार सौरभ, C024780 बीएसएल (iv) मिस्बाहुद्दीन अंसारी, C024484 बीएसएल (v) सनोज कुमार, C024847 बीएसएल (vi) अंबरपु रामनम्मा, C022121 बीएसएल (vii) रमेश प्रसाद रॉय, C024782 बीएसएल (viii) सुलेमान अंसारी, C022788 बीएसएल (ix) विजय कुमार, C025790 बीएसएल (x) बलवंत कुमार, C023300 बीएसएल (xi) ज्योति कुमारी, C028171 बीएसएल (xii) राजेश कुमार लाकड़ा, C022642 बीएसएल (xiii) सत्येन्द्र नाथ पाठक, C027462 बीएसएल (xiv) विजय कुमार, C02451 बीएसएल (xv) मनोज कुमार, F240446 सीओएल (xvi) ओम शंकर सिंह, टी001043 एसआरयू (xvii) बोकारो स्टील प्लांट, एसएआईएल और मेसर्स बीईसीआईएल के अन्य अज्ञात लोक सेवकों/गैर-सरकारी व्यक्तियों के विरुद्ध भारतीय दंड संहिता की धारा 120बी सपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (2018 में यथा संशोधित) की धारा 7, 7(ए) एवं 8 के अंतर्गत दंडनीय अपराधों के लिए नियमित मामला पंजीकृत करने एवं अन्वेषण करने और इस मामले के अन्वेषण के दौरान सामने आने वाला कोई अन्य अपराध तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए

गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त झारखंड राज्य में करती है।

[फा. सं. 228/44/2023-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1458.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification Memo No.-10/C.B.I.-407/2024-2778 dated 03.05.2024, Home, Prisons and Disaster Management Department, Ranchi hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Jharkhand for registration of regular case and investigation against (i) Baljeet Singh, C027517 BSL, (ii) Balram Kumar, C028119 BSL (iii) Kumar Saurabh, C024780 BSL (iv) Misbahuddin Ansari, C024484 BSL (v) Sanoj Kumar, C024847 BSL (vi) Ambarapu Ramanamma, C022121 BSL (vii) Ramesh Prasad Roy, C024782 BSL (viii) Suleman Ansari, C022788 BSL (ix) Vijay Kumar, C025790 BSL (x) Balwant Kumar, C023300 BSL (xi) Jyoti Kumari, C028171 BSL (xii) Rajesh Kumar Lakra, C022642 BSL (xiii) Satyendra Nath Pathak, C027462BSL (xiv) Vijay Kumar, C02451 BSL (xv) Manoj Kumar, F240446 COL (xvi) Om Shankar Singh, T001043 SRU (xvii) other unknown public servants/private persons of Bakaro Steel Plant, SAIL and M/s BECIL for the offences punishable under section 120-B r/w 420 of IPC and u/s 7, 7A & 8 of the Prevention of Corruption Act, 1988 (as amended in 2018) and any other offence that may come to light during the investigation of this case and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/44/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1459.—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार की अधिसूचना ज्ञापन सं.-10/सी.बी.आई.-408/2024-2922 रांची, दिनांक 09.05.2024, गृह, कारागृह एवं आपदा प्रबंधन विभाग, के माध्यम से जारी सम्मति से श्री विपिन कुमार, एल.एस.जी, पोस्ट-मास्टर, बगोदर, उप-डाकघर, गिरिडीह डिवीजन, गिरिडीह के खिलाफ श्री देवचंद कुमार, ग्रामीण डाक सेवक, मंदरामो उप डाकघर, जिला- गिरिडीह द्वारा दिनांक 29.04.2024 को दर्ज कराई गई शिकायत के आधार पर दिनांक 10.05.2024 को भ्रष्टाचार निवारण अधिनियम, 1988 (वर्ष 2018 में यथा संशोधित) की धारा 7 के तहत दंडनीय अपराध(धों) के संबंध में पंजीकृत मामला आरसी.3(ए)/2024-डी से जुड़े अपराध(धों) और कोई अन्य अपराध जो इस मामले के अन्वेषण के दौरान प्रकाश में आए और उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का पंजीकरण और अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 10.05.2024 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/45/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1459.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification Memo No.-10/C.B.I-408/2024-2922 Ranchi, dated 09.05.2024, Home, Prisons and Disaster Management Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f 10.05.2024) to the whole State of Jharkhand for registration and investigation into the offence(s) in RC.3(A)/2024-D registered on 10.05.2024 punishable under

section 7 of Prevention of Corruption Act, 1988 (as amended in 2018), against Shri Vipin Kumar, L.S.G, Post-Master, Bagodar, Sub-Post Office, Giridih Division, Giridih arising out of the complaint dated 29.04.2024 lodged by Shri Devchand Kumar, Gramin Dak Sevak, Mandramo Sub Post Office, Distt.- Giridih and any other offence that may come to light during investigation of this case and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/45/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1460.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पंजाब राज्य सरकार की अधिसूचना सं.-गृह-एचएम-40 विविध/25/2024-3एच4 दिनांक 20.05.2024, गृह मामले एवं विधि विभाग, गृह-4 शाखा के माध्यम से जारी सम्मति से श्री वीरेंद्र कुमार, प्रबंधक (गुणवत्ता), एफसीआई, मुल्लांपुर ढाका, लुधियाना, पंजाब और श्री पंकज, टीए, एफसीआई, मुल्लांपुर ढाका, लुधियाना, पंजाब के खिलाफ दिनांक 18.05.2024 को श्री भवनदीप सिंह पुत्र श्री जसवन्त सिंह निवासी ग्राम-हेरा, जिला-लुधियाना, पंजाब द्वारा उनके चावल के कार्गो को पास करने के बदले में प्रति ट्रक 3,000/- रुपये की रिश्वत मांगने की शिकायत से उत्पन्न दिनांक 21.05.2024 को पंजीकृत मामला आरसी. 0052024ए0012 के संबंध में भारतीय दंड संहिता की धारा 120 बी और भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केंद्रीय अधिनियम संख्या 49) (वर्ष 2018 में यथा संशोधित) की धारा 7 के तहत अपराध(धों) का पंजीकरण और अन्वेषण तथा उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 21.05.2024 से) समस्त पंजाब राज्य में करती है।

[फा. सं. 228/46/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1460.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Punjab, issued vide Notification No.HOME-HM-40MISC/25/2024-3H4 dated 20.05.2024, Home Affairs and Legal Department, Home-4 Branch, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 21.05.2024) in the whole State of Punjab for registration and investigation into the offence(s) in RC0052024A0012 registered on 21.05.2024 under section 120 B of IPC and section 7 of prevention of corruption Act, 1988 (as amended in 2018), against Shri Virender Kumar, Manager (Quality), FCI, Mullanpur Dhaka, Ludhiana, Punjab and Shri Pankaj, TA, FCI, Mullanpur Dhaka, Ludhiana, Punjab arising out of the complaint dated 18.05.2024 lodged by Shri Bhawandeep Singh S/o Shri Jaswant Singh R/o Village-Hera, District-Ludhiana, Punjab for demanding a bribe of Rs. 3,000/- per truck in exchange for passing his cargo of rice and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/46/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1461.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का केन्द्रीय अधिनियम 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केरल राज्य सरकार की अधिसूचना जी.ओ(एमएस)सं.103/2024/गृह, दिनांक 24/04/2024, गृह (एम) विभाग, तिरुवनंतपुरम

(एस.आर.ओ. सं. 408/2024 के रूप में प्रकाशित) के माध्यम से जारी सम्मति से, श्री अनीश के. ए., सीमा शुल्क निरीक्षक, श्री नितिन एस., सीमा शुल्क निरीक्षक, तिरुवनंतपुरम अंतर्राष्ट्रीय हवाई अड्डा, श्री नारायणन पुत्र श्री अंबाड़ी, ए.वी. हाउस, राजागिरी, रोमेनेश्वरम, कासरगोड और श्री सुकुमारन अंबाड़ी, एपी XII/144ए, पल्लायिल हाउस, चितार, डाकखाना - चितारी, कान्हांगड, कासरगोड एवं अज्ञात अन्यों, यदि कोई हो, के विरुद्ध भारतीय दंड संहिता, 1860 (1860 का अधिनियम 45) की धारा 120बी सपठित भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम 49), भ्रष्टाचार निवारण (संशोधन) अधिनियम, 2018 (2018 का केन्द्रीय अधिनियम 16) द्वारा यथा संशोधित, की धारा 7, 8 एवं 12 के तहत किए गए अभिकथित दंडनीय अपराध(धों) या मूल अपराधों तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है।

[फा. सं. 228/49/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1461.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946), the Central Government with the consent of the State Government of Kerala, issued vide Notification G.O(Ms)No.103/2024/HOME dated 24/04/2024, Home (M) Department, Thiruvananthapuram (Published as S.R.O No. 408/2024), hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole State of Kerala for investigation of the alleged commission of offence(s) punishable under sections 120B of the Indian Penal Code, 1860 (Act 45 of 1860) read with sections 7, 8 and 12 of the Prevention of Corruption Act (Act 49 of 1988), 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018 (Central Act 16 of 2018) and substantive offences thereof against Shri Aneesh K. A., Inspector Customs, Shri Nithin S., Inspector Customs, Thiruvananthapuram International Airport, Shri Narayanan S/o. Shri Ambadi, A. V. House, Rajagiri, Romeneswaram, Kasargod and Shri Sukumaran Ambadi, AP XII/144A, Pallayil House, Chithar, Chitari-P.O, Kanhangad, Kasargod and unknown others, if any, for the commission of offences punishable under the said Acts and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/49/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जून, 2024

का.आ. 1462.—केन्द्र सरकार, एतद्द्वारा, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का केंद्रीय अधिनियम 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार की अधिसूचना सं. वीआईपी-3023/सी.आर.26/पोल-12, दिनांक 22.05.2023, शुद्धिपत्र अधिसूचना सं. वीआई पी-3023/सी.आर.26/पोल-12 दिनांक 15.02.2024 & शुद्धिपत्र अधिसूचना सं. वीआईपी-3023/सी.आर.26/पोल-12 दिनांक 12.04.2024, महाराष्ट्र सरकार, गृह विभाग, मुंबई के माध्यम से जारी सम्मति से जलगांव सिटी थाना, जलगांव, महाराष्ट्र में भारतीय दण्ड संहिता की 120बी, 193, 34, 420, 448, 467, 468, 471, 511 के तहत दर्ज मामला सी.आर. सं. 323/2022 और चालीसगांव सिटी थाना, जलगांव, महाराष्ट्र में भारतीय दण्ड संहिता की 166, 213, 384, 385, 386,388, 506,34, 120बी के तहत दर्ज मामला सी.आर.सं. 25/2023 का तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा एवं/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/71/2022-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th June, 2024

S.O. 1462.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946), the Central Government with the consent of the State Government of Maharashtra, issued vide Notification No. VIP-3023/C.R.26/Pol-12 dated 22.05.2023, Corrigendum Notification No. VIP-3023/C.R.26/Pol-12 dated 15.02.2024 & Corrigendum Notification No. VIP-3023/C.R.26/Pol-12 dated 12.04.2024, Government of Maharashtra, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Maharashtra for investigation in respect of the crime registered vide C.R. No. 323/2022 at Jalgaon city Police station, Jalgaon, Maharashtra State under Sections 120(B), 193, 34, 420, 448, 467, 468, 471, 511 of IPC along with crime registered vide C.R. No. 25/2023 at Chalisgaon city Police station, Jalgaon, Maharashtra State under Sections 166, 213, 384, 385, 386, 388, 506, 34, 120(B) of IPC and any other offence and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/71/2022-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 6 जून, 2024

का.आ. 1463.—केन्द्र सरकार,एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम,1946 (1946 का केन्द्रीय अधिनियम 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केरल राज्य सरकार की अधिसूचना जी.ओ.(एमएस)सं.48/2024/गृह, दिनांक14.02.2024, गृह (एम) विभाग, तिरुवनंतपुरम (एस.आर.ओ. सं. 309/2024) के माध्यम से जारी सम्मति से, बैंक ऑफ इंडिया, आट्टिंगल शाखा के अज्ञात अधिकारियों, श्री फिरोज खान, मालिक, मेसर्स कन्सेप्ट बाइक्स तथा अन्य अज्ञात व्यक्तियों, यदि कोई हों, के विरुद्ध भारतीय दंड संहिता, 1860 (1860 का केन्द्रीय अधिनियम 45) की धारा 120बी सपठित धारा 420, 406 एवं 409 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केन्द्रीय अधिनियम 49) (2018 के अधिनियम 16 द्वारा यथा संशोधित) की धारा 13 की उप-धारा (2) सपठित उप-धारा (1) के खंड (क) के अंतर्गत दंडनीय अपराध(धों) तथा ऐसे अपराध(धों)से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है।

[फा. सं. 228/47/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 6th June, 2024

S.O. 1463.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946), the Central Government with the consent of the State Government of Kerala, issued vide Notification G.O.(Ms)No.48/2024/HOME dated 14.02.2024, Home (M) Department, Thiruvananthapuram (S.R.O. No. 309/2024), hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Kerala for investigation into the offence(s) against unknown officials of Bank of India, Attingal branch, Shri. Firoz Khan, Proprietor of M/s. Concept Bikes and unknown others, if any, punishable under section 120-B read with sections 420, 406 and 409 of the Indian Penal Code 1860 (Central Act 45 of 1860) and sub section (2) read with clause (a) of sub section (1) of section 13 of prevention of corruption Act, 1988 (Central Act 49 of 1988 (as amended vide Act 16 of 2018) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/47/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 7 जून, 2024

का.आ. 1464.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तमिलनाडु राज्य सरकार की अधिसूचना सं.जी.ओ. (2डी) सं. 130, दिनांक 10.05.2024, गृह (नागरिकता) विभाग के माध्यम से जारी सम्मति से, चीन से ब्रावो

एक्सिम द्वारा आयातित माल का मूल्यांकन करने एवं शुल्क लगाने के लिए 50,000/- रुपये की घूस की मांग करने/अवांछित लाभ उठाने (10 स्टार) के संबंध में श्री मधु कुमार, पुत्र एम.एस. स्वामीनाथन द्वारा दिनांक 27.04.2024 को दर्ज कराई गई शिकायत, जिसके आधार पर श्री मनीष, मूल्यांकन अधिकारी, समूह 3, प्रथम तल, कस्टम्स हाउस, राजाजी सलाई, चेन्नई-1 के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (2018 में यथा संशोधित) की धारा 7 के अंतर्गत दंडनीय अपराध(धों) के लिए दिनांक 10.05.2024 को आरसी0322024ए0007 पंजीकृत किया गया है, का पंजीकरण एवं अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (10.05.2024 से कार्योत्तर प्रभाव से) समस्त तमिलनाडु राज्य में करती है।

[फा. सं. 228/48/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 7th June, 2024

S.O. 1464.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946), the Central Government with the consent of the State Government of Tamil Nadu, issued vide Notification No. G.O. (2D) No.130 dated 10.05.2024, Home (Citizenship) Department hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 10.05.2024) in the whole State of Tamil Nadu for registration and investigation into the offence(s) in RC0322024A0007 registered on 10.05.2024 under section 7 of Prevention of Corruption Act, 1988 (amended in 2018), against Shri Manish, Appraising Officer, Group 3, First Floor, Customs House, Rajaji Salai, Chennai-1 arising out of the complaint dated 27.04.2024 lodged by Shri Madhu Kumar S/o M. S. Swaminathan for demanding of bribe/undue advantage of Rs. 50,000/- (Ten Stars) to appraise the goods imported by Bravo Exim from China and to levy the duty and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/48/2024-AVD-II]

KUNDAN NATH, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1465.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 में और आगे संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात:-

1. (1) इन नियमों को निर्यात निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण और अपील) (संशोधन) नियम, 2024 कहा जाएगा।

   (2) ये 31.07.2024 से लागू होंगे ।

2. निर्यात निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 (इसके पश्चात् उक्त नियम के रूप में संदर्भित) में नियम 5 के लिए निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात्:-

"5. इन नियमों के प्रयोजन के लिए, परिषद के कर्मचारियों को निम्नलिखित तीन समूहों में वर्गीकृत किया जाएगा, अर्थात्:

समूह क - वेतन मैट्रिक्स में स्तर 10 या उससे ऊपर के वेतन वाला पद।

समूह ख - वेतन मैट्रिक्स में 6 से 9 के स्तर पर वेतन वाला पद।

समूह ग - वेतन मैट्रिक्स में 1 से 6 के स्तर पर वेतन वाला पद।

नोट: वेतन मैट्रिक्स स्तर 6 में वेतन वाले पद, जिसमें केवल तकनीकी अधिकारी और अनुभाग अधिकारी का पदनाम होगा, को ग्रुप बी में वर्गीकृत किया जाएगा और अन्य को ग्रुप सी में रखा जाएगा।

3. उक्त नियमों के नियम 6 में, -

(क) उपनियम (5) के लिए निम्नलिखित उपनियम प्रतिस्थापित जाएगा, अर्थात् :-

"(5) (क) उप-नियम (7) के अध्यधीन, इस नियम के तहत किए गए या समझे गए निलंबन का आदेश तब तक प्रवृत रहेगा जब तक कि इसे ऐसा करने के लिए सक्षम प्राधिकारी द्वारा संशोधित या रद्द नहीं किया जाता है।

(ख) जहां परिषद का कोई कर्मचारी निलम्बित किया जाता है या निलम्बित माना जाता है (चाहे किसी अनुशासनात्मक कार्यवाही के संबंध में हो या अन्यथा) और उस निलम्बन के जारी रहने के दौरान उसके विरुद्ध कोई अन्य अनुशासनात्मक कार्यवाही शुरू की जाती है, तो उसे निलम्बित करने के लिए सक्षम प्राधिकारी, उसके द्वारा लिखित रूप में अभिलिखित किए जाने वाले कारणों से, निदेश दे सकता है कि परिषद का कर्मचारी ऐसी सभी या किसी भी कार्यवाही की समाप्ति तक निलम्बित बना रहेगा।

(ग) इस नियम के अधीन किए गए या माने गए निलंबन के आदेश को किसी भी समय उस प्राधिकारी द्वारा संशोधित या रद्द किया जा सकेगा, जिसने वह आदेश दिया है या जिसे आदेश देने के लिए माना गया है या किसी ऐसे प्राधिकारी द्वारा जिसके अधीन वह प्राधिकारी है।"

(ख) उप-नियम (5) के पश्चात्, निम्नलिखित उप-नियम अंतःस्थापित किए जाएंगे, अर्थात्: -

"(6) इस नियम के तहत किए गए या माने गए निलंबन के आदेश की समीक्षा उस प्राधिकारी द्वारा की जाएगी जो निलंबन को निलंबन आदेश की तारीख से नब्बे दिन की समाप्ति से पहले संशोधित या रद्द करने और निलंबन को बढ़ाने या रद्द करने के आदेश पारित करने के लिए सक्षम है तथा निलंबन की विस्तारित अवधि की समाप्ति से पहले उत्तरवर्ती समीक्षा की जाएगी एवं निलंबन का विस्तार एक बार में एक सौ अस्सी दिनों से अधिक की अवधि के लिए नहीं होगा।

(7) उप-नियम (1) या (2) के तहत किए गए या माना गया निलंबन आदेश नब्बे दिनों की अवधि के बाद वैध नहीं होगा जब तक कि इसे नब्बे दिनों की समाप्ति से पहले समीक्षा के पश्चात एक और अवधि के लिए न बढ़ाया जाए। बशर्ते कि उप-नियम (2) के तहत माने गए निलंबन के मामले में निलंबन की कोई ऐसी समीक्षा आवश्यक नहीं होगी, यदि परिषद का कर्मचारी नब्बे दिनों के निलंबन के पूरा होने के समय निलंबन के अधीन रहता है और ऐसे मामले में नब्बे दिन की अवधि उस तारीख से गिनी जाएगी जिस दिन अभिरक्षा में लिए गए परिषद कर्मचारी को हिरासत से रिहा किया जाता है या जिस तारीख को जब अभिरक्षा से उसकी रिहाई के तथ्य को उसके नियुक्ति प्राधिकारी को सूचित किया जाता है, जो भी बाद में हो।

4. उक्त नियमों के नियम 8 में-

क. खंड (iii) के बाद निम्नलिखित खंड को अंतर्वेशित किया जाएगा, अर्थात:-

(iii क) वेतन समय मान में तीन वर्षों से अधिक समय के लिए एक स्तर कम करना परन्तु इसका कोई संचयी प्रभाव नहीं होगा और न ही उसकी पेंशन पर प्रतिकूल प्रभाव पड़ेगा।

(ख) खंड (v) के स्थान पर निम्नलिखित खंड प्रतिस्थापित किए जायेंगे, अर्थात:-

"(v) खंड (iii क) में दिए गए प्रावधान के सिवाय, किसी विनिर्दिष्ट अवधि के लिए समय-वेतनमान को निम्नतर स्तर पर इस अतिरिक्त निदेश के साथ कम करना कि क्या परिषद का कर्मचारी ऐसी अवनति की अवधि के दौरान वेतन वृद्धि अर्जित करेगा या नहीं और क्या ऐसी अवधि की समाप्ति पर, वेतन में कमी से उसके वेतन की भावी वेतन वृद्धि स्थगित होगी या नहीं;"

(ग) खंड (viii) और (ix) के स्थान पर निम्नलिखित खंड प्रतिस्थापित किए जायेंगे, अर्थात:-

(viii) सेवा से रिमूवल जो सरकार अथवा परिषद के अधीन भविष्य में रोजगार के लिए अनर्हता नहीं होगी; तथा

(ix) सेवा से बर्खास्तगी जो सामान्यतः सरकार/ परिषद के अधीन भविष्य में रोजगार के लिए अनर्हता होगी।"

(5) उक्त नियमों के नियम 11 में

(क) उप नियम (2) के लिए, निम्नलिखित उप नियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(2) जब कभी अनुशासनिक प्राधिकारी की यह राय हो कि परिषद के किसी कर्मचारी के विरुद्ध कदाचार या दुर्व्यवहार के किसी आरोप की सत्यता की जांच करने के लिए आधार हैं, तो वह या तो स्वयं उसकी जाँच करेगा या इस नियम के अधीन या लोक सेवक (पूछताछ) अधिनियम, 1850 के अधीन यथास्थिति, उसकी सच्चाई की जांच करने के लिए किसी प्राधिकारी को नियुक्त कर सकेगा;

बशर्ते कि जहां केन्द्रीय सिविल सेवा (आचरण) नियमावली, 1964 के नियम 3ग के अर्थान्तर्गत यौन उत्पीड़न की शिकायत की गई है वहां ऐसी शिकायतों की जांच करने के लिए कार्यालय में बनाई गई शिकायत समिति को, इन नियमों के प्रयोजन के लिए अनुशासनिक प्राधिकारी द्वारा नियुक्त जांचकर्ता प्राधिकारी माना जाएगा और यदि यौन उत्पीड़न की शिकायतों की जांच करने के लिए शिकायत समिति के लिए अलग प्रक्रिया निर्धारित नहीं की गई है, तो शिकायत निवारण समिति इन नियमों में निर्धारित प्रक्रिया के अनुसार यथासंभव, जांच आयोजित करेगी।

स्पष्टीकरण:जहाँ अनुशासनिक प्राधिकारी-

(i) स्वयं जांच करता है, वहां उपनियम (7) से उपनियम (20) तक और उपनियम (22) में जांच प्राधिकारी के प्रति कोई संदर्भ अनुशासनिक प्राधिकारी के प्रति संदर्भ के रूप में समझा जाएगा; या

(ii) किसी सेवानिवृत्त सरकारी कर्मचारी या लोक सेवक को जांच प्राधिकारी नियुक्त करता है, वहां उपनियम (7) से उपनियम (20) तक और उपनियम (22) में किसी संदर्भ में ऐसा प्राधिकारी शामिल होगा।

(ख) उपनियम (8) के लिए निम्नलिखित उपनियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(8) (क) परिषद का कर्मचारी अपनी ओर से मामला प्रस्तुत करने के लिए अपने मुख्यालय में या उस स्थान पर जहां जांच की जाती है, किसी भी कार्यालय में तैनात किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता ले सकता है, लेकिन इस उद्देश्य के लिए किसी विधि व्यवसायी को नियुक्त नहीं कर सकता, जब तक कि अनुशासनात्मक प्राधिकारी द्वारा नियुक्त प्रस्तुतकर्ता अधिकारी कोई विधि व्यवसायी न हो, या अनुशासनात्मक प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए ऐसा करने की अनुमति न दे;

बशर्ते कि परिषद का कर्मचारी किसी अन्य स्थान पर तैनात किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता ले सकेगा, यदि जांच प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए तथा लिखित रूप में दर्ज किए जाने वाले कारणों से ऐसा करने की अनुमति देता है।

(ख) परिषद का कर्मचारी किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता नहीं लेगा जिसके पास तीन अनुशासनात्मक मामले लंबित हों जिनमें उसे सहायता देनी है।

(ग) परिषद का कर्मचारी अपनी ओर से मामला प्रस्तुत करने के लिए सेवानिवृत्त सरकारी कर्मचारी या लोक सेवक की सहायता भी ले सकता है, बशर्ते कि भारत सरकार द्वारा इस संबंध में समय-समय पर सामान्य या विशेष आदेश द्वारा निर्दिष्ट शर्तें लागू हों।

(6) उक्त नियमों के नियम 14 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात्:-

"14-क. सेवानिवृत्ति या अधिवर्षिता के बाद अनुशासनात्मक कार्यवाही जारी रखना:

(1) अनुशासनात्मक कार्यवाही, यदि परिषद कर्मचारी के सेवा में रहने के दौरान शुरू की गई थी, चाहे वह उसकी सेवानिवृत्ति से पहले हो या उसकी पुनर्नियुक्ति के दौरान, कर्मचारी की अंतिम सेवानिवृत्ति के बाद, चालू मानी जाएगी और उसे उस प्राधिकारी द्वारा जारी रखा जाएगा और समाप्त किया जाएगा, जिसके द्वारा उसे उसी तरह शुरू किया गया था जैसे कि परिषद का कर्मचारी सेवा में बना हो।

(2) अनुशासनात्मक कार्यवाही के लंबित रहने के दौरान, परिषद के कर्मचारी के सेवानिवृत्ति लाभ केन्द्रीय सरकार के संबंधित नियमों के प्रावधानों के अनुसार तय किये जाएंगे।

(7) उक्त नियमों के नियम 19 में खंड (i) के लिए निम्नलिखित खंड प्रतिस्थापित किया जाएगा, अर्थात्:-

"(i) वेतन मैट्रिक्स में स्तर 13 या उससे ऊपर के वेतन वाले पद को छोड़कर परिषद द्वारा दिया गया किसी आदेश, की अपील केंद्र सरकार को की जाएगी;"

(8) उक्त नियमों के नियम 21 में, उप-खंड (3) के लिए निम्नलिखित उपनियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(3) परिषद का कोई कर्मचारी, वेतन मैट्रिक्स में स्तर 13 या उससे ऊपर के वेतन वाले पद को छोड़कर जिस में अपील केंद्रीय सरकार को की जाएगी, नियम 8 में विनिर्दिष्ट किसी भी दंड को लागू करने वाले आदेश के विरुद्ध अध्यक्ष को अपील कर सकता है, यदि ऐसा दंड परिषद के किसी कर्मचारी पर संयुक्त परामर्श और अनिवार्य मध्यस्थता योजना में भाग लेने वाले किसी संघ, महासंघ या यूनियन के पदाधिकारी के रूप में उसके कार्य से जुड़ी गतिविधियों के संबंध में अध्यक्ष के अलावा किसी अन्य प्राधिकारी द्वारा लगाया जाता है तो "उप-नियम (1) या उप-नियम (2) के तहत उसके लिए ऐसी कोई अपील नहीं की जाएगी।

(फ़ा. सं. के-16012/7/2022-निर्यात निरीक्षण)

दर्पण जैन, संयुक्त सचिव

नोट: मूल नियम भारत के राजपत्र, भाग II , खंड 3, उपखंड (II) में अधिसूचना संख्या एस.ओ.42 दिनांक 7 जनवरी, 1978 द्वारा प्रकाशित किए गए थे और तत्पश्चात् अधिसूचना संख्या एस.ओ. 1442 दिनांक 5 मई, 1979, एस.ओ.1020 दिनांक 19 अप्रैल, 1980, एस.ओ.556 दिनांक 6 फरवरी, 1982,एस.ओ.2631 दिनांक 14 अक्टूर 1989 और जी.एस.आर.311 दिनांक 31 मई 1993 द्वारा संशोधित किए गए।

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 31st July, 2024

S.O. 1465.—In exercise of powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (the 22 of 1963), the Central Government hereby makes the following rules further to amend the Export Inspection Council Employees (Classification, Control and Appeal) Rules, 1978, namely:-

1. (1) These rules may be called the Export Inspection Council Employees (Classification, Control and Appeal) Amendment Rules, 2024.

   (2) They shall come into force from 31.07.2024.

2. In the Export Inspection Council Employees (Classification, Control and Appeal) Rules, 1978 (hereinafter referred to as the said rules), for rule 5, the following rule shall be substituted, namely:-

"5. For the purpose of these rules, the Council employees shall be classified into the following three Groups, namely:

Group A – A post carrying the pay in the pay matrix at the level 10 or above.

Group B – A post carrying the pay in the pay matrix at the level from 6 to 9.

Group C – A post carrying the pay in the pay matrix at the level from 1 to 6.

Note: Post carrying the pay in the pay matrix at the level 6 having designation of Technical Officer and Section Officer only will be classified into Group B and others will be in Group C."

3. In rule 6 of the said rules,-

(a) for sub-rule (5), the following sub-rule shall be substituted, namely:-

"(5) (a) Subject to sub-rule (7), an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Council employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may,

for reasons to be recorded by him in writing, direct that the Council employee shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.".

(b) after sub-rule (5), the following sub-rules shall be inserted, namely:-

"(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of ninety days from the date of suspension order and pass orders either extending or revoking the suspension, and subsequent reviews shall be made before expiry of the extended period of suspension and extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.

(7) An order of suspension made or deemed to have been made under sub-rule (1) or (2) shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days:

Provided that review of suspension shall not be necessary in the case of deemed suspension under sub-rule (2), if the Council employee continues to be under suspension at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Council employee detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.".

4. In rule 8 of the said rules,-

(a) after clause (iii), the following clause shall be inserted, namely:-

"(iii a) reduction to lower stage in the time-scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.";

(b) for clause (v), the following clause shall be substituted, namely:-

"(v) save as provided for in clause (iii a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Council employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;";

(c) for clauses (viii) and (ix), the following clauses shall be substituted, namely:-

"(viii) removal from service which shall not be a disqualification for future employment under the Government or Council; and

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government or Council.".

5. In rule 11 of the said rules,-

(a) for sub-rule (2), the following sub-rule shall be substituted, namely:-

"(2) Whenever the disciplinary authority is of opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against theCouncil employee, it may itself inquire into or appoint under this rule or under the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof:

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in the Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Explanation.-Where the disciplinary authority-

(i) itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority; or

(ii) appoints a retired Government servant or Public Servant as inquiring authority, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) shall include such authority.";

(b) for sub-rule (8), the following sub-rule shall be substituted, namely:-

"(8) (a) The Council employee may take the assistance of any other Government servant or Public Servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits:

Provided that the Council employee may take the assistance of any other Government servant or Public Servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

(b) The Council employee shall not take the assistance of any other Government servant or Public Servant who has three pending disciplinary cases on hand in which he has to give assistance.

(c) The Council employee may also take the assistance of a retired Government servant or Public Servant to present the case on his behalf, subject to such conditions as may be specified by the Government of India from time to time by general or special order in this behalf.".

(6) After rule 14 of the said rules, the following rule shall be inserted, namely:-

"14-A. Continuation of Disciplinary Proceedings after retirement or superannuation.-

(1) Disciplinary proceedings, if instituted while the Council employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority by which it was commenced in the same manner as if the council employee had continued in service.

(2) During the pendency of the disciplinary proceedings, the retirement benefits to the Council employee shall be decided in accordance with the provisions of the respective rules of the Central Government as applicable.".

(7) In rule 19 of the said rules, for clause (i), the following clause shall be substituted, namely:-

"(i) any order made by the Council except for the post carrying the pay in the pay matrix at the level 13 or above in which case the appeal shall be made to the Central Government;".

(8) In rule 21 of the said rules, for sub-rule (3), the following sub-rule shall be substituted, namely:-

"(3) The Council employee may prefer an appeal against an order imposing any of the penalties specified in rule 8 to the Chairman, except for the post carrying the pay in the pay matrix at the level 13 or above in which case the appeal shall be made to the Central Government, where no such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the Chairman on such Council employee in respect of his activities connected with his work as an office bearer of an association, federation or union participating in the Joint Consultation and Compulsory arbitration Scheme.".

[F. No. K-16012/7/2022-Export Inspection]

DARPAN JAIN, Jt. Secy.

Note.- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (ii), vide notification number S.O. 42, dated the 7th January 1978 and subsequently amended vide notifications numbers S.O. 1442 , dated the 5th May 1979 S.O.1020, dated the 19th April 1980, S.O.556, dated the 6th February 1982, S.O.2631, dated the 14th October 1989 and G.S.R.311, dated the 31st May 1993.

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1466.— केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण अभिकरण कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 में और आगे संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात:-

1. (1) इन नियमों को निर्यात निरीक्षण अभिकरण कर्मचारी (वर्गीकरण, नियंत्रण और अपील) (संशोधन) नियम, 2024 कहा जाएगा।

   (2) ये 31.07.2024 से लागू होंगे।

2. निर्यात निरीक्षण अभिकरण कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 (इसके पश्चात् उक्त नियम के रूप में संदर्भित) में नियम 5 के लिए निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात्:-

“5. इन नियमों के प्रयोजन के लिए, अभिकरण के कर्मचारियों को निम्नलिखित तीन समूहों में वर्गीकृत किया जाएगा, अर्थात्:

समूह क - वेतन मैट्रिक्स में स्तर 10 या उससे ऊपर के वेतन वाला पद।

समूह ख - वेतन मैट्रिक्स में 6 से 9 के स्तर पर वेतन वाला पद।

समूह ग - वेतन मैट्रिक्स में 1 से 6 के स्तर पर वेतन वाला पद।

नोट: वेतन मैट्रिक्स स्तर 6 में वेतन वाले पद, जिसमें केवल तकनीकी अधिकारी और अनुभाग अधिकारी का पदनाम होगा, को ग्रुप बी में वर्गीकृत किया जाएगा और अन्य को ग्रुप सी में रखा जाएगा।

3. उक्त नियमों के नियम 6 में, -

(क) उपनियम (5) के लिए निम्नलिखित उपनियम प्रतिस्थापित जाएगा, अर्थात् :-

“(5) (क) उप-नियम (7) के अध्यधीन, इस नियम के तहत किए गए या समझे गए निलंबन का आदेश तब तक प्रवृत रहेगा जब तक कि इसे ऐसा करने के लिए सक्षम प्राधिकारी द्वारा संशोधित या रद्द नहीं किया जाता है।

(ख) जहां अभिकरण का कोई कर्मचारी निलम्बित किया जाता है या निलम्बित माना जाता है (चाहे किसी अनुशासनात्मक कार्यवाही के संबंध में हो या अन्यथा) और उस निलम्बन के जारी रहने के दौरान उसके विरुद्ध कोई अन्य अनुशासनात्मक कार्यवाही शुरू की जाती है, तो उसे निलम्बित करने के लिए सक्षम प्राधिकारी, उसके द्वारा लिखित रूप में अभिलिखित किए जाने वाले कारणों से, निदेश दे सकता है कि अभिकरण का कर्मचारी ऐसी सभी या किसी भी कार्यवाही की समाप्ति तक निलम्बित बना रहेगा।

(ग) इस नियम के अधीन किए गए या माने गए निलंबन के आदेश को किसी भी समय उस प्राधिकारी द्वारा संशोधित या रद्द किया जा सकेगा, जिसने वह आदेश दिया है या जिसे आदेश देने के लिए माना गया है या किसी ऐसे प्राधिकारी द्वारा जिसके अधीन वह प्राधिकारी है।"

(ख) उप-नियम (5) के पश्चात्, निम्नलिखित उप-नियम अंतःस्थापित किए जाएंगे, अर्थात्: -

"(6) इस नियम के तहत किए गए या माने गए निलंबन के आदेश की समीक्षा उस प्राधिकारी द्वारा की जाएगी जो निलंबन को निलंबन आदेश की तारीख से नब्बे दिन की समाप्ति से पहले संशोधित या रद्द करने और निलंबन को बढ़ाने या रद्द करने के आदेश पारित करने के लिए सक्षम है तथा निलंबन की विस्तारित अवधि की समाप्ति से पहले उत्तरवर्ती समीक्षा की जाएगी एवं निलंबन का विस्तार एक बार में एक सौ अस्सी दिनों से अधिक की अवधि के लिए नहीं होगा।

(7) उप-नियम (1) या (2) के तहत किए गए या माना गया निलंबन आदेश नब्बे दिनों की अवधि के बाद वैध नहीं होगा जब तक कि इसे नब्बे दिनों की समाप्ति से पहले समीक्षा के पश्चात एक और अवधि के लिए न बढ़ाया जाए। बशर्ते कि उप-नियम (2) के तहत माने गए निलंबन के मामले में निलंबन की कोई ऐसी समीक्षा आवश्यक नहीं होगी, यदि अभिकरण का कर्मचारी नब्बे दिनों के निलंबन के पूरा होने के समय निलंबन के अधीन रहता है और ऐसे मामले में नब्बे दिन की अवधि उस तारीख से गिनी जाएगी जिस दिन अभिरक्षा में लिए गए अभिकरण कर्मचारी को हिरासत से रिहा किया जाता है या जिस तारीख को जब अभिरक्षा से उसकी रिहाई के तथ्य को उसके नियुक्ति प्राधिकारी को सूचित किया जाता है, जो भी बाद में हो।

4. उक्त नियमों के नियम 8 में-

क. खंड (iii) के बाद निम्नलिखित खंड को अंतर्वेशित किया जाएगा, अर्थात:-

(iii क) वेतन समय मान में तीन वर्षों से अधिक समय के लिए एक स्तर कम करना परन्तु इसका कोई संचयी प्रभाव नहीं होगा और न ही उसकी पेंशन पर प्रतिकूल प्रभाव पड़ेगा।

(ख) खंड (v) के स्थान पर निम्नलिखित खंड प्रतिस्थापित किए जायेंगे, अर्थात:-

“(v) खंड (iii क) में दिए गए प्रावधान के सिवाय, किसी विनिर्दिष्ट अवधि के लिए समय-वेतनमान को निम्नतर स्तर पर इस अतिरिक्त निदेश के साथ कम करना कि क्या अभिकरण का कर्मचारी ऐसी अवनति की अवधि के दौरान वेतन वृद्धि अर्जित करेगा या नहीं और क्या ऐसी अवधि की समाप्ति पर, वेतन में कमी से उसके वेतन की भावी वेतन वृद्धि स्थगित होगी या नहीं;”

(ग) खंड (viii) और (ix) के स्थान पर निम्नलिखित खंड प्रतिस्थापित किए जायेंगे, अर्थात:-

(viii) सेवा से रिमूवल जो सरकार अथवा अभिकरण के अधीन भविष्य में रोजगार के लिए अनर्हता नहीं होगी; तथा

(ix) सेवा से बर्खास्तगी जो सामान्यतः सरकार/ अभिकरण के अधीन भविष्य में रोजगार के लिए अनर्हता होगी।"

(5) उक्त नियमों के नियम 11 में

(क) उप नियम (2) के लिए, निम्नलिखित उप नियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(2) जब कभी अनुशासनिक प्राधिकारी की यह राय हो कि अभिकरण के किसी कर्मचारी के विरुद्ध कदाचार या दुर्व्यवहार के किसी आरोप की सत्यता की जांच करने के लिए आधार हैं, तो वह या तो स्वयं उसकी जाँच करेगा या इस नियम के अधीन या लोक सेवक (पूछताछ) अधिनियम, 1850 के अधीन यथास्थिति, उसकी सच्चाई की जांच करने के लिए किसी प्राधिकारी को नियुक्त कर सकेगा;

बशर्ते कि केन्द्रीय सिविल सेवा (आचरण) नियमावली, 1964 के नियम 3ग के अर्थान्तर्गत यौन उत्पीड़न की शिकायत की गई है वहां ऐसी शिकायतों की जांच करने के लिए कार्यालय में बनाई गई शिकायत समिति को, इन नियमों के प्रयोजन के लिए अनुशासनिक प्राधिकारी द्वारा नियुक्त जांचकर्ता प्राधिकारी माना जाएगा और यदि यौन उत्पीड़न की शिकायतों की जांच करने के लिए शिकायत समिति के लिए अलग प्रक्रिया निर्धारित नहीं की गई है, तो शिकायत निवारण समिति इन नियमों में निर्धारित प्रक्रिया के अनुसार यथासंभव, जांच आयोजित करेगी।

स्पष्टीकरण:जहाँ अनुशासनिक प्राधिकारी-

(i) स्वयं जांच करता है, वहां उपनियम (7) से उपनियम (20) तक और उपनियम (22) में जांच प्राधिकारी के प्रति कोई संदर्भ अनुशासनिक प्राधिकारी के प्रति संदर्भ के रूप में समझा जाएगा; या

(ii) किसी सेवानिवृत्त सरकारी कर्मचारी या लोक सेवक को जांच प्राधिकारी नियुक्त करता है, वहां उपनियम (7) से उपनियम (20) तक और उपनियम (22) में किसी संदर्भ में ऐसा प्राधिकारी शामिल होगा।

(ख) उपनियम (8) के लिए निम्नलिखित उपनियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(8) (क) अभिकरण का कर्मचारी अपनी ओर से मामला प्रस्तुत करने के लिए अपने मुख्यालय में या उस स्थान पर जहां जांच की जाती है, किसी भी कार्यालय में तैनात किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता ले सकता है, लेकिन इस उद्देश्य के लिए किसी विधि व्यवसायी को नियुक्त नहीं कर सकता, जब तक कि अनुशासनात्मक प्राधिकारी द्वारा नियुक्त प्रस्तुतकर्ता अधिकारी कोई विधि व्यवसायी न हो, या अनुशासनात्मक प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए ऐसा करने की अनुमति न दे;

बशर्ते कि अभिकरण का कर्मचारी किसी अन्य स्थान पर तैनात किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता ले सकेगा, यदि जांच प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए तथा लिखित रूप में दर्ज किए जाने वाले कारणों से ऐसा करने की अनुमति देता है।

(ख) अभिकरण का कर्मचारी किसी अन्य सरकारी कर्मचारी या लोक सेवक की सहायता नहीं लेगा जिसके पास तीन अनुशासनात्मक मामले लंबित हों जिनमें उसे सहायता देनी है।

(ग) अभिकरण का कर्मचारी अपनी ओर से मामला प्रस्तुत करने के लिए सेवानिवृत्त सरकारी कर्मचारी या लोक सेवक की सहायता भी ले सकता है, बशर्ते कि भारत सरकार द्वारा इस संबंध में समय-समय पर सामान्य या विशेष आदेश द्वारा निर्दिष्ट शर्तें लागू हों।

(6) उक्त नियमों के नियम 14 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात्:-

"14-क. सेवानिवृत्ति या अधिवर्षिता के बाद अनुशासनात्मक कार्यवाही जारी रखना:

(1) अनुशासनात्मक कार्यवाही, यदि अभिकरण कर्मचारी के सेवा में रहने के दौरान शुरू की गई थी, चाहे वह उसकी सेवानिवृत्ति से पहले हो या उसकी पुनर्नियुक्ति के दौरान, कर्मचारी की अंतिम सेवानिवृत्ति के बाद, चालू मानी जाएगी और उसे उस प्राधिकारी द्वारा जारी रखा जाएगा और समाप्त किया जाएगा, जिसके द्वारा उसे उसी तरह शुरू किया गया था जैसे कि अभिकरण का कर्मचारी सेवा में बना हो।

(2) अनुशासनात्मक कार्यवाही के लंबित रहने के दौरान, अभिकरण के कर्मचारी के सेवानिवृत्ति लाभ केन्द्रीय सरकार के संबंधित नियमों के प्रावधानों के अनुसार तय किये जाएंगे।

(7) उक्त नियमों के नियम 19 में खंड (i) के लिए निम्नलिखित खंड प्रतिस्थापित किया जाएगा, अर्थात्:-

"(i) वेतन मैट्रिक्स में स्तर 13 या उससे ऊपर के वेतन वाले पद को छोड़कर अभिकरण द्वारा दिया गया किसी आदेश, की अपील केंद्र सरकार को की जाएगी;"

(8) उक्त नियमों के नियम 21 में, उप-खंड (3) के लिए निम्नलिखित उपनियम प्रतिस्थापित किया जाएगा, अर्थात्:-

"(3) अभिकरण का कोई कर्मचारी, वेतन मैट्रिक्स में स्तर 13 या उससे ऊपर के वेतन वाले पद को छोड़कर जिस में अपील केंद्रीय सरकार को की जाएगी, नियम 8 में विनिर्दिष्ट किसी भी दंड को लागू करने वाले आदेश के विरुद्ध अध्यक्ष को अपील कर सकता है, यदि ऐसा दंड अभिकरण के किसी कर्मचारी पर संयुक्त परामर्श और अनिवार्य मध्यस्थता योजना में भाग लेने वाले किसी संघ, महासंघ या यूनियन के पदाधिकारी के रूप में उसके कार्य से जुड़ी गतिविधियों के संबंध में अध्यक्ष के अलावा किसी अन्य प्राधिकारी द्वारा लगाया जाता है तो "उप-नियम (1) या उप-नियम (2) के तहत उसके लिए ऐसी कोई अपील नहीं की जाएगी।

(फ़ा. सं. के-16012/7/2022-निर्यात निरीक्षण)

दर्पण जैन, संयुक्त सचिव

नोट: मूल नियम भारत के राजपत्र, भाग II , खंड 3, उपखंड (II) में अधिसूचना संख्या एस.ओ.43 दिनांक 7 जनवरी, 1978 द्वारा प्रकाशित किए गए थे और तत्पश्चात् अधिसूचना संख्या एस.ओ. 1443 दिनांक 5 मई, 1979, एस.ओ.2982 दिनांक 1 सितंबर, 1979, एस.ओ.1019 दिनांक 19 अप्रैल, 1980,एस.ओ.557 दिनांक 6 फरवरी 1982, एस.ओ.2632 दिनांक 14 अक्टूबर 1989 और जी.एस.आर.622 दिनांक 31 मई 1993 द्वारा संशोधित किए गए।

New Delhi, the 31st July, 2024

S.O. 1466.—In exercise of powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (the 22 of 1963), the Central Government hereby makes the following rules further to amend the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978, namely:-

3. (1) These rules may be called the Export Inspection Agency Employees (Classification, Control and Appeal) Amendment Rules, 2024.

(2) They shall come into force from 31.07.2024.

4. In the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978 (hereinafter referred to as the said rules), for rule 5, the following rule shall be substituted, namely:-

"5. For the purpose of these rules, the Agency employees shall be classified into the following three Groups, namely:

Group A – A post carrying the pay in the pay matrix at the level 10 or above.

Group B – A post carrying the pay in the pay matrix at the level from 6 to 9.

Group C – A post carrying the pay in the pay matrix at the level from 1 to 6.

Note: Post carrying the pay in the pay matrix at the level 6 having designation of Technical Officer and Section Officer only will be classified into Group B and others will be in Group C."

3. In rule 6 of the said rules,-

(a) for sub-rule (5), the following sub-rule shall be substituted, namely:-

"(5) (a) Subject to sub-rule (7), an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where an Agency employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Agency employee shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.”.

(b) after sub-rule (5), the following sub-rules shall be inserted, namely:-

“(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of ninety days from the date of suspension order and pass orders either extending or revoking the suspension and subsequent reviews shall be made before expiry of the extended period of suspension and extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.

(7) An order of suspension made or deemed to have been made under sub-rule (1) or (2) shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days:

Provided that review of suspension shall not be necessary in the case of deemed suspension under sub-rule (2), if the Agency employee continues to be under suspension at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Agency employee detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.”.

4. In rule 8 of the said rules,-

(a) after clause (iii), the following clause shall be inserted, namely:-

“(iii a) reduction to lower stage in the time-scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.”;

(b) for clause (v), the following clauses shall be substituted, namely:-

“(v) save as provided for in clause (iii a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Agency employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay”;

(c) for clauses (viii) and (ix), the following clauses shall be substituted, namely:-

“(viii) removal from service which shall not be a disqualification for future employment under the Government or Agency; and

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government or Agency.”.

5. In rule 11 of the said rules,-

(a) for sub-rule (2), the following sub-rule shall be substituted, namely:-

“(2) Whenever the disciplinary authority is of opinion that there are grounds forinquiring into the truth of any imputation of misconduct or misbehaviour againstan Agency employee, it may itself inquire intoor appoint under this rule or under the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof:

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in the Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Explanation.- Where the disciplinary authority-

(iii) itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority; or

(iv) appoints a retired Government servant or Public Servant as inquiring authority, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) shall include such authority.”;

(b) for sub-rule (8), the following sub-rule shall be substituted, namely:-

“(8) (a) The Agency employee may take the assistance of any other Government servant or Public Servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits:

Provided that the Agency employee may take the assistance of any other Government servant or Public Servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

(b) The Agency employee shall not take the assistance of any other Government servant or Public Servant who has three pending disciplinary cases on hand in which he has to give assistance.

(c) The Agency employee may also take the assistance of a retired Government servant or Public Servant to present the case on his behalf, subject to such conditions as may be specified by the Government of India from time to time by general or special order in this behalf."

(6) After rule 14 of the said rules, the following rule shall be inserted, namely:-

"14-A. Continuation of Disciplinary Proceedings after retirement or superannuation.-

(1) Disciplinary proceedings, if instituted while the agency employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority by which it was commenced in the same manner as if the agency employee had continued in service.

(2) During the pendency of the disciplinary proceedings, the retirement benefits to the Agency employee shall be decided in accordance with the provisions of the respective rules of the Central Government as applicable.".

(7) In rule 19 of the said rules, for clause (i), the following clause shall be substituted, namely:-

"(i) any order made by the Council except for the post carrying the pay in the pay matrix at the level 13 or above in which case the appeal shall be made to the Central Government;".

(8) In rule 21 of the said rules, for sub-rule (3), the following sub-rule shall be substituted, namely:-

"(3) An Agency employee may prefer an appeal against an order imposing any of the penalties specified in rule 8 to the Chairman, except for the post carrying the pay in the pay matrix at the level 13 or above in which case the appeal shall be made to the Central Government, where no such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the Chairman on such Agency employee in respect of his activities connected with his work as an office bearer of an association, federation or union participating in the Joint Consultation and Compulsory arbitration Scheme."

[F. No. K-16012/7/2022-Export Inspection]

DARPAN JAIN, Jt. Secy.

Note.- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (ii), vide notification number S.O. 43 dated the 7th January 1978 and subsequently amended vide notifications numbers S.O. 1443 , dated the 5th May 1979, S.O. 2982, dated the 1st September 1979, S.O.1019, dated the 19th April 1980, S.O.557, dated the 6th February 1982, S.O.2632, dated the 14th October 1989 and G.S.R.622, dated the 31st May 1993.

वस्त्र मंत्रालय

नई दिल्ली, 13 मई, 2024

का.आ. 1467.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:-

क्रम सं.	कार्यालयों के नाम
1.	राष्ट्रीय फैशन प्रौद्योगिकी संस्थान, निफ्ट, छेब, कांगडा, हिमाचल प्रदेश।
2.	रेशमकीट बीज उत्पादन केंद्र, राष्ट्रीय रेशमकीट बीज संगठन, केंद्रीय रेशम बोर्ड, पावर हाउस रोड/लद्दन, उधमपुर-182101 (जम्मू व कश्मीर)
3.	पी2 मूल बीज फार्म, राष्ट्रीय रेशमकीट बीज संगठन, केंद्रीय रेशम बोर्ड, शीशमवाडा, शेरपुर देहरादून, उत्तराखंड-248197
4.	रेशमकीट बीज उत्पादन केंद्र, राष्ट्रीय रेशमकीट बीज संगठन, केंद्रीय रेशम बोर्ड, विमल सिंह रोड, लालदिघि, बहरमपुर-मुर्शिदाबाद-742101 (पश्चिम बंगाल)

[फा. सं. ई-11016/2/2023-हिंदी]

अखिलेश कुमार, उप महानिदेशक

MINISTRY OF TEXTILE

New Delhi, the 13th May, 2024

S.O. 1467.—In pursuance of sub-rule(4) of Rule 10 of the Official language (Use for official Purpose of the Union) Rules, 1976, the central Government hereby notifies the following offices of the Ministry of Textile, more than 80% staff whereof have acquired working knowledge of Hindi:

Sr. No.	Name of offices
1.	National Institute of Fashion Technology, NIFT Campus Cheb, Kangra, Himachal Pradesh
2.	Silkworm Seed Production Centre, National Silkworm Seed Organization, Central Silk Board, Powe House Road/Laddan, Udhampur-182101 (Jammu and Kashmir)
3.	P2 Basic Seed Farm, National Silkworm Seed Organization, Central Silk Board, Shishamwada, Sherpur Dehradun, Uttarakhand-248197
4.	Silkworm Seed Production Centre, National Silkworm Seed Organization, Central Silk Board, Vimal Singh Road, Laldidhi, Baharampur-Murshidabad-742101 (West Bengal)

[F. No. E-11016/2/2023-Hindi]

AKHILESH KUMAR, Deputy Director General

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 20 मई, 2024

का.आ. 1468.—मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में निम्नलिखित कार्यालयों जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करता है:-

1. रेल दावा अधिकरण, रांची पीठ

2. रेल दावा अधिकरण, इलाहाबाद पीठ

[फा. सं. हिंदी-2023/रा.भा.-1/12/1/(1824246)]

डॉ. बरुण कुमार, निदेशक (राजभाषा)

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 20th May, 2024

S.O. 1468.—Ministry of Railways (Railway Board) in pursuance of Sub Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the Official purposes of the Union) hereby, notify the following offices where 80% or more Officers/Employees have acquired the working knowledge of Hindi:-

1. Railway Claims Tribunal, Ranchi Bench.
2. Railway Claims Tribunal, Allahabad Bench.

[F. No. Hindi-2023/O.L-1/12/1/(1824246]

Dr. BARUN KUMAR, Director(O. L.)

नई दिल्ली, 5 जुलाई, 2024

का.आ. 1469.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम-10 के उपनियम(2) और (4) के अनुसरण में निम्नलिखित कार्यालयों जहाँ 80 प्रतिशत से अधिक अधिकारियों/ कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करता है:-

1. मुख्य कारखाना प्रबंधक, सवारी डिब्बा मरम्मत कारखाना, तिरुपति.
2. रेलटेल कॉर्पोरेशन ऑफ इंडिया लिमिटेड, पूर्वी क्षेत्रीय कार्यालय, कोलकाता, पश्चिम बंगाल.
3. राइट्स लिमिटेड, परियोजना यूनिट, सिकंदराबाद.
4. रेल दावा अधिकरण, गोरखपुर पीठ

[फा. सं. हिंदी -2023/रा.भा.-1/12/1/(1814373)]

डॉ. बरुण कुमार, निदेशक (राजभाषा)

New Delhi, the 5th July, 2024

S.O. 1469.—Ministry of Railways (Railway Board) in pursuance of Sub-Rule (2) and (4) of Rule-10 of the Official Langauge Rules, 1976 (Use for the Official Purpose of the Union) hereby, notify the following offices where 80 percent or more officers/employees have acquired the working knowledge of Hindi:-

1. Chief Workshop Manager, Carriage Repair Workshop, Tirupati.
2. RailTel Corporation of India Ltd, Eastern Regional Office, Kolkata, West Bengal.
3. Rites Ltd., Project Unit, Secunderabad.
4. Railway Claims Tribunal, Gorakhpur Bench.

[F. No. Hindi-2023/O.L.1/12/1/ (1814373)]

Dr. BARUN KUMAR, Director (O. L.)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 19 जुलाई, 2024

का.आ. 1470.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स दिनेश कुमार स्वैन; सिक्योरिटी एंड इंटेलिजेंस सर्विस (इंडिया) लिमिटेड; भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कान्हू चरण पैकरे** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर, पंचाट (रिफेरेंस न.-43/2021)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2024 को प्राप्त हुआ था।

[सं. जेड -16025/04/2024-आईआर(एम)-83]

दिलीप कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th July, 2024

S.O. 1470.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(I.D. No. 43/2021)** of the **Central Government Industrial Tribunal cum Labour Court, Bhubaneswar** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Dinesh Kumar Swain; Security and Intelligence Service (India) Limited; Bharat Petroleum Corporation Limited** and **Shri Kanhu Charan Paikray** which was received along with soft copy of the award by the Central Government on 18.07.2024.

[No Z-16025/04/2024-IR(M)-83]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 43/2021

Date of Passing Order – 17th May, 2024

Between:

1. M/s. Dinesh Kumar Swain, Security Agency,
   HIG-194, KananVihar, Patia, Phase-2,
   Chadrasekharpur, Bhubaneswar – 751 031.
2. Security and Intelligence Service (India) Ltd. Mig10a(c)
   K-9-A, Kalinga Vihar P.O. Patrapada,
   P.S. Khandagiri, Khurda – 751 -19, Odisha, Patrapada,
   Khordha, Odisha – 751 019.
3. Bharat Petroleum Corporation Limited,
   Khordha, Odisha

… 1st Party-Managements.

(And)

Sri KanhuCharanPaikray,
S/o. JudhistiraPiakray,
At. Kumar Khatia, P.O. Jatni,
Dist. Khurda – 752 050.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

O R D E R

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide order No. 8(285)/2019-B.II dated 24.12.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. Dinesh Kumar Swain, Security Agency, Contractor of BPCL, LPG Plant, Industrial Estate, Khurda by not redeploying Shri Kanhu Charan Paikaray, Security Guard is his old assignment and without adhering Section 25-H of the I.D. Act, 1947 is legal and/or justified? If not, what relief the workman is entitled to?"

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice,the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

SRI DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 19 जुलाई, 2024

का.आ. 1471.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स बोलानी ओरे माइंस, सेल** के प्रबंधतंत्र के संबद्ध नियोजकों और **बोलानी ठीका मज़दूर संघ (बीएमएस)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर, पंचाट (रिफेरेंस न.-36/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2024 को प्राप्त हुआ था।

[सं. एल -26011/23/2017-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th July, 2024

S.O. 1471.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(I.D. No. 36/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Bhubaneswar** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Bolani Ore Mines, SAIL** and **Bolani Thika Mazdoor Sangh (BMS)** which was received along with soft copy of the award by the Central Government on 18.07.2024.

[No. L-26011/23/2017-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-LabourCourt,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 36/2020

Date of Passing Order – 26th April, 2024

Between :-

The General Manager (Mines),

M/s. Bolani Ore Mines, SAIL, RMD,

At./Po. Bolani, Dist. Keonjhar, Odisha.

… 1st Party-Management.

(And)

The General Secretary,

BolaniThikaMazdoorSangh, (BMS),

At./Po. Bolani, Dist. Keonjhar, Odisha.

… 2nd Party-Union.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Union.

O R D E R

In the present case, a reference was received from the Under Secretary to the Government of India, Ministry of Labour & Employment, New Delhi vide order No. L-26011/23/2017 – IR(M), dated 14.12.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of Bolani Ore Mines, SAIL, RMD in denying payment of Additional Welfare Amenity allowance to the drivers engaged through contractor M/s. Mahajan Chowdhary, Keonjhar, for hiring of 8 number of vehicles vide work order No. CC/115/16-17/B-1327, dated 29.09.2016 is legal and justified? If not, what relief the workman is entitled to?"

2. In the reference order, the Under Secretary to Government of India, Ministry of Labour & Employment, New Delhi commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-Union.

4. On receipt of the above reference, notice was sent to the 2nd Party-Union on 21.02.2022 and on dated 08.08.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Union, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Union. Despite service of the notice, the 2nd Party-Union opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Union is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Union has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

SRI DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 19 जुलाई, 2024

का.आ. 1472.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स बे एक्सप्लोरेशन प्रोजेक्ट ऑफ़ ऑयल इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **महानदी पेट्रोलियम एक्सप्लोरेशन एम्पलॉईस यूनियन (ऑयल)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर, पंचाट (रिफेरेंस न.-22/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2024 को प्राप्त हुआ था।

[सं. एल -30011/12/2020-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th July, 2024

S.O. 1472.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(I.D. No. 22/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Bhubaneswar** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Bay Exploration Project of Oil India Limited** and **Mahanadi Petroleum Exploration Employees Union (OIL)** which was received along with soft copy of the award by the Central Government on 18.07.2024.

[No. L-30011/12/2020-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-LabourCourt,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 22/2020

Date of Passing Order – 26th April, 2024

Between :-

The Executive Director,

M/s. Bay Exploration Project of Oil India Ltd.,

IDCO Tower (3rd Floor), Bhubaneswar – 751 022

… 1st Party-Management.

(And)

The General Secretary,

Mahanadi Petroleum Exploration Employees; Union (OIL),

C/o. Oil India Ltd., IDCO Tower (3rd Floor),

Bhubaneswar (Odisha) – 751 022

… 2nd Party-Union.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Union.

O R D E R

In the present case, a reference was received from the Under Secretary to the Government of India, Ministry of Labour & Employment, New Delhi vide order No. L-30011/12/2020 – IR(M), dated 22.07.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the management of Bay Exploration Project of Oil India Ltd., Bhubaneswar is justified in denying the participation of Mahanadi Petroleum Exploration Employees Union (OIL) to attend COD, Promotion policy and other meeting? If not, what relief the union is entitled to?"

2. In the reference order, the Under Secretary to Government of India, Ministry of Labour & Employment, New Delhi commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-Union.

4. On receipt of the above reference, notice was sent to the 2nd Party-Union on 15.10.2020 and on dated 17.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Union, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Union. Despite service of the notice, the 2nd Party-Union opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Union is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Union has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

SRI DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 19 जुलाई, 2024

का.आ. 1473.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स नालको लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **नालको एम्पलॉईस संघ** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर, पंचाट (रिफेरेंस न.-07/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.07.2024 को प्राप्त हुआ था।

[सं. एल-43011/5/2018-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th July, 2024

S.O. 1473.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(I.D. No. 07/2019)** of the **Central Government Industrial Tribunal cum Labour Court, Bhubaneswar** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s NALCO Limited** and **NALCO Employees Sangh** which was received along with soft copy of the award by the Central Government on 18.07.2024.

[No. L-43011/5/2018-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-LabourCourt,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 07/2019

Date of Passing Order – 26th April, 2024

Between :-

The General Manager (S & P),

M/s. NALCO Ltd., Post – Nalco Nagar,

District – Angul, (Odisha) – 759 145.

… 1st Party-Management.

(And)

The General Secretary,

NALCO Employees Sangh, Post – Nalco Nagar,

District – Angul (Odisha) – 759 145

… 2nd Party-Union.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Union.

O R D E R

In the present case, a reference was received from the Under Secretary to the Government of India, Ministry of Labour & Employment, New Delhi vide order No. L-43011/5/2018 – IR(M), dated 07.01.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

"Whether the proceedings of domestic enquiry in respect Shri Sudhir Mohan Naik, P. No. 05567 by the management of National Aluminium Co. Ltd., Angul are vitiated and not as per principle of natural justice? If yes, what relief Shri Naik is entitled to? What other directions, if any, are necessary in the matter?"

2. In the reference order, the Under Secretary to Government of India, Ministry of Labour & Employment, New Delhi commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-Union.

4. On receipt of the above reference, notice was sent to the 2nd Party-Union on 05.04.2019 and on dated 01.02.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Union, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Union. Despite service of the notice, the 2nd Party-Union opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Union is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Union has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

SRI DINESH KUMAR SINGH, Presiding Officer

(हिन्दी अनुभाग)

नई दिल्ली, 22 जुलाई, 2024

का.आ. 1474.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है:

1. कर्मचारी राज्य बीमा निगम उप क्षेत्रीय कार्यालय, मंगलुरु (कर्नाटक)
2. कर्मचारी राज्य बीमा निगम उप क्षेत्रीय कार्यालय, कोषिकोड (केरल)
3. कर्मचारी राज्य बीमा निगम अस्पताल, बाड़ी ब्राह्मणा, जम्मू

[सं.ई-11016/1/2022-रा.भा.नी:]

नागेश कुमार सिंह, उपमहानिदेशक

(Hindi Section)

New Delhi, the 22nd July, 2024

S.O. 1474.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following offices under the administrative control of the Ministry of Labour & Employment, more than 80% Staff whereof have acquired working knowledge of Hindi:-

1. Employees' State Insurance Corporation, Sub-Regional Office, Mangaluru (Karnataka)
2. Employees' State Insurance Corporation Sub-Regional Office, Kozhikode (Kerala)
3. Employees' State Insurance Corporation Hospital, Bari Brahmana, Jammu

[No. E-11016/1/2022-RBN]

NAGESH KUMAR SINGH, Dy. Director General

नई दिल्ली, 25 जुलाई, 2024

का.आ. 1475.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय **पटना** के पंचाट (08 C of 2016) प्रकाशित करती है।

[सं. एल-12011/96/2015- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 25th July, 2024

S.O. 1475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 08 C of 2016) of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/96/2015-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

Before The Presiding Officer,

Industrial Tribunal, Patna.

Reference Case No.:-08 (C) of 2016

Between the management of the Chairman UCO Bank, H.O:- 10, Brabourne Road, Kolkata-700001 And Their workmen represented through the State Secretary, UCO Bank Employees Association, Saboo Complex, 2nd floor, Behind Republic Hotel Exhibition Road, Patna (Bihar)-1.

For the management:- Sri Praveen Kumar, Advocate.

For the workman:- Sri B. Prasad, State Secretary, UCO Bank Employees Association.

Present:- **Manoj Shankar**
Presiding Officer,
Industrial Tribunal, Patna.

A W A R D

Patna, dt- 5th June, 2024.

By the adjudication order no.- L-12011/96/2015-IR (B-II) New Delhi, dated- 16.02.2016 the Govt. of India Ministry of Labour New Delhi has referred under clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as " the Act") the following dispute between the management of the Chairman UCO Bank, H.O:- 10, Brabourne Road, Kolkata-700001 And Their workmen represented through the State Secretary, UCO Bank Employees Association, Saboo Complex, 2nd floor, Behind Republic Hotel Exhibition Road, Patna (Bihar)-1. for adjudication to this tribunal.

SCHEDULE

" Whether the workmen whose name has been enlisted in the Annexure working as part time sweeper for more than 10 years in UCO Bank are entitled to be regularized as part-time sweeper? It not what relief they are entitled for?"

2. It is worth mentioning here that the workmen side filed statement of claim on 30.08.2018 without disclosing the name of any workmen whose dispute is connected with this reference later on the list of workers on whose behalf the dispute has been raised by the representative of workmen is received from Dy. Chief Labour Commissioner (C) Patna on 04.12.2019 that shows the dispute is of 18 named workers was raised. It is further mentioned here that even after receiving

the list of workmen the representative of workmen did not file fresh statement of claim, however this tribunal has directed the workmen side several times.

3. As per statement of claim filed on behalf of the workman side on 30.08.2018 discloses the facts that union has raised an Industrial Dispute before conciliation officer for regularization the service of temporary workmen performing the duties of sweeper. It is further averred that the management submitted rejoinder and lastly submitted annexed only one copy containing of part time sweeper working in three zones Patna, Begusarai & Bhagalpur but no copy handed over to the representative of the workmen. It is further asserted that management submitted the number of part time sweeper working in 63 branches of the bank before the Chair person of national commission of Safai Karamchari. It is asserted that management had issued circular no.- HO/HRM/RECR/2013-14/30 dated- 22.04.2014 through which particulars of sweepers working as on 31.03.2012 was asked for accordingly names of the workmen were sent to the Head office through Zonal Office. It is further asserted that after asking the names of sweepers, management conducted written tests / interviews for appointing for fresh hands as peons, Part Time Sweeper and they also regularized the services of part time sweeper but large number were left out. It is further asserted that matter was raised before National Commission for Safai Karamchari and the management had assured to regularize the services of Part Time Sweeper as per Bi-partite Settlement. But none of the workmen is being paid wages as per Bipartite Settlement and minimum wages is not paid to them. It is further asserted that the workmen has been discharging the duties from 9.00 A.M to 5.00 P.M they have been performing the duties like the opening of bank gates, sweeping and cleaning branches premises bringing and serving water, posting of mails and other sundry works. It is further asserted that the workmen are being paid wages through debit vouchers. It is further asserted that the union has been taken up the case of the workmen for regularization their services but no positive has been taken and thus the action of the management constitutes Unfair Labour Practices as per Section 25 (T) of the Industrial Dispute Act. It is further asserted that the workman have been working against the permanent vacant post of sweeper and the duties of workmen are perennial in nature. The management over looked the provision of Bipartite Settlement through which minimum wages of a part time sweeper should have been 1/3rd pay of a full time Subordinate staff and thus management violated the provision of 9th Bipartite Settlement. The workmen pray for the following relief:-

(i) Regularization of services as a Part Time Sweeper from 01.05.2010 as per 9th Bipartite Settlement;

(ii) Payment of due wages from date of their working;

(iii) Any other relief (S) as the tribunal deem and fit and proper.

4. On the other hand the management filed written statement on 26.12.2022 and stated therein that the present application is not maintainable before this tribunal as u/s- 2A (1 & 2) is applicable only for the dispute of dismissal, discharge or termination. No case of regularization can be filed by the union. It is further asserted that no authority has been filed on behalf of the workman authorizing the said secretary Sri B. Prasad to represent them before this tribunal as per rules of Industrial Dispute Act. It is further asserted that Reference Case involves fours Zones of the UCO Bank. So far as Begusarai Zones is concerned there are two claimants, (1) Yugal Kishore Mahto (Chaurahi Branch) whose names is given in Reference Case No.- 05 (C) of 2016 and (2) Mr. Shambhu Yadav (Supaul Branch) and these workman are engaged on the basis of as and when required for cleaning and sweeping purpose only and they have been paid against the work done by the them with the prevalent rates. So far as the workman Patna Zone of UCO Bank is concerned there are five claimants Arun Kumar (Hazipur Branch) and Arjun Pd. Singh (Zonal Office Patna) are also a party in Reference Case No.- 05(C) of 2016. The workman Pawan Kumar, shown working at Lakhisarai Branch of UCO Bank branch. The claim of one Pawan Kumar is also in the Reference Case No.- 05 (C) of 2016. It is further asserted that Santu Kumar shows working Zonal Office, Patna but the facts is he is not working in Zonal Office one workman Munna Kumar is working in Sono Branch of UCO Bank is also on the basis of as and when required. It is further asserted that the workman of Bhagalpur Zone are seven in number out of seven, one Sudama Prasad working in Katoriya Branch is also a party in Reference Case No.- 05 (C) of 2016. One workman Dablu Kumar was engaged in Tarar Branch as and when required basis. His name is mentioned in the claim without any reason. So far as claim of Om Prakash Tweary is concerned he never worked in Dholbazza branch of UCO Bank. Claim of Ravi Kant Prasad is shown working in Sanokharhat Branch and Sheo Prasad Sah is shown working at

Sajour Branch are not correct there is no record available of these workmen in the said branch. The claimant Binod Paswan shown working at Bhagalpur main branch but no record available in the said branch. One workman S.K. Jaiswal was engaged in Rangra Branch on the basis of as and when required for cleaning work purpose only. It is further asserted was there are three claimants of Ranchi Zones, Ramakant Prasad (Ranchi Branch), Pramod Kumar Singh (Bero Branch), and Prakash Ram (Bermo Branch) and they are engaged by the management bank as and when required for the only cleaning purpose and they have been paid against work done by the them with the prevalent rate. It is further asserted that bank has formulated its own recruitment policy considering government guidelines and common recruitment process adopted by Nationalized Bank. It is further asserted that the workman related to the Ranchi Zones are working within the territorial jurisdiction of the State of Jharkhand so their dispute can't be heard in this Industrial Tribunal. It is further asserted that it is well settled position of law that public sector bank are not precluded to engage the services of casual worker / labor on daily wages basis as per requirement. The said casual workers have no right to continue their services as a matter of right. It is further asserted that the dispute of the workmen were purely of need based as and when required. So the claim of regularization is misconceived and this is not maintainable at all. Management bank has not violated any provision of the I.D.Act like 25 (T), 25 (F) as per the claim of the workman sides. So workmen sides are not entitled for any relief.

5. Having gone through the statement of claim of the workmen, it is evident that the representative of the workmen never disclosed the names of the workmen whose dispute is involved in this Reference and even after receiving the list of the workman from the Dy. Chief Labour Commissioner (C) Patna on 04.12.2019, the representative of the workman did not file any fresh statement of claim inspite of repeated direction given by this tribunal and the objection raised by the management as well however management side filed written statement disclosing the details of alleged workman whose dispute is raised before the Dy. Chief Labour Commissioner (C) Patna. Management side clearly disclosed some workmen's dispute are already in Reference Case No.- 05(C) of 2016 and the duties of other workman are taken by the management bank purely as and when required basis.

6. From perusal of the case record, it appears that no workmen as per the list given by the Dy. Chief Labour Commissioner (C) Patna to this tribunal on 04.12.2019 turned up before this tribunal. This is clear cut indication that the representative of the workman was never connected with the any workmen on whose behalf the dispute was raised before Dy. Chief Labour Commissioner (C) Patna the representative of the workman started stressing a point, complete list of workmen is not sent by the Dy. Chief Labour Commissioner (C) Patna but the list of the workmen whose issue was raised was sent to this tribunal on 04.12.2019, the representative of the workman never called any workman for the redressal of their dispute before this tribunal. Non appearance of any workmen before this tribunal clearly shows that none of the workman has any grievance with the management bank that's why no workmen turned up whose names are given in the list. This tribunal further finds that when workmen did not turn-up before this tribunal for the their grievances, the representative of the workman filed a petition on 20.09.2023 mentioning therein sponsoring union is not inclined to proceed further in the dispute. This petition is indicative of the facts, the workmen whose list is sent by Dy. Chief Labour Commissioner (C) Patna to this tribunal has no grievances at all that's why sponsoring union is not inclined to proceed further in this case.

7. Under the aforesaid facts and circumstances of this reference case this tribunal finds and hold that the representative of the workmen did not come up with clean hand as he failed to disclosed the names of the workmen and further failed to file fresh statement of claim after receiving the list of workmen whose issue was raised before the Dy. Chief Labour Commissioner (C) Patna and later on filling a petition mentioning therein sponsoring union is not inclined to proceed further, So this tribunal has option than to pass "No Dispute Award" accordingly. This award is effected after date of publication in gazette.

This is my award accordingly.

MANOJ SANKAR, Presiding Officer

नई दिल्ली, 25 जुलाई, 2024

का.आ. 1476.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्यागिक अधिकरण–सह–श्रम न्यायालय**,आसनसोल के पंचाट (सन्दर्भ संख्या **23/2002**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **25/07/2024** को प्राप्त हुआ था।

[सं. एल-22012/327/2001-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 25th July, 2024

S.O. 1476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.23/2002*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **25*/07/2024.***

[No. L-22012/327/2001– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 23 OF 2002

PARTIES: Amal Majhi

Vs.

Management of Nimcha Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Goswami, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 21.06.2024

A W A R D

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, vide its Order **No. L-22012/327/2001-IR(CM-II)** dated 30.07.2002 and Corrigendum **No. L-22012/327/2001-IR(C-II)** dated 13.09.2002 has been pleased to refer the following dispute between the employer, that is the Management of Nimcha Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of ECL, Nimcha Colliery in not giving pay protection to Sh. Amal Majhi upon deployment in Category II from Cat. IV as consequence of employment related injury is just fair and legal? If not to what relief is the workman entitled? "

1. On receiving Order **No. L-22012/327/2001-IR(CM-II)** dated 30.07.2002 and Corrigendum **No. L-22012/327/2001-IR(C-II)** dated 13.09.2002 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 23 of 2002** was registered on 13.08.2002 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar of Koyala Mazdoor Congress represented the case of Amal Majhi and filed a written statement in support of the Industrial Dispute raised by him. In gist, the facts leading to this Industrial Dispute is that Amal Majhi was posted as a Fitter Helper at Nimcha Colliery under Satgram Area of Eastern Coalfields Limited (hereinafter referred as ECL) and appointed as Stone Cutter in Category – IV at Nimcha Colliery. He met with an accident while on duty of the company and suffered injury on 12.07.1990. Amal Majhi received medical treatment for his injury at Central Hospital at Kalla under ECL. He suffered permanent partial disability to the extent of ten percent (10%) and was advised for lighter job. The management of the company issued an order dated 21.02.1992 and posted him to perform the work of a Fitter Helper in Category – II at a basic wage of Rs. 51.24/- (Fifty-one rupees and twenty-four paise only) per day which is the initial basic wages in Category – II. Prior to the accident Amal Majhi was getting wages of Rs. 54.06/- (Fifty-four rupees and six paise only) in Category – IV. Even on his deployment as a Fitter Helper he continued to receive wages of Rs. 54.06/- till his regularization in the post of Fitter Helper. Being aggrieved with reduction of pay and his pay not being protected on his deployment from higher to lower category for no fault of his own, the workman has raised this Industrial Dispute claiming protection of pay as per his Basic in Category – IV. Initially the matter was raised before the management and Note Sheet dated 25.03.2000 was sent to the Area Office and again on 12.09.2001 but no action was taken by the management. The union has contended that the management deliberately deprived the workman of his legitimate protection of basic wages, causing financial loss to him. It has been prayed that Amal Majhi should be given wage protection at the time of his conversion to the post of Fitter Helper in Category – II and he should be paid arrears of difference of wages.

3. Management contested the case by filing written statement on 03.02.2015 and contested the claim raised on behalf of Amal Majhi. The specific case of the management is that the workman voluntarily applied for light job soon after recovery and the management deputed him as a Fitter Helper in Category – II from his earlier job of Stone Cutter in Category – IV. The workman was paid the basic wages available to Category – II workers and he is not entitled to the basic wages under Category – IV as it is against the principle of Equality and the law. According to the management the nature of job allotted to the workman has changed and he is entitled to the wages commensurating with his nature of work.

4. In order to substantiate their case, the union examined Amal Majhi as Workman Witness – 1. He filed an affidavit-in-chief on 25.08.2016, wherein he stated that he met with an accident in the mines and was injured while on duty on 12.07.1990. The doctor advised the management to deploy him in any other lighter job and the Compensation Board declared that Amal Majhi has suffered ten percent (10%) permanent partial disability. He further stated that management regularized him in the post of Fitter Helper in Category – II and reduced his basic wages, which he was receiving in Category – IV. His basic was fixed at Rs. 51.24/- in Category – II while he was receiving basic of Rs. 54.06/- per day in Category – IV. The workman in his affidavit-in-chief has stated that according to the guidelines and the prevailing practice of the Company whenever management deployed worker from higher category to lower category, the wages paid to the workman in higher category and increment earned by the workman is protected, but in the present case the management has not followed such practice and guidelines. The workman witness was recalled for his evidence and production of documents on 26.06.2023. In course of his evidence on recall he has produced the following documents :

(i) A copy of the Injury Report dated 12.07.1990 has been produced as Exhibit W-1.

(ii) Copy of the Accident Report dated 17.07.1990, as Exhibit W-2.

(iii) Copy of the Outdoor Patient Ticket relating to the treatment of Amal Majhi, commencing from 12.07.1990 beyond 10.09.1990, as Exhibit W-3 collectively.

(iv) Copy of the Office Order dated 21.02.1992 directing Amal Majhi to work as a Fitter Helper in Category – II with a basic of Rs. 51.24/-, as Exhibit W-4.

5. In cross-examination workman witness – 1 has deposed that after his deployment in the post of Fitter Helper he was paid less basic wages of Rs. 51.24/- per day and he did not raise any objection. He also admitted that work of a Fitter Helper is a lighter job than the work performed by a Stone Cutter in Category – IV. The workman deposed that after the accident he sought for a lighter job.

6. Mr. Sumit Choudhary, Deputy Personnel Manager, Nimcha Colliery has been examined as Management Witness – 1. He filed an affidavit-in-chief in support of management's case. Witness stated that Amal Majhi voluntarily applied for lighter job soon after recovery from illness and after considering all aspects he was deployed as a Fitter Helper in Category – II from the job of a Stone Cutter in Category – IV. The witness further stated that he

was paid the basic wages of Category – II as per National Coal Wage Agreement and the basic wages under Category – II was well protected. The management witness has produced a copy of the Office Order dated 21.02.1992 as Exhibit M-1 and a copy of the Report of Disablement Assessment Medical Board held at Central Hospital, Kalla on 27.11.1992, as Exhibit M-II. According to the management the workman is not entitled to the protection of pay which he was receiving in a higher category.

7. In course of cross-examination the witness stated that he was unable to produce any document to show that the workman agreed to the change in his category of employment. He also deposed that on request of the workman, the management converted him from Category – IV to Category – II due to his injuries.

8. The short question for consideration before this Tribunal is whether Amal Majhi is entitled to protection of pay on being deputed in Category – II from his earlier employment in Category – IV, which occurred due to the injury sustained by him.

9. Mr. Rakesh Kumar, Union representative advancing his argument submitted that the workman was receiving a basic pay of Rs. 54.06/- while he was working as a Stone Cutter in Category – IV. He met with an accident in the mines on 12.07.1990 due to his employment and was under medical treatment at Central Hospital, Kalla. His treatment continued beyond 10.09.1990 (Exhibit W-3). The workman suffered ten percent permanent partial disability and a compound fracture in his left thumb. The Board members declared him fit for his designated job. Referring to Exhibit M-II, Mr. Rakesh Kumar argued that on joining his duty the management issued an order on 21.02.1992, whereby Amal Majhi was deputed to work as a Fitter Helper in Category – II with a basic wage of a Fitter Helper. It is submitted that there was no reflection in the office order that such arrangement had been made on the prayer of the workman and no such document has been produced. The union representative argued that when a workman suffers injury while at work, he does not deserve reduction of wages as this is done only in the case of imposition of punishment due to fault or misconduct on the part of the workman. The union representative vehemently argued that Amal Majhi who has now superannuated from his service is entitled to his difference of basic pay (Rs. 54.06 – Rs. 51.24) which he was receiving in Category – IV per day from the date of his regularization in the part of Fitter Helper in Category – II till his superannuation.

10. Mr. P. K. Goswami, learned advocate for the management refuting the claim of the union argued that the workman after his injury has recovered and found fit to work in Category – IV. It is submitted that the workman on his own made representation before the management of the company for providing him with a lighter job. Since he was granted such accommodation and was posted as a Fitter Helper in Category – II, by issuance of an Office Order dated 21.02.1992 he had been informed that his basic wage would be Rs. 51.24/- per day. At this stage the workman is not entitled to the pay attached to the post of Category – IV.

11. Having considered the materials on record and argument advanced on behalf of the management and union, I find that there is no disagreement between the parties that Amal Majhi was deployed as a Stone Cutter in Category – IV at Nimcha Colliery where his Basic Wages was Rs. 54.06/- per day. It is also admitted that he met with an accident in the mines in course of his employment and suffered an injury, resulted in ten percent permanent partial disablement. On a perusal of the injury report (Exhibit W-1) and the report of Disablement Assessment Medical Board dated 27.11.1992 (Exhibit M-II) it is gathered that the workman has suffered compound fracture in his left thumb. The Outdoor Patient Ticket dated 12.07.1990 reveals that he suffered cut injury in his left thumb which affected his skin, muscle, tendon and bone. It is goes without saying that a person suffering such injury in one of his hands would be rendered less effective in his workplace and also in his personal life. I cannot be unmindful of the fact that accidents are common features in the industrial establishment and in the present case the workman has suffered injury while he was engaged in work. The management of the company cannot shrug its responsibility in providing fair treatment to its workman who sustained loss while serving the employer company.

12. There is no material on record to determine if the workman made any prayer and application before the management to place him in an inferior category of work with less pay. The Office Order dated 21.02.1992 by which the workman was deployed to the post of Fitter Helper in Category – II from his earlier post of Stone Cutter in Category- IV does not bear any testimony to the fact that such arrangement was made on own seeking of the workman. Such arrangement has been made due to exigency arising out of certain circumstances. In such a situation it is illegal and unfair on the part of the management on reducing the Basic Wages of the workman from Rs. 54.06/- per day to Rs. 51.24/- per day. The workman has rendered service and achieved the increments attached to his earlier post of Stone Cutter in Category – IV which cannot be diluted. Therefore, it is just, appropriate and equitable to protect the Basic Pay of the workman when he was deputed to a lower post of Fitter Helper in Category – II. In such view of the matter, I am of the considered view that the management of Nimcha Colliery has acted in an illegal manner by reducing the Basic Pay of the workman as if it was a punishment imposed upon him. In such a view of the matter the management of Nimcha Colliery under Satgram Area of ECL is directed to protect the Basic Wages of Amal Majhi with increment which he received during his deployment in Category – IV and pay him the difference of wages from the date of his regularization in the post of Fitter Helper in Category – II till the date of his superannuation. The

Industrial Dispute is accordingly allowed on contest. The management is directed to pay the difference of wages to the workman within a period of two (2) months from the date of communication of the Award.

Hence,

O R D E R E D

that the Industrial Dispute is allowed on contest in favour of the workman. Management is directed to protect the Basic Pay along with increment of the workman, he was receiving at the time of his posting as a Stone Cutter in Category – IV for the period from his regularization in the post of Fitter Helper in Category – II till the date of his superannuation. Let an award be drawn up in light of my above findings in favour of the workman. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 25 जुलाई, 2024

का.आ. 1477.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्यागिक अधिकरण–सह–श्रम न्यायालय**,आसनसोल के पंचाट (सन्दर्भ संख्या **11/2019**) को प्रकाि"ात करती है, जो केन्द्रीय सरकार को **18/07/2024** को प्राप्त हुआ था।

[सं. एल-22012/10/2019-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 25th July, 2024

S.O. 1477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.I.D.No.11/2019*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **18*/07/2024.***

[No. L-22012/10/2019–IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 11 OF 2019

PARTIES: Kadna Majhi

Vs.

Management of Dalurband Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 14.06.2024

A W A R D

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, vide its Order **No. L-22012/10/2019-IR(CM-II)** dated 04.02.2019 has been pleased to refer the following dispute between the employer, that is the Management of Dalurband Colliery under Pandaveswar Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of Dalurband Colliery, Pandaveshwar Area of Eastern Coalfields Ltd. in dismissing Shri Kadna Majhi, Ex- Line Helper from the services of the company vide letter ref. no. 06 SF/P-382(382) dated 02-05-2015 is legal and fair? If not, to what relief the workman concerned is entitled to? "

1. On receiving Order **No. L-22012/10/2019-IR(CM-II)** dated 04.02.2019 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2019** was registered on 18.02.2019 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. The dismissed workman filed his written statement on 14.02.2023 through Mr. Rakesh Kumar, President, Koyala Mazdoor Congress. The management contested the scheduled dispute by filing their written statement on 14.02.2023. In gist, the fact of workman's case is that Kadna Majhi, Lineman (U.M. No. 197022) was posted at Dalurband Colliery under Pandaveswar Area of Eastern Coalfields Limited (hereinafter referred to as ECL) was a permanent employee of ECL. He could not attend his duty from 13.10.2012 to 22.01.2013 due to his illness. After recovery from illness the workman reported for his duty. Management considered his request and issued a letter bearing No. 0658/1285 dated 25/26.02.2013 allowing him to join his duty. Thereafter, the Manager (Personnel), Dalurband Colliery issued an order bearing No. DC/PD/47/2399 dated 01.03.2013 addressed to Kadna Majhi asking him to join his duty. At the relevant time Kadna Majhi was residing at Belbaid Colliery as he was not having any quarters at Dalurband Colliery and the management did not communicate the joining order to him as a result he was unaware about the same and failed to join his duty. Subsequently, when he came to know about the order of joining, he went to the Colliery but he was not allowed to join and the management issued another Charge Sheet bearing No. DC/PD/47/13/143 dated 22/24.04.2013 for his absence from 13.10.2012. Kadna Majhi was never served with the 2nd Charge Sheet and the Enquiry Proceeding was held ex-parte. On conclusion of ex-parte proceeding the workman was dismissed from his service. It is contended that no 2nd Show Cause Notice was issued to the workman and the punishment imposed against him was disproportionate to the charge. Kadna Majhi denied that he was a habitual absentee and that the period of his absence was for six months and ten days from 13.10.2012 to 22.04.2013 and contended that he should not have been awarded the extreme punishment of dismissal for such absence as there was non-communication of the joining order. The workman prayed for setting aside the order of dismissal and for his reinstating him in service.

3. The management of ECL in their written statement has submitted that Kadna Majhi absented from his duty from 13.10.2012 without any authorization or leave or any information to the management. A Charge Sheet bearing Ref. No. DC/PD/47/13/143 dated 22/24.04.2013 was issued to him as per Certified Standing Order. Kadna Majhi did not reply to the Charge Sheet for which a Domestic Enquiry was held. The Enquiry Officer issued Notice of Enquiry, calling upon the workman to attend the Enquiry Proceeding. As the workman did not attend the Enquiry Proceeding, the same was held ex-parte and the charge of unauthorized absence was fully established. According to the management principles of natural justice was followed in course of the Enquiry Proceeding and a 2nd Show Cause Notice was issued to Kadna Majhi vide Ref. No. 0642/P-696 dated 12/15.11.2014 which was sent to his home address under registered post. It is the case of the management that the 2nd Show Cause Notice was also published in the daily newspaper "Sambad" dated 16.02.2015 but there was no response from Kadna Majhi. after giving full opportunity to the workman to join his duty he did not turn up and an order of termination was issued bearing Ref. No. 06 SF/P-382 dated 02.05.2015. According to the management Kadna Majhi was a habitual absentee and even after several opportunities he did not make effective endeavor to continue his service. The management contended that the punishment imposed upon the ex-workman is justified and is proportionate to the gravity of misconduct. It is urged that the action of the management is justified and the Industrial Dispute is required to be dismissed.

4. The workman filed an affidavit-in-chief, reiterating the facts stated in the written statement and examined himself as Workman Witness - 1. He has also produced some documents as follows:

(i) Copy of the Charge Sheet dated 22/24.04.2013 has been marked as Exhibit W-1.

(ii) Copy of the order of termination dated 02.05.2015, as Exhibit W-2.

(iii) Copy of the Mercy Petition dated 27.03.2017, as Exhibit W-3.

(iv) Copy of the Appointment Letter dated 29.03.2011, as Exhibit W-4.

5. In cross-examination the workman witness stated that he had no document to show that he was suffering from Jaundice during his absence. He stated that he received all his letter at his village address noted in his service record. The workman also admitted that he had remained absent for more than one year and did not attend the enquiry.

6. Management examined Mr. Dilip Kumar Samal, Assistant Manager (Personnel), Dalurband Colliery as Management Witness – 1. The witness filed an affidavit-in-chief. In his evidence the witness stated that Kadna Majhi was absenting from 13.10.2012 without any sanctioned or authorized leave or any information to the management. Due to such absence, Charge Sheet dated 24.04.2013 was issued to him but no reply was submitted by Kadna Majhi. The workman did not participate in the Enquiry Proceeding and the charge of unauthorized absence was fully proved against the workman. It is averred that 2nd Show Cause Notice was issued to Kadna Majhi vide Ref. No. 0642/P-696 dated 12/15.11.2014 and the same was sent to his home address but no reply was received. It is further stated that the 2nd Show Cause Notice was also published in the daily newspaper, "Sambad" dated 16.02.2015 but no reply was received from the workman. According to the management Kadna Majhi was a habitual absentee and the Disciplinary Authority allowed him time to join his duty but he did not join his duty and continued to remain absent and an order of termination was issued on 02.05.2015. It is urged that the action of the management is totally justified in dismissing the workman from service and the workman is not entitled to any relief. In support of his case management witness produced the following documents :

(i) Copy of the Charge Sheet dated 22/24.04.2013 has been marked as Exhibit M-1.

(ii) Copy of the Notice of enquiry dated 04.04.2014, as Exhibit M-2.

(iii) Copy of the Enquiry Proceeding and findings, as Exhibit M-3.

(iv) Copy of the 2nd Show Cause Notice dated 12/15.11.2014, as Exhibit M-4.

(v) Copy of the order of dismissal dated 02.05.2015, as Exhibit M-5.

7. The short question for consideration is whether the dismissal of Kadna Majhi by the management is justified, if not to what relief the workman is entitled?

8. Mr. Rakesh Kumar, Union representative argued that Kadna Majhi had absented from duty due to illness from 13.10.2012 to 22.01.2013. After recovery from illness, he reported before the management for allowing him to join duty and the management after considering his case issued a letter dated 25/26.02.2013, permitting him to join his duty. Another order was issued by the colliery management on 01.03.2013 but these orders were not communicated to Kadna Majhi. As a result, he was unable to join his duty. Without communication of such decision of the management a 2nd Charge Sheet dated 22/24.04.2013 (Exhibit W-1) was issued to the workman. Management without service of such Charge Sheet initiated an ex-parte enquiry proceeding against the workman. The union representative vehemently argued that without service of the order of reinstatement, 2nd Charge Sheet, notice of enquiry and 2nd Show Cause Notice, the workman was dismissed form his service and all these actions were taken behind his back violating the principles of natural justice. it is submitted by Mr. Rakesh Kumar that the workman is forty-five years of age and the order of dismissal (Exhibit W-4) should be set aside and the workman reinstated in the service.

9. Mr. P. K. Das, learned advocate for the management of ECL submitted that the management cannot prove the service of Charge Sheet, Notice of enquiry, Enquiry Report and the 2nd Show Cause Notice to the workman. It is contended that the workman has absented from his work from 13.10.2012 till issuance of 2nd Charge Sheet dated 22/24.04.2013 and there is no denial of the fact that the workman has absented from duty without leave or authorization. It is urged that the order of dismissal issued against Kadna Majhi is proportionate and he is not entitled to any relief.

10. I have considered the arguments advanced on behalf of both parties and materials in record. The 2nd Charge Sheet issued by the management bearing Ref. No. DC/PD/47/13/143 dated 22/24.04.2013 has clearly stated that Kadna Majhi (UM No. 197022) had absented from his duty from 13.10.2012 to 22.01.2013 and considering his age, management had taken a lenient view and allowed him to resume his duty after approval of the competent authority by letter No. 0658/1285 dated 25/26.02.2013 and subsequently a joining order bearing No. DC/PD/47/2399 dated 01.03.2013 was issued by the Manager (Personnel), Dalurband Colliery but form the office records it was found that Kadna Majhi did not report for his duty and his period of absence continued from 13.10.2012 till Charge Sheet was issued on 22/24.04.2013 alleging serious misconduct and indiscipline under Clause 26.5 and 26.29 of the Certified Standing Order applicable to ECL. It transpires from the content of the Charge Sheet that after considering the prayer of the workman, his first span of absence was condoned, the management allowed him to resume his duty on the basis of the letter dated 25/26.02.2013 followed by a joining letter dated 01.03.2013. It is not the case of the management that the workman was allowed to join his duty straight away on his recovery from illness. The competent authority of

the management took time to consider the prayer. There is no evidence on record, adduced by the management to establish that the letters issued by the competent authority dated 25/26.02.2013 and subsequent joining letter dated 01.03.2013 issued by the Deputy Manager (Personnel), Dalurband Colliery were actually issued and communicated to the workman. Keeping the workman in the dark the management proceeded to issue the 2nd Charge Sheet alleging willful neglect of work and absence from duty beyond ten days, starting from the same time i.e. 13.10.2012 which had already been considered and the workman was reprieved by allowing him to resume his duty. Mr. Dilip Kumar Samal, the management witness in his evidence-in-chief admitted that he has no document to show that Charge Sheet, Notice of enquiry and 2nd Show Cause Notice were served upon the workman. In the paragraph - 8 of his affidavit-in-chief, MW-1 averred that 2nd Show Cause Notice was also published in the daily newspaper "Sambad" dated 16.02.2015 but no copy of the publication has been filed by the management witness in support of his claim.

11. Now let us consider the legality of the Enquiry Proceeding conducted against the workman before his dismissal. The management witness stated that Mr. D. Sutradhar, Sr. Manager (Min.) was the Enquiry Officer in this case. No document has been filed to establish that the competent authority had appointed Mr. D. Sutradhar as Enquiry Officer in this case. On considering the contents of Exhibit M-3, which is a copy of Enquiry Proceeding dated 09.08.2014, I find that the Domestic Enquiry was held on a single date i.e. on 09.08.2014. There is no reference to the fact that the Charge Sheet and Notice of enquiry were served upon the workman. It is gathered from the Enquiry Proceeding that only Mr. D. Sutradhar, the Enquiry Officer and Mr. T. Chatterjee, management representative were present. Kadna Majhi the charged employee was absent. There is no reflection in the Enquiry Report that the charge levelled against the workman was communicated to him. The Enquiry Officer simply read the Charge Sheet on his own and recorded the statement of Mr. T. Chatterjee, management representative. Finally, it was concluded that the charge levelled against the workman was established and the Enquiry Report was submitted to the Senior Manager (Min.), Manager, Senior Manager (Personnel). On a perusal of the Enquiry Report I find that the Enquiry Officer has not recorded his satisfaction about service of the Charge Sheet and Notice of enquiry to the workman. Therefore, the ex-parte proceeding held against the workman without service of Charge Sheet and Noticeof enquiry is grossly illegal and in violation of principles of natural justice. The Enquiry Proceeding as well as 2nd Show Cause Notice, a copy of which has been produced as Exhibit M-3 and M-4 respectively are the documents which have no relevance in the eye of law unless they are actually served upon the employee. To my mind the Enquiry Report and the dismissal of the workman has been vitiated due to the arbitrary mode of proceeding conducted against the workman without having no knowledge of such proceeding.

12. Non-service of enquiry notice and copy of enquiry proceeding to the workman has been compounded by the fact that the management of ECL has not issued 2nd Show Cause Notice to the workman, providing him opportunity to make his representation against the findings of the Enquiry Officer. Formal production of Ex-parte Enquiry Report and copy of 2nd Show Cause Notice without proof of their service upon the workman cannot be any assistance to the case of the management. It is explicit that the management of ECL has failed to comply the legal mandate laid down by the Hon'ble Supreme Court of India in the case of **Union of India and Others vs Mohd. Ramzan Khan [AIR (1991) SC 471],** the Hon'ble Supreme Court of India laid down the law as follows:

" When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the inquiry officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him. A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice."

The ratio laid down by the Hon'ble Supreme Court of India was enforced by the Coal India Limited by way of issuing a Circular bearing No. CIL C-5A(vi)/50774/28 dated 12.05.1994, wherein it has been clearly laid down that the charged employee had to be supplied with Enquiry Proceeding and Enquiry Report and a 2nd Show Cause Notice had to be issued to him before taking any final decision of removing him from service. The management has not compliedthe direction in their own company's circular, therefore the order of dismissal of Kadna Majhi from service is found improper, illegal and violative of the principles of natural justice. The order of dismissal of Kadna Majhi from his service, dated 02.05.2015 issued by the General Manager of Pandaveswar Area (Exhibit M-5) is found not tenable under the facts and circumstances of this case.

13. The order of dismissal of Kadna Majhi from his service dated 02.05.2015 issued by the General Manager of Pandaveswar Area (Exhibit M-5) is hereby set aside. The management is directed to reinstate the workman to his original post within one month from the date of communication of the Award. The period of his absence shall be treated as dies non and he shall be entitled to his consequential benefits. Considering the fact that the workman has not rendered any service to the employer company since 13.10.2012 till date and there being no evidence that he was not engaged for any gainful employment, he shall not be entitled to any back wages for the entire period. His only relief in this case is reinstatement in service for gross violation of natural justice by the employer company in the process of dismissing.

Hence,

O R D E R E D

that the Industrial Dispute is allowed in favour of the workman on contest. the order of dismissal dated 02.05.2015 issued by the General Manager of Pandaveswar Area is illegal and set aside. The management is directed to reinstate the workman to his original post within one month from the date of communication of the Award. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 25 जुलाई, 2024

का.आ. 1478.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण–सह – श्रम न्यायालय**, हैदराबाद के पंचाट (पहचान **संख्या 4/2012**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **18/07/2024** को प्राप्त हुआ था।

[सं. एल-22012/196/2011-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 25th July, 2024

S.O. 1478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No.4/2012*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **18*/07/2024.***

[No. L-22012/196/2011–IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 9th day of July, 2024

INDUSTRIAL DISPUTE No. 4/2012

Between:

Sri Riaz Ahmed,

General Secretary,

Singareni Miner & Engg. Workers Union (HMS),

Qtr.No.C-34, Sector-I,

Godavarikhani.

Karimnagar – 505209. ….. Petitioner

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,

RG-I Area,

Godavarikhani,

Karimnagar – 505209. …. Respondent

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No. L-22012/196/2011-IR(CM-II) dated 13.12.011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the management of S.C.C.L., RG-I Area Godavarikhani in imposing penalty of stoppage of two increments with cumulative effect vide Order No.RG-I/PER/S/46/2280 dt.12.4.2004 against Sri Gaje Shivaji, Timber man, GDK-5 Incline is justified and legal? To what relief the workman concerned is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 4/2012 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that, Sri Gaje Sivaji Timberman, GDK-5 Incline, is a member of our PetitionerUnion. The concerned workman was issued with a charge sheet dt.5.7.2001 alleging that on 2.7.2001 in 2nd shift booked his IN muster and participated in an illegal strike along with others demanding an apology from S.O.M., GDK-5 Incline, for felling a tree in the mine premises. On receipt of the above charge sheet, the concerned workman submitted explanation on 5.8.2001 categorically denying the charge. However, without considering the submissions made by the concerned workman, an enquiry was conducted in a predetermined manner. Consequent upon closure of proceedings of enquiry, a show cause notice dated 4.6.2002 was issued, to which, concerned workman submitted his reply on 16.6.2002. Unfortunately, without considering the submissions made by the concerned workman and valid evidence on record in proper perspective, office order dated 12.4.2004 was issued imposing a major penalty of reduction of 2 increments with cumulative effect. It is submitted that aggrieved by the above arbitrary action of the Respondent , the Petitioner Union has approached the Respondent to withdraw the impugned office order dated 12.4.2004. Unfortunately, the office order dated 12.4.2004 was not withdrawn, in those circumstances, having left with no other alternative, the Petitioner Union initiated conciliation proceedings. However, the said conciliation proceeding ended in failure. Hence, this reference. It is submitted that, though on receipt of charge sheet the concerned workman has submitted categorically pleading that, he has not taken any independent and deliberate decision to participate in the alleged illegal strike, in the 2nd shift on 2.7.2001, the concerned workman also pleaded that, he has nothing to do with the alleged strike. Unfortunately, without properly considering the submissions made by him, an enquiry was initiated. During the enquiry, Sri K.Padmanabha Reddy deposed as Presenting Officer and he introduced M/s.K.Lingaiah & N.Rayamallu as MWI & MW2. The Presenting Officer simply reiterated the charge alleged against the concerned workman by contending that, the concerned workman participated in the illegal strike, whereas, MWI Sri Lingaiah merely stated that he has seen the concerned workman standing in front of the scooter shed along with other Timbermen. He further stated that, he asked all the workmen including the concerned workman to get down into the mine. But, no one got down into the mine. In so far as the evidence of MW2 Sri N.Rayamallu, Headoverman also stated that none of the workmen have got down into the mine in 2nd shift on 2.7.2001. It is submitted that, on conclusion of management evidence, the concerned workman's statement was recorded. During his deposition, the concerned workman pleaded that on 2.7.2001 in 2nd shift, he marked his IN muster and went to the place of distribution. However, he observed that all the workmen went to Manager's room and the Manager was holding the discussions with the representatives of recognized Unions. After some time, the representatives of the recognized Unions came out from the Manager's room and declared that no one should resume their work on account of the adamant attitude of Management. At that point of time, he deposed that, the concerned workman was standing near the scooter shed. The shift Under Manager was asking all the workmen one by one to resume work. In the above process, on being asked by him, the concerned workman informed that he will get down. Further, the concerned workman also deposed that, along with Under Manager he also requested some other workmen to get down the mine and resume the duty. He further stated that, he waited for other workmen at the Lamp Room to resume work. However, no other workmen approached the Lamp Room. In those circumstances, the concerned workman approached the Under Manager, but by that time, the Management exhibited Lockout Notice stating that the workmen not to get down into the mine. In those circumstances, Under Manager informed the concerned workmen that after displaying the Lockout Notice Board, no workmen can resume their duties. It is submitted that, subsequently, M/s.B.Shanker, Coal Filler, M.Rama Swamy, Trammer, S.Rayamallu, Coal Filler, M.Madanaiah, Timberman, deposed as workman witnesses. The evidence of workman witnesses also categorically establishes that the concerned workman has nothing to do with the alleged strike. In fact, the concerned workman requested the HOM and

Mukaddam of Timberman to allocate his work, so as to enable him to go down the mine, but, as all other workmen went away and the concerned workman was not allotted any work and on account of the Lockout Notice Board displayed by the Management, the concerned workman could not resume his duties. Further, evidence of workmen witnesses also establishes that the concerned workman has nothing to do with the alleged strike in the 2nd shift on 2.7.2001. Without properly appreciating the evidence on record, Enquiry Officer held that the charge as proved and basing on such perverse findings, a show cause notice dated 4.6.2002 was issued, to which, the concerned workman has submitted his reply on 16.6.2002. Without properly appreciating, the impugned office order dt.12-04-2004 was issued imposing the punishment. It is submitted that, though all other workmen of 2nd shift on 2.7.2001 did not resume duty due to the call given by the representatives of the recognized Trade Unions, the concerned workman was made as scapegoat, ignoring the fact that, he has nothing to do with the alleged strike. In fact, the concerned workman wanted to resume duty, but he could not do so, as no other workmen resumed duty and that he was not entrusted with any work by his Mukaddam. Further, as can be seen from the proceeding of enquiry, though the concerned workman requested the Under Manager for resumption of his duties, but he was not permitted to do so, as the Management has already displayed Lockout Notice. Even otherwise also, there is no justification on the part of the Respondents to impose the penalty on the concerned workman on pick and choose method, when none of the workmen in the 2nd shift resumed their duties on the call given by the representatives of the recognized trade unions. When the evidence on record does not establish the charge alleged, it is unjustifiable on the part of the Respondent s to impose the penalty. The concerned workman never went to Manager Room and never demanded apology, as charged. In fact, many shift workmen gave representation pleading that, the concerned workman has nothing to do with the alleged strike in 2nd shift on 2.7.2001. As a matter of fact, though the concerned workman has submitted reply to show cause notice, the Disciplinary Authority has not considered any of his submissions and passed cryptic order, in a predetermined manner. Therefore, prayed to set aside the impugned order dated 12.4.2004 and direct the Respondent for granting all other consequential benefits etc..

3. **Respondent filed counter denying the averments of the Petitioner Union as under**:

It is submitted that the concerned workman Sri Gaje Shivaji, Timberman, GDK-5 Incline, was imposed with a penalty of Reduction of two increments earned by him as on date vide order with cumulative effect on proved charge No.RG./PER/S/46/2280. dated 12.04.2004. It is apparently clear that there is an abnormal delay of above 07 years in raising the dispute by the Petitioner; therefore the petition is liable to be dismissed on the ground of delay and latches. It is submitted that the concerned workman Sri Gaje Shivaji, was imposed the penalty of Reduction of two increments earned by him as on date with cumulative effect vide order No.RG.I/PER/S/46/2280, dated 12.04.2004 on proved charge after conducting a detailed domestic enquiry duly following the principles of natural justice. In this regard, it is submitted that concerned workman was issued with a Lr.No.Gdk.5/06-F/2001/23 14, dated 05.07.2001, under Company's Standing Orders No. 25.3, 25.11, charge sheet Vide 25.24 for the misconduct committed by him, which read as follows:

25(3): Willful insubordination or disobedience whether alone or in conjunction with another or other of any lawful or reasonable order of a superior.

25(11): Going on illegal Strike either singly or with other workmen without giving 14 days previous notice.

25(24): Sabotage or causing willful damage to work in progress or property of the company.

The concerned workman acknowledged the receipt of the charge sheet, and submitted his explanation dated 05.08.2001 which was examined and found to be not satisfactory. The concerned workman participated in an illegal strike along with others, even after a notice was displayed on the notice board in Telugu, that the Coal Industry was declared as Public Utility Service by the Government of India and the strikes have been prohibited. The concerned workman was pursued by the mine authorities along with other workmen to go down the mine in 2nd Shift on 02.07.2001 but in vain, the illegal strike continued in III shift on 02.07.2001 and also in 1st Shift of 03.07.2001, due to which production to a tune of 1,633 Tonnes valuing Rs. 15,43,105/- and 1,607 mandays were lost due to strike. Hence, an enquiry was ordered and an enquiry notice No.GDK.5/06-F/2001/2740, dated 01.08.2001 was issued advising him to attend the enquiry on 06.08.2001, along with witnesses, if any, to defend his case. It is submitted that the enquiry was commenced on 06.08.2001 and was held on different dates and finally concluded on 09.01.2002, adhering to the principles of Natural Justice. The concerned workman attended and fully participated in the enquiry, and the charge sheeted workman was given full and fair opportunity to defend his case, including availing the services of a defense assistant in the enquiry. At the outset the enquiry procedure was explained in Telugu by the Enquiry Officer, and as requested by the charge sheeted workman the enquiry proceedings were recorded in Telugu and a copy of each page of the proceedings were given to him. The Presenting Officer and the management witnesses deposed their evidence in the presence of the Concerned workman which was duly recorded by the Enquiry Officer. Further, the documentary evidence was produced by the management in the presence of the charge sheeted workman to substantiate the charge leveled against him in the enquiry. The charge sheeted workman did not cross examine the management witness when the opportunity was afforded to him. The charge sheeted workman deposed among other

things in the enquiry, that the Union people asked the workmen not to move from the Manager's room until the Manager comes out and talk and that they squatted in front of the room, and that nobody could go down the mine after strike notice was displayed, and that he also went away and had nothing to do with the strike. The charge sheeted workman produced witnesses in his defense, but was not able to rebut the charges leveled against him. The Enquiry Officer on the basis of the evidence adduced in the enquiry and after appreciating all the recorded evidence, submitted his report in which the charge sheeted workman was held to be guilty of the charge leveled against him. It is submitted that on 02.07.2001 the concerned workman booked his IN muster, but did not go to work distribution point, nor collected his cap lamp from the lamp room. The workman participated in an illegal strike along with others demanding that the Superintendent of Mines (Manager), Gdk.5 Incline should tender apology in public for arranging to fell a tree near heavy material unloading ramp in the mine premises. The Manager even after explaining the reasons for felling the tree, which was hindering the vehicle traffic, loading and unloading and also affecting the safety of the workmen, the concerned workman participated in an illegal strike along with other workmen. Further, the concerned workman himself deposed in the enquiry that the Shift Under Manager came to him and asked him to go down the mine. However, the concerned workman left the mine without working along with others. The company has lost production to a tune of 1,633 Tonnes, the value of which was Rs. 15,43,105/- and lost 1,607 mandays due to illegal strike. It is to submit that the Enquiry Officer after appreciating and analyzing each evidence adduced in the enquiry held that the charges against the workman were duly proved against him under Company's Standing Order No. 25(3), 25(11), 25(24). It is pertinent to mention here that mere participation in a illegal strike itself is a misconduct under Company's Standing Order No.25.(11), and the charge sheeted workman himself has deposed in the enquiry that all the workmen including himself left the mine in II shift of 02.07.2001 thereby admitting that the workman has participated in the strike. The workman was supplied with all the documents including enquiry proceedings and enquiry report Vide Show Cause Notice No.RG.I/PER/S/46/3621 dated.04.06.2002. The concerned workman acknowledged the said notice and submitted his representation dated 16.06.2002. It is submitted that the Disciplinary Authority after going through the entire enquiry proceedings, representations submitted by the concerned workman, and after evaluating all the evidence on record concurred with the findings of the enquiry officer, and as the charges framed and proved in the enquiry were grave and serious in nature warranting punishment with that of dismissal, the management has taken a lenient view to give an opportunity to the delinquent workman to improve himself, passed the impugned order No. RG.I/PER/S/46/2280, 12.04.2004 imposing the penalty of Reduction of Two Increments with cumulative effect. The Manager even after explaining the reasons for felling the tree, which was hindering the vehicle traffic, loading and unloading and also affecting the safety of the workmen, the concerned workman participated in an illegal strike along with other workmen. The concerned workman submitted explanation dated: 05.08.2001, which was found to be not satisfactory. As the illegal strike has caused heavy production and mandays loss to the Company and an enquiry was ordered. The enquiry was held in consonance with the principles of natural justice, and full opportunity was given to the delinquent workman to defend himself. The concerned workman was not able to rebut the charges leveled against him, and based on the evidence produced by the management in the enquiry the charges were proved. The workman received show cause notice along with enquiry proceedings and enquiry report, and submitted his representation dated 16.06.2002. The Disciplinary Authority after examining the case from all angles the management have taken a lenient view and imposed the penalty of reduction of two increments with cumulative effect instead of awarding the extreme penalty, as the charges proved were grave and serious in nature. As such, the allegations of the Petitioner that without considering the an enquiry was conducted in a predetermined manner, and without valid evidence a major penalty was imposed is devoid of any truth or substance, hence denied. It is submitted that the concerned workman categorically stated in his reply to the charge sheet dated 05.08.2001, that in response to the decision taken by the Recognized Union, they have also protested and participated in the strike. The concerned workman cannot absolve himself of his involvement and participation in the illegal strike, by simply throwing the blame on the Union or other workmen. The concerned workman was unable to rebut the charges and prove his innocence in the enquiry. The Presenting Officer Sri K.Padmanabha Reddy, Additional Manager (MW) produced Form-C Register of the month of July 2001, to establish that the concerned workman booked his IN muster in IInd shift of 02.07.2001. The unrebutted evidence of Sri K.Lingaiah, Senior Under Manager (MW.1) and Sri N.Rayamallu, Head Ovrerman (MW.2) clearly established that no workman turned up at the distribution point, for allocation of work after booking their IN muster in IInd shift on 02.07.2001. It also established that no workman took Cap lamp at the commencement of the shift on 02.07.2001 deliberately contrary to the normal practice. Further, as admitted by the concerned workman himself in the enquiry, he left the mine premises along with other workmen which amounts to participating in the illegal strike. As such, the allegations of the Petitioner that without considering the submissions of the concerned workman an enquiry was initiated, and MWl and MW2 merely stated that the concerned workman was seen standing at the scooter shed along with others is not correct, hence denied. The concerned workman in his deposition stated that the Union people asked the workman not to move from Manager's room until the manager came out and talk with them, and that they squatted in front of the room and he was standing near the scooter shed, this clearly established the fact that the concerned workman instead of going to the distribution point for allocation of work went to the Manager's room along with others. Further, the concerned workman himself deposed in the enquiry that the Shift Under Manager came to him and asked him to go down the mine. But he left the mine without working along with others. As such, the allegation of the Petitioner that the

concerned workman requested other workman to go down the mine, but as the strike notice was exhibited the workmen did not go down the mine is not maintainable, hence denied. Even if it is assumed for a moment without conceding that the concerned workman was really interested to resume duty, no one has prevented him from reporting at the work distribution point in time, before the strike notice was displayed as per the provisions of Industrial Dispute Act, 1947, which he is fully aware of with his long standing service in the Company. It is submitted that the concerned workman himself deposed in the enquiry, that on 02.07.2001 in IInd Shift he has booked his IN muster and went to lavatory, and by the time he returned all the workman were already left to the Manager's room agitating for the felling of a old tree and demanding apology from the Manager. The fact of which was corroborated with the statement of MW1, that when he went to distribute no workmen was available at the distribution point. The concerned workman also deposed that he too went towards the Manager's room and stood at the scooter shed along with other Timbermen, while some other workmen squatted in front of the room. The concerned workman also deposed that the Shift Under Manager advised the workmen including him to go down the mine, but that nobody could go down the mine and the Strike Notice was displayed. This clearly established the fact that no workmen turned up at the distribution point for allotment of work in time, and left the mine after the strike notice was displayed. Further, during the cross examination of defense witness Sri M.Madanaih, Timberman (WW-4) in his reply to the question No.6 stated that the request of the concerned workman for distribution took place after the strike notice was displayed. As such, the allegations of the Petitioner that the evidence of workman witnesses established that the concerned workman has nothing to do with the strike is devoid of any truth or substance, hence denied. The allegation of the Petitioner that the concerned workman was not allotted any work as all other workmen went away and strike notice was displayed, is only a ruse adopted by the concerned workman to safeguard himself from possible management action for participating in the illegal strike, therefore baseless and misleading, hence denied. The Disciplinary Authority after careful examination of his representation, and after going through the entire enquiry proceedings and enquiry report concurred with the findings of the enquiry officer, and though the charges proved or grave and serious in nature, the management has taken a lenient view with an intention to give an opportunity to the delinquent workman to reform himself, and instead of awarding the extreme penalty has imposed on him the penalty of Reduction of Two Increments with cumulative effect. The concerned workman cannot disown his participation in the illegal strike, on the plea that all the other workmen in IInd Shift of 02.07.2001 were also not similarly charge sheeted. Further, the representation of the 135 shift workmen out of total 303 workmen, including the one who actually was not present on 02.07.2001, merely states that the concerned workman has no connection with the strike, but did not state that the concerned workman has not participated in the illegal strike. As such, the representation even though not verified for its genuineness, failed to dispel the charges leveled against the concerned workman. Therefore, after proper analysis of the case from all angles the Disciplinary Authority has passed the penalty order, with all reasonableness and justification which cannot be faulted with on any account, allegations of the Petitioner are baseless. Hence, it is prayed that claim of the Petitioner be dismissed as devoid of merits.

4. Perused written arguments.

5. **On the basis of rival contentions and pleadings of both the parties, following issues emerge for determination**:-

I Whether the Departmental Enquiry held against the workmen has legal and valid?

II Whether action of the management of M/s. Singareni Collieries Company Ltd., Karimnagar district in imposing the penalty of stoppage of two increments with cumulative effect vide order No.RG-I/PER/S/46/2280 dated 12.04.2004 against the concerned workman Sri Gaje Shivaji, Timber man, GDK-5 Incline is justified and legal ?

III. To what relief the concerned workman is entitled for?

Findings:-

6. **Point No.I**: The Departmental Enquiry held against the Concerned workman has been held legal and valid vide order dated 28.10.2019.

Thus, Point No.I is decided accordingly.

7. **Point No.II**: The workman in his claim statement has assailed the impugned order No. RG-I/PER/S/46/2280 dated 12.04.2004 issued by Respondent through which penalty of stoppage of 2 increments with cumulative effect was imposed against him and therefore sought the declaration to hold punishment order illegal and to set-side the same and also prayed to restore the increment deferred pursuant to the impugned order dated 12.04.2004, duly granting all other consequential benefits.

8. Workman in his claim statement states that he was issued with charge sheet dated-5.7.2001 alleging that on 2.7.2001 in 2nd shift on he booked has IN muster and participated in an illegal strike along with others demanding an apology from S.O.M., GDK-5 Incline, for felling a tree in the mine premises. Further, it is submitted

that on receipt of the above charge sheet the workman submitted his explanation on 5.8.2001 categorically denying the charges. But, without considering the submissions made by the workman, an enquiry was conducted by the Respondent management against him in a predetermined manner and consequent upon closure of proceedings of enquiry, a show cause notice dated 4th June 2002 was issued to him to which he submitted his reply and 16th June 2002. But, without considering the submissions made by the concerned workman and valid evidence on record in proper perspective, Office order dated 12th April 2004 was issued imposing a major penalty of reduction of 2 increments with cumulative effect. Further, it is submitted that the Workman has not taken any independent and deliberate decision on the issue of workman to participate in alleged illegal strike. Further, it is submitted that he has nothing to do with the alleged strike. During the enquiry, Sri Padmanabha Reddy deposed as Presenting Officer and he also examined, M/s. K. Lingaiah and N Rayamallu as MW1 and MW2. Though witness state that he has seen the concerned Workman standing in front of the scooter shed along with other Timbermen, but they did state that workman Petitioner was indulged in strike. Workman states that he himself asked all other Workmen, to get down into the mine for duty. But no Workman got down into the mine for duty. Workman further states that evidence of MW 2 Sri N Rayamallu, Headover man stated that, he has seen the concerned workman¸ in conversation with MW1 at the spot. MW2 also states that none of the Workmen have got down into the mine in Second Shift on 2nd July 2001. Workman pleaded that, he waited for other Workmen at the Lamp room to resume work and Workman approached to the Under manager but by the time the management declared Lockout notice stating that the Workmen not to get down into the mine. Therefore, Under Manager informed Workmen that after displaying the Lockout Notice board, no Workman can resume their duties. Further, it is submitted that evidence of Witnesses on behalf of workmen has categorically establish that the concerned Workman has nothing to do with the alleged strike. In fact, the concerned Workman requested the HOM and Mukaddam of Timbermen to allocate his work so as to enable him to go down the mine, but, as all other workmen went away, and the concerned Workman was not allotted any work on account of the Lockout Notice Board displayed by the management, hence concerned Workman could not resume his duties. Enquiry officer without appreciation of evidence of workman has held the charge against the workman proved and basing up on such perverse findings, a show cause notice dated 4th June. 2002 was issued, to which the concerned Workman has submitted his reply on 16th June 2002. It is pleaded that without properly appreciating evidence on record the impugned office order dated 12th April 2004, has been issued imposing the penalty of reduction of 2 increments with cumulative effect which is not a justified order. It is pleaded that none of the workmen in the second shift resumed their duties on the call given by their representatives of their recognized trade unions. Even otherwise, also, when the evidence on record does not establish the charge alleged, the order of punishment is unjustifiable on the part of the Respondent.

9. On the other hand, Respondent Counsel contended that on 2nd July 2001, the Concerned Workman has booked his IN muster, but he did not go to the place of work distribution point nor collected his cap lamp from the lamp room. The Workman participated in an illegal strike, along with others demanding that the Superintendent of Mines, GDK.5 incline, should tender apology in public for removing of tree near heavy material unloading ramp in the Mine premises. Although Management has explained the reasons for removing of the tree as it was hindering the vehicle traffic in the work of loading and unloading and also affecting the safety of the Workmen. Respondent contended that the concerned Workman participated in the illegal strike dated 2.7.2007 in second shift, along with other workmen. The Workman himself has deposed in the enquiry that the shift Under Manager came to him and asked him to go down the mine but, the concerned Workman left the mine without working, along with others. The Respondent contended that the company has lost production to a tune of 1633 tonnes, the value of which was Rs.15,43,105/- and lost 1607 mandays due to illegal strike on 2.7.2007 in second shift at Mine. Further, Respondent contended that the Enquiry Officer after appreciating and analysing each evidence adduced in the enquiry has held the charges against the Workman were duly proved under Company's Standing Orders No.25(3), 25(11), 25(24). Respondent also contended that it is pertinent to mention here that mere participation in an illegal strike itself is a misconduct under Company's Standing Orders No.25.(11) and the charge sheeted Workman himself has deposed in the inquiry that all the workmen including himself left the mine in second shift of 2nd July 2001, thereby admitted that he has also participated in the strike. Respondent further contended that Workman was supplied with all the documents including enquiry proceedings and enquiry report along with showcase notice dated 4th June 2002. Further, it is contended that Disciplinary Authority after going through the entire material in proceedings of enquiry and also representations submitted by the concerned Workman and has come to the finding to concur with the findings of the Enquiry Officer. The Disciplinary Authority was of the opinion that the charges framed and proved against the workman were of grave and serious in nature, hence warranting punishment with that of dismissal. But the management has taken a lenient view to give an opportunity to the delinquent Workman to improve his conduct and has passed the impugned order dated 12th April 2004, imposing the penalty of reduction of 2 increments with cumulative effect. Further, Respondent contended that the workman in reply to the charge sheet dated 5th August. 2001, has categorically admitted that in response to the decision taken by the recognised Union they have also protested and participated in the strike. Therefore, concerned Workman cannot absolve himself after his involvement and participation in the illegal strike, by simply throwing the blame on the union or other workmen. Respondent contended that the enquiry was held scrupulously following the principles of natural justice and the charges were proved on the basis of sufficient evidence in the enquiry. Further Respondent contended that during the enquiry the

Presenting Officer Sri Padmanabha Reddy, Additional Manager has produced Form-C register of the Month of July 2001 to establish the fact that concerned Workman booked his IN muster in second shift of 2nd July 2001 and unrebutted evidence of Sri Lingaiah, Senior Under Manager and Sri N Rayamallu Head Over Man clearly established that Workman with other co-workmen did not turn up at the distribution point for allocation of work after booking their IN muster in Second Shift on 2nd July 2001. It is also established from evidence of Management witness that no Workman took cap Lamp at the commencement of the shift on 2nd July 2001 deliberately contrary to the normal practice. Further, the Workman has also admitted in the enquiry that he left the Mine Premises along with other Workmen and the conduct of workman amounts to participation in the illegal strike.

10. Perused the record in view of the submissions made by both the Learned Counsels of both the parties. It is undisputed that on 2nd July 2001, in Second Shift, the workman participated in the strike along with other workmen though he booked his IN muster. It is also established that the Workman did not join the duty on 2nd July 2001 in second shift and admittedly, he was present at the site of strike along with other workmen. As per charge sheet, the workman was charge sheeted under Company's Standing Order No. 25(3), 25(11), 25(24), which reads as follows:-

25(3): Willful insubordination or disobedience whether alone or in conjunction with another or other of any lawful or reasonable order of a superior.

25(11): Going on illegal Strike either singly or with other workmen without giving 14 days previous notice.

25(24): Sabotage or causing willful damage to work in progress or property of the company.

As per Company's Standing Orders No 25(11), for going on straight illegal strike 14 days prior notice was mandatory. It has come on record that no such prior notice of 14 days was given to Management by the union of workman on 2nd July 2001 in second shift, whereas workman has booked IN muster and participated in the illegal strike along with other workmen, in second shift on 2nd July 2001, in support of their demand of union to tender apology from management in public for arranging to fell a tree near heavy material unloading ramp in the premises of GDK. 5 Incline. Before delving into evidence on record involvement of workman in illegal strike, it would be apposite to look into the provision contained definitions of the illegal strike under Section 22 of I.D. Act, 1947, extracted as below:-

22. Prohibition of strikes and lock-outs.

(1)No person employed in a public utility service shall go on strike, in breach of contract-(a)without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b)within fourteen days of giving such notice; or

(c)before the expiry of the date of strike specified in any such notice as aforesaid; or

(d)during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

Sec.23 provides General prohibition of strikes and lock-outs, is extracted below:-

- No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out-(a)during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b)during the pendency of proceedings before [a Labour Court, Tribunal or National Tribunal] and two months, after the conclusion of such proceedings;

(bb)[during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3-A) of section 10-A; or]

(c)during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

11. Admittedly, the Respondent Company is a public utility service and in view of the circular of the Government of India, any strike was prohibited in the Respondent Company during the period mentioned therein.

Section 24 of I.D. Act, 1947 defines illegal strike and lockout provision is extracted as below:-

Section 24(1):-

(1)A strike or a lock-out shall be illegal if-

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10 [or sub-section (4-A) of section 10-A]

12. In view of provision contained under Sec.22, Sec.23 and Sec.24 of I.D. Act we have to examine whether workman participated in illegal strike on 2nd July, 2001. The perusal of the evidence on record of enquiry proceedings goes to reveal that on 2nd July 2001 in the second shift Workman booked his IN muster but he did not join his duty despite the instruction/ order of the Under Manager and the Mukaddam to the workman to go down in the mine for duty. Admittedly, there is ample evidence on the record of enquiry proceedings that Workman did not get down in mine to join duty on that day and he was witnessed by the Management witness while he was standing at the place of illegal strike along with other Workmen. Further, it has also come in the evidence that Workman did not pick his cap lamp for duty despite the direction given to him by Mukaddam and Under Manager to him. Such obstinate conduct of Workman goes to show that he did not proceed to work place to join duty instead went to spot of illegal strike where other workmen were gathered to demand the apology of Management for removal of tree from premises. The evidence on record also reflects that the Workman or Union of workman did not give the statutory notice to Management for strike, strike as required under Company's Standing Order No.25.11. Thus, the strike by union on 2.7.2001 in second shift, in which workman also participated was in contravention of the provision of clause 25.11 of Company's Standing Orders. It is also established from the evidence S/Shri A. Lingaiah, K. Padmanabha Reddy and N. Rayamallu, that the Workman did not join duty and was found participating in strike, along with other workmen. Thus, he failed to discharge his duty without any just cause in the second shift on 2.7.2001 and also on next day on 3rd July 2001 in first Shift.

13. On the other hand, workman has taken the plea that Enquiry Officer has not appreciated his explanation as well as the evidence on record. Perusal of record of enquiry proceeding goes to reveal that the Respondent Management for proving the charges against the delinquent workman, has examined witness MW1 and MW2, in the enquiry and these witnesses has given primary evidence in support of charge against the workman, that the workman did not join duty on 2.7.2001, in second shift and he has participated in illegal strike on that day.

14. It is settled law that in Departmental Enquiry to prove the charge against delinquent strict rule of evidence do not applies and only principle of preponderance of Probability applies.

In **the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, dated 29.10.2001 Hon'ble Apex Court have held:-**

"To determine whether the finding in a disciplinary Enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Further, in case of State of Haryana Vs. Rattan Singh, 1977 SCC 491, the Hon'ble Apex Court have held:-

"4. It is well settled that in a domestic Enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility." Further, it is held, "The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a ending is certainty available for the court to look into because it amounts to an error of law apparent on the record."

Thus, in view of law laid down by the apex court as discussed above, as regards appreciation of evidence recorded in Departmental Enquiry this court can not reappreciate evidence recorded in disciplinary enquiry. This court is only permitted to satisfy its conscience that there is some evidence to support the charge of misconduct and to guard the court against perversity. The perusal of the record reveals that there is ample evidence on record to a logical probative conclusion for a prudent mind to prove the charge against the workman in the present matter. Thus, on the basis of evidence on record it is established that workman had participated in illegal strike on 2nd July, 2001, second shift with other workmen. Therefore, the plea of the workman that there is no sufficient evidence in the enquiry to support the charge against him of participation in the illegal strike is untenable.

As far as the question of proving the factum of illegal strike is concerned, in this context, the reference of decision of Hon'ble Supreme Court of India **in the case of Workmen of the Motor Industries Co. Ltd., vs. Management of Motor Industries Co., 1969 AIR page 1280, is relevant wherein Hon'ble Supreme Court of India have held:-**

"Could the management then take disciplinary action against the concerned workmen in respect of such a strike ? Standing order 22 enumerates various acts constituting misconduct. Cls. 2, 3, 13 and 18 provide that striking either singly or in combination with others in contravention of the provisions of any Act, inciting any other workmen to strike in contravention of any law, riotous or disorderly behaviour or any act subversive of discipline and' loitering

within the company's premises while on duty or absence without permission from the appointed place of work constitute misconduct. The point is whether participation in and incitement to join the said strike were in respect of a strike which was in contravention of any Act or law. Section 23 provides that no workman employed in an industrial establishment shall go on strike in breach of contract and during the period in which a settlement is in operation, in respect of any of the matters covered by such a settlement. The prohibition against a workman going on strike thus envisages two conditions; (a) that it is in breach of a contract and (b) that it is during the period in which a settlement is in operation and is in respect of any of the matters covered by such settlement. The said settlement was a contract between the company and the association representing the workmen -and it was in operation on May 11, 1966. But was it in respect of a matter covered by the settlement ? Under s. 24 a strike is illegal if it is commenced in contravention of s. 23. Section 26 inter alia provides that any workman who commences, continues or otherwise acts in furtherance of a strike which is illegal under the Act shall be punished with imprisonment for a term extending to one month or with fine which may extend to Rs. 50 or with both. Section 27 provides punishment of a person who instigates or incites- others to take part in or otherwise acts in furtherance of an illegal strike, The strike envisaged by these two sections is clearly the one which is illegal under s. 24 read with s. 23. A strike in breach of a contract during the operation of a settlement and in respect of a matter covered by that settlement falls under s. 23 (c)."

Thus, in view of the law laid down by Hon'ble Apex Court in the case as discussed above, the alleged illegal strike in which workman had participated has been found guilty was called and stayed not only during the enforcement of settlement as mentioned under Sec.23(C) of I.D. Act but also in breach of contract mentioned under Sec.22 of I.D. Act. Therefore, workman in the present matter has been rightly held guilty for charge of participation in illegal strike on 2.7.2001.

15. Now let us examine whether the illegal strike by workman on 2nd July 2001, in the second shift which was found in contravention of clause 25.11 of the Company's Standing Orders and in which Workman had also participated, was justified.

16. It has come in the evidence on record that on that day the union of the Workman engaged in the Respondent Company had proceeded on strike on working day to seek an apology from the Management for cutting/ removing down the tree in the Company's premises. Admittedly no notice of strike was given by the union to the Management as per provision under Clause 25.11 of Standing Orders. Whereas workman herein also participated in the strike and he did not join his duty on that day. Workman did not collect his cap lamp from the lamp room for going down in the mine for work. Thus, Workman had also participated in the illegal strike. However, there is no whisper in the evidence that the workman was forced to join the strike by the other members of the union on that day or he was compelled to join the strike by other workmen. Instead, he himself abandoned the place of duty to join them and participated in the illegal strike as organized in the premises of the Respondent Company on 2.7.2001. Although Respondent Management had tried to convince the workman that the tree was causing hindrance in the work of the loading and unloading of the coal on the vehicles in the premises and therefore management has taken the decision to remove the said tree from the premises. It is also noticed from the record that before calling for the strike on 2nd July 2001 in the second shift the union of the Workman, never gave any memorandum or notice as per Company's Standing Orders to the management for meet out their demand and no resolution of union was pending with the management in this regard on that day. The union of Workman abruptly stopped the work on 2nd July, 2001 in the second shift to raise their demand as mentioned in charge sheet and stopped the work in the Respondent Company and gathered in front of the office of Manager to raise their demand for seeking the apology from the management in the matter of removal of tree. Thus, keeping in view the demand raised by the workman was not of such urgent nature for which the workman could not have waited for notice period or required immediate attention without waiting for notice period. Under these circumstances, in the case at hand, the demand of workman was not of such imminent nature so as to stop the work abruptly in the Respondent Company and called organizing strike. Hence, such strike can not be termed as justified. It is not such a case that workmen could not have waited for the notice period of 14 days for meeting their demand from the Respondent Management.

Therefore, under these circumstances, the strike by workers Union in which workman has also participated cannot be said to be justified in any circumstance. Therefore the strike on 2nd July 2001 in second shift in which workman has participated was not only illegal but without any justification.

17. As far as the question of disproportionate punishment of reduction of 2 increments with cumulative effect to the workman is concerned, workman has taken the plea that the Disciplinary Authority has not considered his submission, submitted in reply to show cause notice. Whereas Respondent has contended that the Disciplinary Authority, after careful examination of representation of workman and after going through the entire proceeding of enquiry, considered the finding of the Enquiry Officer and has passed the order of punishment to Workman imposing reduction of 2 increments with cumulative effect. Further, Respondent contended that all the three charges have been proved during enquiry against the workman and nature of the charges are serious and grave. The management has taken a lenient view with an intention to give an opportunity to the delinquent Workman to reform himself and

instead of awarding major punishment, Disciplinary Authority has imposed the penalty of reduction of 2 increments with cumulative effect.

18. Perused the impugned order dated 12th April 2004 which reflects that the Disciplinary Authority has considered the report of the Enquiry Officer and all connected papers as well as the representation dated 16th June 2002 of the Workman and in facts and circumstances of the matter, has taken lenient view and decided to impose the penalty of reduction of 2 increments with cumulative effect to the workman. Therefore, I find no illegality or infirmity in the order of Disciplinary Authority imposing the punishment upon the workman vide order dated 12th April 2004. Further, as regards question of Jurisdiction of the Tribunal to interfere in the punishment order passed by Disciplinary Authority is concerned in this context, a reference of the decision of the Hon'ble Supreme Court of India in the case **of State of UP Vs. Sheo Shankar Lal(2006) 3 SCC 276 is relevant, wherein the Hon'ble Supreme Court of India have held**:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, in the case of State of Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 the Hon'ble Apex Court have held:-

"*6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse.*

Thus, on going through the evidence on record of Departmental Enquiry it is established that on 2nd July 2001 in second shift the strike was called upon by the union to meet out their demand of seeking apology from the Management for cutting down tree situated in the premises of Company and Workman herein also participated in that illegal strike. It is also established that the workman did not join the duty on 2nd July 2001, in 2nd shift despite the order given by his superiors. Therefore, the charges against the Workman as per charge sheet dated 5.7.2001 under Company's Standing Orders No.25(3), 25(11) & 25(24) held proved. Therefore, in view of the fore gone discussion, the action of the management is held justified.

Thus, Point No.II is answered accordingly.

19. **Point No.III**:- In view of the finding given at Points No. I & II and law laid down by the Hon'ble Apex Court as discussed above, the concerned workman is not entitled to any relief. His claim statement is liable to be dismissed.

Therefore, Point No.III is decided accordingly.

AWARD

In view of the fore gone discussion and findings arrived at Points No.I, II and III, the action of the management of S.C.C.L., RG-I Area Godavarikhani in imposing penalty of stoppage of two increments with cumulative effect vide Order No.RG-I/PER/S/46/2280 dt.12.4.2004 against Sri Gaje Shivaji, Timber man, GDK-5 Incline is held justified and legal. The workman is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 9th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 25 जुलाई, 2024

का.आ. 1479.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार आद्योगिक अधिकरण–सह–श्रम न्यायालय**, हैदराबाद के पंचाट (पहचान **संख्या 82/2008**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **18/07/2024** को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 25th July, 2024

S.O. 1479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No.82/2008*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **18*/07/2024.***

[No. L-22013/01/2024–IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 21st day of May, 2024

INDUSTRIAL DISPUTE L.C.No. 82/2008

Between:

Ramagiri China Posham, S/o Peda Ellaiah (died) per LRs

…Petitioner

1. Ramagiri Kamala, W/o Late Ramagiri China Posham
2. Ramagiri Naveeen Kumar, S/o Late Ramagiri China Posham
3. Ramagiri Rajitha, D/o Late Ramagiri China Posham
4. Ramagiri Rakesh, S/o Late Ramagiri China Posham
5. Ramagiri Raghupathi, S/o Late Ramagiri China Posham

All are R/o H.No.3-28, Rapally, Adilabad – 504207.

…. Petitioners

AND

1. The General Manager,
   The Singareni Collieries Company Ltd.,

Mandamarri Area, Mandamarri, Adilabad district.

2. The Dy. General Manager,

MK-4 Incline,

Singareni Collieries Company Ltd.,

Mandamarri, Adilabad District. ….Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Ramagiri China Posham(died) who worked as Coal Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking for declaring the proceeding No.MMR /PER/ D/072/6752 dated 27.12.2007 issued by 1st Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

It is submitted that Petitioner was appointed as Badli Filler in 1997 and due to his sincere and hardworking he was confirmed as Coal Filler in 1990. From the date of appointment Petitioner was regular to his duties till the year 2005. But during the year 2006 Petitioner suffered ill-health and other family problems. While the matters stood thus, charge sheet dated 23.3.2007 was issued alleging that Petitioner was not regular to his duties during the year 2006, as such, it amounts to misconduct under company's standing order No.25.25. It is submitted that an enquiry was conducted and during the enquiry, Petitioner was not given any opportunity, much less valid in nature. Basing on such lop sided enquiry, Enquiry Officer held the charges as proved. It is submitted that basing on the erroneous findings of the Enquiry Officer, a show cause notice dated 1.7.2007 was issued. On receipt of the show cause notice, Petitioner has submitted representation dated 28.10.2007 pleading that, due to his ill-health and other family problems he could not be regular to his duties during the year 2006. However, without considering the merits of submissions made by the Petitioner, he was dismissed from service w.e.f. 5.1.2008 vide order dated 27.12.2007. It is submitted that, during the course of enquiry, Petitioner categorically pleaded that his inability to perform the duties regularly during 2006, was only on account of his ill-health and other family problems, but not otherwise. Further, Petitioner also pleaded that he will attend for duty regularly in future. It is submitted that the action of the Respondents in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of principles of natural justice. The whole enquiry was conducted in a routine and mechanical manner with a predetermined intention to somehow or the other, put the Petitioner to extreme hardship of dismissal from service. The 1st Respondent failed to apply his mind independently while issuing the impugned office order of dismissal dated 27-12-2007, as he did not delve into the alleged misconduct and the punishment proposed to be inflicted upon the Petitioner. Before commencement' of enquiry, the procedure of enquiry was not explained to the .Petitioner and he was not offered the assistance of any defense assistance. As the Petitioner was not aware of procedure of enquiry, he could not participate the enquiry effectively, resulting in issuance of impugned order of removal. Had the procedure of enquiry was explained, he could have insisted the Enquiry Officer to mark the documents on his behalf i.e., the prescriptions and other documents to establish the factum of his continued ill-health. Though, the Petitioner has shown all the prescriptions and other records pertains to his continued ill-health, none of them were marked by the Enquiry Officer and at the end of enquiry, submissions of the Petitioner were ignored on the pretext that Petitioner could not substantiate his claim with relevant proofs. As a result of the above improper conduct of enquiry, Petitioner is put to great prejudice, which resulted in issuance of impugned order of dismissal. Before issuing the impugned order of dismissal, approval of competent authority was not obtained, as per the standing orders. No opportunity was given to the Petitioner to produce witnesses on his behalf. Had any opportunity was given to the Petitioner to produce witnesses on his behalf, thereby the necessity to issue the impugned order of dismissal could have been avoided. Enquiry Officer grossly erred in holding the charges as proved, ignoring the submissions of the Petitioner. The Enquiry Officer and the Disciplinary Authority proceeded with a preconceived notion. Neither the proceedings of enquiry were conducted in the language known to the Petitioner, nor the same was explained in the language known to the Petitioner. Having drafted the proceedings, the thumb impressions of the Petitioner were obtained. The conduct of the Enquiry Officer shows his predetermined nature. It is submitted that as per the instructions issued by the 1st Respondent company, the proceedings of enquiry are to be conducted in the language known to the delinquent employee. The Enquiry Officer relied upon the evidence of irrelevant witnesses who have no personal knowledge of the charge alleged against the Petitioner. Though, Enquiry Officer relied upon several documents to substantiate the charges, none of those

documents were either shown or furnished to the Petitioner either before or during the course of enquiry. Even otherwise also, even the considered documents, do not establish the charge alleged against the Petitioner. Neither the Enquiry Officer, nor the Disciplinary Authority considered the submissions made by the Petitioner before issuing the impugned order of dismissal. The findings of the Enquiry Officer are not only contrary to the evidence on record, but also self-contradictory. The findings of the Disciplinary Authority are outside the scope of charge sheet. As such, the impugned order of dismissal dated27.12.2007 is liable to be treated as bad in law. The submissions of the Petitioner during the enquiry remained unrebutted. It is an established principle of law that, unrebutted evidence need not be proved specifically and the same is deemed to have been accepted. Therefore, impugned order of dismissal dated 27-12-2007 is 1liable to be treated as bad in law. It is further submitted that the Petitioner is the sole breadwinner in his family, consisting of wife and four school going children. As a result of Petitioner's dismissal from service, his whole family rendered without any livelihood. It is prayed to modify the punishment of dismissal to that of any other lesser penalty, so as to survive himself and to look after his family. Petitioner assures this Court that, he would be regular to his direct the Respondents to take him back into service. It is therefore prayed to declare the impugned, order No. MMR/PERD/072/6752 dated 27.12.2007 issued by the 1st Respondent, as illegal and arbitrary and set aside the same, consequently direct the Respondents to re-instate the Petitioner into service duly granting all other consequential benefits, such as continuity of service, back wages and all other attendant benefits.

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows**:

It is submitted that the Petitioner was dismissed from service on proved charges of absenteeism after conducting a detailed domestic enquiry duly following the principles of natural justice. It is submitted that the Petitioner was initially appointed in the Respondent's Company on 09.04.1987 as Floating Badli filler and was later regularized as Coal filler from 01.09.1995. The Petitioner was working at MK.4 Incline of Mandamarri Area. The Petitioner had put in only 004 musters and remained absent on 334 days during the year 2006 which constituted misconduct under Company's approved Standing Orders No,25,25 which reads as under:

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause. "

It is submitted that a charge sheet No.MMR/MK4/R/008/Absen/2007/093, dated 23.03.2007 was issued to the Petitioner for his habitual absenteeism during the year 2006. The Petitioner though acknowledged receipt of the charge sheet did not submit his written explanation. The Petitioner is put to strict proof of his contention that he was not given any opportunity much less valid in nature. The Enquiry Officer held the enquiry proceedings following all the principles of natural justice. The Petitioner was extended the opportunity of having the services of defense assistant but he did not accept the same. He was also allowed the opportunity to cross examine the Management Witness but the Petitioner did not choose to cross examine them for the reasons best known to him. At the commencement of the enquiry, the Enquiry Officer had explained the enquiry procedure to the Petitioner in Telugu and he having satisfied himself affixed his thumb impression on the proceedings without raising any objections and lodging any protest. Further, the Enquiry Officer commenced the enquiry proceedings only after the Petitioner had given his consent to participate in the enquiry and also only after he had expressed no objection or the conduct of enquiry proceedings in English. Further at every stage of the enquiry, the Enquiry Officer had explained the recorded proceedings in Telugu to the-Petitioner and he after having satisfied himself that the same were recorded correctly, affixed his thumb impression. The Enquiry Officer after taking into consideration the depositions of Management witnesses and Petitioner and also the documentary evidence adduced before him at the time of enquiry, held the Petitioner guilty of the charge leveled under Standing Orders No.25.25. The Petitioner in his deposition categorically admitted that he remained absent from duties on the dates mentioned in the charge sheet and admitted the same as his mistake and that he did not obtain prior sanction of any leave or sick and that he got no medical treatment slips. After receipt of the enquiry report, the Petitioner was supplied copy of enquiry proceedings and report vide letter No.MMR/PER/D/072/3510, dated 01.07.2007 to enable him to make his written representation against the findings of the Enquiry Officer within seven days of receipt of the same. The Petitioner submitted his representation dated 28.10.2007 but he did not dispute the conduct of enquiry proceedings and also the report of the Enquiry Officer. He only pleaded that as his health was not cooperating to undertake hard works like filling, his family members took him to holy places and assured to strive hard to prove his sincerity towards his duties. The Petitioner was counselled on 30.10.2007 and was given one month time from 01.11.2007 vide letter No.MMR/PER/D/072/5679 dated 01.11.2007 to enable him improve his filling attendance and performance, but the Petitioner in spite of giving opportunity failed to improve his attendance and performance. It is submitted that the Petitioner was an underground employee and he was expected to put in 190 musters per calendar year but over a period of 7 successive calendar years including the year in which he was dismissed, the Petitioner did not put in 190 musters in any one of the calendar years. He had put in 113, 100, 102, 008, 004, 007 and 012 musters during the years 2001, 2002, 2003, 2004, 2005, 2006 and 2007 respectively. His average attendance is 50 musters per year. In his representation dated 28.10.2007 the Petitioner stated that he was appointed as Badli filler in 1986 and performed his duties with utmost sincerity and hence he was promoted as Coal filler, but from few years his health was not cooperating to hold hard works like filling and in order

to get normalcy in his health his family members took him to various hospitals and village doctors as well as to holy places. He did not mention that his absence to duties was due to his family problems as claimed in the present petition. The Petitioner without producing a valid documentary evidence to substantiate the alleged ill health, Petitioner cannot claim that the merits of his submissions were not considered. Further, if the contentions of the Petitioner that due to ill health he was not regular to duties are considered to be correct for a while, without admitting the same as correct., there is no need for him to go for private treatment. The Respondent Company has been operating Dispensaries, Area Hospitals and Main Hospital with Specialist Doctors and modern equipment for extending treatment to its employees and their family members. It also refers the patients to Super specialty hospitals basing on the necessity for better treatment and the Petitioner; if he was really suffering from ill health should have undergone treatment in Colliery Hospitals and should have reported sick in Colliery Hospitals, which he did not do. Despite giving opportunity the Petitioner failed to realize his mistake and correct himself by being regular to duties. His attendance for 7 consecutive years is very poor. Thus, the Petitioner by his own conduct invited the penalty of dismissal and accordingly he was dismissed on 05.01.2008 vide letter No.MMR/PER/D/072/6752, dated 27.12.2007. Thus, the contentions of the Petitioner that during the enquiry, the Petitioner was not given any opportunity, basing on lop sided enquiry, the Enquiry Officer held the charges as proved and that basing on erroneous findings of the Enquiry Officer, a show cause notice was issued and that without considering the merits of his submissions, he was dismissed, are all incorrect and bear not even a grain of truth. It is to submit that the Petitioner if really was suffering from ill health should have reported sick in colliery hospital instead of remaining absent from duties, should have communicated his inability to attend to duties to the head of the unit and should have obtained sanction of leave standing to his credit or loss of pay leave. Without submitting substantiating evidence, the Petitioner's contention that due to ill health and other family problems, he was not regular to duties, merits no consideration. It is to reiterate that the Petitioner did not establish his ill health and family problems that hindered the Petitioner from being regular to his duties. It is true that the Petitioner assured to be regular to duties, but he failed to keep up his promise as he had put in 012 musters only during the year 2007. The contention of the Petitioner that the dismissal order dated 27.12.2007 passed by 1st Respondent is wholly illegal, arbitrary and violative of principles of natural justice is totally incorrect, for the reason that enquiry was conducted by the Enquiry Officer following all the principles of natural justice and the Petitioner had fully participated in the enquiry proceedings and he on his own admitted his mistake and pleaded guilty of the charge leveled. Further, he was counseled to improve his attendance and was given one month time from 1st November, 2007 vide letter No.MMR/PER/D/072/5679, dated 01.11.2007 but the Petitioner failed to improve his attendance and performance as assured by him. Further his attendance from 2001 to 2007 is very poor. Despite giving sufficient opportunities, the Petitioner did not realize his mistake and corrected himself by being regular to his duties. Hence, the Respondents were compelled to impose the penalty of dismissal, which is the consequence of conduct of the Petitioner none else. It is submitted that the contention of the Petitioner that whole enquiry was conducted in routine and mechanical manner with a predetermined intention to somehow or other put the Petitioner to extreme hardship of dismissal from service, is denied. It is submitted that the domestic enquiry was conducted by giving full and fair opportunity to the Petitioner to defend his case during the course of enquiry. That the Petitioner’s contention that the 1st Respondent failed to apply his mind independently while issuing the impugned office order of dismissal dated 27.12.2007 as he did not delve into the alleged misconduct and the punishment proposed to be inflicted upon the Petitioner is totally incorrect and far from truth. The 1st Respondent had gone into the enquiry proceedings and also the report of the Enquiry Officer and found that the proceedings were conducted by the Enquiry Officer following all the principles of natural justice and the Petitioner participated in the enquiry proceedings fully and admitted his mistake. It is also noticed that the report of the Enquiry Officer is based on evidence on record. In addition to this the Respondent No. 1 had also gone into the past record of the employee and noticed that his attendance from 2001 to 2007 was very poor as his average attendance is 50 musters per year. It is submitted that Respondent No.1 being the Chief General Manager of the Area is empowered to impose penalty including dismissal on proved charges against National Coal Wage Agreement (NCWA) employees' upto Grade-C. Since the Petitioner was NCWA employee and was Coal filler, the Respondent No.1 is competent to issue any penalty including dismissal from service. It is submitted that the Enquiry Officer had given every opportunity to the Petitioner to defend his case, by having the services of defense assistant, producing documentary evidence, cross examining management witnesses, but it was the Petitioner who did not avail any of the opportunities. The Petitioner being an employee of the Respondent company has to comply the rules and regulations of the Respondent company. He should have reported sick in Colliery Hospital which he did not do. He should have communicated about his inability to attend duties because of the alleged ill health to the unit authorities, which also he did not do. He should have got sanctioned leave standing to his credit or got sanctioned loss of pay leave by the competent authority, which also he did not comply and yet claims that his submissions are not considered by the Respondents and not passed reasoned order. In the cross examination he categorically stated that he got no medical reports, treatment record to submit in support of his claim. The witnesses who deposed evidence on behalf of Respondent Company, were Pit Office Assistant and Pay sheet Clerk who deal with the attendance, leaves, pay bills, increments, promotions, disciplinary matters etc., relating to the work persons of the Mine which include the Petitioner. The witnesses produced the relevant records which reveal the fact that the Petitioner was habitually absent on different dates covered in the charge sheet and the Petitioner verified the Attendance Registers, Paid Pay sheets from January to December, 2006 and Leave Register for

the year 2006 and admitted that the entries therein are correct. The Petitioner neither disputed the enquiry proceedings, nor objected for the presentation of the Pit Office Assistant and Pay sheet Clerk during the course of enquiry before the Enquiry Officer on behalf of Respondent and did not cross examine the witnesses of Respondent. Therefore, his claim that the impugned dismissal order dated 27.12.2007 is liable to be treated as bad in law is untenable. The Petitioner without following any of the procedures of the Respondent company cannot claim that his continuous sickness should not be termed as serious misconduct. The works in inter-dependant and unauthorized absenteeism by any of the work persons shall dislocate the planned works. Thus, the Respondent company shall consider the unauthorized absenteeism of any employee as misconduct under the clauses of the approved standing orders of the Company and after following due procedure impose penalty. While imposing penalty it shall also take into account the past record of the concerned. In the present case the attendance of the petition is very poor for 7 years. If the Petitioner is the sole bread winner, he should have realized his responsibilities towards his family members and also as an employee in Respondent Company and should have attended to duties regularly, at least when he was counseled. He failed to correct himself even though opportunities were given to him. This indicates the interest the Petitioner had in his employment. It is submitted that the Respondent's Company employs more than 68,227 persons, which includes workmen, executives and supervisors. The production results will depend upon the over all attendance and performance of each and every individual. They are inter-linked and inseparable. In this regard, if any one remains absent, without prior leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill up, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why the Respondent's Company is compelled to take severe action against the unauthorized absentees. In the instant case, the Petitioner is one such unauthorized absentee and he had put in only 007 musters during the year 2006. He was dismissed after conducting a fair enquiry, giving full opportunity to the Petitioner to defend his case and providing him an opportunity of 01 month time to improve his attendance. The Petitioner failed to rectify his mistake. As such, the Respondent's Company was constrained to dismiss the Petitioner for unauthorized habitual absenteeism with effect from 05.01.2008 vide dismissal order No.MMR/PER/D/072/6752, dated 27.12.2007. Hence, it is prayed to dismiss the petition of the Petitioner.

4 On the basis of the pleadings of both parties and arguments advanced, the following points emerge for determination:-

I. Whether the Departmental Enquiry held against the workman is legal and valid?

II. Whether the action of the Respondent Management in terminating the service of the workman Sri Ramagiri China Posham, Ex.Coal Filler vide proceedings No.MMR/PER/D/072/6752, dated 27.12.2007 is legal and justified?

III. To what relief is the Petitioner entitled?

Findings:-

5. Point No.I:- Admittedly, Petitioner has worked as coal filler in the Company of Respondent Management. Petitioner has taken the plea that during the year 2006 he suffered ill-health and other family problems and he could not attend duty regularly during 2006. The charge sheet dated 23.3.2007 was issued to him alleging that he was not regular to his duties during the year 2006, as such it amounts to misconduct under the Company's Standing Orders No.25.25. Consequently an enquiry was conducted. During the enquiry Petitioner was not given any opportunity much less valid in nature and basing on such lopsided enquiry, Enquiry Officer held the charge as proved. Further, Petitioner claims that besides basing on erroneous findings of the Enquiry Officer the show cause notice dated 1.7.2007 was issued. On receipt of the show cause notice Petitioner submitted his representation dated 28.10.2007 taking the plea that due to his ill-health and other family problems he could not be regular to his duty in the year 2006. Further, without considering the merits of his submissions, Petitioner was dismissed from service w.e.f. 5.1.2008 vide order dated 27.12.2007. Further, Petitioner has challenged the enquiry proceeding on the ground that the whole enquiry was conducted in a routine and mechanical manner and before commencing enquiry procedure was not explained to him and he was not offered the assistance of any defence assistant. As the Petitioner was not aware of the procedure of the enquiry he could not participate effectively, resulting in issuance of impugned order of removal. Further, Petitioner claims that he has shown all the prescriptions and other documents to establish the factum of his continued ill-health. But none of them were marked by the Enquiry Officer and at the end of enquiry submissions of the Petitioner were ignored on the pretext that Petitioner could not substantiate his claim with relevant proofs. Further, Petitioner has taken the plea that before issuing the impugned order of dismissal, approval of competent authority was not obtained, as per the Standing Orders. No opportunity was given to the Petitioner to produce witnesses on his behalf. Further, Petitioner has taken the plea that neither findings of the Enquiry Officer, nor the impugned order does give any reason, much less valid in nature. Enquiry Officer has grossly erred the submission of the Petitioner. Petitioner has also taken the plea that neither the proceeding of the enquiry was recorded in the language known to the Petitioner nor was explained to him in the language known to him. The thumb

impression of the Petitioner was obtained. The conduct of the Enquiry Officer shows his pre-determined nature. Further, the Petitioner has taken the plea that Enquiry Officer has relied upon the irrelevant witnesses who have no personal knowledge of the charge alleged against the Petitioner. It is also pleaded on behalf of the Petitioner , that findings of the Enquiry Officer are not only contrary to the evidence on record, but also self contradictory and outside the scope of charge sheet.

6. On the other hand, Respondent in his counter has denied the allegations made in the claim statement. Respondent contended that the Enquiry Officer before commencing enquiry proceeding had explained in Telugu language, the enquiry proceeding, and the Enquiry Officer has commenced the enquiry proceeding only after the Petitioner had given his consent to participate in the enquiry. Enquiry Officer at every stage of the enquiry had explained the recorded proceedings in Telugu to the Petitioner and at no stage the Petitioner raised any objection on the conduct of enquiry proceeding or registered any protest. Further, Respondent contended that Petitioner having satisfied himself affixed his thumb impression on the proceeding. The Enquiry Officer at the commencement of the enquiry proceedings, had given the option of availing the services of defense assistant, but the Petitioner did not avail the opportunity extended to him. Further, the allegation of the Petitioner that though he had shown all the prescriptions and other records pertaining to his ill health none of them were marked by the Enquiry Officer is totally incorrect. The enquiry was conducted duly following all the principles of natural justice and the Petitioner was given every opportunity to defend his case during the course of enquiry. Thus the contention of the Petitioner that as a result of improper conduct of the enquiry the Petitioner is put to great prejudice, which resulted in issuance of dismissal order, is incorrect. Further Respondent contended that the Enquiry Officer has given fair opportunity to prove his case by having the service of the defence assistance, cross examination of the Management witness, but it was the Petitioner who did not avail any of the opportunities. Petitioner when asked to by Enquiry Officer as to whether he would like to add anything more to what he had already stated and submit any documents, he did not respond positively. Further, Respondent contended that the Petitioner on his own admitted his misconduct. The Enquiry Officer has explained all these reasons in his report before coming to a conclusion that he Petitioner was guilty of the charge levelled.

7. In the context of examining the illegality and validity of the Departmental Enquiry Hon'ble Supreme Court of India has laid down following guidelines in **Sur Enamel and Stamping Work Limited vs The Workman A.I.R. 1963 P. 1914,** wherein apex court held:-

1) The employee proceeded against has been informed clearly of the charges leveled against him.

2) The witnesses are examined – ordinarily in the presence of the employee – in respect of the charges.

3) The employee is given a fair opportunity to cross examine the witnesses.

4) He is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter.

And

5) The Enquiry Officer records his findings with reasons for the same in his report.

Therefore, in the light of guidelines laid down by the Hon'ble Supreme Court of India as discussed above, I proceed to examine the proceeding of Departmental Enquiry held against the Petitioner. The proceeding of Departmental Enquiry would reveal that, during the enquiry in reply to the question asked by Enquiry Officer, the workman states, “Yes, I have received the charge sheet and understood the charges levelled against me.” Further, Enquiry Officer asked him, “Did you accept the charge?”, in reply, workman states, “Yes. I accept the charges levelled against me.” Further, Enquiry Officer asked the workman, whether he wish to avail the assistance of any of his co-workers or trade union representative in the enquiry. But the workman replied to that, that he do not want to take any assistance of co-worker or trade union representative. Further, he was asked for that, whether he know the procedure of enquiry, then he replied that Enquiry Officer has explained the procedure in Telugu and he understood the same. Further, he was asked whether he was ready to participate in the enquiry, he replied that he was ready to participate in the enquiry. Further, Enquiry Officer asked the charge sheeted employee, whether he has submitted his explanation to the charge sheet, then, charge sheeted employee replied that he has not submitted any explanation to the charge sheet. However, workman admitted the charges mentioned in charge sheet. Further, charge sheeted employee states that “I don’t have any inconvenience or express any objection if the enquiry proceedings are conducted and recorded in English language.” Thus, from the above statements of the Petitioner during the enquiry goes to show that the charge sheet was served upon him and he understood the charge sheet levelled against him. He was offered the assistance of co-worker but he denied. He refused to take any assistance. Further, he was explained the procedure of enquiry in Telugu language and after obtaining the consent of the workman Enquiry Officer has conducted the enquiry. Therefore, the plea of the Petitioner that procedure of enquiry was not explained to him is untenable.

8. Further, the record of enquiry proceeding goes to reveal that the Management has examined two witnesses in support of charge levelled against the workman. During enquiry, Sri M. Srinivas, POA & Presenting Officer and Sri B. Chandra Sekhar, Paysheet Clerk and MW1, were examined in the presence of charge sheeted employee and charge sheeted employee was afforded opportunity to cross examine these witnesses but the workman refused to cross examine. Further, the Petitioner was also provided the opportunity to produce evidence in defence and workman Sri R. China Posham has examined himself as witness. Enquiry Officer also asked him whether he would like to add anything more or want to submit any document but the charge sheeted employee replied in negative and thereafter enquiry proceeding was concluded. Thus, the Enquiry Officer has accorded fair opportunity of hearing to the charge sheeted employee during the enquiry proceeding and on the basis of the evidence recorded and produced Enquiry Officer has submitted his reasoned report/finding that the charge has been proved against the charge sheeted employee on the basis of evidence. Therefore, the plea of the Petitioner that the Enquiry Officer has conducted the enquiry with pre-conceived notation or has found him guilty on the irrelevant evidence is untenable. Thus, in view of the fore gone discussion, I am of the considered view that Departmental Enquiry has been conducted against the workman following the principles of natural justice, the Departmental Enquiry herein is held legal and valid.

Thus, Point No.I is answered accordingly.

9. **Point No.II:** Admittedly, Petitioner who was working as a coal filler in the Company of Respondent Management remained absent during the year 2006. Petitioner has taken the plea that due to ill-health and other family problems he could not attend the duty regularly and without considering the merit of the submission made by the Petitioner before the Enquiry Officer, Disciplinary Authority has dismissed him from the service w.e.f 5.1.2008 vide office order dated 27.12.2007.

10. On the other hand, Respondent has contended that workman during the enquiry in his deposition categorically has admitted that he remained absent from duties on the dates mentioned in the charge sheet and admitted the same as his first mistake that he did not obtain prior sanction of any leave or sick leave. Petitioner also admitted that he got no medical treatment slips. Further, Respondent contended that Petitioner did not produce any valid documentary evidence to substantiate his alleged ill-health. Without producing any evidence, the Petitioner claims that he was ill, is untenable. Further, Respondent contended that Petitioner being an employee of Respondent Company has to comply the rules and regulations of the Respondent Company. He should have reported sick in the Colliery Hospital which he did not do. He should have communicated about his inability to attend duties because of his alleged ill-health to the Respondent authorities. He should have got sanctioned leave, standing to his credit or got sanctioned loss of pay leave by the competent authority which also he did not comply. The plea of the Petitioner that his submissions were not considered by the Respondent and Disciplinary has not passed reasoned order etc., are not acceptable for want of cogent and reliable evidence. Further, Respondent contended that the Petitioner without producing any documentary evidence in support of his alleged ill-health and without reporting sick in Company's hospital, without sanctioned leave or sanctioned loss of pay leave, can not claim that his submissions were not considered. The documentary evidence i.e., Attendance Register and Pay sheet of the Petitioner produced by the Management witness clearly establish that Petitioner remained absent from his duties on the dates mentioned in the charge sheet and the Petitioner on his own admitted his misconduct and pleaded guilty of the charge levelled. The plea of the Petitioner that his submissions were ignored is untenable. Further, Respondent has contended that during the enquiry on behalf of the Respondent Company, the Office Assistant and Pay sheet Clerk, who deals with the attendance, leaves, pay bills, increments, promotions, disciplinary matters relating to work, working persons of the mines has been examined and witness has produced the relevant record of the fact that Petitioner was habitual absentee on different dates covered in the charge sheet. Witness has verified the attendance register, paysheets from January, 2006 to December, 2006 and admitted that the entries therein are correct. Petitioner neither disputed the enquiry proceeding nor objected to the presentation of the POA before the Enquiry Officer on behalf of Respondent. The Petitioner did not cross examine the Management witness when opportunity was extended to him. Thus, the oral and documentary evidence produced by the Management witness in support of the charges levelled against the Petitioner remains unrebutted. Further Respondent contended that findings of the Enquiry Officer are based on the recorded evidence produced before him and Petitioner has also accepted them as correct and also admitted his mistake. He on his own admitted inability to submit recorded evidence to substantiate his plea. Thus, it was satisfactorily established that enquiry proceeding conducted by the Enquiry Officer following all the principles of natural justice and the Petitioner had fully participated in the enquiry and he was given every opportunity to conduct his defence. The Petitioner as an under ground employee should put in 190 musters in a year. The Petitioner had never accomplished it in any one of the calendar years from 2001 to 2007. The Respondent further contended that his attendance not only during the year 2006 but also in the previous five calendar years is very poor as he had put in 113, 100, 102, 008, 004 and 012 musters during eh year 2001, 2002, 2003, 2004, 2005 and 2007. Therefore, his average musters was 45 per year. However, he was given opportunity of one month observation but he failed to avail this opportunity also. Thus, Petitioner by his own conduct invited the penalty of dismissal for which he only has to shoulder the entire responsibility instead of trying to blame the Respondents on flimsy reasons.

11. In view of the submissions made by both parties, perused the record of enquiry proceeding and also enquiry report. The charge sheet dated 23.3.2007 contains the charge as follows:-

"01. You are hereby charged with the following offences noted hereunder:-

It is reported that your are habitually absenting form work without leave or prior permission and remained absent unauthorizedly on the following dates during the year 2006.

Month	**Absent Dates**	**No. of days**
January, 2006	1 to 31	31
February, 2006	1 to 28	28
March, 2006	1 to 21, 30	22
April, 2006	1 to 30	30
May, 2006	1 to 31	31
June, 2006	1 to 30	30
July, 2006	1-20	20
August, 2006	1 to 14, 17 to 19, 28 to 31	21
September, 2006	1 to 14, 16 to 30	29
October, 2006	1 to 31	31
November, 2006	1 to 30	30
December, 2006	1 to 31	31

Your above action amounts to misconduct under the Company's Standing Orders No.25.25 which reads as follows:

"Habitual late attendance or habitual absence from duty without sufficient cause."

You have put the actual musters during the last four years are as follows:

2002-113; 2003-100; 2004-102; 2005-008"

Therefore, charge sheet issued against the Petitioner reveals that he has put only 4 actual musters during the year 2006. Further, during the enquiry witness Sri M. Srinivas, Presenting Officer proved the facts of the charges against the Petitioner. Further, the witness Sri V. Chandra Sekhar, Pay sheet Clerk has also deposed and proved the documentary evidence in support of charge levelled against the Petitioner. Moreover, the Petitioner himself has admitted the allegation made in the charge sheet that he remained absent during the year 2006 from the duty. Further, Petitioner was provided also an opportunity to adduce the evidence in defence Petitioner did not prefer to adduce any documentary evidence to substantiate his plea of his illness. Further, he could not furnish any plausible explanation regarding non-intimation of his absence from duty to the Respondent Management. Further, he also failed produce any plausible explanation as to why he did not report sick to the Colliery Hospital during the alleged absent period.

<u>Clause 25.25 of the Company's Standing Orders is as follows:-</u>

"Habitual late attendance or habitual absence from duty without sufficient cause."

Therefore, in view of the provision of clause 25.25 of Company's Standing Orders the Petitioner has committed gross misconduct and he has been rightly held guilty of the charges levelled against him. In this context, I would like to make reference of the decisions of the Hon'ble Supreme Court of India discussed as below:-

1. **In State of U.P. V. Ashok Kumar Singh 1996 (1) SCC 302, the Apex Court have held:-**

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

2. In **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 Apex Court have held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

3. **In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Apex Court held**:

"11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

Therefore, in view of the law laid down by the Hon'ble Apex Court, in different decisions as discussed above, the act of the workman being absent from duty without any plausible and reasonable cause has been considered a serious misconduct. However, in the present case Petitioner utterly failed to adducing in evidence in support of his plea that due to his illness he could not attend the duty during the absent period mentioned in the charge sheet. Further, the workman Petitioner also failed to explain as to why he did not intimate about his illness to the Respondent Management for getting sanctioned leave or to report sick in the Respondent Company hospital. In such circumstances as the Petitioner remained absent from duty for a long period during the year 2006 with sanctioned leave or intimation such conduct of the Petitioner is not condonable at all.

12. Further, as regards the plea of the Petitioner that Disciplinary Authority did not consider his submission before issuing the impugned order of dismissal and he is sole bread winner of his family consisting of wife and four school going children. As a result of his dismissal from service, his whole family rendered without any livelihood. Therefore, prayed for taking lenient view regarding punishment imposed.

13. On the other hand, Respondent has contended that the Respondent's Company employs more than 68,227 persons, which includes workmen, executives and supervisors. The production results will depend upon the over all attendance and performance of each and every individual. They are inter-linked and inseparable. In this regard, if any one remains absent, without prior leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill up, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why the Respondent's Company is compelled to take severe action against the unauthorized absentees. In the instant case, the petitioner is one such unauthorized absentee and he had put in only 007 musters during the year 2006. He was dismissed after conducting a fair enquiry, giving full opportunity to the petitioner to defend his case and providing him an opportunity of one month time to improve his attendance. The petitioner failed to rectify his mistake. After issuance of charge sheet he had put in just 012 during the year 2007. His attendance from 2001 to 2007 is also not satisfactory as he had put in 113, 100, 102, 008, 004, 007 and 012 musters only. As such, the Respondent's Company was constrained to dismiss the Petitioner for unauthorized habitual absenteeism with effect from 05.01.2008 vide dismissal order No.MMR/PER/D/O72/ 6752, dated 27.12.2007.

In this context, I would like to make reference of the decisions of Hon'ble Supreme Court of India wherein Hon'ble Apex Court have held that, Industrial Courts or High Court s would not normally interfere with the quantum of punishment imposed upon by the Disciplinary Authority. The relevant decisions of the Hon'ble Apex Court on this point is quoted below:-

a. **In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held**:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

b. In **Management Coal India Ltd. v. Mukul Kumar Choudhary Civil Appeal 5762-5763 of 2009 decided on 24.08.2009, Hon'ble Apex Court laid down the test of proportionality of punishment and held**:-

"*One of the test to be applied while dealing with the question of punishment would be: would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment."*

c. In the case of **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:**

"once the enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Therefore, in view of settled laws as discussed above, Tribunal has very limited scope to interfere in the order of Disciplinary Authority. however, the workman failed to establish that the order of dismissal passed by Disciplinary Authority was perverse on the basis of no evidence.

14. Since, the Petitioner in the matter on hand has been habitual absentee from duty, due to his conduct the work of the Respondent Company got obstructed and Company also suffered loss. Therefore, in such circumstances, the Respondent Disciplinary Authority was constrained to pass the order of dismissal of Petitioner from the service. Thus, Disciplinary Authority has passed the dismissal order dated 27.12.2007 after taking into consideration the evidence and finding of the Enquiry Officer as well as the representation of the workman and also past record of the charge sheeted employee. Therefore, I find no illegality or infirmity in the dismissal order of the Petitioner under challenge in this petition.

This Point No.II is answered against the Petitioner and in favour of the Respondent.

15. **Point No.III**:- In view of the fore gone discussion and finding at Point No.I & II, and law laid down by the Hon'ble Apex Court, the Petitioner is not entitled for any relief and his petition is liable to be dismissed.

This Point is answered accordingly.

AWARD

In view of the fore gone discussion, and law laid down by the Hon'ble Apex Court, I am of the considered view that the action of the Respondent in terminating the services of the Petitioner Sri Ramagiri China Posham, Ex. Coal Filler vide order dated 27.12.2007 is held legal and justified. Hence, the Petitioner is not entitled to any relief as prayed for. As such, the petition filed by the Petitioner deserves to be dismissed as devoid of merits. Therefore, the petition is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 21st day of May, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

नई दिल्ली, 26 जुलाई, 2024

का.आ. 1480.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (43/2018) प्रकाशित करती है।

[सं. एल-12011/20/2018-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th July, 2024

S.O. 1480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.43/2018*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/20/2018–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/43/2018

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager

State Bank of India,

Hoshangabad Road, Bhopal (MP)

Management

A W A R D

(Passed on this 4th day of June-2024.)

As per letter dated 27/09/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/20/2018 IR(B-I) dt. 27/09/2018. The dispute under reference relates to:

"1. Whether the termination from service w.e.f. 5/4/2010 of Sh. Mukesh Parmar, temporary peon by the State Bank of India, Bhopal, is legal and justified ? If not what relief the workman is entitled to ?

2. Whether the claim of the union, namely, Dainik Vetan Bhogi Bank Karmachari Sangthan, Ujjain, regarding not giving the workman Shri Mukesh Parmar, appointment/termination letter, pay scale, minimum wages, no maintenance of muster roll amounts to unfair labour practice is justified & legal ? If so, what relief the workman is entitled to and what directions are necessary ?"

After registering a case on the basis of reference, notices were sent to the parties. They appeared and file their respective Statement of Claim and Defense.

The case of the workman, in short, is that he was appointed by management on 01.07.2007, he remained in employment of management till 20.02.2010 when his services terminated without notice or compensation. He was not paid wages and salary which was entitled to be paid as a temporary employee which is unfair labour practice adopted by management. The workman has prayed that he be held entitled to wages in parity with temporary employees.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual labour only when work was available in the branch on intermittent basis and was paid for it. He never worked continuously for 240 days in any year. He was paid minimum wages for his workman. It is further the case of management that the benefits in the bipartite settlement are available only to regular staff and not to the daily wager.

At evidence the workman has filed some photocopy documents which he has not cared to prove. He has not filed any evidence. The management has also not filed any evidence.

I have heard argument of learned Counsel Mr. Praveen Yadav for management. Non appeared for the workman side for argument. Management has filed written argument which is part of record.

After perusal of record in the light of arguments, the following **issue** arise:-

Whether the provision of Bipartite Settlement apply to the daily wagers also ?

Pleadings of the parties on this issue has been mentioned earlier. The burden to prove that the workman was appointed against a sanctioned vacancy following recruitment process by a competent authority is on him. In absence of any evidence in support of his allegations, this fact is held not proved. According to management he was a daily wager casual labour who was engaged intermittently but never in continuous employment for 240 days in any year and he was paid minimum wages fixed by Government for daily wagers.

A bare reading of the Bipartite Settlement makes it clear that it applies only to the regularly selected permanent employees. Hence, the workman, being a daily wager, cannot be held to be entitled to wages protection in the Bipartite Settlement.

On the basis of above discussion holding that the management has not adopted unfair labour practice in the case in hand, the reference is answered against the workman. No order as to cost.

DATE: 04/06/2024.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2024

का.आ. 1481.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (44/2018) प्रकाशित करती है।

[सं. एल-12011/19/2018-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th July, 2024

S.O. 1481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.44/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/19/2018–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/44/2018

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager

State Bank of India,

Hoshangabad Road, Bhopal (MP)

Managements

A W A R D

(Passed on this 4th day of June-2024.)

As per letter dated 27/09/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/19/2018 IR(B-I) dt. 27/09/2018. The dispute under reference relates to:

"1. Whether the termination from service w.e.f. 4/3/2014 of Sh. Rajesh Malviya temporary peon by the State Bank of India, Bhopal, is legal and justified ? If not what relief the workman is entitled to ?

2. Whether the claim of the union, namely, Dainik Vetan Bhogi Bank Karmachari Sangthan, Ujjain, regarding not giving the workman Shri Rajesh Malviya, appointment/termination letter, pay scale, minimum wages, no maintenance of muster roll amounts to unfair labour practice is justified & legal ? If so, what relief the workman is entitled to and what directions are necessary ?"

After registering a case on the basis of reference, notices were sent to the parties. They appeared and file their respective Statement of Claim and Defense.

The case of the workman, in short, is that he was appointed by management on 02.04.2004, he remained in employment of management till 04.03.2014 when his services terminated without notice or compensation. This action of management is in violation of Section 25-F & 25-G of the Act. He was not paid wages and salary which was entitled to be paid as a temporary employee which is unfair labour practice adopted by management. The workman has prayed that he be held entitled to be reinstated with back wages and benefits holding his termination against law.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual labour only when work was available in the branch on intermittent basis and was paid for it. He never worked continuously for 240 days in any year. He was paid minimum wages for his workman.

At evidence neither of the parties have filed any affidavit nor have they proved any document.

I have heard argument of learned Counsel Mr. Praveen Yadav for management. Non appeared for the workman side for argument.

The reference itself is the issue for determination in this case.

The initial burden to prove its case is on the workman who has alleged his continuous engagement by management for more than 240 days every year. In absence of any evidence, this allegation of the workman is held not proved.

On the basis of above discussion holding that the management has not adopted unfair labour practice in the case in hand, the reference is answered against the workman. No order as to cost.

DATE: 04/06/2024.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2024

का.आ. 1482.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केनरा बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (11/2023) प्रकाशित करती है।

[सं. एल-39025/01/2024-आई.आर. (बी-II)-29]

सलोनी, उप निदेशक

New Delhi, the 26th July, 2024

S.O. 1482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.11/2023) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2024–IR (B-II)-29]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/11/2023

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Gheesaram Mewada,
S/o Shri Mohan Singh Mewada,
Gram and Post : Borkheda, Tehsil : Astha,
Dist. Sehore (M.P.) - 466114

Workman

Versus

The Manager,
Canara Bank,
Branch Astha, Kannod Road,
Dist. Sehore (M.P) - 466114

Management

A W A R D

(Passed on this 28th day of May-2024.)

As per letter dated 03/03/2023 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number J-1(1-12)/2023-IR dt. 03/03/2023. The dispute under reference related to :-

"क्या आवेदक कर्मकार श्री घीसाराम मेवाड़ा को, कैनरा बैंक प्रबंधन द्वारा दिनांक 15/01/2022 से नौकरी से बिना किसी सूचना के निकाला जाना उचित है? यदि नहीं, तो वह किन लाभों के साथ पुन: नौकरी पाने का हकदार है? "

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

I have heard the argument of Management Counsel Adv. Shailendra Pandey and perused record. The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 28/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2024

का.आ. 1483.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (03/2013) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर. (बी-I)-192]

सलोनी, उप निदेशक

New Delhi, the 26th July, 2024

S.O. 1483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.03/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2024–IR (B-I)-192]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/03/2013

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager

State Bank of India,

Local Head Office, Bhopal (MP)

Management

A W A R D

(Passed on this 5th day of June-2024.)

The workman union has filed this petition U/S. 2-A(2&3) of Industrial Disputes Act 1947 (in short the 'Act') challenging the termination of the services of the workman Radheshyam Rathore by management bank.

After registering a case on the basis of reference, notices were sent to the parties. They appeared and file their respective Statement of Claim and Defense.

The case of the workman union, in short, is that the workman Radheshyam Rathore was appointed by management on 16.05.1983, he remained in employment of management till 05.01.2011 when his services terminated without notice or compensation. He was not paid wages and salary which was entitled to be paid as a temporary employee which is unfair labour practice adopted by management. The union raised dispute against this termination before Regional Labour Commissioner Bhopal within 3 years of termination and after obtaining a certificate from the Commissioner regarding failure of conciliation on 06.12.2012, filed this petition on 26.02.2013. The workman union has prayed that the workman Radheshaym Rathore held entitled to wages in parity with temporary employees.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked

as a casual labour only when work was available in the branch on intermittent basis and was paid for it. He never worked continuously for 240 days in any year. He was paid minimum wages for his workman. It is further the case of management that the benefits in the bipartite settlement are available only to regular staff and not to the daily wager.

At evidence the workman union has filed and proved photocopy documents appointment letter dated 16.05.1983 for temporary appointment in Sarangpur branch in place of Daftari M.D.Mali being on leave from 16.05.1983 to 22.05.1983, another appointment letter in same capacity in the same branch for period 07.11.1983 to 12.11.1983 on leave vacancy arising out of non presence of permanent employee Aatmaram for this period due to leave, two certificates in this respect, all photocopies, photocopy cheque Ex. W/1 to W/7. Affidavit of the workman has been filed as his examination in chief on which he has been cross examined by management. Management has filed affidavit of its witness who has been cross examined by the workman side. The workman union has further filed RTI documents regarding statement of account of SB account of the workman from January 2009 to 07.02.2011, which has been marked as Ex. W/8. Management has not filed any document.

I have heard argument of learned Counsel Mr. Arun Patel for workman and Mr. Pranay Choubey for management. Workman side has filed written argument which is part of record. I have gone through the record and the written argument.

After perusal of record in the light of arguments, the following **issue** arise:-

1. ***Whether the workman union has successfully proved the continuous engagement of the workman Radheshyam Rathore for a period of 240 days or more in any year including the year preceding the date of his termination ?***
2. ***Whether, the termination of services of the workman Radheshyam Rathore is in violation of Section 25-G & 25-F of the Act ?***
3. ***Whether, the workman is entitled to any relief ?***

Issue No.-1 :-

Pleadings of the parties on this issue has been mentioned earlier. The burden to prove that the workman was appointed against a sanctioned vacancy following recruitment process by a competent authority is on him. He has corroborated his case on this point as stated in his statement of claim in his statement on oath. He further states that he used to get wages @ of Rs. 100/- per day which was increase to Rs. 150/- per day and later to Rs. 200/- per day and his wages were credited in his bank account. The management witness has detailed about the number of days he worked with the bank within the year 1983-84 to 2009-10 which goes to show that he did not worked 240 days in any year. The cross examination of this witness could not be done because he was not made available by management before this Tribunal for his cross examination. Hence, the affidavit of this witness on which the other side did not get opportunity to cross examine him due to his non presence, cannot be read in support of case of management. There is on record Ex. W/6 filed and proved by workman side, which is statement of payment made by bank within the period 04.01.2010 to 01.04.2011 which goes to show the total number of working days 238 and total amount paid Rs. 46800/- @ of Rs. 3000/- per month. This document is corroborated by the statement of account Ex. W/8 certified by the bank itself in RTI and filed by workman.

Section 25-B of the Act is being reproduced as follows:-

25B. 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.

Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which

(i) *he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;*

(ii) *he has been on leave with full wages, earned in the previous years;*

(iii) *he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and*

(iv) *in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.*

Hence, in the light of the evidence referred to above it is held that the workman has successfully proved his continuous engagement for 240 days in the year preceding the date of his termination. Issue no.-1 is answered accordingly.

Issue No.-2 **:-**

Section 25-G & 25-F are being reproduced as follows :-

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 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.

25G. 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.*

The workman has stated that he was not paid any notice pay or compensation by the bank at the time of termination of his services, there is nothing filed by management to rebut this fact, hence, holding that the workman was not paid any notice pay or compensation, termination of his services are held against law. Issue no.-2 is answered accordingly.

Issue No.-3 **:-**

Learned Counsel for workman has submitted that keeping in view the period of his tenure his reinstatement with back wages will be in the interest of justice. According to learned Counsel, the management has adopted unfair labour practice as mentioned in Section 2(ra) of the Act, which is prohibited U/S. 25T of the Act.

2(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

THE FIFTH SCHEDULE See section 2(ra) UNFAIR LABOUR PRACTICES

*I.—**On the part of employers and trade unions of employers***

1 to 9………………………..

10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

11 to 16…………………………

25T. Prohibition of unfair labour practice.—No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.

Learned Counsel has referred to Judgment of Hon'ble Supreme Court in the case of **Ranveer Singh Vs. Executive Engineer (2021) 14 SCC 814, para 35** of which is being reproduced as follows:-

"35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

It has been held proved that the workman continued as a daily wager for more than 8 years. It may be assumed that he was engaged for sweeping/cleaning and doing work of a peon because there was job for this. Hence, it was on the part of management to create a post for it (temporary or permanent) and make regular appointment. The management did not do this, rather engaged some daily wager for this. The purpose behind such action by management could be presumed that it was done only for denying someone his opportunity to be regularly appointed. This action of management is covered under unfair labour practice as referred to above. Hence, the management is held to have indulged in unfair labour practice.

Learned Counsel has further referred to a **Division Bench judgment of Hon'ble High Court of M.P. in Writ Appeal No.- 1615/2023** in which the judgment of **Single Bench in W.P. No.- 14585/2017** confirming the order of reinstatement of a daily wage casual labour passed by this Tribunal has been approved.

On the other hand learned Counsel for management has submitted that since the workman was not appointed against any vacant post following recruitment process, his reinstatement will not be the interest of justice and he may be awarded a lump sum compensation. He has referred to a **Division Bench judgment of Hon'ble High Court of M.P. in Writ Appeal No.- 1727/2023** in which judgment of Single Bench in **W.P. No.- 14651/2016** confirming the award of this Tribunal in granting lump sum compensation to a daily wager on his termination was confirmed.

The Division Bench observed in the case referred to by learned Counsel for management that for getting order of reinstatement, the writ petitioner (workman) was required to show that he was not under any gainful employment during this intervening period. Para 5 of the Judgment is being specifically referred to in this respect.

"The workman has pleaded that he was not gainfully employed after his termination by bank. He has stated this fact in his statement on oath also. Management has not rebutted this assertion of workman by any evidence. Hence, the workman is held to have successfully proved his pleading on this point also."

In the case in hand, the workman has not made any allegation regarding unfair labour practice nor has stated so in his statement on oath. He has neither pleaded nor proved that he was not gainfully employed anywhere after termination of his services. Furthermore, his first appointment in 1983 was for a fixed period on leave vacancy as disclosed by copies of his two appointment letters. There is nothing on record to show that he was appointed against a sanctioned post following recruitment process. In the light of these facts prayer by learned Counsel for workman and his argument that the workman be reinstated cannot be accepted. In my view keeping in mind the facts and circumstances of the case in hand, a lump sum compensation of Rs. 2,00,000/- in lieu of all the claims, to be paid by management within 30 days from the date of notification of Award, failing which interest @ of 8% p.a. from the date of Award till recovery will meet the interest of justice and issue no.-3 is answered accordingly.

On the basis of above discussion and findings, the reference is answered as follows.

AWARD

Holding the action of management of State Bank of India in terminating the services of Radheshyam Rathore against law and unjustified, he is held entitled to a lump sum compensation of Rs. 2,00,000/- in lieu of all the claims, to be paid by management within 30 days from the date of notification of Award, failing which interest @ of 8% p.a. from the date of Award till recovery. No order as to cost.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जुलाई, 2024

का.आ. 1484.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (03/2016) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर. (बी-I)-193]

सलोनी, उप निदेशक

New Delhi, the 26th July, 2024

S.O. 1484.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.03/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2024–IR (B-I)-193]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/03/2016

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

1. **The Assistant General Manager (Zone-V)**

   State Bank of India,

   Regional Office, Budhwariya, Ujjain (MP)

2. **Branch Manager**

   State Bank of India

   Madhav Nagar, Ujjain (MP)

Managements

A W A R D

(Passed on this 28th day of May-2024.)

The workman union has filed this petition U/S. 2(A)(2 & 3) of Industrial Disputes Act 1947 as amended by the Amendment Act 2010, (in short the 'Act') against the alleged illegal termination of the workman Hansraj Sher by the management of State Bank of India.

The case of the workman, in short, is that he was appointed as Peon in Madhav Nagar Branch of the Bank on 01.04.2007 against vacancy arising out of death of the peon Omprakash Chouhan. He worked continuously in the Madhav Nagar, Budhwariya, Freeganj, Patni and Khachroad Branches till 12.08.2015. He was paid his wages in his bank account. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in

short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He requested that he be reinstated with full back wages.

After registering the case on the basis of the petition, notices were sent to the managements and were duly served. They appeared and filed their written statement of defense.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual labour only when work was available in the branch on intermittent basis and was paid for it. He never worked continuously for 240 days in any year. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It is submitted that his claim be rejected.

In evidence, the workman has filed and proved documents marked Ex. W/1 certified statement of account, Ex. W/2 letter of management to Regional Labour Commissioner with respect to claim of the workman regarding bonus and Ex. W/3 certified statement of account from 01.01.2014 to 17.09.2015. He has filed his affidavit as his examination in chief and has been cross examined by management. Management also has examined its witness by filing affidavit of its witness as his examination in chief. This witness has been examined by the workman side.

I have heard argument of Mr. Arun Patel learned Counsel for workman union and learned Counsel Mr. Pranay Choubey for management. The parties has filed any written submissions also which are part of record. I have gone through the written submissions and the record as well.

After perusal of record in the light of rival arguments, the following **issues** arise:-

1) ***Whether the action of the management in terminating the services of the workman w.e.f. 12.08.2015 is justified?***

2) ***To what relief he is entitled ?***

Issue No.-1:-

Pleadings of the parties on this issue has been mentioned earlier. The burden to prove his continuous employment for 240 days in a year is on the workman. The workman Hansraj has corroborated his case regarding his appointment as daily wager peon as well his continuous employment from the date of his appointment which is 01.04.2007 till the date of termination of his services by management of 12.08.2015. In his cross examination he has stated that he was appointed by the then Branch Manager, no appointment letter was issued to him, no transfer order was received by him and his salary was credited in his saving bank account. His this statement is corroborated by the certified statement of account admitted by management which are Ex. W/1 & W/3. On the other hand the management witness has stated that the workman was engaged for miscellaneous work available in the bank on intermittent basis as a daily wager. He was not appointed against any vacant post following recruitment process. He never completed 240 days continuously in any year. This witness admits in his cross examination that he was not posted in the branch during the period the workman is said to have worked. Hence, naturally, this witness does not have any personal knowledge in this respect. This witness further states that he has come to know about the facts on perusal of payment vouchers and internal communications available in the Regional Office.

The documents Ex. W/1 & W/3 admitted by management are the certified statement of account of the workman. This statement shows that a fixed amount has been credited in the account of the workman in every month which is transferred from the bank to his account. The bank has not been able to explain the reason behind this transfer. Hence, the case of the workman that it was the amount paid by the management bank as his wages will be believed. These documents corroborate the case of the workman that he worked continuously for more than 240 days in every year till the date of his termination. In the light of above discussion, the fact that the workman was in continuous employment of management in any capacity for a period of 240 days in any year as claimed by him, is held proved.

On the basis of the finding when the continuous employment of the workman for more than 240 days is held proved, in absence of any evidence that he was awarded any compensation or notice pay, his termination is held against 25-G & 25-F of the Act. Issue no.-1 is answered accordingly.

Issue No.-2:-

In the light of findings on issue no.-1, the question arises has to what relief the workman is entitled.

Learned Counsel for workman has submitted that keeping in view the period of his tenure his reinstatement with back wages will be in the interest of justice. According to learned Counsel, the management has adopted unfair labour practice as mentioned in Section 2(ra) of the Act, which is prohibited U/S. 25T of the Act.

2(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

THE FIFTH SCHEDULE See section 2(ra) UNFAIR LABOUR PRACTICES

*I.—**On the part of employers and trade unions of employers***

1. To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say:—

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lock-out or closure, if a trade union is organised;

(c) granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union organization

2. To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say:—

(a) an employer taking an active interest in organising a trade union of his workmen; and

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is not a recognised trade union.

3. To establish employer sponsored trade unions of workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:—

(a) discharging or punishing a workman, because he urged other workmen to join or organise a trade union;

(b) discharging or dismissing a workman for taking part in any strike (not being as strike which is deemed to be an illegal strike under this Act);

(c) changing seniority rating of workmen because of trade union activities;

(d) refusing to promote workmen to higher posts on account of their trade union activities;

(e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;

(f) discharging office-bearers or active members of the trade union on account of their trade union activities.

5. To discharge or dismiss workmen—

(a) by way of victimization;

(b) not in good faith, but in the colourable exercise of the employer's rights;

(c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegation of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.

7. To transfer a workman mala fide from one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.

9. To show favoritism or partiality to one set of workers regardless of merit.

10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

11. To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

12. To recruit workmen during a strike which is not an illegal strike.

13. Failure to implement award, settlement or agreement.

14. To indulge in acts of force or violence.

15. To refuse to bargain collectively, in good faith with the recognised trade unions.

16. Proposing or continuing a lock-out deemed to be illegal under this Act.

25T. Prohibition of unfair labour practice.—No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.

Learned Counsel has referred to Judgment of Hon'ble Supreme Court in the case of **Ranveer Singh Vs. Executive Engineer (2021) 14 SCC 814, para 35** of which is being reproduced as follows:-

"35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

It has been held proved that the workman continued as a daily wager for more than 8 years. It may be assumed that he was engaged for sweeping/cleaning and doing work of a peon because there was job for this. Hence, it was on the part of management to create a post for it (temporary or permanent) and make regular appointment. The management did not do this, rather engaged some daily wager for this. The purpose behind such action by management could be presumed that it was done only for denying someone his opportunity to be regularly appointed. This action of management is covered under unfair labour practice as referred to above. Hence, the management is held to have indulged in unfair labour practice.

Learned Counsel has further referred to a **Division Bench judgment of Hon'ble High Court of M.P. in Writ Appeal No.- 1615/2023** in which the judgment of **Single Bench in W.P. No.- 14585/2017** confirming the order of reinstatement of a daily wage casual labour passed by this Tribunal has been approved.

On the other hand learned Counsel for management has submitted that since the workman was not appointed against any vacant post following recruitment process, his reinstatement will not be the interest of justice and he may be awarded a lump sum compensation. He has referred to a **Division Bench judgment of Hon'ble High Court of M.P. in Writ Appeal No.- 1727/2023** in which judgment of Single Bench in **W.P. No.- 14651/2016** confirming the award of this Tribunal in granting lump sum compensation to a daily wager on his termination was confirmed.

The Division Bench observed in the case referred to by learned Counsel for management that for getting order of reinstatement, the writ petitioner (workman) was required to show that he was not under any gainful employment during this intervening period. Para 5 of the Judgment is being specifically referred to in this respect.

"The workman has pleaded that he was not gainfully employed after his termination by bank. He has stated this fact in his statement on oath also. Management has not rebutted this assertion of workman by any evidence. Hence, the workman is held to have successfully proved his pleading on this point also."

In the light of above facts and circumstances, the workman is held entitled to reinstatement without back wages. He is further held entitled to litigation cost Rs. 25,000/- from management payable to him within 30 days from date of notification of Award, failing which interest @ of 8% from date of Award, till payment.

In the light of above discussion, following Award is passed.

AWARD

Holding the action of management of State Bank of India in terminating the services of Hansraj Sher on 12.08.2015 against law, he is held entitled to reinstatement without back wages. He is further held entitled to litigation cost Rs. 25,000/- from management payable to him within 30 days from date of notification of Award, failing which interest @ of 8% from date of Award, till payment.

DATE: 28/05/2024.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1485.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **सेंट्रल बैंक ऑफ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (14/2011) प्रकाशित करती है।

[सं. एल-12011/56/2010-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.14/2011) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12011/56/2010–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/14/2011

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Anusuchit Jaati Karmachari Kalyan Parishad,

F-1, Tripti Vihar, Indore Road

Ujjain (MP)

Workman

Versus

The Deputy General Manager,

Central Bank of India, Zonal Office

Arera Hills, Jail Road,

Bhopal (MP)

Management

A W A R D

(Passed on this 11th day of June-2024.)

As per letter dated 25/02/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/56/2010/IR(B-II) dt. 25/02/2011. The dispute under reference related to :-

"Whether the action of management of Central Bank of India in not paying the arrears for clerks job as per revised pay scale from 09.12.1999 to 03.08.2001 to Shri Deepak Khatwase is legal and justified ? What relief Sh. Deepak Khatwase is entitled to ?

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short is that the workman was appointed as Peon in branch of the Bank on 03.07.1993. He worked continuously till 03.08.2001. He was given task of clerk and did the works assign to clerks within the period 09.12.1999 to 03.08.2001 but was not paid wages admissible to clerks, which is arbitrary on the part

of management. He has thus prayed that holding the action of management in not paying him wages admissible to the clerks inspite of the facts he discharged duties as a clerk for the period 09.12.1999 to 03.08.2001, unjustified in law, he be held entitled to get wages accordingly.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. It was also pleaded that he was disengaged by the bank. He raised a dispute against his disengagement which was registered as R/132/02 and was decided against him holding his disengagement not unjustified in law. Also it has been pleaded that the service conditions of sub-staff of the bank are governed by Bipartite Settlement which provides regular pay scales as well as revised pay scale only to the employees appointed in the bank against regular vacancy adopting recruitment procedure. The bank has denied that work of clerk ever taken by the bank from the workman. Since the workman was a daily wager, he is not entitled to wages as per Bipartite Settlement.

In evidence, none of the parties has filed any evidence. The workman has filed a bunch of photocopy documents, not admitted by management, and has not cared to prove these documents.

None was present at the time of argument, no written argument has been filed by any of the parties. I have gone through the record.

The only issue involved in the case is whether a daily wager is entitled to pay as provided in the Bipartite Settlement, which is applicable to only the regular employees of banks.

1) **State of Haryana Vs. Tilak Raj & Others, AIR 2003 SC 2658. Held –**

"A scale of pay is attached to a definite post and in case of daily wager, he holds no posts. The respondents workers cannot be held to hold any post to claim even any comparison with regular and permanent staff for any or all purposes including a claim for equal pay and allowances. To claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and resultant hostile discrimination before eligible to claim rights on a par with the other group vis a vis an alleged discrimination……………."

2) **State of Rajasthan & Others Vs. Daya Lal & Others (2011) 2 SCC 429.**

This extract is taken from *State of Rajasthan v. Daya Lal*, (2011) 2 SCC 429 : (2011) 1 SCC (L&S) 340 : 2011 SCC OnLine SC 172 at page 435

12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1 : 2006 SCC (L&S) 753] , M. Raja v. CEERI Educational Society [(2006) 12 SCC 636 : (2007) 2 SCC (L&S) 334] , S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897] , Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680 : (2010) 1 SCC (L&S) 742] and Official Liquidator v. Dayanand [(2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943] .

In the case in hand, the workman was a daily wager, not appointed against any sanctioned post following recruitment process. Hence, the protection under Bipartite Settlement cannot be granted to him in respect of pay.

In the light of above findings, holding that the claim of the workman is not legal, the reference is answered against him. No order as to cost.

DATE: 11/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1486.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **उतर प"चम रेलवे** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (79/2012) प्रका"ित करती है।

[सं. एल-41012/29/2012-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1486.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.79/2012*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of North Western Railway and their workmen.

[No. L-41012/29/2012–IR (B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 79/2012

Reference No. L-41012/29/2012-IR (B-I) Dated: 30.08.2012

श्री निरंजन सिंह पुत्र श्री बाबू सिंह, निवासी– 352/31, नोनकरन का अहाता, नगर, अजमेर, (राजस्थान)

...........प्रार्थी

बनाम

1. महाप्रबंधक, उत्तर पष्चिम रेलवे, जयपुर, (राजस्थान)

2. कारखाना प्रबंधक (डीजल), लोको वर्कषॉप उत्तर पष्चिम रेलवे, अजमेर (राजस्थान)

........अप्रार्थीगण / विपक्षी

उपस्थितः–

: प्रार्थी की ओर से, कोई उपस्थित नहीं।

: विपक्षीगण की ओर से, कोई उपस्थित नहीं।

: <u>अधिनिर्णय</u> :

दिनांक : 20.05.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 30.08.2012 को औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

"Whether the action of the management of North Western Railway, Ajmer in terminating the services of Sh. Niranjan Singh S/o Sh. Babu Singh w.e.f. 31.10.2002, is legal and justified? To what relief the workman is entitled?"

2. प्रार्थी की ओर से दिनांक 29.11.2012 को दावे का अभिकथन प्रस्तुत किया गया। प्रार्थी का कथन है कि उसके पिताजी की मृत्यु के बाद अनुकम्पा आधारित नियुक्ति खलासी के पद पर दिनांक 03.06.1987 को दी गई। तत्पश्चात प्रार्थी का क्षय रोग का लम्बे समय तक इलाज चला। प्रार्थी बीमारी के कारण दिनांक 23.02.1999 से 30.11.2000 तक (647 दिन) की अवधि में कार्य पर उपस्थित नहीं हुआ। स्वस्थ होने पर उसे डयूटी पर ले लिया गया। प्रार्थी के उपस्थित होने पर दिनांक 23.02.1999 से 30.11.2000 तक की अवधि को अनाधिकृत अनुपस्थिति मानते हुये प्रार्थी के विरूद्व गंभीर शास्ति का आरोप पत्र जारी कर दिया गया। एक वर्ष आठ माह बाद जॉच अधिकारी का पत्र मिलने पर प्रार्थी को ज्ञात हुआ कि उसके विरूद्व जॉच प्रगति पर है। जॉच अधिकारी ने दिनांक 07.08.2002 को जॉच प्रतिवेदन प्रस्तुत कर प्रार्थी को दोषी घोषित कर दिया। प्रार्थी की अपील दिनांक 19.07.2003 को निरस्त कर दी गई। सम्पूर्ण अनुशासनिक कार्यवाही विभिन्न आधारों पर नियम विरूद्व है। जिसका विस्तृत विवरण दावे के चरण संख्या– 6 (अ) से 6 (फ) तक वर्णित है। प्रार्थी के विरूद्व की गई जॉच विभिन्न आधारों पर अनुचित एवं अवैध है। अतः प्रार्थी के विरूद्व जारी आरोप पत्र, जॉच कार्यवाही एवं दण्डादेश को अपास्त करते हुये प्रार्थी को सेवा में बहाल किया जावे, और सभी पारिणामिक लाभ प्रदान किये जावे।

3. विपक्षीगण ने दिनांक 18.03.2013 को वादोत्तर प्रस्तुत करते हुये यह कहा है कि प्रार्थी की नियुक्ति खलासी के पद पर दिनांक 03.06.1987 को की गई थी। वह 647 दिन तक बिना किसी सूचना के अनुपस्थित रहा। प्रार्थी को नियमानुसार आरोप पत्र जारी कर उपस्थित रहने का निर्देश दिया गया। विधिवत जॉच कार्यवाही संपन्न कर प्रार्थी को दोषी पाया गया। प्रार्थी को समुचित बचाव का अवसर देते हुये दण्डादेश पारित किया गया है। समस्त जॉच कार्यवाही विधि सम्मत है। प्रार्थी द्वारा प्रस्तुत अपील और रिवीजन याचिकायें भी विधिवत निस्तारित की गई है। इस लिये प्रार्थी सेवा में बहाल होने योग्य नहीं है, न ही कोई वेतन व परिलाभ पाने का अधिकारी है। अतः वाद निरस्त किया जावे।

4. यह प्रकरण जॉच से संबंधित होने के कारण जॉच कार्यवाही की वैधता के परीक्षण एवं प्रलेखों के प्रस्तुतीकरण हेतु लंबित था। दिनांक 21.11.2019 को प्रार्थी प्रतिनिधि ने सूचित किया कि प्रार्थी निरंजन सिंह की मृत्यु हो गई है। इसलिए उसके विधिक प्रतिनिधियों जो कि उसकी माता व भाई हैं, अभिलेख पर लिये जावे। इन विधिक प्रतिनिधियों ने मृतक के भतीजे हरिसिंह को अपनी ओर से प्राधिकृत किया।

5. दिनांक 16.01.2024 को यह प्रार्थना पत्र अधिकरण द्वारा इस आधार पर निरस्त किया गया कि प्रार्थना पत्र में यह वर्णित नहीं है कि मृतक विवाहित था, या नहीं और उसकी पत्नी व संतान भी हैं अथवा नहीं। इस स्थिति में मृतक की माता व भाईयों द्वारा मृतक के भतीजे को विधिक प्रतिनिधि के रूप में प्रस्तुत नहीं किया जा सकता।

6. प्रार्थी पक्ष की निरंतर अनुपस्थिति के कारण प्रार्थी के भतीजे हरिसिंह को अधिकरण द्वारा नोटिस जारी कर उपस्थित रहने का निर्देश दिया गया।

7. आज दिनांक 20.05.2024 को हरिसिंह पुत्र देवेन्द्र सिंह (आधार कार्ड संख्या 4689 0733 3452) उपस्थित हुआ और उसने एक प्रार्थना पत्र प्रस्तुत कर यह सूचित किया कि मृतक प्रार्थी निरंजन सिंह अविवाहित थे, और उनके कोई आश्रित नहीं हैं। हरिसिंह ने यह भी सूचित किया कि वह इस प्रकरण को आगे नहीं चलाना चहता है। और प्रकरण का निस्तारण कर दिया जावे।

8. इस स्थिति में यह स्पष्ट है कि मृतक प्रार्थी निरंजन सिंह के उपरांत उसका कोई विधिक प्रतिनिधि इस वाद के अग्रसरण हेतु उपस्थित नहीं है, अथवा इस वाद के अग्रसरण हेतु इच्छुक नहीं है। चूकिं प्रार्थी की मृत्यु के उपरांत विवाद के अग्रसरण हेतु कोई विधिक प्रतिनिधि उपस्थित नहीं हुआ और जिस प्राधिकृत व्यक्ति को मृतक की माता व भाईयों ने प्राधिकृत किया था वह व्यक्ति हरिसिंह वाद के अग्रसरण का इच्छुक नहीं है। इस अधिकरण के सुविचारित अभिमत से यह प्रतीत होता है कि प्रार्थी पक्ष को विपक्षीगण से कोई अनुतोष लेने की इच्छा नहीं है। इसलिए उभयपक्ष के मध्य कोई विवाद शेष नहीं रहा है।

9. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।

10. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1487.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (19/2015) प्रकाशित करती है।

[सं. एल-12011/08/2015-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1487.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.19/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/08/2015–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/19/2015

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager,

State Bank of India,

L.H.O. Bhopal (MP)

Management

A W A R D

(Passed on this 12th day of June-2024.)

As per letter dated 13/02/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/08/2015/IR(B-I) dt. 13/02/2015. The dispute under reference related to :-

> ***''क्या मुख्य महाप्रबंधक भारतीय स्टेट बैंक स्थानीय प्रधान कार्यालय, भोपाल द्वारा श्री सुभाष शर्मा द्वारा 17.11.2019 से 26.07.2011 तक नियंत्रणाधीन शाखा सांवेर जिला इंदौर म.प्र. बैंक में काम करवाकर दिनांक 26.07.2011 से बिना किसी नोटिस या मुआवजा के काम से बिठा देना न्यायोचित है ? अगर नहीं तो श्री सुभाश शर्मा किस अनुतोष के अधिकारी हैं ?''***

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short is that the workman was appointed as Peon in branch of the Bank on 17.11.2009. He worked continuously till 26.07.2011. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He was not paid wages in the light of Bipartite Settlement which he was entitled to. He requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It was prayed that the reference be answered against the workman.

In evidence, the workman has filed his affidavit, he has been cross examined by management. He has filed and proved Ex. W/1 which are photocopy entries regarding payment by bank on different dates according to him, photocopy letter of management dated 14.05.2015 sent to the Regional Labour Commissioner Bhopal regarding the details of bonus paid to him, in the year 2009-10, 2010-11, admitted by management and photocopy vouchers certified by bank. Management has not examined any witness.

I have heard argument of learned Counsel Mr. Arun Patel for workman and Mr. Ashish Shroti for management.

From perusal of record in the light of rival arguments, following issues arise for determination. Also perused the written argument of workman side.

1. ***Whether the workman has successfully proved his continuous engagement by bank for 240 days and more within an year ?***
2. ***Whether, the disengagement of the workman is in violation of Section 25-G, 25-F and 25-N of the Act ?***
3. ***Whether the workman is entitled to any relief ?***

Issue No.-1 & 2 :-

Since, both the issues are inter connected, they are being taken together.

Pleadings of the parties on these issues have been detailed earlier. The workman has corroborated his case on these issues in his affidavit as his examination in chief. His statement nowhere shows that he was issued an appointment letter, that he appeared in any written examination and interview for the post, any advertisement was released, his name was sponsored by employment exchange. According to him, he was engaged by the Branch Manager. The document regarding payment of bonus to the workman for the period 2009-10 & 2010-11 goes to show that he was paid bonus for working 66 days in 2009-10 and 82 days in 2010-11. He states in his cross examination that he was paid only half bonus. Even if his this statement is taken true on its face value, it does not indicate that he worked 240 days or more in any year. The so called day to day payments sheets filed and proved by the workman, do not have any seal of the bank nor do they have any signature, hence, do not inspire confidence. The list of payment vouchers also do not corroborate the case of the workman that he worked for more than 240 days work in any year.

The above description of statements and documents are held not sufficient to prove the engagement of the workman for 240 days in any year. Hence, his disengagement is held in not violation of the Act.

Issue No.-3 :-

On the basis of findings on issue no.-1 & 2, the workman is held entitled to no relief.

In the light of above findings, holding that the claim of the workman is not legal, the reference is answered against him. No order as to cost.

DATE: 12/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1488.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (30/2013) प्रकाशित करती है।

[सं. एल-12011/64/2012-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1488.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.30/2013*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/64/2012–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/30/2013

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager,

State Bank of India,

L.H.O., Hoshangabad Road,

Bhopal (MP)

Management

A W A R D

(Passed on this 19th day of June-2024.)

As per letter dated 31/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/64/2012/IR(B-I) dt. 31/01/2013. The dispute under reference related to :-

"As claimed by union whether Sh. Manish Khatri is entitled for full wages as paid to permanent peon for the period from 19.11.1994 to 20.01.2010 ? If so, what relief he is entitled to ?"

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short is that the workman was appointed as Peon in Dhar branch of the Bank on 19.11.1994. He worked continuously till 11.02.2010. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He was not paid wages in the light of Bipartite Settlement which he was entitled to. He requested that he be held entitled to wages paid to permanent peon for the period 19.11.1994 to 11.02.2010.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It has been further pleaded that since the workman was a daily wager, engaged not on regular basis but subject to availability of work and also that he was not appointed against any sanctioned vacancy following recruitment process, he is not entitled to parity in wages with permanent staff. It was prayed that the reference be answered against the workman.

In evidence, the workman has not filed his affidavit. He has filed some photocopy documents admitted by management which are minutes of the meeting held between bank and union representatives on 07.02.1997 Staff Circular Letter dated 18.02.1997, letter of AGM dated 17.03.1997 and 27.03.1997 which have been marked Exhibits. The other photocopy documents have not been admitted by management. On application of the workman union, the management was directed vide order dated 30.09.2016 to produce original documents mentioned in the order which they did not produced. Workman union was permitted to prove the documents by secondary evidence. They did not prove these documents.

Management did not file any affidavit of its witness or any documents.

I have heard argument of learned Counsel Mr. Utkarsh Dohre for workman and Mr. Praveen Yadav for management. I have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman union. Only filing of photocopy documents and not proving them inspite of opportunity given to prove them by secondary evidence as well not filing any affidavit even of the workman or any other witness in support of the allegations in the statement of claims shows that the workman union has miserably failed to discharge this burden.

Apart from this, whether a daily wager is entitled to parity in pay with a permanent staff is a question of law.

The Bipartite Settlement deals with the regular and permanent staff. According to this settlement, the scales of pay are admissible only to permanent staff and not to a daily wager. Management has referred to following decisions of Hon'ble The Apex Court in this respect :-

1) **State of Haryana Vs. Tilak Raj & Others, AIR 2003 SC 2658. Held –**

   "A scale of pay is attached to a definite post and in case of daily wager, he holds no posts. The respondents workers cannot be held to hold any post to claim even any comparison with regular and permanent staff for any or all purposes including a claim for equal pay and allowances. To claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and resultant hostile discrimination before eligible to claim rights on a par with the other group vis a vis an alleged discrimination……………."

2) **State of Rajasthan & Others Vs. Daya Lal & Others (2011) 2 SCC 429.**

This extract is taken from *State of Rajasthan v. Daya Lal*, (2011) 2 SCC 429 : (2011) 1 SCC (L&S) 340 : 2011 SCC OnLine SC 172 at page 435

12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1 : 2006 SCC (L&S) 753] , M. Raja v. CEERI Educational Society [(2006) 12 SCC 636 : (2007) 2 SCC (L&S) 334] , S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897] , Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680 : (2010) 1 SCC (L&S) 742] and Official Liquidator v. Dayanand [(2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943] .

In the case in hand, the workman was a daily wager, not appointed against any sanctioned post following recruitment process. Hence, the protection under Bipartite Settlement cannot be granted to him in respect of pay.

Hence, holding the claim of the workman union not proved, the reference deserves to be answered against the workman union and is answered accordingly. No order as to cost.

DATE: 19/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1489.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (44/2014) प्रकाशित करती है।

[सं. एल-12011/23/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1489.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.44/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/23/2014–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/44/2014

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Regional Manager,

State Bank of India,

Region-1, RBO, 5 YN Road,

Indore (MP)

Management

A W A R D

(Passed on this 13th day of June-2024.)

As per letter dated 30/05/2014 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/23/2014/IR(B-I) dt. 30/05/2014. The dispute under reference related to :-

"Whether the demand of Union claiming difference of wages in favour of Shri Subhash Sharma daily wage employee from 17.11.2009 to 26.07.2011 is justified or not ? If yes, what relief the daily wager is entitled for ?

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short is that the workman was appointed as Peon in branch of the Bank on 17.11.2009. He worked continuously till 26.07.2011. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He was not paid wages in the light of Bipartite Settlement which he was entitled to. He requested that he be paid the difference of wages as per Bipartite Settlement.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It was also pleaded that since the workman was a daily wager, he is not entitled to wages as per Bipartite Settlement.

In evidence, the workman has filed his affidavit, he has been cross examined by management. Management has not examined any witness.

I have heard argument of learned Counsel Mr. Arun Patel for workman and Mr. Ashish Shroti for management.

The only issue involved in the case is whether a daily wager is entitled to pay as provided in the Bipartite Settlement, which is applicable to only the regular employees of banks.

Learned Counsel for management has referred to following judgments in support of his arguments that a daily wager is not a regular employee and principle of equal pay for equal work does not apply in his case:-

1) **State of Haryana Vs. Tilak Raj & Others, AIR 2003 SC 2658. Held –**
"A scale of pay is attached to a definite post and in case of daily wager, he holds no posts. The respondents workers cannot be held to hold any post to claim even any comparison with regular and permanent staff for any or all purposes including a claim for equal pay and allowances. To claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and resultant hostile discrimination before eligible to claim rights on a par with the other group vis a vis an alleged discrimination……………."

2) **State of Rajasthan & Others Vs. Daya Lal & Others (2011) 2 SCC 429.**

This extract is taken from *State of Rajasthan v. Daya Lal*, (2011) 2 SCC 429 : (2011) 1 SCC (L&S) 340 : 2011 SCC OnLine SC 172 at page 435

12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1 : 2006 SCC (L&S) 753] , M. Raja v. CEERI Educational Society [(2006) 12 SCC 636 : (2007) 2 SCC (L&S) 334] , S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897] , Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680 : (2010) 1 SCC (L&S) 742] and Official Liquidator v. Dayanand [(2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943] .

In the case in hand, the workman was a daily wager, not appointed against any sanctioned post following recruitment process. Hence, the protection under Bipartite Settlement cannot be granted to him in respect of pay.

In the light of above findings, holding that the claim of the workman is not legal, the reference is answered against him. No order as to cost.

DATE: 13/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1490.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (19/2013) प्रकाशित करती है।

[सं. एल-12011/58/2012-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.19/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/58/2012–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/19/2013

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager,

State Bank of India,

L.H.O. Bhopal (MP)

Management

A W A R D

(Passed on this 19th day of June-2024.)

As per letter dated 01/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/58/2012/IR(B-I) dt. 01/02/2013. The dispute under reference related to :-

"1. Whether the claim of Union for regularizing the services of Shri Manish Khatri from the date of termination is legal and justified ?

2. If so, to what relief the workman is entitled ?"

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman, in short is that the workman was appointed as Peon in Dhar branch of the Bank on 19.11.1994. He worked continuously till 11.02.2010. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He was not paid wages in the light of Bipartite Settlement which he was entitled to. He

requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits and also entitled to be regularized as a Peon in the bank from the date of his termination.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It was prayed that the reference be answered against the workman.

In evidence, the workman has not filed his affidavit. He has filed some photocopy documents admitted by management which are minutes of the meeting held between bank and union representatives on 07.02.1997 Staff Circular Letter dated 18.02.1997, letter of AGM dated 17.03.1997 and 27.03.1997 which have been marked Exhibits. The other photocopy documents have not been admitted by management. On application of the workman union, the management was directed vide order dated 30.09.2016 to produce original documents mentioned in the order which they did not produced. Workman union was permitted to prove the documents by secondary evidence. They did not prove these documents.

Management did not file any affidavit of its witness or any document.

I have heard argument of learned Counsel Mr. Utkarsh Dohre for workman and Mr. Praveen Yadav for management. I have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman union. Only filing of photocopy documents and not proving them inspite of opportunity given to prove them by secondary evidence as well not filing any affidavit even of the workman or any other witness in support of the allegations in the statement of claims shows that the workman union has miserably failed to discharge this burden.

1) **State of Rajasthan & Others Vs. Daya Lal & Others (2011) 2 SCC 429.**

This extract is taken from *State of Rajasthan v. Daya Lal*, (2011) 2 SCC 429 : (2011) 1 SCC (L&S) 340 : 2011 SCC OnLine SC 172 at page 435

12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1 : 2006 SCC (L&S) 753] , M. Raja v. CEERI Educational Society [(2006) 12 SCC 636 : (2007) 2 SCC (L&S) 334] , S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897] , Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680 : (2010) 1 SCC (L&S) 742] and Official Liquidator v. Dayanand [(2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943] .

Hence, holding the claim of the workman union not proved, the reference deserves to be answered against the workman union and is answered accordingly. No order as to cost.

DATE: 19/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1491.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (11/2018) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर. (बी-I)-194]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1491.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.11/2018*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2024–IR (B-I)-194]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/11/2018

Present: P.K.Srivastava

H.J.S..(Retd)

Smt. Basanti Bai

Sweeper, State Bank of India,

Branch Kanawati (7293) Distt.- Neemuch (M.P.)

Through General Secretary

Dainik Vetan Bhogi Karmachari Sangathan

F-1, Tripti Vihar, Ujjain (M.P.)

Workman

Versus

The Regional Manager

State Bank of India, RBO

Mhow-Neemuch Road,

Mandsour (M.P.)

Management

A W A R D

(Passed on this 18th day of June-2024.)

The workman union has filed the petition U/S. 2(A)(2&3) of Industrial Disputes Act 1947 as amended by Act of 2010 against the wrongful termination of his services by the management bank.

After registering a case on the basis of reference, notices were sent to the parties. They appeared and file their respective Statement of Claim and Defense.

The case of the workman, in short, is that she was appointed by management in 1982, she remained in employment of management till 05.10.2017 when her services terminated without notice or compensation, which is in violation of Section 25(F) & 25(G) of the Industrial Disputes Act 1947 (in short the 'Act'). She was not paid wages and salary which was entitled to be paid as a temporary employee which is unfair labour practice adopted by management. The workman has prayed that she be held entitled to be reinstated with back wages and benefits holding her termination against law.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. She worked as a casual labour only when work was available in the branch on intermittent basis and was paid for it. She never worked continuously for 240 days in any year. He was paid minimum wages for her workman. It is further the case of management that the benefits in the bipartite settlement are available only to regular staff and not to the daily wager.

At evidence the workman did not file any affidavit nor did it prove any document. The management has also not filed any evidence.

I have heard argument of learned Counsel Mr. R.C. Shrivastava for management. None appeared for the workman side for argument.

After perusal of record in the light of arguments, the reference itself is the **issue** in this case:-

The burden to prove that the workman was appointed against a sanctioned vacancy following recruitment process by a competent authority is on him. In absence of any evidence in support of his allegations, this fact is held not proved. According to management she was a daily wager casual labour who was engaged intermittently but never in continuous employment for 240 days in any year and he was paid minimum wages fixed by Government for daily wagers.

On the basis of above discussion holding that the management has not adopted unfair labour practice in the case in hand, the reference is answered against the workman. No order as to cost.

DATE: 18/06/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1492.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान ऑटोमिक पॉवर स्टे"ान के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (66/2014) प्रका"ात करती है।

[सं. एल-42011/32/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1492.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.66/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of Rajasthan Atomic Power Station and their workmen.

[No. L-42011/32/2014–IR (B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 66/2014

Reference No. L-42011/32/2014-IR (DU) Dated: 11.08.2014

श्री राजू पाटिल, द्वारा– जनरल सेक्रेटरी, परमाणु विद्युत कर्मचारी यूनियन, (CITU) CITU यूनियन ऑफिस, फेज–2, रावतभाटा, कोटा, 323307

.......प्रार्थी

बनाम

1. द साईट डायरेक्टर,, राजस्थान ऑटोमिक पॉवर स्टेशन, रावतभाटा, पी.ओ.– अणुशक्ति, कोटा, (राज.)।

........अप्रार्थीगण/विपक्षी

उपस्थितः–

: श्री जे. सी. गुप्ता, अभिभाषक प्रार्थी।

: श्री धर्मेन्द जैन, अभिभाषक –विपक्षीगण।

: **अधिनिर्णय** :

दिनांक : 13.05.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 11.08.2014 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

   "क्या परमाणु विद्युत कर्मचारी यूनियन, रावतभाटा (राजस्थान) की स्थल निदेशक, राजस्थान परमाणु बिजली घर, आर.ए.पी.पी. (आर.आर.साइट) की रावतभाटा से श्री राजू पाटिल, वार्ड बॉय को एक्स–रे टेक्नीशियन के पद पर पदोन्नति की मॉग न्यायोचित एवं तर्कसंगत है? यदि हां तो श्री राजू पाटिल, वार्ड बॉय किस राहत के एवं कब से अधिकारी है?"

2. प्रार्थी की ओर से दिनांक 09.02.2015 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया है कि यह संबंधित श्रमिक राजू पाटिल की ओर से मांग दावा प्रस्तुत करने को अधिकृत है। श्रमिक राजू पाटिल की नियुक्ति विपक्षी संस्थान में दिनांक 30.12.1999 से वार्ड बॉय के पद पर की गई थी। श्रमिक को दिनांक 01.08.2005 से वार्ड बॉय हेल्पर बी.–सी के पद पर पदोन्नत किया गया। तथा दिनांक 01.07.2011 से अस्पताल में कार्य सहायक – बी. के पद पर स्थापित किया गया। वर्ष 2004 में प्रार्थी श्रमिक ने विपक्षी से अनुमति लेकर तकनीकी योग्यता अर्जित कर ली। इस योग्यता एवं वरिष्ठता के आधार पर उसे एक्स–रे टेक्नीशियन के पद पर दिनांक 11.07.2011 से पदोन्नति की आशा थी किंतु विपक्षी संस्थान द्वारा प्रार्थी श्रमिक की पदोन्नति हेतु कोई अवसर प्रदान नहीं किया गया जो प्रार्थी के संवैधानिक अधिकारों का उल्लघंन है। अतः वाद स्वीकार कर श्रमिक राजू पाटिल को दिनांक 01.11.2011 से एक्स–रे टेक्नीशियन के पद पर पदोन्नती देते हुये समस्त पारिणामिक लाभ दिलाये जावें।

3. विपक्षी ने वादोत्तर में यह कहा है कि प्रार्थी श्रमिक राजू पाटिल को वार्ड बॉय के पद से सहायक– बी. के रूप में पदोन्नति दे दी गई थी। राजू पाटिल 2011 में एक्स–रे टेक्नीशियन के पद पर पदोन्नति के लिये नियमानुसार पात्र नहीं थे। सहायक कर्मचारियों के ट्रैक बदले जाने की योजना लागू की गई थी, किंतु प्रार्थी श्रमिक न्यूनतम कार्य वर्ष पूरे न होने के कारण योजना का लाभ प्राप्त नहीं कर सका। प्रार्थी के साथ कोई भेदभाव का व्यवहार नही किया गया। अतः वाद निरस्त किया जावे।

4. उभयपक्ष के अभिवचनों के उपरांत यह वाद प्रार्थी की साक्ष्य में नियत किया गया। किंतु आज दिनांक 13.05.2024 को प्रार्थी के प्रतिनिधि ने स्वेच्छा से विवाद पर बल न देते हुये अपने वाद के संबंध में कोई साक्ष्य प्रस्तुत नहीं करना चाहा। विपक्षी ने भी इस स्थिति में कोई साक्ष्य प्रस्तुत नहीं करना चाहा। और साक्ष्य समाप्त कर दी।

5. इस प्रकार यह स्पष्ट है कि प्रार्थी ने अपने मांग दावे के समर्थन में कोई साक्ष्य प्रस्तुत नहीं की है। साक्ष्य के अभाव में प्रार्थी यह प्रमाणित नहीं कर सका है कि श्रमिक राजू पाटिल वार्ड बॉय को एक्स–रे टेक्नीशियन के पद पर पदोन्नत किये जाने की मांग न्यायोचित एवं तर्कसंगत है। प्रार्थी की साक्ष्य के अभाव में वह विपक्षी से कोई अनुतोष पाने का अधिकारी नहीं है।

6. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।

7. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1493.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान ऑटोमिक पॉवर स्टे"ान के प्रबंधतत्र, संबद्व नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (72/2015) प्रका"ात करती है।

[सं. एल-42011/88/2015-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.72/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of Rajasthan Atomic Power Station and their workmen.

[No. L-42011/88/2015–IR (B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 72/2015

Reference No. L-42011/88/2015-IR (DU) Dated: 13.08.2015

श्री राजा अनवर, द्वारा– जनरल सेक्रेटरी, परमाणु विद्युत कर्मचारी यूनियन, (CITU) CITU यूनियन ऑफिस, फेज–2, रावतभाटा, कोटा, 323307 ....प्रार्थी

बनाम

1. द साईट डायरेक्टर,, राजस्थान ऑटोमिक पॉवर स्टेषन, रावतभाटा, पी.ओ.– अणुशक्ति, रावतभाटा, कोटा, (राज.) 323303

........अप्रार्थीगण/विपक्षी

उपस्थितः–

: श्री जे. सी. गुप्ता, अभिभाषक प्रार्थी।

: श्री सागरमल चौहान अभिभाषक (श्री धर्मेन्द जैन, अभिभाषक की ओर से) –विपक्षीगण।

: **अधिनिर्णय** :

दिनांक : 14.05.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 13.08.2015 को औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

"श्रीमान स्थल निदेशक, राजस्थान परमाणु बिजली घर, आर.आर.साईट, रावतभाटा वाया कोटा (राजस्थान) द्वारा कर्मकार श्री राजा अनवर कार्यदक्ष ए को दिनांक 01.01.2012 के पश्चात फोर्कलिफ्ट ऑपरेटर/क्रेन ऑपरेटर के पद का कार्य नहीं दिये जाना वैधानिक एवं न्यायसंगत है? यदि नहीं तो प्रार्थीगण किस राहत के और कब से पाने के हकदार है?"

2. प्रार्थी ने दिनांक 28.03.2016 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा है कि श्रमिक श्री राजा अनवर की नियुक्ति हेल्पर के पद पर विपक्षी के अधीन दिनांक 26.11.1999 को हुई थी। प्रार्थी श्रमिक फोर्कलिफ्ट ऑपरेटर/क्रेन ऑपरेटर का कार्य करता आ रहा था। 12 जून, 2014 को श्रमिक को इलेक्ट्रीकल सब स्टोर के कार्य के लिए डयूटी लगा दी गई। श्रमिक को इस प्रकार इलेक्ट्रीकल सब स्टोर में लगाना अवैध है जो निरस्त किया जाना चाहिये। अतः वाद स्वीकार कर श्रमिक राजा अनवर को दिनांक 12.06.2014 से इलेक्ट्रीकल सब स्टोर में स्टोर कीपर का कार्य करवाये जाने के आदेष को निरस्त करते हुये श्रमिक फोर्कलिफ्ट ऑपरेटर/क्रेन ऑपरेटर का कार्य दिये जाने का आदेश दिया जाये।

3. विपक्षी ने दिनांक 11.01.2022 वादोत्तर प्रस्तुत करते हुये दावे के अभिकथन को अस्वीकार किया और यह कहा कि प्रार्थी श्रमिक से कभी भी फोर्कलिफ्ट ऑपरेटर/क्रेन ऑपरेटर के पद का कार्य नहीं लिया गया। विपक्षी के नियमों के अनुसार इलेक्ट्रीकल सब स्टोर में प्रार्थी को कार्य पर लगाया जा सकता है। अतः याचिका निरस्त कर दी जावे।

4. अभिवचनों के पूर्ण हो जाने पर वाद प्रार्थीगण की साक्ष्य हेतु नियत किया गया।

5. दिनांक 24.05.2024 को प्रार्थीगण के प्रतिनिधि ने स्वेच्छा से प्रार्थीगण की ओर से साक्ष्य प्रस्तुत नहीं करना चाहा। अतः साक्ष्य प्रार्थी समाप्त कर दी गई।

6. विपक्षी अभिभाषक ने भी इस स्थिति में विपक्षी की ओर से साक्ष्य प्रस्तुत नहीं करना चाहा। अतः साक्ष्य विपक्षी भी समाप्त कर दी गई।

7. पत्रावली के अवलोकन से यह स्पष्ट है कि प्रार्थी ने श्रमिक राजा अनवर को फोर्कलिफ्ट ऑपरेटर/क्रेन ऑपरेटर के पद का कार्य न दिये जाने को किसी प्रकार अनुचित एवं अवैध नहीं बताया है। और कोई साक्ष्य प्रस्तुत नहीं की। इसलिए साक्ष्य के अभाव में प्रार्थीगण विपक्षी से कोई अनुतोष प्राप्त करने के अधिकारी नहीं है।

8. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।

9. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1494.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान ऑटोमिक पॉवर स्टे"ान के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (64/2014) प्रका"ात करती है।

[सं. एल-42011/35/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.64/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of Rajasthan Atomic Power Station and their workmen.

[No. L-42011/35/2014–IR (B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 64/2014

Reference No. L-42011/35/2014-IR (DU) Dated: 11.08.2014

श्रीमति हसीना बी., द्वारा–जनरल सेक्रेटरी, परमाणु विद्युत कर्मचारी यूनियन, (CITU) CITU यूनियन ऑफिस, फेज–2, रावतभाटा, कोटा, 323307 ....प्रार्थी

बनाम

1. द साईट डायरेक्टर,, राजस्थान ऑटोमिक पॉवर स्टेषन, रावतभाटा, पी.ओ.– अनुषक्ति, कोटा, (राज.) 323303

........अप्रार्थीगण/विपक्षी

उपस्थितः–

: श्री जे. सी. गुप्ता, अभिभाषक प्रार्थी।

: श्री धर्मेन्द जैन, अभिभाषक –विपक्षीगण।

: अधिनिर्णय :

दिनांक : 13.05.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 11.08.2014 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

   "क्या परमाणु विद्युत कर्मचारी यूनियन, रावतभाटा (राजस्थान) की स्थल निदेशक, राजस्थान परमाणु बिजली घर, आर.ए.पी.पी. (आर.आर.साइट) की रावतभाटा से श्रीमति हसीना बी, आया को एक्स–रे व ई.सी.जी. टेक्नीशियन के पद पर पदोन्नति की मॉग न्यायोचित एवं तर्कसंगत है? यदि हां तो श्रीमति हसीना बी, आया किस राहत के एवं कब से अधिकारी है?"

2. प्रार्थी ने दिनांक 09.02.2015 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा कि प्रार्थी यूनियन श्रमिक का प्रतिनिधित्व करती है और मांग दावा प्रस्तुत करने को अधिकृत है। श्रमिक श्रीमति हसीना बी. की नियुक्ति दिनांक 21.05.1997 से विपक्षी संस्थान में वार्ड आया "ए" के पद पर की गई। दिनांक 01.11.2004 से श्रमिक को वार्ड आया हेल्पर "बी.–सी." के पद पर पदोन्नति दी गई। श्रमिक द्वारा विभागीय अनुमति लेकर मेडीकल एक्स–रे टेक्नीशियन परीक्षा 2003 में उत्तीर्ण कर ली गई। इसी प्रकार वर्ष 2006 में मेडीकल ई.सी.जी. टेक्नीशियन परीक्षा उत्तीर्ण की गई। विपक्षी के अस्पताल में ई.सी.जी. टेक्नीशियन तथा एक्स–रे टेक्नीशियन के पद रिक्त है। प्रार्थी श्रमिक कार्य क्षमता व वरिष्ठता के आधार पर पदोन्नती की पात्र थी। कर्मचारियों को प्रगति व विकास का अवसर दिया जाना आवश्यक है। किंतु प्रार्थी श्रमिक को पदोन्नति हेतु विचारित नहीं किया गया। और न ही पदोन्नति दी गई। जिससे प्रार्थी के

संवेधानिक अधिकारों का हनन हुआ। अतः वाद स्वीकार कर प्रार्थी श्रीमति हसीना बी. को ई.सी.जी. व एक्स–रे टेक्नीशियन के पद पर दिनांक 01.11.2011 से पदोन्नति देते हुये समस्त वेतन एवं पारिणामिक लाभ दिलाये जाये।

3. विपक्षी ने वादोत्तर में यह कहा है कि प्रार्थी श्रीमति हसीना बी. को नियमानुसार सहायक–बी. के रूप में पदोन्नति दी गई। प्रार्थी ई.सी.जी. टेक्नीशियन व एक्स–रे टेक्नीशियन के पद पर नियमानुसार पदोन्नति के लिये पात्र नहीं थी। प्रार्थी की विगत चार वर्षो की ए.सी.आर. मापदण्ड के अनुसार न होने से उसे ट्रेक परिवर्तन की योजना का लाभ नहीं दिया जा सका। नियमानुसार प्रार्थी की मांग स्वीकार्य न होने से प्रार्थी को लाभ नही दिया जा सकता। अतः वाद निरस्त किया जावे।

4. उभयपक्ष के अभिवचन प्राप्त हो जाने पर प्रकरण साक्ष्य हेतु नियत किया गया। आज दिनांक 13.05.2024 को प्रार्थी के प्रतिनिधि ने स्वेच्छा से विवाद पर बल न देते हुये प्रार्थी की ओर से कोई साक्ष्य प्रस्तुत नहीं करना चाहा। विपक्षी ने भी इस स्थिति में अपनी साक्ष्य माप्त कर दी।

5. पत्रावली का अवलोकन यह दर्षाता है कि प्रार्थी ने उभयपक्ष के मध्य विद्यमान विवाद के संदर्भ में कोई साक्ष्य प्रस्तुत नहीं की है। प्रार्थी के साक्ष्य के अभाव में प्रार्थी श्रमिक हसीना बी. को ई.सी.जी. टेक्नीशियन व एक्स–रे टेक्नीशियन के पद पर पदोन्नति हेतु किसी प्रकार अधिकारवान होना प्रमाणित नहीं होता है। इसलिये प्रार्थी साक्ष्य के अभाव में विपक्षी से कोई अनुतोष प्राप्त करने की अधिकारी नहीं है।

6. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।

7. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 29 जुलाई, 2024

का.आ. 1495.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान ऑटोमिक पॉवर स्टे"ान के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (73/2015) प्रका"ित करती है।

[सं. एल-42011/89/2015-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2024

S.O. 1495.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.73/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of Rajasthan Atomic Power Station and their workmen.

[No. L-42011/89/2015–IR (B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 73/2015

Reference No. L-42011/89/2015-IR (DU) Dated: 13.08.2015

श्री अशोक चौहान व 40 अन्य श्रमिकगण, द्वारा–जनरल सेक्रेटरी, परमाणु विद्युत कर्मचारी यूनियन, (CITU) CITU यूनियन ऑफिस, फेज–2, रावतभाटा, कोटा, 323307 ....प्रार्थीगण

बनाम

1. द साईट डायरेक्टर,, राजस्थान ऑटोमिक पॉवर स्टेशन, रावतभाटा, पी.ओ.– अणुशक्ति, रावतभाटा, कोटा, (राज.) 323303

........अप्रार्थीगण / विपक्षी

उपस्थितः–

: श्री जे. सी. गुप्ता, अभिभाषक प्रार्थी।

: श्री सागरमल चौहान अभिभाषक (श्री धर्मेन्द जैन, अभिभाषक की ओर से) –विपक्षीगण।

: अधिनिर्णय :

दिनांक : 14.05.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 13.08.2015 को औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

   "श्रीमान स्थल निदेशक, राजस्थान परमाणु बिजली घर, आर.आर.साईट, रावतभाटा वाया कोटा (राजस्थान) द्वारा केन्टीन कर्मचारियों को स्कीम 11/07/2006 के अनुसार री डिप्लोयमेंट कर उनको वर्ष 2006 से पदोन्नति लाभ से वंचित करने की कार्यवाही वैधानिक एवं न्यायसंगत है? यदि नहीं तो प्रार्थीगण किस राहत के और कब से पाने के हकदार है?"

2. दिनांक 28.03.2016 को प्रार्थीगण की ओर से दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया है कि R.A.P.S. 1 एवं 6 तथा R.A.P.P. 7 एवं 8 के केन्टीन में कार्यरत श्रमिक, जो संख्या में कुल 41 हैं, जिनका विवरण क्लेम के पैरा संख्या 1 में वर्णित है, ने केन्टीन कार्यो का निष्पादन निष्ठा के साथ किया है। मुख्यालय मुम्बई के आदेश दिनांक 11.07.2006 द्वारा यह निर्देश दिया गया है कि केन्टीन में कार्यरत कर्मचारियों का री डिप्लोयमेंट करते हुये पदोन्नति दी जाये। किंतु विपक्षी प्रबंधन द्वारा इस आदेश की पालना नहीं की गई। इसलिए केन्टीन कर्मचारियों को आर्थिक क्षति पहुॅच रही है। अतः निवेदन है कि उपर्युक्त केन्टीन कर्मचारियों को वर्ष 2006 से री डिप्लोयमेंट कर पदोन्नति देते हुये वेतन एवं ऐरियर का भुगतान करवाया जावे।
3. दिनांक 11.1.2022 को विपक्षी द्वारा वादोत्तर प्रस्तुत करते हुये क्लेम याचिका का विरोध किया गया। उनका कथन है कि क्रम संख्या 27 पर अंकित श्रमिक राजू को दिनांक 22.12.2005 को अनिवार्य सेवा निवृत्ति दे दी गई। आदेश दिनांक 11.07.2006 की पालना दिनांक 06.09.2012 तक ही कर दी गई है, और सभी केन्टीन कर्मचारियों का री डिप्लोयमेंट कर दिया गया है। विवाद से संबंधित श्रमिक की विपक्षी संस्थान में प्रचलित नियमो के अनुसार पदोन्नति दे दी गई है, और उन्हें आर्थिक क्षति नहीं हुई है। अतः वाद अस्वीकार किया जावे।
4. अभिवचनों के पूर्ण हो जाने पर वाद प्रार्थीगण की साक्ष्य हेतु नियत किया गया।
5. दिनांक 24.05.2024 को प्रार्थीगण के प्रतिनिधि ने स्वेच्छा से प्रार्थीगण की ओर से साक्ष्य प्रस्तुत नहीं करना चाहा। अतः साक्ष्य प्रार्थी समाप्त कर दी गई।
6. विपक्षी अभिभाषक ने भी इस स्थिति में विपक्षी की ओर से साक्ष्य प्रस्तुत नहीं करना चाहा। अतः साक्ष्य विपक्षी भी समाप्त कर दी गई।
7. पत्रावली के अवलोकन से यह स्पष्ट है कि प्रार्थीगण ने उन्हें दिनांक 17.07.2006 के आदेशानुसार री डिप्लोयमेंट न करने और पदोन्नति लाभ से वंचित रखने की विपक्षी की कार्यवाही को अनुचित एवं अवैध प्रमाणित करने हेतु कोई साक्ष्य प्रस्तुत नहीं की है। इसलिए साक्ष्य के अभाव में प्रार्थीगण विपक्षी से कोई अनुतोष प्राप्त करने के अधिकारी नहीं है।
8. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।
9. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 30 जुलाई, 2024

का.आ. 1496.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स माँ कंस्ट्रक्शन के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **आसनसोल** के पंचाट (25/2023) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर. (बी-I)-195]

सलोनी, उप निदेशक

New Delhi, the 30th July, 2024

S.O. 1496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.25/2023*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Asansol* as shown in the Annexure, in the industrial dispute between the management of M/s. Maa Construction. and their workmen.

[No. L-12025/01/2024–IR (B-I)-195]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 25 OF 2023

PARTIES: Umesh Thakur.

Vs.

Management of M/s. Maa Construction.

REPRESENTATIVES:

For the Workman : Mr. Anirban Mukherjee, Advocate.

For the Management : Mr. Biswajit Bandyopadhyay, Advocate.

INDUSTRY: Construction

STATE: West Bengal.

Dated: 05.06.2024.

A W A R D

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 Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(3)/2023/E** dated 23.03.2023 has been pleased to refer the following dispute between the employer, that is the Management of M/s. Maa Construction and their workman for adjudication by this Tribunal.

S C H E D U L E

" Whether the action of the M/s. Maa Construction (Contractor) in terminating the service of Shri Umesh Thakur, Contract Labour w.e.f. 01/09/2022 is legal and justified? If not, to what relief Shri Umesh Thakur is entitled there to? "

1. On receiving Order **No. 1(3)/2023/E** dated 23.03.2023 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute **Reference case No. 23 of 2023** was registered on 15.05.2023 and an order was passed for issuing notice to the parties

through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. The case is fixed up today for appearance of Umesh Thakur and filing written statement by the dismissed workman. On repeated call at 12.43 p.m. none appeared for M/s. Maa Construction. No step is taken on behalf of Umesh Thakur. On a perusal of the record, it appears that M/s. Maa Construction filed their written statement on 27.09.2023.

3. Umesh Thakur, petitioner had appeared in person on 25.08.2023, 27.09.2023, 03.11.2023 and was represented by Mr. Anirban Mukherjee on 05.12.2023. On 29.01.2024 none appeared for the workman and no step was taken. Umesh Thakur was directed to show cause on 12.04.2024 as to why Industrial Dispute shall not be dismissed for not filing written statement and for his non-appearance. Earlier order has not been complied and no step has been taken by the dismissed employee. The case was fixed on 24.05.2024 but no step was taken by him.

4. The workman is not found diligent in proceeding and has not filed his written statement after opportunities provided to him. Under such circumstances, I am of the considered view that the Industrial Dispute raised by the workman has failed due to his default and non-compliance. Let a No Dispute Award be drawn up.

Hence,

O R D E R E D

that a No Dispute Award be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1497.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं 2 दिल्ली के पंचाट (199/2021) प्रकाशित करती है।

[सं. एल-39025/01/2024-आई.आर. (बी-II)-30]

सलोनी, उप निदेशक

New Delhi, the 31st July, 2024

S.O. 1497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.199/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No -2 Delhi* as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-39025/01/2024–IR (B-II)-30]

SALONI, Dy. Director

ANNEXURE

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 199/2021

Sh. Sanjay Kumar, S/o Sh. Jai Chand,

R/o- X-3938/3, Gali No. 13, Shanti Mohalla,

Gandhi Nagar, Delhi-110031.

VERSUS

1. **Bank of Baroda,**

Defence Enclave, Preet Vihar, New Delhi – 110092.

2. Clear Secured Services Pvt. Ltd.,

140, 1st Floor, Shahpur Jat, Near Panchsheel

Samukdai Kender, Hauzkhas, New Delhi- 110049.

AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act). Claimant had stated in their claim statement that he was appointed by the management-1 on the post of Security Guard on 10.01.2019 and his last drawn wages was Rs. 16,928/- Per month. The management had not issued any appointment letter to him. The management-1 has deputed to him at the ATM of the management no-2 at Defence Enclave, Preet Vihar, Delhi w.e.f. 23.08.2019. He had been doing his work with diligently and never given any chance of complaint to the managements but he has not been provided any legal facilities. The workman used to work under the direction and supervision of management-1 & 2. On 24.10.2019 when the workman had demanded for his earned wages for the month of September 2019 to management-1, management-1 got annoyed with workman. Then management-1 had paid the said wages to the workman, but on the same day on 24.10.2019, the management-1 had illegally terminated the workman from his service without any rhyme or reason and without paying the earned wages for twenty-four days of October 2019 to him. After the illegal termination workman is jobless. Workman had sent the demand notice to the managements through his union, but the managements have not reinstated the workman on duty. He has gone to the conciliation officer, but, no result was yielded. Hence he has filed the claim.

Vide letter dated 30.08.2022, management-1 & 2 had been proceeded ex-parte. Now, the matter is listed for ex-parte evidence.

Claimant is asked to prove his case. However, despite providing a number of opportunities, claimant has not turned up to prove his claim. As the claimant has not turned up for proving his case, his claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 30.04.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1498.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **बैंक ऑफ बडोदा** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (31/2022) प्रकाशित करती है।

[सं. एल-12011/35/2022-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 31th July, 2024

S.O. 1498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2022) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12011/35/2022–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present….

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 12th June, 2024

Reference (CGITA) No. - 31 / 2022

The Regional Manager,

Bank of Baroda,

Regional Office, 3rd Floor, Rudra Arcade,

Near Aroma Circle, Deesa Highway Road,

Palanpur, Banaskantha Distt. ……….First Party

V/s

The General Secretary,

Vijaya Bank Worker's Organization (Regd.),

C/o Com. Janak Rawal, Mahagujarat Bank Employees Association,

Nandanvan Complex, Ellisbridge,

Ahmedabad (Gujarat) - 380006 ……….Second Party

For the First Party : None

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-12011/35/2022-IR (B-II) dated 08.03.2022 for adjudication to this Tribunal.

SCHEDULE

"Whether the demand of the Vijaya Bank Workers Organisation(Regd) for regularizing Shri Jignesh Vaghela and four others (List attached as Annexure- 'A') in the service of Bank of Baroda, Banaskantha Region, Banaskantha, Gujarat by considering their past service is legal, just & proper? If so, to what relief Shri Jignesh Vaghela and four others are entitled to?"

1. The reference was received in this Tribunal on 21th March, 2022. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. A period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering "no dispute" between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1499.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (21/2022) प्रकाशित करती है।

[सं. एल-12011/31/2022- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 31th July, 2024

S.O. 1499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.21/2022) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-12011/31/2022–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present….

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 12th June, 2024

Reference (CGITA) No. - 21 / 2022

1. The General Manager,

   Canara Bank, Regional Office, Ahmedabad,

   Neelkanth Avenue Building, Gujarat Vidyapith Road, Sattar Taluka Society, Ahmedabad(Gujarat)- 380013

2. The Assistant General Manager(HRM),

   Canara Bank, Circle Office, 7th Floor, Gift City,

   Gandhinagar(Gujarat)- 382355

3. The Manager,

   Canara Bank, 112, J.C. Road, Head Office,

   Bangalore- 560002 ….…….First Parties

V/s

The President,

Akhil Bharatiya Karmachari Mahasangh,

28-B, Narayan Park, B/h. Chandkheda Railway Station, Sabarmati,

Ahmedabad (Gujarat) - 382470 ..…….Second Party

For the First Party : None

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-12011/31/2022-IR (B-II) dated 24.02.2022 for adjudication to this Tribunal.

SCHEDULE

"Whether the demand of Akhil Bhartiya Karamchari Mahasangh for regularization of service of S/Shri Manendra Babubhai Solanki and Maulikbhai Nandubhai Prajapati, daily workers working in Ranip & Gota branches of Canara Bank respectively by the Canara Bank, is fair, legal & justified? If so, What relief the workmen are entitled to?"

1. The reference was received in this Tribunal on 11th March, 2022. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. A period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering "no dispute" between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 31 जुलाई, 2024

का.आ. 1500.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (17/2022) प्रकाशित करती है।

[सं. एल-12011/25/2022-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 31th July, 2024

S.O. 1500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.17/2022) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-12011/25/2022–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present….
Radha Mohan Chaturvedi,
Presiding Officer (I/c),
CGIT-cum-Labour Court,
Ahmedabad

Dated 12th June, 2024

Reference (CGITA) No. - 17 / 2022

The Regional Manager,
Canara Bank, 150ft. Ring Road,
Rajkot- 360001 ……….First Party

V/s

Sh. K.P. Patnai, General Secretary,
Gujarat Bank Workers Union,
Rahbar, 8-Jagnath Plot,
P.O. Box No.-10, Rajkot- 360001 ..……..Second Party

For the First Party : None
For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-12011/25/2022-IR (B-II) dated 21.02.2022 for adjudication to this Tribunal.

SCHEDULE

"Whether the terminating the service of Shri Dharmesh Jaykant Zala, Casual Worker, without notice after he has worked for six years; reinstating him on raising of Industrial dispute and eventually terminating his service again by the management of Canara Bank, Rajkot, is justified? If not, what relief the concerned workman is entitled to?"

1. The reference was received in this Tribunal on 03th March, 2022. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. A period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering "no dispute" between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer

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