

सत्यमेव जयते

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सं. 13]	नई दिल्ली, मार्च 24—मार्च 30, 2019, शनिवार/चैत्र 3—चैत्र 9, 1941
No. 13]	NEW DELHI, MARCH 24—MARCH 30, 2019, SATURDAY/CHAITRA 3— CHAITRA 9, 1941

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
(Other than the Ministry of Defence)

वित्त मंत्रालय
(व्यय विभाग)

नई दिल्ली, 19 मार्च, 2019

का.आ. 425.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, भारत सरकार के भारतीय लेखापरीक्षा एवं लेखा विभाग के निम्नलिखित कार्यालय जिसमें अस्सी प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है, अर्थात्:-

प्रधान निदेशक लेखापरीक्षा, रेलवे – वाणिज्यिक, नई दिल्ली।

[सं. ए-12034/02/2014-ईजी]

ऐनी जॉर्ज मैथ्यू, संयुक्त सचिव

MINISTRY OF FINANCE**(Department of Expenditure)**

New Delhi, the 19th March, 2019

S.O. 425.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Government of India in the Indian Audit and Accounts Department, in which eighty per cent of the staff have acquired the working knowledge of Hindi, namely:-

Principal Director of Audit, Railway- Commercial, New Delhi.

[No. A-12034/02/2014-EG]

ANNIE GEORGE MATHEW, Jt. Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 19 मार्च, 2019

का.आ. 426.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री टी. सी. सुशील कुमार, प्रबंध निदेशक, भारतीय जीवन बीमा निगम को दिनांक 14.03.2019 (अपराह्न) से पांच वर्ष की अवधि के लिए अथवा उनकी अधिवर्षिता की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, उक्त निगम का सदस्य नियुक्त करती है।

[फा. सं. ए-15011/02/2018-बीमा-I]

मृत्यंजय सिंह, अवर सचिव

(Department of Financial Services)

New Delhi, the 19th March, 2019

S.O. 426.— In exercise of the powers conferred by Section 4 of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby appoints Sh. T.C. Suseel Kumar, Managing Director, Life Insurance Corporation of India as Member of the said Corporation with effect from 14.03.2019 (afternoon) for a period of five years or upto the date of his superannuation or until further orders, whichever is the earliest.

[F. No. A-15011/02/2018-Ins.I]

MRITUNJAY SINGH, Under Secy.

नई दिल्ली, 19 मार्च, 2019

का.आ. 427.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एम. आर. कुमार, अध्यक्ष, भारतीय जीवन बीमा निगम को दिनांक 14.03.2019 से पांच वर्ष की अवधि के लिए अथवा उनकी अधिवर्षिता की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, उक्त निगम का सदस्य नियुक्त करती है।

[फा. सं. ए-15011/02/2018-बीमा-I]

मृत्यंजय सिंह, अवर सचिव

New Delhi, the 19th March, 2019

S.O. 427.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby appoints Sh. M.R. Kumar, Chairman, Life Insurance Corporation of India as Member of the said Corporation with effect from 14.03.2019 for a period of five years or upto the date of his superannuation or until further orders, whichever is the earliest.

[F. No. A-15011/02/2018-Ins.I]

MRITUNJAY SINGH, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 27 मार्च, 2019

का.आ. 428.—केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 19 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि ऐसी सभी शक्तियों या कर्तव्यों या उनमें से कोई, जिसका उक्त सरकार द्वारा उक्त अधिनियम की ऐसी धाराओं के अधीन, जो इससे उपाबद्ध अनुसूची के स्तम्भ (2) में विनिर्दिष्ट हैं, प्रयोग और निर्वहन किया जा सके, ऐसे व्यक्ति द्वारा भी प्रयोग और निर्वहन किया जा सकेगा, जो उक्त अनुसूची के स्तम्भ (4) की तत्स्थानी प्रविष्टि में विनिर्दिष्ट हैं ;

परन्तु उक्त अधिनियम की धारा 14 की उप-धारा (1) के अधीन शक्तियों और कर्तव्यों का प्रयोग और केन्द्रीय सरकार के पूर्व अनुमोदन के अध्यधीन होगा जबकि उक्त अधिनियम की धारा 21 के अधीन शक्तियों और कर्तव्यों का प्रयोग और निर्वहन ऐसी परिस्थिति में और शर्तों के अधीन, यदि कोई हो, किया जाएगा, जो एन.एल.सी. इंडिया लिमिटेड के अध्यक्ष-सह-प्रबंध निदेशक को लिखित आदेश द्वारा विनिर्दिष्ट और निदेशित की जाए ;

अनुसूची

क्र.सं.	अधिनियम की धारा	संक्षिप्त में कर्तव्यभार का स्वरूप	उन व्यक्तियों का पदनाम और प्राधिकृत पता जिन्हें शक्ति प्रत्यायोजित की गई है	
(1)	(2)	(3)	(4)	(5)
1.	14(1)	प्रतिकर के अवधारण की पद्धति.	अध्यक्ष-सह-प्रबंध निदेशक	एन.एल.सी. इंडिया लिमिटेड, प्रथम तल, नं. 8, मेयर सत्यमूर्ति रोड, एफ.एस.डी., एग्मोर काम्पलेक्स, भारतीय खाद्य निगम, चेतपेट, चेन्नई-600031.
2.	14(4)	प्रतिकर के संबंध में अधिकरण के समक्ष कथन.	अध्यक्ष-सह-प्रबंध निदेशक	एन.एल.सी. इंडिया लिमिटेड, प्रथम तल, नं. 8, मेयर सत्यमूर्ति रोड, एफ.एस.डी., एग्मोर काम्पलेक्स, भारतीय खाद्य निगम, चेतपेट, चेन्नई-600031.
3.	16	अधिकरण के अधिनिर्णय पर ब्याज पर संदाय.	अध्यक्ष-सह-प्रबंध निदेशक	एन.एल.सी. इंडिया लिमिटेड, प्रथम तल, नं. 8, मेयर सत्यमूर्ति रोड, एफ.एस.डी., एग्मोर काम्पलेक्स, भारतीय खाद्य निगम, चेतपेट, चेन्नई-600031.
4.	17	प्रतिकर का संदाय.	अध्यक्ष-सह-प्रबंध निदेशक	एन.एल.सी. इंडिया लिमिटेड, प्रथम तल, नं. 8, मेयर सत्यमूर्ति रोड, एफ.एस.डी., एग्मोर काम्पलेक्स, भारतीय खाद्य निगम, चेतपेट, चेन्नई-600031.
5.	21	सूचना अभिप्राप्त करने	अध्यक्ष-सह-प्रबंध निदेशक	एन.एल.सी. इंडिया लिमिटेड, प्रथम तल,

		की शक्ति	निदेशक	नं. 8, मेयर सत्यमूर्ति रोड, एफ.एस.डी., एगमोर कॉम्प्लेक्स, भारतीय खाद्य निगम, चेतपेट, चेन्नई-600031.
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[फा. सं. 43022/6/2016-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COALNew Delhi, the 27th March, 2019

S.O. 428.—In exercise of the power conferred by section 19 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby directs that all the powers and duties that may be exercised or discharged by the said Government under the sections of the Act as are specified in column (2) of the Schedule hereto annexed shall be exercised and discharged by the person specified against in the corresponding entry in column (4) of the said Schedule;

Provided that the exercise and discharge of powers and duties under sub-section (1) of the section 14 of the said Act shall be subject to the prior approval of the Central Government, whereas the exercise and discharge of powers and duties under section 21 of the said Act by the officers as specified in the said Schedule shall be in such circumstances and under such conditions, if any, as may be specified and directed by an order, with the prior approval of the Central Government, in writing, by the Chairman-cum-Managing Director of NLC India Limited;

SCHEDULE

Sl. No.	Section of the Act	Nature of assignment in brief	Designation and official address of the person to whom power delegated.	
(1)	(2)	(3)	(4)	(5)
1.	14(1)	Method of determining compensation	Chairman-cum -Managing Director	NLC India Limited, First Floor, No. 8, Mayor Sathyamurthy Road, FSD, Egmore Complex of Food Corporation of India, Chetpet, Chennai-600031.
2.	14(4)	Statement before the Tribunal regarding compensation	Chairman-cum -Managing Director	NLC India Limited, First Floor, No. 8, Mayor Sathyamurthy Road, FSD, Egmore Complex of Food Corporation of India, Chetpet, Chennai-600031.
3.	16	Payment of interest on award of the Tribunal	Chairman-cum -Managing Director	NLC India Limited, First Floor, No. 8, Mayor Sathyamurthy Road, FSD, Egmore Complex of Food Corporation of India, Chetpet, Chennai-600031.
4.	17	Payment of compensation	Chairman-cum -Managing Director	NLC India Limited, First Floor, No. 8, Mayor Sathyamurthy Road, FSD, Egmore Complex of Food Corporation of India, Chetpet, Chennai-600031.
5.	21	Power to obtain information	Chairman-cum -Managing Director	NLC India Limited, First Floor, No. 8, Mayor Sathyamurthy Road, FSD, Egmore Complex of Food Corporation of India, Chetpet, Chennai-600031.

[F. No. 43022/6/2016-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 22 मार्च, 2019

का. आ. 429.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
कोटाबोम्मालि	जियान्नापेटा	43/3	00	01	63
		42/2	00	00	95
		42/1	00	00	11
		42/3	00	03	28
		42/10	00	02	63
		41/11	00	00	45
		41/12	00	00	09
		46/14	00	01	19
		46/10	00	00	62
		46/12	00	00	04
		47/13	00	04	88
		47/10	00	00	13
		50/13	00	01	20
		18/13	00	01	44
		18/10	00	01	82
		13/5	00	02	56
		13/6	00	00	93

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
कोटाबोम्मालि	जियान्नापेटा	15/1C	00	03	26
		15/2	00	00	24
		16/4	00	00	16
		16/1	00	00	03
		1/1R	00	00	08
		1/1Q	00	00	03
		1/1P	00	00	34
		1/1J	00	00	47
		1/1F	00	01	35
		1/1E	00	02	28
		1/1A/9	00	06	26
		1/1A/4	00	00	05
		1/1A/7	00	00	12
		1/1A/5	00	00	83
		3/1	00	01	95
		121/13	00	00	49
		123/6	00	00	28
		123/4	00	00	92
		119/2	00	01	25
		123/1	00	00	35
		120/16	00	00	12
		18/9	00	00	41
		15/7	00	04	05
टेक्कलि	परशुरामपुरम	118/8	00	16	70
		110/5	00	01	13
		105/4	00	00	43
		105/2	00	00	56
		118/6	00	00	46
पोंदूरु	बुरिडिकंचाराम	78/8	0	1	27
		79/9	0	1	31
		75/13	0	0	34
		75/14	0	0	24
		104/1	0	8	11
		74/17	0	4	56
		74/16	0	4	22
		114/6	0	2	18

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पोंदूरु	बुरिडिकंचाराम	114/5	0	0	3
		114/4	0	0	52
		114/2	0	0	70
		118/5	0	2	69
		118/7	0	1	49
		40/19	0	0	90
		135/7	0	0	12
		141/11	0	0	11
		141/5	0	0	88
		143/13	0	0	90
		144/6	0	0	28
		144/7	0	0	20
		144/12	0	0	18
		154/10	0	0	86
		154/6	0	1	29
		154/5	0	0	40
		154/4	0	0	36
		152/12	0	0	51
		152/8	0	1	31
		152/3	0	0	57
		150/18	0	0	67
		150/11	0	0	11
		80/6	0	0	61
पोंदूरु	लोलुगु	232/42	0	0	67
		232/43	0	0	67
		232/46	0	0	6
		232/45	0	0	30
		232/49	0	0	81
		232/56	0	0	11
		232/57	0	0	76
		232/33	0	4	51

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पोंदूर	लोलुगु	214/26	0	0	22
		214/22	0	0	42
		214/21	0	0	36
		209/35	0	0	22
		209/27	0	0	21
		209/20	0	0	35
		209/18	0	0	25
		203/13	0	0	80
		203/12	0	0	21
		203/4	0	1	78
		200/55	0	0	76
		200/52	0	0	12
		196/8	0	0	56
		196/3	0	0	3
		196/11	0	0	11
		190/23	0	0	13
		186/9	0	0	17
		186/10	0	0	24
		155/4	0	0	32
		155/24	0	2	3
		153/10	0	0	57
		209/24	0	1	42
		194/6	0	0	11
		156/23	0	5	6
वज्रापुकतूर	उंडरुकुडिया	1/1A	00	00	08
		1/4	00	01	58
		1/6	00	01	34
		17/2A	00	01	48
		17/2B	00	00	85
		10/1	00	00	64
		9/4B	00	02	87
		9/9C	00	00	24
		8/1	00	00	55

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
वज्रापुकतूर	उंडरुकुडिया	8/7	00	00	31
		8/8	00	00	44
		28/5	00	02	61
		28/4	00	03	16
		27/3	00	03	34
		26/10	00	01	10
		26/9	00	00	77
		43/4	00	00	38
		43/5	00	01	20
		43/12	00	00	13
		42/1	00	00	42
		41/22	00	00	81
		9/4A	00	03	44
		44/22D	00	00	21

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GASNew Delhi, the 22nd March, 2019

S.O. 429.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a Pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
KOTABOMMALI	JIYANNAPETA	43/3	00	01	63
		42/2	00	00	95
		42/1	00	00	11
		42/3	00	03	28
		42/10	00	02	63
		41/11	00	00	45
		41/12	00	00	09

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
KOTABOMMALI	JIYANNAPETA	46/14	00	01	19
		46/10	00	00	62
		46/12	00	00	04
		47/13	00	04	88
		47/10	00	00	13
		50/13	00	01	20
		18/13	00	01	44
		18/10	00	01	82
		13/5	00	02	56
		13/6	00	00	93
		15/1C	00	03	26
		15/2	00	00	24
		16/4	00	00	16
		16/1	00	00	03
		1/1R	00	00	08
		1/1Q	00	00	03
		1/1P	00	00	34
		1/1J	00	00	47
		1/1F	00	01	35
		1/1E	00	02	28
		1/1A/9	00	06	26
		1/1A/4	00	00	05
		1/1A/7	00	00	12
		1/1A/5	00	00	83
		3/1	00	01	95
		121/13	00	00	49
		123/6	00	00	28
		123/4	00	00	92
		119/2	00	01	25
		123/1	00	00	35
		120/16	00	00	12
		18/9	00	00	41
		15/7	00	04	05
TEKKALI	PARASURAMPURAM	118/8	00	16	70
		110/5	00	01	13
		105/4	00	00	43
		105/2	00	00	56
PONDURU	BURIDIKANCHARAM	118/6	00	00	46
		78/8	0	1	27
		79/9	0	1	31
		75/13	0	0	34

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PONDURU	BURIDIKANCHARAM	75/14	0	0	24
		104/1	0	8	11
		74/17	0	4	56
		74/16	0	4	22
		114/6	0	2	18
		114/5	0	0	3
		114/4	0	0	52
		114/2	0	0	70
		118/5	0	2	69
		118/7	0	1	49
		40/19	0	0	90
		135/7	0	0	12
		141/11	0	0	11
		141/5	0	0	88
		143/13	0	0	90
		144/6	0	0	28
		144/7	0	0	20
		144/12	0	0	18
		154/10	0	0	86
		154/6	0	1	29
		154/5	0	0	40
		154/4	0	0	36
		152/12	0	0	51
		152/8	0	1	31
		152/3	0	0	57
		150/18	0	0	67
		150/11	0	0	11
		80/6	0	0	61
PONDURU	LOLUGU	232/42	0	0	67
		232/43	0	0	67
		232/46	0	0	6
		232/45	0	0	30
		232/49	0	0	81
		232/56	0	0	11
		232/57	0	0	76
		232/33	0	4	51
		214/26	0	0	22
		214/22	0	0	42
		214/21	0	0	36
		209/35	0	0	22
		209/27	0	0	21

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PONDURU	LOLUGU	209/20	0	0	35
		209/18	0	0	25
		203/13	0	0	80
		203/12	0	0	21
		203/4	0	1	78
		200/55	0	0	76
		200/52	0	0	12
		196/8	0	0	56
		196/3	0	0	3
		196/11	0	0	11
		190/23	0	0	13
		186/9	0	0	17
		186/10	0	0	24
		155/4	0	0	32
		155/24	0	2	3
		153/10	0	0	57
		209/24	0	1	42
		194/6	0	0	11
		156/23	0	5	6
VAJRAPUKATHURU	VUNDRUKUDIYA	1/1A	00	00	08
		1/4	00	01	58
		1/6	00	01	34
		17/2A	00	01	48
		17/2B	00	00	85
		10/1	00	00	64
		9/4B	00	02	87
		9/9C	00	00	24
		8/1	00	00	55
		8/7	00	00	31
		8/8	00	00	44
		28/5	00	02	61
		28/4	00	03	16
		27/3	00	03	34
		26/10	00	01	10
		26/9	00	00	77
		43/4	00	00	38

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
VAJRAPUKATHURU	VUNDRUKUDIYA	43/5	00	01	20
		43/12	00	00	13
		42/1	00	00	42
		41/22	00	00	81
		9/4A	00	03	44
		44/22D	00	00	21

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 430.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	कोत्ताअग्रहारम	41/7	00	03	11
		41/9	00	12	78
		40/4	00	00	26
		40/9	00	03	07
		39/10	00	00	37
		23/4	00	00	39
		23/7	00	00	13
		22/7	00	01	01

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	कोत्ताअग्रहारम	22/8	00	02	39
		20/4	00	04	79
		19/3	00	01	18
		19/4	00	01	07
		18/4	00	00	41
		55/3	00	01	22
		54	00	00	37
		53/4	00	03	25
		72/1	00	00	11
		58/11	00	00	10
		58/12	00	01	47
		58/16	00	01	04
		41/8	00	06	68
		40/5	00	02	43
		18/5A	00	00	21
	तुराकलाकोटा	141/2	00	00	64
		142/18	00	00	60
		142/16	00	14	63
		142/14	00	01	83
		143/5	00	00	63
		145/7	00	01	14
		146/5	00	01	35
		146/6	00	00	70
		127/4	00	01	04
		127/8	00	01	48
नंदिगाम	विस्समपल्लि	142/17	00	00	11
		49/20	00	00	19
		49/21	00	00	68
		49/22	00	00	25
		53/14	00	03	62
		53/7	00	00	27
		54/5a	00	02	15
		54/10	00	00	10
		104/4	00	01	82
		104/3	00	00	14

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	विस्समपल्लि	103/6	00	06	78
		49/14	00	03	44
		49/13	00	04	25
		49/12	00	00	92
		52/5A	00	00	81
		52/5B	00	04	86
		52/5C	00	00	81
		53/11	00	04	15
		53/8	00	02	53
		54/5B	00	07	09
		54/7	00	08	20
		104/6A	00	03	75
		53/12	00	00	41
नंदिगाम	कोंडातेंबूरु	66/7	00	02	13
		66/12	00	01	29
		67/4	00	00	42
		67/8	00	00	22
		67/9	00	00	87
		63/17B	00	01	66
		61/8	00	00	69
		61/9	00	00	83
		61/10	00	00	81
		61/25	00	00	81
		61/23	00	00	57
		60/15	00	01	77
		43/6	00	00	41
		43/5	00	00	28
		43/7	00	00	75
		43/9	00	00	70
		43/24A	00	01	03
		43/24B	00	00	92
		44/9	00	00	87
		53/1	00	02	05
		87/14	00	03	83
		89/30	00	00	38

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	कोंडातेबूरु	89/32	00	01	75
		63/11	00	01	22
नंदिगाम	संतोषापुरम	41/7	00	02	41
		41/11	00	02	90
		40/6A	00	00	57
नंदिगाम	लट्टिगाम	39/1	00	00	28
		39/3	00	01	03
		39/5	00	00	44
		37/5	00	00	71
		35/2	00	01	35
		35/5	00	00	15
		35/13	00	00	33
		32/10	00	00	11
		32/9	00	00	22
		14/13	00	00	31
		14/17	00	00	52
		14/18	00	00	57
		30/3A/1A	00	00	25
		30/3B	00	00	86
		26/1	00	20	40
		21/1	00	03	43
नंदिगाम	चिन्नलवुनिपल्लि	14/12	00	00	51
		30/3A	00	00	21
		289/4	00	01	72
		289/5	00	00	15
		289/6	00	00	15
		288/1	00	00	78
		288/9	00	00	64
		288/12	00	00	27
		295/17	00	02	11
		295/18A	00	00	94
		295/15	00	00	97
		295/13B	00	00	51
		295/14B	00	00	90
		295/14D	00	01	19

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	चिन्नलवुनिपल्लि	295/9	00	01	04
		294/4A	00	00	71
		296/11	00	00	37
		297/6A	00	00	49
		297/7	00	00	22
		297/19	00	00	33
		297/18	00	00	58
		302/15	00	00	83
		302/8	00	00	51
		302/14	00	00	31
		307/8	00	00	79
		307/9	00	00	25
		309/10	00	00	11
		309/9	00	02	36
		309/14A	00	04	14
		310/6	00	00	85
		311/9	00	01	14
		310/18	00	01	06
		310/20	00	02	00
		310/21	00	00	11
		308/19B	00	00	41
		309/8	00	00	81
		295/10	00	00	21
		296/12	00	00	11
		288/2	00	00	11
		298/8	00	02	03
		302/17	00	00	31
		310/22	00	02	23
		309/13	00	01	12
		308/18	00	00	51
नंदिगाम	सुभद्रापुरम	52/1	00	03	59
		52/4	00	02	36
		49/4	00	03	95
		49/5	00	05	81
		49/7B	00	02	99

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	सुभद्रापुरम	49/10B	00	00	68
		49/10A	00	01	85
		45/13	00	01	96
		45/14	00	01	92
		45/11	00	00	31
		45/15	00	02	37
		44/8	00	01	39
		44/7	00	00	66
		44/6A	00	00	52
		44/6B	00	02	05
		44/5	00	00	46
		44/4	00	04	68
		43/15	00	01	11
		42/4	00	03	49
		42/9	00	00	46
		42/5	00	00	11
		42/6	00	01	40
		42/7	00	01	28
		42/11	00	00	55
		42/12	00	01	30
		52/7	00	00	21
		52/8	00	00	11
नंदिगाम	पोलावरम	29/3A	00	00	86
		28/3G	00	00	33
		28/3H/3	00	02	28
		28/3H/1	00	01	94
		32/1	00	01	64
		32/2	00	00	61
		31/1	00	00	71
		20/3	00	00	68
		19/1E	00	02	21
		18/1A	00	03	47
नंदिगाम	बेज्जिपल्लि	32/5A	00	00	11
		100/16A	00	00	72
		100/16B	00	00	20

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	बेज्जिपल्लि	100/24	00	00	68
		100/20	00	00	51
		200/9B	00	00	73
		200/12	00	00	18
		200/18	00	00	10
		199/2	00	00	08
		199/10	00	00	67
		198/16	00	04	63
		203/19	00	00	42
		205/1	00	01	54
		187/11	00	02	46
		181/8	00	00	32
		200/2b	00	00	11
		198/3	00	02	53
		181/3	00	04	36
		205/8	00	00	21
		198/11	00	01	22
		198/14	00	00	81
		198/5	00	04	25
		198/4	00	06	68
		199/5	00	00	21
		187/3	00	00	31
		100/23	00	01	22
		100/25	00	00	11

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 430.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	KOTTA AGRAHARAM	41/7	00	03	11
		41/9	00	12	78
		40/4	00	00	26
		40/9	00	03	07
		39/10	00	00	37
		23/4	00	00	39
		23/7	00	00	13
		22/7	00	01	01
		22/8	00	02	39
		20/4	00	04	79
		19/3	00	01	18
		19/4	00	01	07
		18/4	00	00	41
		55/3	00	01	22
		54	00	00	37
		53/4	00	03	25
		72/1	00	00	11
		58/11	00	00	10
		58/12	00	01	47
		58/16	00	01	04
		41/8	00	06	68
		40/5	00	02	43
		18/5A	00	00	21
NANDIGAM	TURAKALA KOTA	141/2	00	00	64
		142/18	00	00	60
		142/16	00	14	63
		142/14	00	01	83
		143/5	00	00	63
		145/7	00	01	14
		146/5	00	01	35
		146/6	00	00	70
		127/4	00	01	04
		127/8	00	01	48
		142/17	00	00	11
NANDIGAM	VISSAMPALLI	49/20	00	00	19
		49/21	00	00	68
		49/22	00	00	25
		53/14	00	03	62
		53/7	00	00	27
		54/5a	00	02	15
		54/10	00	00	10
		104/4	00	01	82
		104/3	00	00	14
		103/6	00	06	78
		49/14	00	03	44
		49/13	00	04	25
		49/12	00	00	92
		52/5A	00	00	81
		52/5B	00	04	86
		52/5C	00	00	81
		53/11	00	04	15
		53/8	00	02	53
		54/5B	00	07	09
		54/7	00	08	20

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	KONDA THEMBURU	104/6A	00	03	75
		53/12	00	00	41
		66/7	00	02	13
		66/12	00	01	29
		67/4	00	00	42
		67/8	00	00	22
		67/9	00	00	87
		63/17B	00	01	66
		61/8	00	00	69
		61/9	00	00	83
		61/10	00	00	81
		61/25	00	00	81
		61/23	00	00	57
		60/15	00	01	77
		43/6	00	00	41
		43/5	00	00	28
		43/7	00	00	75
		43/9	00	00	70
		43/24A	00	01	03
		43/24B	00	00	92
		44/9	00	00	87
		53/1	00	02	05
		87/14	00	03	83
		89/30	00	00	38
NANDIGRAM	SANTOSAPURAN	89/32	00	01	75
		63/11	00	01	22
		41/7	00	02	41
		41/11	00	02	90
NANDIGAM	LATTIGAM	40/6A	00	00	57
		39/1	00	00	28
		39/3	00	01	03
		39/5	00	00	44
		37/5	00	00	71
		35/2	00	01	35
		35/5	00	00	15
		35/13	00	00	33
		32/10	00	00	11
		32/9	00	00	22
		14/13	00	00	31
		14/17	00	00	52
		14/18	00	00	57
		30/3A/1A	00	00	25
		30/3B	00	00	86
		26/1	00	20	40
		21/1	00	03	43
NANDIGAM	CHINALAVUNIPALLI	14/12	00	00	51
		30/3A	00	00	21
		289/4	00	01	72
		289/5	00	00	15
		289/6	00	00	15
		288/1	00	00	78

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	CHINALAVUNIPALLI	288/9	00	00	64
		288/12	00	00	27
		295/17	00	02	11
		295/18A	00	00	94
		295/15	00	00	97
		295/13B	00	00	51
		295/14B	00	00	90
		295/14D	00	01	19
		295/9	00	01	04
		294/4A	00	00	71
		296/11	00	00	37
		297/6A	00	00	49
		297/7	00	00	22
		297/19	00	00	33
		297/18	00	00	58
		302/15	00	00	83
		302/8	00	00	51
		302/14	00	00	31
		307/8	00	00	79
		307/9	00	00	25
		309/10	00	00	11
		309/9	00	02	36
		309/14A	00	04	14
		310/6	00	00	85
		311/9	00	01	14
		310/18	00	01	06
		310/20	00	02	00
		310/21	00	00	11
		308/19B	00	00	41
		309/8	00	00	81
		295/10	00	00	21
		296/12	00	00	11
		288/2	00	00	11
		298/8	00	02	03
		302/17	00	00	31
		310/22	00	02	23
		309/13	00	01	12
		308/18	00	00	51
NANDIGAM	SUBHADRA PURAM	52/1	00	03	59
		52/4	00	02	36
		49/4	00	03	95
		49/5	00	05	81
		49/7B	00	02	99
		49/10B	00	00	68
		49/10A	00	01	85
		45/13	00	01	96
		45/14	00	01	92
		45/11	00	00	31
		45/15	00	02	37
		44/8	00	01	39
		44/7	00	00	66
		44/6A	00	00	52
		44/6B	00	02	05
		44/5	00	00	46
		44/4	00	04	68
		43/15	00	01	11

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	SUBHADRA PURAM	42/4	00	03	49
		42/9	00	00	46
		42/5	00	00	11
		42/6	00	01	40
		42/7	00	01	28
		42/11	00	00	55
		42/12	00	01	30
		52/7	00	00	21
		52/8	00	00	11
		29/3A	00	00	86
NANDIGAM	POLAVARAM	28/3G	00	00	33
		28/3H/3	00	02	28
		28/3H/1	00	01	94
		32/1	00	01	64
		32/2	00	00	61
		31/1	00	00	71
		20/3	00	00	68
		19/1E	00	02	21
		18/1A	00	03	47
		32/5A	00	00	11
NANDIGAM	BEJJIPALLI	100/16A	00	00	72
		100/16B	00	00	20
		100/24	00	00	68
		100/20	00	00	51
		200/9B	00	00	73
		200/12	00	00	18
		200/18	00	00	10
		199/2	00	00	08
		199/10	00	00	67
		198/16	00	04	63
		203/19	00	00	42
		205/1	00	01	54
		187/11	00	02	46
		181/8	00	00	32
		200/2b	00	00	11
		198/3	00	02	53
		181/3	00	04	36
		205/8	00	00	21
		198/11	00	01	22
		198/14	00	00	81
		198/5	00	04	25
		198/4	00	06	68
		199/5	00	00	21
		187/3	00	00	31
		100/23	00	01	22
		100/25	00	00	11

[F. No. 11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 431.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1687 तारीख 26 नवम्बर 2018, जो भारत के राजपत्र तारीख 1 दिसम्बर 2018, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में तहसील: देवरिया, जिला: देवरिया में पटना—मोतिहारी—बैतालपुर शाखा पाइपलाइन द्वारा पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाईप लाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22 दिसम्बर 2018 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाईपलाईन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिर्णय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए यह घोशणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाईपलाईन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोशणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाईपलाईन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाईपलाईन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : देवरिया	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा / ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव —सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर

1	2	3	4	5	6
कुसमौनि तप्पा : कचुआर	184		00	00	63
राउतपार तप्पा : कचुआर	455		00	00	36
चकमाधो उर्फ मठिया तप्पा : कचुआर	76 27 31		00 00 00	13 00 07	18 65 92
सरैया तप्पा : कचुआर	77अ 77ब 70 68 66		00 00 00 00	00 04 00 00 01	20 35 95 64 80
पडरी तप्पा : सुरौली	73		00	00	60
घटैला गाजी तप्पा : कचुआर	443 467 465 281		00 00 00 00	00 03 12 00	36 00 00 80
बड़हरा तप्पा : कचुआर	539 538		00 00	07 00	50 36
पोखर भिंडा तप्पा : गोबरई	48 46 47 72		00 00 00 00	06 06 06 11	30 00 00 00
गौरा तप्पा : गौरा	1014 221		00 00	30 00	96 70
बरारी तप्पा : धतुरा	254 253 252 72		00 00 00 00	00 04 04 11	60 70 00 00

[फा. सं. आर-11025(11)16/2018-ओआर-I/ई-26860]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 431.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1687 dated the 26th November, 2018, issued under sub-section (1) of section 3 of the Petroleum and

Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 1st December, 2018 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Branch Pipeline' for the transportation of Petroleum Products in Tehsil : Deoria, Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 22nd December 2018.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil : Deoria	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
KUSMAUNI TAPPA: KACHUAR	184		00	00	63
RAUTPAR TAPPA: KACHUAR	455		00	00	36
CHAKMADHO	76		00	13	18
URF MATHIYA TAPPA: KACHUAR	27 31		00 00	00 07	65 92
SARAIYA TAPPA: KACHUAR	77A 77B 70 68 66		00 00 00 00 00	00 04 00 00 01	20 35 95 64 80
PADARI TAPPA: SURAULI	73		00	00	60
GHATAILA GHAZI TAPPA: KACHUAR	443 467 465 281		00 00 00 00	00 03 12 00	36 00 00 80

1	2	3	4	5	6
BADAHARA	539		00	07	50
TAPPA: KACHUAR	538		00	00	36
POKHAR BHINDA	48		00	06	30
TAPPA: GOBARAI	46		00	06	00
	47		00	06	00
	72		00	11	00
GAURA	1014		00	30	96
TAPPA: GAURA	221		00	00	70
BARARI	254		00	00	60
	253		00	04	70
TAPPA :DHATURA	252		00	04	00
	72		00	11	00

[F. No. R-11025(11)16/2018-OR-I/E-26860]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 432.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1686 तारीख 26 नवम्बर 2018, जो भारत के राजपत्र तारीख 1 दिसम्बर 2018, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में तहसील: भाटपर रानी जिला: देवरिया में पटना-मोतिहारी-बैतालपुर शाखा पाइपलाइन द्वारा पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाईप लाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आय की घोशणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22 दिसम्बर 2018 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाईपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिर्णय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए यह घोशणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाईपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोशणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाईपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाईपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : भाटपर रानी	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव —सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर

1	2	3	4	5	6
भठही जमीन	31		00	05	88
तप्पा : बलिवन					
रतसिया	913		00	00	36

1	2	3	4	5	6
तप्पा : बलिवन					
पकड़िया कुन्ड तप्पा : बलिवन	243		00	06	51
सिकटिया दीनाचक तप्पा : बलिवन	198		00	00	48
गज हड़वा तप्पा : गोतमा	681 581 589 575		00 00 00 00	12 04 11 08	89 02 00 00
तहसील : भाटपर रानी	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव -सं.	क्षेत्रफल		
			हेक्टेयर	हेक्टेयर	हेक्टेयर
टड़वा तप्पा : गोतमा	477 352 353		00 00 00	01 02 13	04 70 50
	344 350 345		00 00 00	10 10 08	00 00 50
बलडीहा तप्पा : गोतमा	33		00	01	45
बराईपार पाण्डे तप्पा : गोतमा	900 899		00 00	03 01	64 37
बड़का गांव तप्पा : हवेली	557 691 708 683		00 00 00 00	11 00 00 01	07 20 36 45

[फा. सं. आर-11025(11)16/2018-ओआर-I/ई-26860]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 432.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1686 dated the 26th November, 2018, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 1st December, 2018 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Branch Pipeline' for the transportation of Petroleum Products in Tehsil : Bhatpar Rani, Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 22nd December 2018.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil :Bhatpar Rani	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
Bhathahi Jamin Tappa : Balivan	31		00	05	88
Ratsiya Tappa : Balivan	913		00	00	36
Pakdiya Kund Tappa : Balivan	243		00	06	51
Sikatiya Dinachak Tappa : Balivan	198		00	00	48
Gaj Hadwa Tappa : Gautama	681 581 589 575		00 00 00 00	12 04 11 08	89 02 00 00
Tadwa Tappa : Gautama	477 352 353 344 350 345		00 00 00 00 00 00	01 02 13 10 10 08	04 70 50 00 00 50
Baldiha Tappa : Gautama	33		00	01	45
Baraipar Pandey Tappa : Gautama	900 899		00 00	03 01	64 37
Barka Gaon Tappa : Haweli	557 691 708 683		00 00 00 00	11 00 00 01	07 20 36 45

[F. No. R-11025(11)16/2018-OR-I/E-26860]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 433—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबंध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
रामबिल्लि	दिमिलि	613	00	01	32
		611	00	00	07
		310	00	00	02
		312/1	00	00	21
		308	00	01	81
		315/3	00	00	03
		296/1	00	00	06
		294	00	00	09
		317/3	00	00	21
		285	00	00	09
		284	00	00	15
		265	00	00	06
		266	00	00	03
		271	00	00	01
		178	00	00	04
		176	00	00	50
		169	00	00	05
		170	00	00	04

New Delhi, the 22nd March, 2019

S.O. 433.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
RAMBILLI	DIMILI	613	00	01	32
		611	00	00	07
		310	00	00	02
		312/1	00	00	21
		308	00	01	81
		315/3	00	00	03
		296/1	00	00	06
		294	00	00	09
		317/3	00	00	21
		285	00	00	09
		284	00	00	15
		265	00	00	06
		266	00	00	03
		271	00	00	01
		178	00	00	04
		176	00	00	50
		169	00	00	05
		170	00	00	04

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 434.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबंध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	अड़विकोत्तूरु	291/2	00	03	22
		291/4	00	00	42
		291/6	00	04	12
		290/1	00	00	91
		290/2	00	02	16
		290/4	00	02	17
		290/5	00	02	70
		290/6	00	01	93
		290/11	00	00	66
		289/2	00	06	12
		288/1	00	02	04
		288/2	00	01	32
		290/7	00	00	41
		288/3	00	02	03
		280/9	00	00	38
		280/10	00	09	51
		275/18B	00	03	65
		275/18A	00	01	22
पलासा	गुडारि	280/4	00	01	62
		280/5	00	01	12
		298/4	00	11	26
		298/7	00	02	45

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	कोयुजोला	297/5	00	00	87
		297/6	00	00	22
		297/10	00	02	07
		297/8	00	00	29
		297/9	00	00	25
		297/2	00	02	81
		317/3	00	00	38
		332/1	00	04	17
		317/9	00	11	74
		293/5	00	01	83
पलासा	इट्टापाडु	273/5	00	01	54
		273/3	00	00	12
पलासा	मेगिलिपाडु	259/11	00	00	18
		259/7	00	00	19
		260/1	00	01	86
		255/5	00	01	71
		256/4	00	01	22
		255/4	00	01	37
		239/1	00	03	82
		259/1	00	00	11
		258/11	00	00	11
		144/16	00	02	64
पलासा	सुन्नाडा	239/2	00	00	71
		144/16	00	03	04
		144/4	00	10	16
		145/18	00	04	66
		145/17	00	02	57
		145/15	00	01	32
		145/14	00	02	34
		145/12	00	02	08
		149/17	00	01	05
		149/15	00	00	93
		149/14	00	00	30
		148/8	00	00	45
		148/9	00	01	10
		148/4	00	00	28
		129	00	13	52
		128/15	00	15	38
		128/6	00	05	06
		128/4B	00	07	09

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	सुन्नाडा	128/5	00	01	22
		128/4A	00	00	61
		128/4C	00	02	72
पलासा	शासानाम	164/1	00	00	11
		164/3	00	01	46
		166/1	00	08	42
		167/7	00	01	31
		168/14	00	02	32
		179/9	00	00	17
		179/8	00	01	24
		179/7	00	01	32
		179/5	00	01	46
		178/3	00	02	68
		178/11	00	00	64
		178/10	00	01	28
		174/1A	00	02	25
		167/9A	00	00	61
		167/8A	00	03	04
		167/4	00	07	90
पलासा	राजागोपालापुरम	52/8	00	01	86
		51/6	00	03	37
		51/1	00	05	04
		49/6	00	02	05
पलासा	उदयापुरम	278/3	00	01	45
		276/1	00	01	31
		276/2	00	03	64
पलासा	ईदुरापल्लि	20/3A	00	00	48
		20/3B	00	00	39
		20/8	00	00	11
		20/17	00	01	20
		20/11	00	00	16
		21/14	00	02	34
		21/15	00	02	11
		36/1	00	00	11
		35/7	00	00	17
		35/6	00	00	57
		35/14	00	00	58
		33/22	00	00	94
		35/15B	00	00	87

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	ईदुरापल्लि	33/27	00	00	82
		35/15D	00	00	14
		33/29	00	00	37
		39/6	00	00	48
		35/15C	00	01	02
		36/12	00	00	21
		35/15	00	01	22
पलासा	केदारिपुरम	13/1	00	06	21
		13/3	00	00	12
		13/4	00	00	29
		13/16	00	00	37
		13/18	00	00	25
		15/5	00	00	45
		15/6	00	01	79
		32/25	00	00	37
		32/24	00	00	50
		32/30	00	00	56
		32/28	00	01	42
		71/10	00	01	25
		71/2	00	00	31
		71/4	00	00	11
		44/14	00	01	44
		44/7	00	00	69
		45/1	00	00	39
		45/2	00	00	38
		45/3	00	00	19
		45/4	00	00	22
		42/20	00	00	33
		42/23	00	00	36
		47/14	00	00	49
		47/12	00	00	66
		47/11	00	00	17
		55/5	00	00	92
		55/1	00	00	33
		55/14	00	00	21
		55/18	00	00	22
		55/16	00	00	31
		54/19	00	00	24
		54/18	00	00	35

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	केदारिपुरम	53/1	00	01	50
		51/9	00	00	72
		51/10	00	00	19
		71/11	00	00	21
		32/23	00	00	11
पलासा	वंतुकोत्तूरु	88/11	00	02	29
		89/2G	00	02	01
		89/2H	00	00	65
		89/2F	00	00	21
		164/1	00	01	84
		163/5	00	00	46
		163/6	00	00	59
		163/12	00	01	20
		163/13	00	00	68
		163/14	00	00	26
		167/8	00	03	69
		167/6	00	00	13
		167/1	00	01	26
		169/15	00	00	16
		170/2	00	03	13
		170/6	00	00	96
		170/7	00	02	75
		171/8	00	01	02
		176/7	00	00	33
		171/11	00	00	64
		176/9	00	00	51
		178	00	09	08
		180/3C	00	00	12
		180/1C	00	03	75
		180/3A	00	06	49
		210	00	12	06
		209/4	00	00	15
		209/1B	00	00	81
		203/4C	00	00	27
		204/1A/1	00	02	62
		167/13	00	00	11
		176/4	00	00	41
		165/15	00	00	11
		170/8	00	01	32
		170/5	00	01	22

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	बंतुकोत्तूरु	162/12A	00	00	81
		163/15	00	01	62
		170/3	00	03	24
		204/1A/3	00	11	13
		204/1B/1	00	08	20
		204/1B/3	00	00	11
		205/1B/1	00	11	54
		205/1A/1	00	01	8 3
		88/9	00	01	72
पलासा	पेद्दानारायणापुरम	118/10	00	04	94
		118/6	00	03	68
		120/4	00	01	24
		121/2	00	01	27
		122/3	00	00	38
		122/1	00	11	25
		118/7	00	04	15
पलासा	अमलाकुडिया	30/19	00	00	16
		30/17A	00	00	20
		30/18	00	02	03
		30/11	00	16	03
		30/8	00	00	64
		30/13	00	00	44
		30/6	00	00	54
		30/2	00	00	97
		34/13	00	00	43
		34/3B	00	01	16
		35/3E	00	00	32
		36/14D	00	01	42
		36/15	00	00	16
		36/16	00	00	29
		36/18A	00	02	54
		36/19A	00	01	02
		37/11	00	00	31
		37/4C	00	00	27
		37/5	00	00	66
		38/1G	00	00	73
		39/3	00	00	14
		40/20E	00	02	33
		41/19	00	00	52
		41/13C	00	00	50

जिला : श्रीकाकुलम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
पलासा	अमलाकुडिया	41/6B	00	00	52
		42/2	00	00	30
		43/4A	00	00	46
		43/2	00	00	18
		17/14	00	00	42
		17/5	00	00	35
		17/4B	00	00	33
		17/4A	00	00	18
		17/3	00	00	18
		14/1C	00	00	72
		14/1A	00	00	24
		13/13	00	00	61
		13/7	00	00	21
		13/3B	00	01	23
		13/3C	00	01	13
		13/2	00	00	18
		5/8B	00	01	02
		43/9	00	00	21
		43/10	00	00	61
		5/2	00	00	81
		6/1B	00	02	43
		12	00	11	03
पलासा	मोदुगुलापुट्टि	12	00	11	03

अनुसूची

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
यलामंचिलि	कृष्णापुरम	216/9X	00	01	62
		211/2	00	00	18
		200/3	00	00	53
		200/2	00	00	57
		204/34C	00	01	74
		204/33	00	00	06
		204/17D	00	04	37
		201/1	00	00	35
		201/2	00	00	74
		202/1	00	00	79
		175/1A	00	00	01
		175/2F	00	00	04

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
यलामंचिलि	कृष्णापुरम	175/2G	00	00	01
		175/2H	00	00	05
		175/2C	00	00	04
		175/4A	00	00	05
		175/4B	00	00	02
		118/6	00	00	08
		118/15	00	06	78
		118/14	00	04	23
		118/23	00	00	05
यलामंचिलि	पदमानाबाराजुपेटा	144/1D	00	00	50
		150/2G	00	07	24
		150/2C	00	07	19
		150/2H	00	03	14
		151	00	08	14
		128/6	00	01	93
		129/6	00	00	18
		129/5	00	01	32
		129/2	00	06	75
		130/2	00	00	61
		130/1	00	06	08
		137/7	00	01	93
यलामंचिलि	पुलापरति	67	00	00	03
		64/2	00	00	01
		64/3	00	00	06
		62	00	11	24
		61	00	01	13
		125/1A-6	00	03	95
		126/3F-6	00	01	15
		126/3F-5	00	01	52
		126/3F-4	00	01	70
		126/3E	00	00	13
		126/3D	00	00	31
		128/2B	00	00	44
		141/5	00	00	02
यलामंचिलि	एटिकोप्पाका	264	00	07	28

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
यलामंचिलि	एटिकोप्पाका	279/6	00	00	05
		279/15	00	00	07
		279/10	00	00	06
		279/11	00	00	33
		279/9	00	00	03
		278/4	00	00	01
		277	00	00	01
		275	00	01	10

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 434.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said Schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PALASA	ADIVIKOTTURU	291/2	00	03	22
		291/4	00	00	42
		291/6	00	04	12
		290/1	00	00	91
		290/2	00	02	16
		290/4	00	02	17
		290/5	00	02	70

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
PALASA	ADIVIKOTTURU	290/6	00	01	93
		290/11	00	00	66
		289/2	00	06	12
		288/1	00	02	04
		288/2	00	01	32
		290/7	00	00	41
		288/3	00	02	03
		280/9	00	00	38
		280/10	00	09	51
		275/18B	00	03	65
PALASA	GUDARI	275/18A	00	01	22
		280/4	00	01	62
		280/5	00	01	12
	KOYUJOLA	298/4	00	11	26
		298/7	00	02	45
		297/5	00	00	87
		297/6	00	00	22
		297/10	00	02	07
		297/8	00	00	29
		297/9	00	00	25
		297/2	00	02	81
		317/3	00	00	38
PALASA	ITTAPADU	332/1	00	04	17
		317/9	00	11	74
		293/5	00	01	83
		273/5	00	01	54
		273/3	00	00	12
PALASA	MEGILLIPADU	259/11	00	00	18
		259/7	00	00	19
		260/1	00	01	86
		255/5	00	01	71
		256/4	00	01	22
		255/4	00	01	37
		239/1	00	03	82
		259/1	00	00	11
		258/11	00	00	11
		144/16	00	02	64
PALASA	SUNNADA	239/2	00	00	71
		144/16	00	03	04
		144/4	00	10	16
		145/18	00	04	66

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
PALASA	SUNNADA	145/17	00	02	57
		145/15	00	01	32
		145/14	00	02	34
		145/12	00	02	08
		149/17	00	01	05
		149/15	00	00	93
		149/14	00	00	30
		148/8	00	00	45
		148/9	00	01	10
		148/4	00	00	28
		129	00	13	52
		128/15	00	15	38
		128/6	00	05	06
		128/4B	00	07	09
		128/5	00	01	22
		128/4A	00	00	61
		128/4C	00	02	72
PALASA	SASANAM	164/1	00	00	11
		164/3	00	01	46
		166/1	00	08	42
		167/7	00	01	31
		168/14	00	02	32
		179/9	00	00	17
		179/8	00	01	24
		179/7	00	01	32
		179/5	00	01	46
		178/3	00	02	68
		178/11	00	00	64
		178/10	00	01	28
		174/1A	00	02	25
		167/9A	00	00	61
		167/8A	00	03	04
PALASA	RAJAGOPALA PURAM	167/4	00	07	90
		52/8	00	01	86
		51/6	00	03	37
		51/1	00	05	04
PALASA	UDAYAPURAM	49/6	00	02	05
		278/3	00	01	45
		276/1	00	01	31
PALASA	IDURAPALLI	276/2	00	03	64
		20/3A	00	00	48

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
PALASA	IDURAPALLI	20/3B	00	00	39
		20/8	00	00	11
		20/17	00	01	20
		20/11	00	00	16
		21/14	00	02	34
		21/15	00	02	11
		36/1	00	00	11
		35/7	00	00	17
		35/6	00	00	57
		35/14	00	00	58
		33/22	00	00	94
		35/15B	00	00	87
		33/27	00	00	82
		35/15D	00	00	14
		33/29	00	00	37
		39/6	00	00	48
		35/15C	00	01	02
		36/12	00	00	21
		35/15	00	01	22
	KEDARIPURAM	13/1	00	06	21
		13/3	00	00	12
		13/4	00	00	29
		13/16	00	00	37
		13/18	00	00	25
		15/5	00	00	45
		15/6	00	01	79
		32/25	00	00	37
		32/24	00	00	50
		32/30	00	00	56
		32/28	00	01	42
		71/10	00	01	25
		71/2	00	00	31
		71/4	00	00	11
		44/14	00	01	44
		44/7	00	00	69
		45/1	00	00	39
		45/2	00	00	38
		45/3	00	00	19
		45/4	00	00	22
		42/20	00	00	33
		42/23	00	00	36

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH			
MANDAL	VILLAGE	SURVEY NO.	AREA			
			Hectare	Are	Sq. Mt.	
PALASA	KEDARIPURAM	47/14	00	00	49	
		47/12	00	00	66	
		47/11	00	00	17	
		55/5	00	00	92	
		55/1	00	00	33	
		55/14	00	00	21	
		55/18	00	00	22	
		55/16	00	00	31	
		54/19	00	00	24	
		54/18	00	00	35	
		53/1	00	01	50	
		51/9	00	00	72	
		51/10	00	00	19	
		71/11	00	00	21	
		32/23	00	00	11	
		BANTU KOTTURU	88/11	00	02	29
			89/2G	00	02	01
			89/2H	00	00	65
	89/2F		00	00	21	
	164/1		00	01	84	
	163/5		00	00	46	
	163/6		00	00	59	
	163/12		00	01	20	
	163/13		00	00	68	
	163/14		00	00	26	
	167/8		00	03	69	
	167/6		00	00	13	
	167/1		00	01	26	
	169/15		00	00	16	
	170/2		00	03	13	
	170/6		00	00	96	
	170/7	00	02	75		
	171/8	00	01	02		
	176/7	00	00	33		
171/11	00	00	64			
176/9	00	00	51			
178	00	09	08			
180/3C	00	00	12			
180/1C	00	03	75			
180/3A	00	06	49			
210	00	12	06			

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
PALASA	BANTU KOTTURU	209/4	00	00	15
		209/1B	00	00	81
		203/4C	00	00	27
		204/1A/1	00	02	62
		167/13	00	00	11
		176/4	00	00	41
		165/15	00	00	11
		170/8	00	01	32
		170/5	00	01	22
		162/12A	00	00	81
		163/15	00	01	62
		170/3	00	03	24
		204/1A/3	00	11	13
		204/1B/1	00	08	20
		204/1B/3	00	00	11
		205/1B/1	00	11	54
		205/1A/1	00	01	83
		88/9	00	01	72
	PEDDANARAYANAPURAM	118/10	00	04	94
		118/6	00	03	68
		120/4	00	01	24
		121/2	00	01	27
		122/3	00	00	38
		122/1	00	11	25
PALASA	AMALAKUDIA	118/7	00	04	15
		30/19	00	00	16
		30/17A	00	00	20
		30/18	00	02	03
		30/11	00	16	03
		30/8	00	00	64
		30/13	00	00	44
		30/6	00	00	54
		30/2	00	00	97
		34/13	00	00	43
		34/3B	00	01	16
		35/3E	00	00	32
		36/14D	00	01	42
		36/15	00	00	16
		36/16	00	00	29
		36/18A	00	02	54
		36/19A	00	01	02

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
PALASA	AMALAKUDIA	37/11	00	00	31
		37/4C	00	00	27
		37/5	00	00	66
		38/1G	00	00	73
		39/3	00	00	14
		40/20E	00	02	33
		41/19	00	00	52
		41/13C	00	00	50
		41/6B	00	00	52
		42/2	00	00	30
		43/4A	00	00	46
		43/2	00	00	18
		17/14	00	00	42
		17/5	00	00	35
		17/4B	00	00	33
		17/4A	00	00	18
		17/3	00	00	18
		14/1C	00	00	72
		14/1A	00	00	24
		13/13	00	00	61
		13/7	00	00	21
		13/3B	00	01	23
		13/3C	00	01	13
		13/2	00	00	18
		5/8B	00	01	02
		43/9	00	00	21
		43/10	00	00	61
		5/2	00	00	81
		6/1B	00	02	43
PALASA	MODUGULAPUTTI	12	00	11	03

SCHEDULE

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
YELAMANCHILLI	KRISHNAPURAM	216/9X	00	01	62
		211/2	00	00	18
		200/3	00	00	53
		200/2	00	00	57
		204/34C	00	01	74
		204/33	00	00	06

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
YELAMANCHILLI	KRISHNAPURAM	204/17D	00	04	37
		201/1	00	00	35
		201/2	00	00	74
		202/1	00	00	79
		175/1A	00	00	01
		175/2F	00	00	04
		175/2G	00	00	01
		175/2H	00	00	05
		175/2C	00	00	04
		175/4A	00	00	05
		175/4B	00	00	02
		118/6	00	00	08
		118/15	00	06	78
		118/14	00	04	23
		118/23	00	00	05
YELAMANCHILLI	PADMANABHARAJUPETA	144/1D	00	00	50
		150/2G	00	07	24
		150/2C	00	07	19
		150/2H	00	03	14
		151	00	08	14
		128/6	00	01	93
		129/6	00	00	18
		129/5	00	01	32
		129/2	00	06	75
		130/2	00	00	61
		130/1	00	06	08
		137/7	00	01	93
YELAMANCHILLI	PULAPARTHI	67	00	00	03
		64/2	00	00	01
		64/3	00	00	06
		62	00	11	24
		61	00	01	13
		125/1A-6	00	03	95
		126/3F-6	00	01	15
		126/3F-5	00	01	52
		126/3F-4	00	01	70
		126/3E	00	00	13
		126/3D	00	00	31
		128/2B	00	00	44
		141/5	00	00	02

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
YELAMANCHILLI	ETIKOPPAKA	264	00	07	28
		279/6	00	00	05
		279/15	00	00	07
		279/10	00	00	06
		279/11	00	00	33
		279/9	00	00	03
		278/4	00	00	01
		277	00	00	01
		275	00	01	10

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 435.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबंध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
एस. रायवरम	जंगलुरुवेलम्पालेम	100	00	00	04
		125	00	02	61
		303/1	00	00	89
		304	00	00	11
		306/3	00	00	32
एस. रायवरम	वेमागिरि	28	00	06	48

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	बर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
एस. रायवरम	वेमागिरि	31/1	00	00	02
		31/3	00	00	01
		31/2	00	00	01
		31/4	00	00	04
		31/5	00	00	05
		35/8	00	00	06
		46/2F	00	00	01
		46/2D	00	00	07
		43/1	00	02	36
		42/2	00	00	71
		41/2	00	00	21
		137/2	00	00	24
		128	00	02	05
		126	00	00	19
		144	00	00	9
		148	00	00	57
		147	00	00	04
		152	00	00	53
		154	00	02	95
एस. रायवरम	पेटासूदिपुरम	50/4A	00	00	54
		50/2	00	02	95
		48	00	03	48
		110/1A	00	04	96
		113	00	51	30
		114/2	00	26	30
		121/2	00	25	70
		121/3	00	05	46
		122	00	02	83
		324/1	00	09	26
		328/2	00	01	80
		338/1	00	00	17

[फां. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 435.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
S.RAYAVARAM	JANGULURU VELAMPALEM	100	00	00	04
		125	00	02	61
		303/1	00	00	89
		304	00	00	11
		306/3	00	00	32
S.RAYAVARAM	VEMAGIRI	28	00	06	48
		31/1	00	00	02
		31/3	00	00	01
		31/2	00	00	01
		31/4	00	00	04
		31/5	00	00	05
		35/8	00	00	06
		46/2F	00	00	01
		46/2D	00	00	07
		43/1	00	02	36
		42/2	00	00	71
		41/2	00	00	21
		137/2	00	00	24
		128	00	02	05
		126	00	00	19
		144	00	00	9
		148	00	00	57
		147	00	00	04
		152	00	00	53
		154	00	02	95
S.RAYAVARAM	PETASUDIPURAM	50/4A	00	00	54
		50/2	00	02	95
		48	00	03	48
		110/1A	00	04	96
		113	00	51	30
		114/2	00	26	30
		121/2	00	25	70
		121/3	00	05	46
		122	00	02	83
		324/1	00	09	26
		328/2	00	01	80
		338/1	00	00	17

[F. No. 11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का.आ. 436.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम		राज्य : आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
नंदिगाम	आकुलारघुनाध्यापुरम	158/3	00	00	98
		158/15	00	00	10
		158/4	00	00	42
		158/6	00	01	16
		170/13	00	01	39
		170/15	00	00	28
		170/16	00	01	39
		170/10	00	00	24
		170/19	00	01	39
		171/2	00	01	33
		169/1	00	00	19
		214/2	00	00	38
		214/9	00	00	38
		214/33	00	00	84
		210/13	00	00	12
		210/12	00	00	07
		210/10	00	00	17
		219/15	00	00	58

नंदिगाम	आकुलारघुनाध्यापुरम	219/17	00	00	31
		220/12	00	01	28
		220/13	00	00	81
		214/10	00	00	11
		214/34	00	00	81
		220/18	00	00	11
आमुदालावलासा	कनुगुलावलासा	221/11	00	02	13
		221/8	00	00	34
		221/6	00	01	14
		220/10	00	01	58
		220/12	00	02	54
		220/7	00	00	57
		220/5	00	01	07
		219/6	00	00	24
		219/8	00	02	11
		219/2	00	00	73
		217/6	00	02	87
		217/7	00	01	48
		217/12	00	00	97
		220/12	00	01	28
		162/8	00	01	15
		159/3	00	01	64
		159/1	00	01	72
		157/40	00	00	71
		157/41	00	03	04
		157/42	00	00	41
आमुदालावलासा	कलिवरम	241/3	00	01	13

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 436.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTCCComplex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	AKULA RAGHUNADHAPURAM	158/3	00	00	98
		158/15	00	00	10
		158/4	00	00	42
		158/6	00	01	16
		170/13	00	01	39
		170/15	00	00	28
		170/16	00	01	39
		170/10	00	00	24
		170/19	00	01	39
		171/2	00	01	33
		169/1	00	00	19
		214/2	00	00	38
		214/9	00	00	38
		214/33	00	00	84
		210/13	00	00	12
		210/12	00	00	07
		210/10	00	00	17
		219/15	00	00	58
		219/17	00	00	31
		220/12	00	01	28
		220/13	00	00	81
		214/10	00	00	11
		214/34	00	00	81
		220/18	00	00	11
AMADALAVALASA	KANUGULAVALASA	221/11	00	02	13
		221/8	00	00	34
		221/6	00	01	14
		220/10	00	01	58
		220/12	00	02	54
		220/7	00	00	57
		220/5	00	01	07
		219/6	00	00	24
		219/8	00	02	11
		219/2	00	00	73
		217/6	00	02	87
		217/7	00	01	48
		217/12	00	00	97
		162/8	00	01	15
		159/3	00	01	64
		159/1	00	01	72
AMADALAVALASA	KALIVARAM	157/40	00	00	71
		157/41	00	03	04
		157/42	00	00	41
		241/3	00	01	13

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का.आ. 437.—केन्द्रीय सरकार ने पेट्रोलियम एवं खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1813 तारीख 03.08.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 32, भाग-II, खण्ड 3, उप-खण्ड (ii) तारीख 12.08.2017 में किया गया है, द्वारा उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट ओडिशा राज्य के तहसील : पिपिलि, जिला : पुरी की भूमि में, ओडिशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के लिये अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को उपलब्ध करा दी गई थीं। और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है। और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख से, केन्द्रीय सरकार में निहित होने के बजाए सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील- पिपिलि	जिला - पुरी	राज्य - ओडिशा		
गाँव का नाम	प्लॉट नं.	क्षेत्रफल		
		हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5
सिउला	366	00	07	66
	390	00	04	18
	364	00	05	38
	364/2960	00	00	55
	364/2969	00	00	30
	364/2976	00	00	61
	364/2983	00	00	61
	364/2709	00	05	28
	357	00	05	53
	356	00	04	81
	355	00	04	29
	353	00	06	05
	329	00	07	28

सिउला	328	00	14	65
	320	00	00	10
	258	00	02	55
	248	00	01	48
	232	00	10	09
	246	00	00	75

[फा. सं. आर-11025(11)236/2017-ओआर-I/ई-13717]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S. O. 437.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 32, Part-II, Section 3, Sub-section (ii) dated 12.08.2017 vide S.O. Number 1813 dated 03.08.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) hereinafter referred to as the said Act, the Central Government declared its intention to acquire the right of user in the land situated in Tehsil- Pipili, District-Puri in Odisha State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telengana by Indian Oil Corporation Limited for implementing the “Paradip-Hyderabad Pipeline Project”.

And whereas the copies of the Gazette were made available to the public, And whereas the Competent Authority has under Sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user in the land specified in the schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : PIPILI	District : PURI	State : ODISHA		
Name of the Village	Plot No.	Area		
		Hectare	Are	Sq.mtr.
1	2	3	4	5
SIULA	366	00	07	66
	390	00	04	18
	364	00	05	38
	364/2960	00	00	55
	364/2969	00	00	30
	364/2976	00	00	61
	364/2983	00	00	61
	364/2709	00	05	28
	357	00	05	53
	356	00	04	81
	355	00	04	29

SIULA	353	00	06	05
	329	00	07	28
	328	00	14	65
	320	00	00	10
	258	00	02	55
	248	00	01	48
	232	00	10	09
	246	00	00	75

[F. No. 11025(11)236/2017-OR-I/E-13717]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 438.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : विशाखापटनम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
रामबिल्लि	राजाला	125/3	00	00	49
		116	00	00	04
		78/5A	00	00	01
		78/3C	00	00	13
		78/3A	00	00	05
		79/1A	00	00	02
		76/4	00	00	02
		24	00	00	06

रामबिल्लि	राजाला	21/1A	00	00	05
		28/12	00	00	03
		15/7	00	00	58
		15/6	00	00	68
		78/2A1	00	00	10
		78/4	00	00	61
रामबिल्लि	मुराकाडा	5	00	00	04
रामबिल्लि	कोत्ताबोलु	267	00	00	08
		252	00	00	14
		250	00	00	63
		3	00	02	23
		5	00	00	02

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 438.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VISAKHAPATNAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
RAMBILLI	RAJALA	125/3	00	00	49
		116	00	00	04
		78/5A	00	00	01
		78/3C	00	00	13
		78/3A	00	00	05
		79/1A	00	00	02
		76/4	00	00	02
		24	00	00	06
		21/1A	00	00	05
		28/12	00	00	03
		15/7	00	00	58

RAMBILLI	RAJALA	15/6	00	00	68
		78/2A1	00	00	10
		78/4	00	00	61
RAMBILLI	MURAKADA	5	00	00	04
RAMBILLI	KATTABOLU	267	00	00	08
		252	00	00	14
		250	00	00	63
		3	00	02	23
		5	00	00	02

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का.आ. 439.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री के. ए. एस जेन्निसन, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 33, कनका दुर्गा ऑफिसर्स कॉलोनी, गुरुनानक नगर मेन रोड विजयवाड़ा-520008, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला:वेस्ट गोदावरी			राज्य: आन्ध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
कामावरपुकोटा	मंकेनापल्लि	57/7	00	04	46
		51/8	00	00	41
		51/9	00	10	93
कामावरपुकोटा	रामन्नापालेम	64/2	00	44	52
		75/4	00	31	17
		13/1	00	23	68
		66/1	00	07	69
कामावरपुकोटा	गुन्दुपल्लि	121/2	00	28	74
		366	00	16	19

कोय्यालागुदेम	राजवाराम	562	00	04	50
		560/1	00	14	57
		560/2	00	10	12
		562/6	00	49	38
		577	00	33	59
पोलावरम	गुताला	797	00	31	17

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 439.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, who is interested in the land described in the said schedule, may submit objection in writing to Shri. K.A.S Jennyson, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 33, Kanaka Durga officer's Colony, Gurunank Nagar Main Road, Vijayawada - 520008 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : West Godavari			State : Andhra Pradesh		
Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Kamavarapukota	Mankenapalli	57/7	00	04	46
		51/8	00	00	41
		51/9	00	10	93
Kamavarapukota	Ramannapalem	64/2	00	44	52
		75/4	00	31	17
		13/1	00	23	68
Kamavarapukota	Guntupalli	66/1	00	07	69
		121/2	00	28	74
		366	00	16	19
Koyyalagudem	Rajavaram	562	00	04	50
		560/1	00	14	57
		560/2	00	10	12
		562/6	00	49	38
		577	00	33	59
		797	00	31	17

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का.आ. 440.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री के. ए. एस जेन्सिन, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 33, कनका दुर्गा ऑफिसर्स कॉलोनी, गुरुनानक नगर मेन रोड विजयवाड़ा-520008, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: कृष्णा			राज्य: आन्ध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
ए.कोण्डूरु	माधवरम वेस्ट	194	00	04	05
मैलवरम	दासुल्लापालेम	108/1	00	09	71
रेड्डीगूडेम	रुद्रवरम	263/1	00	02	02
रेड्डीगूडेम	मुचिनापल्ली	104/1	00	16	10
विस्सनापेट	तेल्लदेवरपल्लि	337/1	00	23	97
		337/2	00	36	93
		339	00	33	70
		384	00	28	71
		85	00	28	77
जी.कोण्डूरु	चेवुटुरु	58/1B1C	00	03	71
		54/2A	00	13	97
		54/3A	00	08	14
		53/2C	00	44	30
जी.कोण्डूरु	कोण्डूरु	45/1	00	09	28
		47	00	76	35

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 440.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, who is interested in the land described in the said schedule, may submit objection in writing to Shri. K.A.S Jennyson, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 33, Kanaka Durga officer's Colony, Gurunank Nagar Main Road, Vijayawada - 520008 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : Krishna			State : Andhra Pradesh		
Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
A konduru	Madhavaram West	194	00	04	05
Mylavaram	Dasullapalem	108/1	00	09	71
Reddigudem	Rudravaram	263/1	00	02	02
Reddigudem	Muchinapalli	104/1	00	16	10
Vissanapet	Telladevarapalli	337/1	00	23	97
		337/2	00	36	93
		339	00	33	70
		384	00	28	71
		85	00	28	77
G Konduru	Chevuturu	58/1B1C	00	03	71
		54/2A	00	13	97
		54/3A	00	08	14
		53/2C	00	44	30
G Konduru	Konduru	45/1	00	09	28
		47	00	76	35

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 441.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन

ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड, आर.टी.सी. कॉम्प्लेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	पेद्दातामरापल्लि	56/2	00	20	20
टेक्कलि	चाकिपल्ले	62/14	00	00	16
		62/3	00	03	44
		62/6	00	00	10
		62/7	00	00	20
		72/6	00	00	18
		99/11	00	00	93
		99/24	00	00	19
		99/23	00	01	94
		100/5	00	00	05
		100/7	00	00	58
		100/15	00	00	07
		100/10	00	01	39
		100/12	00	01	73
		100/28	00	00	04
		101/6	00	00	79
		101/7	00	00	60
		101/8	00	00	51
		101/25	00	00	01
		112/10	00	00	04
		112/15	00	00	51
		112/12	00	00	17
		112/19	00	00	11
		111/1	00	00	19
		111/5	00	00	15
		120/25	00	00	76
		120/22	00	02	84
		120/19	00	01	72
		120/20	00	00	11
		120/18	00	05	70

टेक्कलि	चाकिपल्ले	120/17	00	01	94
		120/12A	00	02	81
		120/11	00	01	02
		125/8	00	00	11
		125/9	00	00	07
		125/5	00	00	25
		126/13	00	05	90
		126/12	00	00	09
		126/5	00	00	05
		113/26	00	00	61
		100/8	00	00	61
		114/6	00	01	22

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 441.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE					
DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
NANDIGAM	PEDDATAMARAPALLI	56/2	00	20	20
TEKKALI	CHAKIPALLE	62/14	00	00	16
		62/3	00	03	44
		62/6	00	00	10
		62/7	00	00	20
		72/6	00	00	18
		99/11	00	00	93
		99/24	00	00	19
		99/23	00	01	94
		100/5	00	00	05
		100/7	00	00	58

TEKKALI	CHAKIPALLE	100/15	00	00	07
		100/10	00	01	39
		100/12	00	01	73
		100/28	00	00	04
		101/6	00	00	79
		101/7	00	00	60
		101/8	00	00	51
		101/25	00	00	01
		112/10	00	00	04
		112/15	00	00	51
		112/12	00	00	17
		112/19	00	00	11
		111/1	00	00	19
		111/5	00	00	15
		120/25	00	00	76
		120/22	00	02	84
		120/19	00	01	72
		120/20	00	00	11
		120/18	00	05	70
		120/17	00	01	94
		120/12A	00	02	81
		120/11	00	01	02
		125/8	00	00	11
		125/9	00	00	07
		125/5	00	00	25
		126/13	00	05	90
		126/12	00	00	09
		126/5	00	00	05
		113/26	00	00	61
		100/8	00	00	61
		114/6	00	01	22

[F. No. R-11025(11)252/2017-OR-I/E-21033]

SANTANU DHAR, Under Secy.

नई दिल्ली, 22 मार्च, 2019

का. आ. 442.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1681 तारीख 26 नवम्बर 2018, जो भारत के राजपत्र तारीख 1 दिसम्बर 2018, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में तहसील: सलेमपुर, जिला: देवरिया में पटना-मोतिहारी-बैतालपुर शाखा पाइपलाइन द्वारा पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइप लाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22 दिसम्बर 2018 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिर्णय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए यह घोशणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त भाक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोशणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : सलेमपुर	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा / ग्राम	सर्वे / ब्लाक सं. (प्लोट सं.)	सब-डीव -सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
दनउर तप्पा : भाटनी	1068		00	10	55
	1069		00	01	47
	1075		00	05	36
	1074		00	01	72
	1073		00	01	11
	1084		00	01	66
	1082		00	00	58
	1080		00	00	64
	1087		00	00	75
	1088		00	00	54
	1092		00	00	45
सवरेजी तप्पा : भटनी	530		00	03	93
	529		00	14	55
	457		00	00	36
मिश्रौली दीक्षित तप्पा : घाटी	1025		00	03	70
	985		00	02	80
भरहे चौरा तप्पा : घाटी	1281		00	02	85
तेनुआ तप्पा : घाटी	305		00	01	19
	304		00	06	99
	303		00	02	95
	302		00	07	83
	301		00	03	96
	300		00	02	10
जीरासो तप्पा : बरसीपार	369		00	01	99
अमवा तप्पा : सठियांव	84		00	00	36
परासीया करकटही तप्पा : सठियांव	439		00	01	71
	438		00	00	36
खजूरी करौता तप्पा : सठियांव	636		00	02	21

[फा. सं. आर-11025(11)16/2018-ओआर-I/ई-26860]

शान्तनु धर, अवर सचिव

New Delhi, the 22nd March, 2019

S.O. 442 .—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1681 dated the 26th November, 2018, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 1st December, 2018 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Branch Pipeline' for the transportation of Petroleum Products in Tehsil : Salempur, Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 22nd December 2018.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil : Salempur	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
Danaur Tappa : Bhatni	1068		00	10	55
	1069		00	01	47
	1075		00	05	36
	1074		00	01	72
	1073		00	01	11
	1084		00	01	66
	1082		00	00	58
	1080		00	00	64
	1087		00	00	75
	1088		00	00	54
	1092		00	00	45
Savreji Tappa : Bhatni	530		00	03	93
	529		00	14	55
	457		00	00	36
Mishrauli Dixit Tappa : Ghati	1025		00	03	70
	985		00	02	80
Bharhe Chaura Tappa : Ghati	1281		00	02	85
Tenua Tappa : Ghati	305		00	01	19
	304		00	06	99
	303		00	02	95
	302		00	07	83
	301		00	03	96
	300		00	02	10
Jiraso	369		00	01	99

Tappa : Barsipar					
Amava	84		00	00	36
Tappa : Sathiyav					
Parasiya Karkatahi	439		00	01	71
Tappa : Sathiyav	438		00	00	36
Khajuri Karaunta	636		00	02	21
Tappa : Sathiyav					

[F. No. R-11025(11)16/2018-OR-I/E-26860]

SANTANU DHAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 1 फरवरी, 2019

का. आ. 443.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक राष्ट्रीय रासायनिक एंड फर्टिलाइजर्स, मुंबई, और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय मुंबई के पंचाट (संदर्भ संख्या 28/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.01.19 को प्राप्त हुए थे।

[सं. एल-42011/32/2017-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENTNew Delhi, the 1st February, 2019

S.O.443.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2017) of the Central Government Industrial Tribunal-cum-Labour Court Mumbai, as shown in the Annexure, in the Industrial dispute between the employers in relation to the General Manager. Rashtriya Chemical & Fertilizers, Mumbai and Others, and their workmen which were received by the Central Government on 23.01.19.

[No. L-42011/32/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT :** M. V. Deshpande, Presiding Officer**REFERENCE NO. CGIT-2/28 of 2017****EMPLOYERS IN RELATION TO THE MANAGEMENT OF RASHTRIYA CHEMICAL & FERTILIZERS AND M/S. AMEYA ENTERPRISES**

1. The General Manager [HR & Admn.]/CMD,
Rashtriya Chemical & Fertilizers,
Administrative Building, Chembur,
Mumbai – 400 074.
2. M/s. Ameya Enterprises,
House No. 4, Shivmurat Chawl,
Kajiwadi, Andheri,
Mumbai – 400 099.

AND**THEIR WORKMEN**

The General Secretary,
General Employee's Association
Tel. Rasayan Bhawan,
Tilak Road, Dadar,
Mumbai – 400 014.

APPEARANCES:

FOR THE EMPLOYER : Absent

FOR THE WORKMEN : Absent

Mumbai, dated the 21th December, 2018**AWARD**

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-42011/32/2017 – IR (DU) dated 02.06.2017. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Rashtriya Chemical & Fertilizers Ltd., Mumbai in not considering the date of birth of the following 4 workmen as per the Birth Certificate and School Leaving Certificate issued by the Competent authority for the purpose of retiring them from service as contract workmen presently employed through M/s. Ameya Enterprises, is just & proper ? ”

2. After the receipt of the reference, both the parties were served with the notices.

3. On going through Roznama it appears that the notices were served to both parties. However, the union has not filed statement of claim since long. Union remained absent. Therefore there is no statement of claim to substantiate the claim under reference.

4. For want of evidence the reference is liable to be rejected with no order as to costs.

ORDER

Reference is rejected for want of evidence.

Date: 21.12.2018

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 14 फरवरी, 2019

का. आ. 444.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स निदेशक, राष्ट्रीय रासायनिक प्रयोगशाला, पुणे, और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय पुणे के पंचाट (संदर्भ संख्या 297/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.02.19 को प्राप्त हुए थे।

[सं. एल-42011/29/2010-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 14th February, 2019

S.O. 444.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 297/2010) of the Central Government Industrial Tribunal-cum-Labour Court Pune, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Director, National Chemical Laboratory, Pune and Others, and their workmen which were received by the Central Government on 13.02.19.

[No. L-42011/29/2010-IR (DU)]

RAJENDRA JOSHI, Dy Director

ANNEXURE

BEFORE THE PRESIDING OFFICER, FIRST LABOUR COURT, PUNE

(Presided over by : Kalpana N. Phatangare)

Reference [IDA] No.: 297/2010

Exh. No.: 101

The Director,
National Chemical Laboratory,
Pashan, Pune - 411 008

... First Party

AND

Shri. Arun Sopan Nimhan,
Near Datta Mandir, Sus Road,
Shikshak Colony, Pashan,
Pune – 411 021.

... Second party

Appearances :

Adv. Mr. Anil Kumar for first party,

Adv. Mr. N. A. Kulkarni for second party.

AWARD

(Passed on this 16th AUGUST 2018)

1) The present Reference is sent by Appropriate Government i.e. Government of India, Ministry of Labour through Under Secretary for the adjudication over the demand of second parties that :-

“How far the management of National Chemical Laboratory, Pune is justified in not regularising the services of the 28 workers (list enclosed) who joined as casual labourers and converted to contract labour ? To what relief they are entitled to and from which date they are eligible for regularisation, continuity of service and back wages ?”

2) Brief facts of the 'Statement of Claim' Exh.-5 are as follows :-

It is submitted that second party workmen are working with first party without any break for the period varying between 10 to 21 years. It is submitted that the second party workmen are working in different Departments of 'National Chemical Laboratory' [N. C. L. for sake of brevity] and most of them are initially employed directly by the 'N. C. L.' as a Casual or a Temporary and subsequently later on an intervening Contractor was sought to be introduced for the sole purpose to deny the permanency and regularisation to second party workmen. As a paper arrangement, second party workmen have been shown as the employees employed through a contractor, even – though a contractor is nothing but a name lender. The paper arrangement of a contractor remained in existence till 2006. After 2006 till date second party workmen are employed by the 'N. C. L.' and payment is also being made by the N. C. L.

3) It is submitted that paper arrangement was made by floating a dummy contractor solely with a view to deprive the status and privileges of permanency to second party workmen, though they are working for substantially long period. The chart showing the continuous service put in by each of the second party workmen and nature of duties performed by said workmen is annexed herewith and is marked as an 'Annexure – A'. The said nature of duties primarily contains cleaning, sweeping and in respect of gardening etc.

4) It is submitted that in the years 1990 and 1995 the 'N. C. L.' has floated a Scheme of regularisation of the services of the employees, in pursuance to directions given by the Hon'ble Supreme Court of India. But however, second party workmen have not been regularised in the services even till date though they are working for more than 12 years or so. It is submitted that some candidates were made permanent and were given benefits and status of regularisation though they are juniors to some of the second party workmen. Thus, the approach of N. C. L. is not only discriminatory but also high-handed. It is submitted that contract entered into between N. C. L. and with one M/s. Esses Enterprises is sham and bogus. The contract was entered into for which a stamp was purchased on 25.02.1993; whereas an Agreement was purportedly signed on 24.02.1993.

5) It is submitted that second party workmen are in possession of certificate issued by the concerned Officers of N. C. L. and contractor has no role to play, except to come on last day of every month in order to collect wages from N. C. L. and disburse wages to second party workmen. There was no control or supervision of any nature from the Contractor on the work of the Second Party Workmen. In fact, all the tests, such as economic, organization, control and supervision are the tests made out by N. C. L. and not of a contractor.

6) It is submitted that role of Contractor started in 1990 and most of the second party workmen were being paid prior to 1990 directly by N. C. L. The Provident Fund Contributions of second party workmen are also being paid by N. C. L. There is no control or supervision of any nature by contractor. In fact, the control and supervision was of officers of N. C. L. By keeping second party workmen as Casuals, Temporary and continuing them as casuals and Temporary for years together, N. C. L. has engaged into unfair labour practices under Section 2 (ra) of The Industrial Disputes Act, 1947 read with Item No. 10 of Schedule V of the said Act.

7) It is submitted that second party workmen approached Central Administrative Tribunal (C. A. T. for sake of brevity) for seeking regularisation in services by filing Application bearing Original Application No.- 189/2000. Thereafter, C. A. T. heard the matter and by its Judgment and an order dated 23.04.2001 dismissed the Application holding that the second party workmen should have approached to the Authorities under The Contract Labour (Regularisation and Abolition) Act, 1971 and C. A. T. has no jurisdiction to try and entertain the said issue.

8) It is submitted that being aggrieved by said Judgment and Order dated 23.04.2001 of C. A. T., the second party workmen filed a Writ Petition bearing Writ Petition No.- 1770 of 2002 before the Hon'ble High Court of Judicature at Mumbai challenging the Judgment and the order dated 23.04.2001 of the C. A. T. The said Writ Petition came up for final hearing before the Hon'ble High Court on 13.07.2009 and the Hon'ble High Court was pleased to grant a liberty to second party workmen to raise an Industrial Dispute seeking regularisation and permanency of their services in the establishment of N. C. L.

9) It is submitted that second party workmen, thereafter, raised a Demand by their letter dated 30.09.2009. Thereafter, N. C. L. appeared in the proceedings before Conciliation Officer and submitted that there is no employer – employee relationship between N. C. L. and second party workmen. Second party workmen submitted their Rejoinder on 18.09.2009 to Conciliation Officer and denied that, there was no employer – employee relationship. It is submitted that N. C. L. is not an 'Industry' under Section 2 (j) of The I. D. Act, 1947. But it was pointed out that in a case of one Mr. D. M. Pillay and others in a Reference No. 46/2001, it was held by the Industrial Tribunal that, N. C. L. is an industry under Section 2 (j) of The I. D. Act, 1947.

10) It is submitted that thereafter, Conciliation Officer recorded failure on 22.02.2010 and referred the matter to an Appropriate Government for a reference. In pursuant to notice issued by this Court, second party workmen are submitting the present 'Statement of Claim'. Therefore, it is prayed that may be pleased to hold and declare that the National Chemical Laboratory has indulged in unfair labour practices under Section 2 (ra) of The I. D. Act, 1947 read with Item No. 10 of Schedule IV of the said Act. Further it prayed that first party may be directed to make the second party workmen as permanent whose names are mentioned in Annexure 'A'. They be directed to give all the benefits of permanency to second party workmen after completion of their 240 days continuous service or after completion of one year as the case may be. Hence, prayed to allow the Reference.

11) First party appeared and filed its 'Written Statement' vide Exh.-7. At the outset, it is submitted that the present reference is misconceived and bad in law. This Court has no jurisdiction to entertain and try this reference as the first party is not an 'Industry' as defined under the provisions of The Industrial Disputes Act, 1947. Reference is also defective as the employer of second party i.e. M/S. Essess Enterprises is not made a party to Reference.

12) It is submitted that second party being engaged / employed by M/s. Essess Enterprises which was a registered contractor at the relevant time, cannot claim regularization in the service of first party as there is no employer–employee relationship between the second party and the first party. Second party was brought into the premises of first party by M/s. Essess Enterprises in capacity of license Contractor under The Contract Labour Abolition Act and first party is also having license as a principal employer under the very same Act. It denied that first party introduced contract system with the purpose of denying permanency of second party.

13) It is submitted that appointment in the services of first party is based on selection process and there are rules and procedures of selection. Second party are seeking through their demand to subvert the selection process and seek employment through the back door. Second party is seeking abolition of a contract which is validly entered into between first party and employer of second party.

14) It is submitted that second party are employees of contractor M/s. Essess Enterprises. The said contractor had undertaken various miscellaneous work of first party in the premises of first party. It is submitted that first party is governed by various rules and regulations made by Council of Scientific & Industrial Research under the Ministry of Science and Technology. The qualifications and other considerations for regular employment are specified in these rules. The second party cannot claim regularisation in the services of first party without fulfilling the criteria laid down for selection.

15) It is submitted that N. C. L. is one of the constituents of National Laboratories under the auspices of Council of Scientific & Industrial Research (CSIR) with Headquarters at New Delhi. CSIR is an Autonomous Body registered under the Societies Registration Act, 1860. It is basically engaged in Research and Development of Chemical Science with a purpose to reach the benefits of programs of Chemical Sciences to the people. There are more than 700 permanent employees with it. The work of first party is not in the nature of business but is purely in the nature of scientific research for the welfare of the State. First party is not engaged in any business and it does not earn any profit. The purpose of activities of first party is to reach the knowledge of chemical science to the people of India. First party as a constituent of CSIR is established only to implement the objectives of CSIR. It is a non profit making body engaged in activities to supplement the sovereign activities of the Government of India.

16) It is submitted that Central Civil Service Rules are applicable to employees of CSIR first party as such, the employees of CSIR and first party are akin to Civil servants. Employees of First party are of different categories. These categories are listed in the recruitment rules and are what is known as sanctioned categories. First party is governed by the directions of Government and as far as the recruitment are concerned, there is a direction as on today banning new recruitment due to which even permanent categories are not recruited. Apart from regular work, first party has miscellaneous work which is done through contract workers. The said work is not of regular nature and hence, the employment of contract workers. The contractors are engaged for miscellaneous work and their employees have no claim of any nature with first party.

17) It is submitted that second party was initially engaged for such miscellaneous work by M/S. Deccan Industrial Services and thereafter by M/s. Essess Enterprises, Pune. They are employees of M/S. Essess Enterprises and they are paid their wages by the said contractor.

Second party cannot be compared with the daily wage workers of the first party who are conferred with temporary status. The service conditions of second party are governed by the rules applicable to contractor. Denying all the contentions made by the second party workmen, first party prayed to answer the Reference in the negative with cost.

18) On the basis of facts and circumstances, issues are framed vide Exh.-8. Those issues are for my determination. Those issues along with their findings and reasons thereon are as follows :-

ISSUES	FINDINGS
1) Whether the second party is an 'Industry' within the meaning of Section 2 (j) of The Industrial Disputes Act, 1947 ?	 Yes.
2) Whether there is employer–employee relationship between first party and the second party ?	 Yes.
3) Whether the second party is a workman within the meaning of Section 2 (s) of The Industrial Disputes Act ?	 Yes.
4) Whether this Court has jurisdiction to try this matter ?	 Yes.
5) Does the second party prove that first party has engaged in unfair labour practices under Section 2 (ra) of The Industrial Disputes Act, read with item No. 10 of Schedule IV of the Said Act ?	 Yes.
6) Whether the second party is entitled to the reliefs as sought ?	 Yes.
7) What Order ?	Reference is answered Partly in affirmative.

REASONS

19) Perused documents filed along with Schedule and on the record. To substantiate his claim, second party examined themselves vide different exhibits and enclosed documents. The evidence is closed vide pursis Exh.-95. The first party has examined its witness Mr. Rajashekhar Shivsharnappa Malge vide Exh.-98. It closed it's oral evidence vide Exh.-100. Heard argument of both the sides.

AS TO ISSUE NO.1 TO 7 :-

20) All issues are interlinked with each other. Therefore, those are decided simultaneously. It is argued by Ld. Counsel Mr. N. A. Kulkarni on behalf of second party workmen that Central Government has sent this Reference to adjudicate. The Schedule is for regularisation and not for reinstatement of the second party workmen. For his contentions, he has relied upon Section 10 (4) of The I. D. Act, 1947. *Section 10 (4) of The I. D. Act, 1947 reads as thus:-*

(4) *Where in an order referring an industrial dispute to [a labour Court, Tribunal or National Tribunal] under this Section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, (the Labour Court or the Tribunal or the National Tribunal, as the case may be), shall confine its adjudication to those points and matters incidental thereto.*

21) It is argued on behalf of second party that Section 10 (4) empowers this Court to regularise the the 28 employees i.e. second party in Annexure 'A' of this Reference. They were working with first party from 10 to 21 years without any break. First second party workmen were treated casual / temporary then told that they are working on contract basis employee till 2006. They were taken back in the employment of NCL. Thus, there was just a paper arrangement in respect of employment of the employment of second party. There was no break in the employment of the services of these workmen. They were doing gardening, sweeping, cleaning duties.

22) Second party workmen stated that in the year 1990 and 1995 N. C. L. has floated a Scheme of regularization of services of employees, in pursuant to the directions given by the Hon'ble Supreme Court of India. Thereafter, second party workmen approached Central Administrative Tribunal (C. A. T. for sake of brevity) for seeking regularisation in services by filing Application bearing Original Application No.:- 189/2000. Thereafter, C. A. T. heard the matter and by its Judgment and an order dated 23.04.2001 dismissed the Application holding that the second party workmen should have approached to the Authorities under The Contract Labour (Regularisation and Abolition) Act, 1971 and C. A. T. has no jurisdiction to try and entertain the said issue.

23) Second party being aggrieved by said Judgment and Order dated 23.04.2001 of C. A. T., the second party workmen filed a Writ Petition bearing Writ Petition No.:- 1770 of 2002 before the Hon'ble High Court of Judicature at Mumbai challenging the Judgment and the order dated 23.04.2001 of the C. A. T. The said Writ Petition came up for final hearing before the Hon'ble High Court on 13.07.2009 and the Hon'ble High Court was pleased to grant a liberty to second party workmen to raise an Industrial Dispute seeking regularisation and permanency of their services in the establishment of N. C. L.

24) Thereafter, second party workmen raised dispute before the Central Conciliation Officer. After failure of the same, the present Reference was forwarded for adjudication of the demands of the second party. It is argued by Ld. Advocate for second party that Section 2 (r) (A) was introduced later on. It is nothing but replica of The M. R. T. U. & P. U. L. P. Act, 1971 provisions. Employer will have to prove the genuineness or sham / bogus contract. There is not question of all being ever being impleaded M/s. Esses Enterprises. Employer has not shown produced any documentary evidence to that effect. Here is a important question that when first party is alleging that second party workmen are employees of contractor. But first party has not issued summons to the alleged contractor.

25) Second party submitted that though the first party denying that it is an 'Industry'. But on behalf of second party, it is argued that the second party workmen were working for gardening, cleaning, sweeping etc. in the premises of first party. Therefore, second party workmen are not directly related to the work of the N. C. L. as a scientist. But they are doing miscellaneous work in the premises of the first party Company. Therefore, for atleast the work which second party workmen were doing, first party is held to be an 'industry' because second party were doing work in the premises of first party. Second party were examined themselves and they prayed for regularization of their services atleast from the date of this Reference.

26) It is argued by Ld. Counsel on behalf of first party that N. C. L. is a Research Institute and involved in the chemical research. It is purely a organization of Government of India and doing sovereign functions. The service conditions of the employees working in the first party Laboratory are governed by Central Civil Service Rules applicable to it. These employees are public servants.

27) It is argued by Ld. Advocate for first party that as per the directions of the Hon'ble Supreme Court's Judgment 120 workers were regularized and rest were left out. As per the Reference Order second party workmen will have to answer that how far management of N. C. L. is justified in not regularizing the casual labours. Further it is argued that if the prayer clause of Reference is seen there is prayer of declaration of unfair labour practice whereas the Reference is for regularization of the second party workmen. Further it is argued that this Court cannot go outside the Reference Order.

28) It is argued by Ld. Advocate for first party that he is agitating mainly on the point that as the N. C. L. is doing sovereign functions of Government of India it cannot be said as 'Industry' as defined under Section 2 (j) of The Industrial Disputes Act, 1947. Further the second party workmen are employees working on contract basis as there is prescribed procedure for the recruitment of the employees of the N. C. L. and for miscellaneous work there is contract system. There is also no existence of employer – employee relationship between first party N. C. L. and Second Party Workmen. The present matter is filed under The I. D. Act, 1947. It is filed for regularization of the second party workmen whereas the prayer of Reference is for declaration of unfair labour practice.

29) It is main contention of Ld. Counsel for first party that the first party N. C. L. has taken objection that miscellaneous work in the premises of first party is done through contract basis. Employees like second party workmen were doing work of cleaning, sweeping, washing etc. through contract basis and there is no direct relationship between first party and second party. He further relied on the admission given by the witness Mr. Valmiki – Second party that he has given every information to his Ld. Counsel.

30) In view of above said discussions, it can be seen that second party workmen were taken as casual employees. Thereafter, they were taken on contract basis for miscellaneous work. These employees are not directly taken for work of research, therefore, there is no question about whether first party N. C. L. is an 'Industry' or not due to work done by second party workmen. Through this second party workmen, N. C. L. was doing systematic activities, with the help of these second party workmen. Hence, there is no doubt about its status. First party has not taken much objection regarding the regularization of the second party workmen.

34) In view of discussions made herein above issue Nos. 1 to 6 are answered in the affirmative. Thus, the reference deserves to be allowed for the regularization of the second party. In view of peculiar circumstances of the matter, parties to bear their own costs. In view of said findings, in answer to issue No. 4, following order is passed :

ORDER

- 1) The Reference is answered in the affirmative.
- 2) It is hereby declared that First Party is an 'Industry' within the meaning of Section 2 (j) of The Industrial disputes Act, 1947.
- 3) It is hereby declared that second Party is a 'Workmen' within the meaning of Section 2 (s) of The Industrial disputes Act, 1947.
- 4) It is hereby declared that this Court has jurisdiction to try and entertain the present Reference.
- 5) It is hereby declared that first party N. C. L. is engaged in unfair labour practice and it is directed to desist from the same.
- 6) It is hereby directed to the first party that it should regularize the services of all the second party workmen from date of filing of Reference.
- 7) Parties to bear their own costs.

DATE :- 16.08.2018.
PUNE.
MIM

KALPANA N. PHATANGARE, Presiding Officer

Argued on	10.08.2018
Judgment dictated on	16.08.2018
Judgment transcribed on	20.08.2018
Judgment checked and signed on	21.08.2018

नई दिल्ली, 14 फरवरी, 2019

का. आ. 445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मुख्य पोस्ट मास्टर जनरल, जयपुर और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 37/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.01.19 को प्राप्त हुए थे।

[सं. एल-40012/98/2011-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 14th February, 2019

S.O. 445.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2012) of the Central Government Industrial Tribunal-cum-Labour Court Jaipur, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Chief Post Master General Jaipur and Others, and their workmen which were received by the Central Government on 28.01.2019.

[No. L-40012/98/2011-IR (DU)]

RAJENDRA JOSHI, Dy. Director

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 37/2012

राधामोहन चतुर्वेदी
पीठासीन अधिकारी

- नरपतसिंह पुत्र श्री रिछपाल सिंह, पोस्ट —मालासी
वाया सालासर जिला चूरु राजस्थान
- खींवसिंह पुत्र श्री प्रेम सिंह, पोस्ट हरदास का बास,
वाया झाड़ली, जिला सीकर राजस्थान
- दातार सिंह पुत्र श्री चैन सिंह प्लॉट नं. 4, जय भवानी नगर,
खातीपुरा जयपुर राजस्थान

...प्रार्थीगण

बनाम

- भारत संघ द्वारा सचिव, डिपार्टमेंट ऑफ पोस्ट्स,
अशोक मार्ग, पार्लियामेन्ट स्ट्रीट, नई दिल्ली
- चीफ पोस्ट मास्टर जनरल, राजस्थान सर्किल ऑफिस,
सरदार पटेल मार्ग, सी—स्कीम, जयपुर
- पोस्ट मास्टर जनरल, राजस्थान सर्किल ऑफिस,
सरदार पटेल मार्ग, सी—स्कीम, जयपुर

...अप्रार्थीगण

उपस्थित :-

प्रार्थी की तरफ से : श्री अरुण शर्मा — अभिभाषक
अप्रार्थी की तरफ से : श्री एस. एस. नरुका — अभिभाषक

पंचाट

दिनांक : 18.01.2019

1. भारत सरकार के श्रम एवं रोजगार मंत्रालय द्वारा दिनांक 9.2.2012 को औद्योगिक विवाद अधिनियम की धारा 10 (1) व 2 (ए) के अन्तर्गत निम्नांकित औद्योगिक विवाद इस अधिकरण को सन्दर्भित किया गया। "Whether the action of the management of Chief Post Master General, Raj. Circle, Jaipur has violated the provisions of Section 25 F of the ID Act, 1947 in case of Shri Narpat Singh & others (Shri Khiv Singh And Datar Singh), Security guards while terminated their services w.e.f. 1/04/2011 ? Whether it is legal and justified ? What relief they are entitled to ?" प्रार्थीगण को यह निर्देश दिया गया कि वे अपने दावे का अभिकथन इस अधिकरण के समक्ष 15 दिवस की अवधि में प्रस्तुत करें। दिनांक 1.6.2012 को प्रार्थीगण ने अपने दावे का अभिकथन प्रस्तुत किया, जिसके संक्षिप्त तथ्य इस प्रकार है।

2. प्रार्थीगण को विपक्षी संख्या 2 चीफ पोस्ट मास्टर जनरल राजस्थान सर्किल जयपुर द्वारा सिक्वोरिटी गार्ड के पद पर दिनांक 1.8.2010 से 200 रुपये प्रतिदिन वेतन पर मौखिक रूप से नियोजित किया गया। प्रार्थीगण को वेतन मासिक दिया जाता था। यह नियुक्ति किसी निश्चित समयावधि के लिए नहीं थी। औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जायेगा) में दी गई श्रमिक की परिभाषा में प्रार्थीगण और विपक्षी नियोजक उद्योग की परिभाषा में आते हैं। विपक्षी ने प्रार्थीगण को बिना कोई कारण बताये एवं पूर्व सूचना दिये दिनांक 1.4.2011 से सेवा से हटा दिया जो अवैध है। प्रार्थीगण ने विपक्षी से मौखिक एवं लिखित निवेदन सेवा में वापस लेने हेतु किये लेकिन कोई परिणाम नहीं निकला। प्रार्थीगण ने 1.8.2010 से 31.3.2011 तक निरन्तर सेवा कर विपक्षी के अधीन 240 दिन से अधिक कार्य किया है। विपक्षी ने प्रार्थीगण को सेवा से हटाने के बाद अन्य व्यक्तियों को सुरक्षा-गार्ड के पद पर नियुक्ति दी है, किन्तु प्रार्थीगण को कोई अवसर नहीं दिया। प्रार्थीगण को न तो एक माह का नोटिस दिया, न नोटिस अवधि का वेतन दिया और न ही छंटनी का मुआवजा दिया। प्रार्थीगण 1.4.2011 से बेरोजगार है। विपक्षी ने अधिनियम की धारा 25 एफ, जी, तथा एच एवं नियम 77 व 78 का उल्लंघन किया है। अतः प्रार्थीगण की दिनांक 1.4.2011 से की गई सेवामुक्ति को अवैध ठहराया जाये तथा प्रार्थीगण को समस्त लाभ एवं सेवा की निरन्तरता के साथ 1.4.2011 से पुनः सेवा में लिया जायें।

3. विपक्षीगण की ओर से प्रतिउत्तर में यह कहा गया है कि श्रम मंत्रालय द्वारा यह विवाद न्यायनिर्णयन हेतु गलत बनाकर भेजा गया है। प्रार्थीगण को विपक्षीगण ने सिक्वोरिटी गार्ड के पद पर किसी नियुक्ति आदेश से नियोजित नहीं किया, न ही कोई संविदा हुई। अधिनियम के अन्तर्गत प्रार्थीगण तथा विपक्षीगण श्रमिक एवं नियोजक की परिभाषा में नहीं आते हैं। प्रार्थीगण 31.7.10 को पोस्ट मास्टर जनरल कार्यालय के अधीक्षक से मिले तथा मौखिक अनुरोध किया कि बी.एस.एन.एल. कार्यालय में उनकी सेवा समाप्त कर दी है डाक विभाग कार्यालय परिसर की सुरक्षा व्यवस्था होमगार्ड प्रहरियों द्वारा करवाने जा रहा है, जब तक होमगार्ड उपलब्ध ना हों तब तक 200 रुपये प्रतिदिन के हिसाब से कॉन्ट्रैक्टुअल बैसिस एवं कार्य आउटसोर्सिंग बैसिस पर लगा लिया जायें। तत्पश्चात पुलिस महानिदेशक होमगार्ड से सुरक्षा प्रहरी उपलब्ध कराने का निवेदन किया गया। उनके द्वारा होमगार्ड उपलब्ध करवाने के बाद प्रार्थीगण की सेवा स्वतः समाप्त हो गयी। इस प्रकार विपक्षीगण ने कोई अवैध कार्य नहीं किया। प्रार्थीगण की नियुक्ति किसी चयन प्रक्रिया से नियमानुसार नहीं की गई। प्रार्थीगण ने नियमित रूप से 240 दिन कार्य नहीं किया। प्रार्थीगण

होमगार्ड के आने पर स्वयं ही हट गये। इसलिये छंटनी नहीं की गई। अधिनियम के प्रावधान इस प्रकरण पर लागू नहीं होते, अतः दावा निरस्त किया जावे।

4. प्रार्थीगण ने अतिरिक्त कथन प्रस्तुत करते हुए वादोत्तर में किये गये कथनों को गलत बताया है और यह कहा है कि अधिनियम के प्रावधान उभयपक्ष पर लागू होते हैं। प्रार्थीगण को छंटनी किये जाने के कारण धारा 25 एफ, जी, तथा एच का संरक्षण प्राप्त है। अतः दावा स्वीकार किया जावे।

5. प्रार्थीगण ने अपने साक्ष्य में दातार सिंह, खीवसिंह एवं नरपत सिंह के शपथपत्र प्रस्तुत कर प्रलेखीय साक्ष्य भी प्रस्तुत की।

6. विपक्षीगण की ओर से साक्ष्य में मोहम्मद इदरीस अंसारी, कार्यालय अधीक्षक को परीक्षित किया गया। दिनांक 4.1.2019 को उभयपक्ष की बहस सुनी गयी। तदुपरान्त विद्वान अभिभाषक प्रार्थी ने एक प्रार्थना-पत्र प्रस्तुत कर यह सूचित किया कि प्रार्थी खीवसिंह सेवानिवृत्त की आयु पार कर चुका है। इसलिये अधिकरण द्वारा प्रार्थी के अभिभाषक को इस सम्बन्ध में प्रलेखीय प्रमाण प्रस्तुत करने का निर्देश दिया गया। इस निर्देश के अनुपालन में दिनांक 8.1.2019 को प्रार्थी खीवसिंह ने अपनी जन्मतिथि के प्रमाण स्वरूप आधार कार्ड, पैन कार्ड तथा सेंट्रल रिजर्व पुलिस फोर्स की डिस्चार्ज बुक प्रस्तुत की, जिसकी फोटोप्रतियां अभिलेख पर रखी गई हैं। प्रार्थी खीवसिंह ने सशपथ यह कहा है उसकी जन्मतिथि 10.9.1954 है। इस कथन की पुष्टि प्रार्थी द्वारा प्रस्तुत प्रलेखों से होती है। इस प्रकार यह प्रमाणित हो जाता है कि प्रार्थी खीवसिंह सेवानिवृत्त की आयु को पार कर चुका है।

7. दिनांक 4.1.2019 को मैंने उभयपक्ष के परस्पर विरोधी तर्क सुने, साक्ष्य का परिशीलन किया तथा प्रार्थीगण की ओर से प्रस्तुत किये गये निम्नांकित विनिश्चयों में पारित विधि पर मनन किया।

- (1) (2014) 15, S.C.C. 313 तापश कुमार पॉल बनाम बी.एस.एन.एल. व अन्य
- (2) 2015 लॉ सुट (S.C.) 357 गोरीशंकर बनाम स्टेट ऑफ राजस्थान
- (3) 2006 (111) एफ.एल.आर. 571 (एम.पी.) राजीव सिन्हा बनाम एस.बी.बी.जी.पी. कॉलेज, भोपाल
- (4) (2003) 6, S.C.C. 528 भारत हैवी इलेक्ट्रिक लिमिटेड बनाम स्टेट ऑफ यूपी. व अन्य।

8. प्रार्थीगण का यह तर्क है कि उनको मौखिक आदेश से 1.8.2010 से 31.3.2011 तक सुरक्षा प्रहरी के पद पर सेवा में रखा था। इस तथ्य की पुष्टि विपक्षीगण द्वारा जारी की गई रसीदों (A.C.G.-17) से होती है। प्रार्थीगण ने निरन्तर सेवामुक्ति से पूर्व 243 दिन विपक्षीगण के अधीन कार्य किया। विपक्षीगण ने 1.4.2011 को प्रार्थीगण को बिना कोई नोटिस, नोटिस-वेतन एवं प्रतिकर दिये सेवा से हटा दिया। उन्होंने प्रार्थीगण की जगह अन्य होमगार्ड को सेवा में लिया तथा प्रार्थीगण को कोई अधिमान नहीं दिया। यह स्थिति अधिनियम की धारा 25 एफ, जी, तथा एच एवं नियम 77 व 78 का स्पष्ट उल्लंघन दर्शाती है।

9. विद्वान अभिभाषक विपक्षीगण ने यह कहा है कि प्रार्थीगण को होमगार्ड के उपलब्ध होने की अवधि तक के लिये मौखिक रूप से दैनिक वेतनभोगी के रूप में रखा था, ज्योहि होमगार्ड उपलब्ध हुए प्रार्थीगण की सेवा समाप्त हो गयी। उन्होंने स्वीकार किया है कि प्रार्थीगण को कोई नोटिस, नोटिस वेतन अथवा प्रतिकर का भुगतान नहीं किया गया क्योंकि प्रार्थीगण की छंटनी नहीं की गई।

10. उभयपक्ष के तर्कों के विचार के पश्चात इस प्रकरण में निम्नलिखित विचारणीय बिन्दु उत्पन्न हुए हैं :-

- (1) क्या प्रार्थीगण अधिनियम की धारा 2 (एस) के अन्तर्गत कर्मकार तथा अप्रार्थीगण धारा 2 (जी) के अन्तर्गत नियोजक है ?
- (2) क्या प्रार्थीगण ने सेवा से हटाये जाने की तिथि 1.4.2011 तक पूर्ववर्ती 12 कैलेण्डर मास की कालावधि में अप्रार्थीगण के अधीन 240 दिन से अधिक कार्य किया है ?
- (3) क्या अप्रार्थीगण ने प्रार्थीगण को 1.4.2011 से सेवामुक्त करते हुए अवैध छंटनी की तथा अधिनियम की धारा 25 एफ की अपेक्षानुरूप पुरोभाव्य शर्तों का अनुपालन नहीं किया तथा अन्य व्यक्तियों को नियोजित करने के पूर्व प्रार्थीगण को सेवा में रखने हेतु अधिमान देते हुए पुनः स्थापित नहीं किया ?
- (4) अनुतोष :-

उभयपक्ष के तर्कों, साक्ष्य, विधिक प्राविधानों तथा निर्णयज विधि के विवेचन के उपरान्त प्रत्येक बिन्दु पर विनिश्चय इस प्रकार है।

11. बिन्दु संख्या 1 :- अधिनियम की धारा 2 (एस) के अन्तर्गत कर्मकार से एक ऐसा व्यक्ति अभिप्रेत है जो किसी उद्योग में भाड़े या पारितोषिक के लिये कोई शारीरिक (कुशल या अकुशल, तकनीकी, लिपिकीय या पर्यवेक्षणीय) कार्य करने के लिये नियोजित है। प्रार्थीगण ने अपने अभिवचनों व साक्ष्य में यह कहा है कि उन्हें विपक्षी ने सिक्योरिटी गार्ड के पद पर 1.8.2010 से 200 रुपये प्रतिदिन पर सेवा में मौखिक रूप से नियोजित किया। विपक्षीगण ने अपने प्रतिउत्तर एवं साक्ष्य में इस तथ्य को यह कहकर स्वीकार किया है कि प्रार्थीगण उनके कार्यालय अधीक्षक से मिले व 200 रुपये प्रतिदिन पर सुरक्षा प्रहरी के रूप में कार्य करने का प्रस्ताव किया। इस प्रस्ताव को विपक्षी ने यह कहकर स्वीकार किया है कि प्रार्थीगण को जब तक होमगार्ड उपलब्ध नहीं हो जाते तब तक कॉन्ट्रेक्टुअल एवं कार्य आउटसोर्सिंग बेसिस पर लगा लिया। उन्हें किसी नियुक्ति आदेश से नियोजित नहीं किया था। यह संविदा मौखिक ही थी।

12. अधिनियम में "कर्मकार" की जो परिभाषा दी गई है, उसमें यह स्पष्ट कर दिया गया है कि नियोजन के निबन्धन अभिव्यक्त अथवा प्रलाक्षेत किसी भी रूप में हों, यदि किसी व्यक्ति ने किसी उद्योग में भाड़े अथवा पारितोषिक के लिये कोई शारीरिक कार्य किया है तो वह व्यक्ति कर्मकार ही होगा। इस विधिक स्थिति में प्रार्थीगण, चूंकि विपक्षी द्वारा 200 रुपये प्रतिदिन की दर से सुरक्षा प्रहरी के रूप में 1.8.2010 से मौखिक संविदा के आधार पर सेवा में रखे गये तथा 1.8.2010 से 31.3.2011 तक उन्हें 200 रुपये प्रतिदिन की दर से पारिश्रमिक का भुगतान भी किया गया। साक्ष्य में प्रस्तुत की गयी A.C.G.-17 रसीदों से भी यह तथ्य प्रमाणित होता है। विपक्षी के साक्षी मोहम्मद इदरीस अंसारी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि प्रार्थीगण को मजदूरी भुगतान के सम्बन्ध में विभाग द्वारा पेश की गई रसीदें सही हैं तथा A.C.G.-17 परिपत्र के माध्यम से जो भुगतान का विवरण पेश है, वह सही है। विपक्षी की यह स्वीकारोक्ति इस ओर स्पष्ट इंगित करती है कि विपक्षीगण ने प्रार्थीगण से सुरक्षा प्रहरी के रूप में शारीरिक कार्य करवाया जिसके प्रतिफल स्वरूप 200 रुपये प्रतिदिन की दर से पारिश्रमिक का भुगतान भी किया।

विपक्षीगण केन्द्र सरकार के डाक विभाग के अधीन अधिकारी है। इस प्रकार प्रार्थीगण का कर्मकार होना और विपक्षी का नियोजक होना साक्ष्य के विवेचन से प्रमाणित होता है।

13. **बिन्दु संख्या 2 :-** प्रार्थीगण ने अपने साक्ष्य में यह स्पष्ट किया है कि 1.8.2010 से 31.3.2011 तक उन्होंने नियोजक के अधीन निरन्तर कार्य किया है तथा इस दौरान एक भी अवकाश नहीं लिया। इस प्रकार उन्होंने 240 दिन से अधिक कार्य किया है। प्रार्थीगण के साक्ष्य में प्रदर्शित A.C.G.-17 रसीदों के अवलोकन से (जिन्हें विपक्षीगण ने साक्ष्य में सही होना स्वीकार करते हुए कोई खण्डन नहीं किया है) यह तथ्य स्पष्ट होता है कि प्रार्थीगण को 1.8.2010 से 31.3.2011 तक की अवधि का पूर्ण पारिश्रमिक प्रत्येक माह में सम्पूर्ण दिवसों का भुगतान किया गया है। किसी भी दिन के पारिश्रमिक की कटौती नहीं की गई है। इस स्थिति में प्रार्थीगण का उक्त अवधि में निरन्तर कार्यरत होना प्रमाणित होता है। कार्य दिवसों की संगणना करने पर 1.8.2010 से 31.3.2011 तक कुल 243 दिन संगणित होते हैं। इस प्रकार प्रार्थीगण द्वारा अधिनियम की धारा 25 बी की अपेक्षानुरूप उन्हें सेवा से हटाये जाने की तिथि 1.4.2011 के पूर्ववर्ती 12 कैलेण्डर मास की कालावधि में अप्रार्थीगण के अधीन 240 दिन से अधिक (243 दिन) की निरन्तर सेवा किया जाना भी साक्ष्य से प्रमाणित होता है।

14. **बिन्दु संख्या 3 :-** प्रार्थीगण ने अपने साक्ष्य में यह कहा है कि नियोजक ने बिना कोई कारण बताये एवं बिना किसी पूर्व सूचना के उन्हें 1.4.2011 को सेवा से हटा दिया। उन्होंने नियोजक को पुनः सेवा में लेने हेतु प्रार्थना पत्र भी दिये किन्तु उन्हें सेवा में नहीं लिया गया। इसके विपरीत विपक्षीगण ने यह कहा है कि चूंकि प्रार्थीगण को मात्र होमगार्ड उपलब्ध हो जाने की अवधि तक कार्य करने हेतु रखा गया था, होमगार्ड की सेवाएं प्राप्त होते ही प्रार्थीगण स्वतः सेवा से हट गये, इस प्रकार उनकी छंटनी नहीं की गई। विद्वान अभिभाषक विपक्षीगण ने यह कहा है कि 1.4.2011 को प्रार्थीगण चूंकि मौखिक संविदा एवं पूर्व सूचना के आधार पर सेवा से हट गये थे इसलिये अधिनियम धारा 25 एफ के अन्तर्गत वर्णित शर्तों की अनुपालना किया जाना विधित अपेक्षित नहीं था। वे स्वीकार करते हैं ही प्रार्थीगण को न तो कोई नोटिस दिया गया, न ही नोटिस अवधि का वेतन दिया गया तथा प्रार्थीगण को छंटनी प्रतिकर भी नहीं दिया गया।

15. साक्ष्य के समग्र विवेचन के उपरान्त यह तथ्य स्पष्ट रूप से प्रमाणित होता है कि प्रार्थीगण को विपक्षीगण ने 1.8.2010 से 31.3.2011 तक सुरक्षा प्रहरी के रूप में 200 रुपये प्रतिदिन की दर से मौखिक रूप से नियोजित किया था इस प्रकार नियोजित होने के उपरान्त प्रार्थीगण ने विपक्षीगण के अधिन 243 दिन तक निरन्तर सेवारत रहकर कार्य किया एवं प्रतिफल में पारिश्रमिक प्राप्त किया। इस प्रकार प्रार्थीगण उनको सेवा से हटाये जाने की तिथि से पूर्ववर्ती एक वर्ष की कालावधि में 240 दिन से अधिक निरन्तर सेवा कर चुके थे। इसलिये विपक्षीगण द्वारा यदि प्रार्थीगण को 1.4.2011 से सेवा में नहीं रखा जाना वांछित था तो अधिनियम की धारा 25 (एफ) के प्रावधानों के अन्तर्गत छंटनी के लिये पुरोभाव्य शर्तों का अनुपालन किया जाना अनिवार्य था। इन शर्तों में एक महिने की पूर्विक लिखित सूचना या एक माह की मजदूरी का भुगतान तथा छंटनी के समय देय 15 दिन के औसत वेतन के तुल्य प्रतिकर का भुगतान विधित एवं अपेक्षित था, जो स्वीकृत रूप से विपक्षीगण द्वारा नहीं किया गया है। इस तथ्यात्मक परिदृश्य में विपक्षीगण द्वारा धारा 25 (एफ) के प्रावधानों का उल्लंघन किया जाना प्रमाणित होता है। विपक्षीगण की यह स्वीकारोक्ति भी है कि उन्होंने सुरक्षा प्रहरीयों की कोई वरिष्ठता सूची नहीं बनाई क्योंकि होमगार्ड उपलब्ध हो गये थे तथा उन्हीं से काम लिया जा रहा था। इस प्रकार यह स्पष्ट है कि प्रार्थीगण को सेवा से हटाते समय विपक्षीगण ने अन्तिम नियुक्त होने वाले व्यक्ति को प्रथम सेवामुक्त करने के नियम का पालन नहीं किया। विपक्षीगण ने प्रार्थीगण के अतिरिक्त अन्य व्यक्तियों (होमगार्ड) को सुरक्षा प्रहरी के रूप में नियुक्त करने के पूर्व, सेवामुक्त किये गये प्रार्थीगण को नियुक्ति में अधिमान भी नहीं दिया। इस प्रकार विपक्षीगण ने अधिनियम धारा 25 (एफ) (जी) एवं (एच) तथा अधिनियम के अन्तर्गत बने नियम 77 व 78 के आदेशात्मक प्रावधानों का उल्लंघन किया।

16. **बिन्दु संख्या 4 :-** माननीय सर्वोच्च न्यायालय ने निर्णय तापशकुमार पॉल बनाम भारत संचार निगम लिमिटेड व अन्य में यह कहा है कि अविधि पूर्ण सेवा समाप्ति प्रमाणित होने पर पूर्ण वेतन सहित सेवा में निरन्तरता एवं पुनःस्थापन एक सामान्य नियम है तथा इसका विरोध करने वाले पक्षकार को इसकी अपवादात्मक परिस्थितियों को प्रमाणित करना होगा। इस स्थिति में अधिकरण को समस्त सुसंगत, तथ्यों पर विचार के उपरान्त विवेकाधिकार का प्रयोग करना चाहिये।

17. माननीय उच्चतम न्यायालय ने ही गोरीशंकर बनाम स्टेट ऑफ राजस्थान के निर्णय में यह मार्गदर्शन दिया है कि अधिनियम की धारा 25 (एफ) (जी) एवं (एच) के आदेशात्मक प्रावधानों का अपालन करते हुए प्रत्यर्थी द्वारा कर्मकार की सेवा समाप्त किया जाना विधि की दृष्टि से शून्य है।

18. माननीय उच्च न्यायालय ने “ निरन्तर सेवा को विवेचित करते हुए यह कहा है कि निरन्तर सेवा से तात्पर्य सेवासमाप्ति की तिथि से पूर्ववर्ती 12 माह की अवधि में 240 दिन की सेवा से है।

19. इस विधिक स्थिति में यह मार्गदर्शन प्राप्त होता है कि अविधिपूर्ण सेवासमाप्ति का तथ्य प्रमाणित होने पर प्रार्थी की पूर्ण मजदूरी सहित सेवा में निरन्तरता एक सामान्य नियम अवश्य है किन्तु प्रकरण के तथ्यों एवं परिस्थितियों के आधार पर अधिकरण को यह न्यायिक विवेकाधिकार अवश्य ही प्राप्त है कि वह सेवा में पुनर्स्थापन के साथ मजदूरी दिलवाये जाने या विकल्प में एकमुश्त प्रतिकर प्रदान करने के वैकल्पिक अनुतोष का युक्तियुक्त परिक्षण कर सकें।

20. प्रार्थीगण ने अपने दावे और शपथपत्र में यह कहा है कि 1.4.2011 से अब तक वे बेरोजगार हैं। अन्यत्र कहीं पर भी नियोजन में नहीं हैं और उन्हें कोई वैकल्पिक कार्य नहीं मिल पाया है। विपक्षीगण ने यद्यपि यह कहा है कि प्रार्थीगण का यह कथन गलत है कि वे बेरोजगार हैं। किन्तु साक्ष्य के दौरान विपक्षीगण ने यह तथ्य प्रमाणित नहीं किया है कि प्रार्थीगण को कहीं अन्यत्र वैकल्पिक नियोजन उपलब्ध हो गया हो।

21. प्रार्थी नरपत सिंह ने अपने प्रतिपरिक्षण में सेवामुक्ति के बाद स्वयं के भाई के साथ रहना कहते हुए यह भी कहा है कि उसका पारिवारिक खर्चा 100-150 रुपये प्रतिदिन है, किन्तु स्वयं के शारीरिक रूप से स्वस्थ एवं सक्षम होते हुए भी उसका यह कहना कि 2011 से अब तक नौकरी हेतु कोई प्रयास नहीं किया न ही किसी से रोजगार का अनुरोध किया, अविश्वसनीय व अस्वभाविक लगता है। प्रार्थी का यह कथन यह दर्शाता है कि या तो वह असत्य कथन कर रहा है अथवा वह स्वेच्छया श्रम साधन द्वारा आजीविका उपार्जन के प्रति अनिच्छुक रहा है। प्रार्थी दातारसिंह ने यद्यपि काम प्राप्त करने के प्रयास करना और असफल

रहना वर्णित किया है किन्तु ऐसा कोई उल्लेख उसने अपने दावे के अभिकथन में नहीं किया है। अभिवचनों के अभाव में ऐसी मौखिक साक्ष्य किसी प्रकार विश्वसनीय नहीं है। प्रार्थी खींवसिंह ने दबे शब्दों में महीने में 5 से 15 दिन तक मजदूरी प्राप्त होना जो कि 250 रुपये से 325 रुपये प्रतिदिन तक है मिल जाने की स्वीकारोक्ति की है। इस स्थिति में यह निष्कर्षित किया जा सकता है कि प्रार्थीगण ने अवसर उपलब्ध होते हुए कोई रोजगार या नौकरी स्वैच्छया नहीं की न ही उपलब्ध श्रम साधन का उपयोग करते हुए आजीविका उपार्जन किया।

22. प्रार्थी खींवसिंह प्रस्तुत साक्ष्य के आधार पर सेवानिवृत्ति की आयु को पार कर चुका है तथा शेष दोनों प्रार्थीगण ने अपनी आयु का तथ्य उद्धृष्ट ही नहीं किया है। प्रार्थीगण ने दावे के अभिकथन व साक्ष्य शपथ पत्र में भी स्वयं की आयु का उल्लेख नहीं किया। यह सम्भव है कि शेष दोनों प्रार्थीगण भी अपनी सेवानिवृत्ति के निकट ही हो।

23. यह विवादित नहीं है कि प्रार्थीगण दैनिक वेतन भोगी सुरक्षा प्रहरी के रूप में सेवा में रखे गये थे। प्रार्थीगण को विपक्षीगण ने होमगार्ड की उपलब्धता होने की अवधि (जो कि अनिश्चित थी) के लिए सेवा में लिया था। यह स्पष्ट है कि प्रार्थीगण की नियुक्ति विपक्षीगण द्वारा विहित चयन प्रक्रिया का अनुसरण करते हुए नहीं की गई थी। यह भी सम्भव है कि प्रार्थीगण को सेवा में लिये जाते समय ही वे सेवा में प्रवेश की अधिकतम आयु सीमा को पार कर चुके हों। प्रार्थीगण ने मात्र 243 दिन की लघु अवधि में ही कार्य किया है। माननीय उच्चतम न्यायालय ने मैनेजमेन्ट एच.एम.टी. लिमिटेड बनाम घनश्याम शर्मा 2018 एल.एल.आर. 1285 के निर्णय में यह अधिमत व्यक्त किया है कि यद्यपि अविधिपूर्ण सेवामुक्ति का कृत्य श्रम न्यायालय को श्रमिक की सेवा में निरन्तरता व पुनर्स्थापन हेतु सशक्त करता है किन्तु यह ध्यान में रखते हुए कि श्रमिक एक आकस्मिक सहायक के पद पर एक वर्ष की लघु अवधि के लिये ही सेवा में रहा है। श्रमिक का सेवा में पुनर्स्थापना का आदेश औचित्यपूर्ण नहीं है, वरन् एक मुश्त प्रतिकर पचास हजार रुपये दिलवाना उचित है। इस निर्णय के तथ्यों के अनुसार श्रमिक को अधिनियम की धारा 17 (बी) के अन्तर्गत मासिक वेतन न्यायिक कार्यवाही के लम्बन के दौरान नियोजक द्वारा दिया जाता रहा था।

24. माननीय पंजाब हरियाणा उच्च न्यायालय ने अपने निर्णय रामकिशन बनाम पीठासीन अधिकारी, सीजीआईटी हिसार, 2018 एल.एल.आर. 253 में यह मार्गदर्शन दिया है कि जब श्रमिक दैनिक वेतनभोगी हो, नियोजन विहित प्रक्रिया के अनुरूप न हो एवं सेवा की अवधि लघु हो तो, कर्मकार की सेवामुक्ति अवैध होने पर भी उसे एकमुश्त प्रतिकर का भुगतान प्रकरण के तथ्यों व परिस्थितियों के आधार पर किया जा सकता है।

25. अधिनियम की धारा 11 ए के अन्तर्गत इस अधिकरण को सेवा में निरन्तरता व मजदूरी भुगतान के स्थान पर परिस्थितियों के अनुरूप अन्य कोई अनुतोष प्रदान करने की शक्तियाँ प्रदत्त है।

26. उपर्युक्त साक्ष्य व विधि के विवेचन के अनुसार मैं प्रार्थीगण की विपक्षीगण द्वारा की गई सेवा समाप्ति को अविधिपूर्ण प्रमाणित मानते हुए भी इस प्रकरण की विशिष्ट परिस्थितियों को दृष्टिगत रखते हुए प्रार्थीगण को सेवा में मजदूरी सहित पुनर्स्थापित करने के स्थान पर एकमुश्त प्रतिकर दिया जाना न्यायोचित एवं विधि पूर्ण समझता हूँ।

आदेश

27. अतः प्रार्थीगण द्वारा प्रस्तुत दावे के अभिकथन को आन्शिक रूप से स्वीकार करते हुए विपक्षीगण द्वारा 1.4.2011 को प्रार्थीगण की, की गई सेवा समाप्ति को अधिनियम की धारा 25 (एफ) (जी) एवं (एच) तथा नियम 78 के प्रतिकूल होने से अवैध घोषित किया जाता है। इस सेवामुक्ति के अवैध होने के उपरान्त प्रत्येक प्रार्थी रुपये 1,00,000/- (रुपये एक लाख मात्र) विपक्षीगण से एकमुश्त प्रतिकर के रूप में प्राप्त करने का अधिकारी है।

28. उपरोक्त प्रतिकर दो माह की अवधि में विपक्षीगण द्वारा प्रार्थीगण को भुगतान किया जावे अन्यथा इस राशि पर प्रार्थीगण 9 प्रतिशत वार्षिक की दर से ब्याज भी प्राप्त करने के अधिकारी होंगे।

29. पंचाट तदनुसार पारित किया जाता है। श्रम मन्त्रालय द्वारा इस मामले में न्यायनिर्णयन हेतु प्रेषित रिफरेन्स का उत्तर उपर्युक्तानुसार दिया जाता है।

30. पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाय।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 8 मार्च, 2019

का. आ. 446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक हिंदुस्तान एरोनॉटिक्स लिमिटेड, कोरापुट उड़ीसा, और एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 29/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.10.18 को प्राप्त हुए थे।

[सं. एल-42012/81/2017-आईआर (डीयू)]

बी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 8th March, 2019

S.O. 446.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2018) 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 the General Manager, M/s. Hindustan Aeronautics Ltd, Koraput Orissa, Others, and their workmen which were received by the Central Government on 15.10.18.

[No. L-42012/81/2017-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 29/2018

Date of Passing Order – 4th September, 2018

Between:

1. M/s. S.I.S. India Private Limited,
Plot No. 561/4652(B), 1st Floor,
Vevekananda Marg, Bhubaneswar
Pin – 750 019, Odisha.

2. The Director,
NISER Project, At./Po. Jatni,
Dist. Khurda, Odisha, Pin-752 031

...1st Party-Managements

AND

Miss Laxmipriya Kandi,
D/o. Jatadhari Kandi, At. Saintu,
Dt. Jagatsinghpur, Odisha – 754 103.

... 2nd Party-Disputant

Appearances:

None ... For the 1st Party-Managements
Miss. L. Kandi ... For herself the 2nd Party-Disputant

ORDER

The disputant workman is present whereas, no one appears on behalf of the Management on repeated calls. Filing his I.D. proof like office Addahar card in support of proof for her identity the disputant orally submits that she is no more interested to prosecute the dispute raised by her before the labour machinery as there was an amicable out of court settlement. She orally makes a prayer for closure of the adjudication process.

It is seen from the record that the dispute with the schedule “Whether the action by the management of M/s. Security & Intelligence Services (India) Limited contractor of National Institute of Science Education and Research (NISER), Jatni in terminating the service of Laxmipriya Kandi, who had worked as Lady Security Guard from 30.8.2016 till her termination on 29.8.2017 is legal and/or justified? If not, what relief the workman is entitled to” has been referred to this Tribunal for its adjudication vide letter No. L. 42012/81/2017 (IR(DU), dated 11.04.2018. After filing of his statement of claim the disputant is not willing to prosecute the matter on account of amicable settlement between the parties. As the disputant is not interested to proceed with the case and in the absence of the materials I am constrained to hold that nothing remains pending for adjudication before this Tribunal for which the dispute has been referred to.

As such, keeping in view the submissions made by the 2nd party the reference is disposed of without any award for non-prosecution by the disputant. The copy of the order be sent as per rule to the Government of India, Ministry of Labour, for necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 8 मार्च, 2019

का. आ. 447.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक हिंदुस्तान एरोनॉटिक्स लिमिटेड, कोरापुट उड़ीसा, और एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 04/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.10.18 को प्राप्त हुए थे।

[सं. एल-14011/21/2017-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 8th March, 2019

S.O. 447.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2018) 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 the General Manager, M/s. Hindustan Aeronautics Ltd, Koraput Orissa, Others, and their workmen which were received by the Central Government on 15.10.18.

[No. L-14011/21/2017-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 04/2018

Date of Passing Order – 4th September, 2018

Between:

The General Manager,
M/s. Hindustan Aeronautics Ltd.,
At./Po. Sunabeda, Dist. Koraput,
Odisha – 764 020

... 1st Party-Management

AND

The President,
Biju Aeronautics Employees Union,
HAL, Po. Sunabeda, Dist. Koraput,
Pin – 764 020.

... 2nd Party-Union

Appearances:

None	...	For the 1 st Party-Management
Shri S.P. Sabut	...	For the 2 nd Party-Union

ORDER

The disputant workman is present whereas, no one appears on behalf of the Management on repeated calls. Filing his I.D. proof like office I. card in support of proof for his identity the disputant orally submits that he is no more interested to prosecute the dispute raised by him before the labour machinery as there was an amicable out of court settlement. He orally makes a prayer for closure of the adjudication process.

It is seen from the record that the dispute with the schedule “Whether the action by the management of HAL, Sunabeda in transferring Sh. Amulya Ratna Mallick, ex-President of the Union and 04 others (Shri S.P. Sabat, President of the Union, S.P. Rout, Tulu Behera Sosipatra Bhatra) members of the Biju Aeronautics Employees Union from HAL, Sunabeda to other places of HAL out of Odisha attracting the provision of Unfair Labour Practice to be read with item (7) of the Fifth Schedule of I.D. Act, 1947 is legally justified? If so, what relief the workmen are entitled to” has been referred to this Tribunal for its adjudication vide letter No. L. 14011/21/2017 (IR(U), dated 09.01.2018. After filing of his statement of claim the disputant is not willing to prosecute the matter on account of amicable settlement between the parties. As the disputant is not interested to proceed with the case and in the absence of the materials I am constrained to hold that nothing remains pending for adjudication before this Tribunal for which the dispute has been referred to.

As such, keeping in view the submissions made by the 2nd party the reference is disposed of without any award for non-prosecution by the disputant. The copy of the order be sent as per rule to the Government of India, Ministry of Labour, for necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 448.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली, और एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 38/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 4.20.19 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 448.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to the The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and Others, and their workmen which were received by the Central Government on 4.20.19.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.34/2017

Shri Ram Sagar S/o Shri Pohkar Sagar,
R/o D-144, Radice Lane,
Delhi Inter City,
Delhi – 110 017

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Ram Sagar (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a helper with Daulat Ram College Hostel (in short the management) since 10.05.2013 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period

01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 03.08.2007. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 03.08.2017. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wagger/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 03.08.2007 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner.

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

" 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case "**Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya**" has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Ram Sagar, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 50% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 449.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली, और एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 38/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 4.2.19 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 449.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to the The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi Others, and their workmen which were received by the Central Government on 4.2.19.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.38/2017

Shri Mool Chand S/o Shri Khoob Chand,
R/o House No.135, Mess Quarter,
Khemar Pass, Civil Lines,
Delhi – 110 094

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Mool Chand (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a helper with Daulat Ram College Hostel (in short the management) since 10.05.2013 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 10.05.2013. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 10.05.2013. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wage/casual labour and hence not entitled to

any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 10.05.2013 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner.

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

“ 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity.”

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- (i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering

the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Mool Chand, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 50% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 450.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष, रेलवे और डाक कर्मचारी संघ, अहमदाबाद (गुजरात), और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 अहमदाबाद के पंचाट (संदर्भ संख्या 16/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.01.19 को प्राप्त हुए थे।

[सं. एल-40011/27/2010-आईआर (डीयू)]

बी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 450.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1 Ahmedabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to the President, Association of Railway and Post Employees, Ahmedabad (Gujarat) and, Others, and their workmen which were received by the Central Government on 18.02.19.

[No. L-40011/27/2010-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th February, 2019

Reference: (CGITA) No. 16/2010

1. The General Manager,
Post and Telegraph Department, Khanpur,
Ahmedabad (Gujarat)
2. The Sr. Supdt. of Post Office,
Gandhinagar Division, Sector 30,
Gandhinagar (Gujarat)

..First Parties

V/s

The President,
The Association of Railway and Post Employees,
4, Alap Flats, Near Swaminarayan Chowk, Jawaharnagar,
Vasna Road,

Ahmedabad (Gujarat) – 380007

...Second Party

For the First Parties : Shri P.M. Rami

For the Second Party : Shri R.C. Pathak & Shri Chintan Gohel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/27/2010-IR(DU) dated 31.05.2010 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of General Manager, Post and Telegraph Department in terminating the services of Shri Abdulbhai Sulemanbhai Sindhi w.e.f. April, 2007 is legal and justified? If not, what relief the workman is entitled to?”

1. The reference dates back to 31.05.2010 and received on 14.06.2010 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to both the parties, the second party submitted the statement of claim Ex. 8 on 04.04.2011 and the first party submitted the written statement Ex. 12 on 12.03.2012.
3. The second party union The President, The Association of Railway and Post Employees, 4, Alap Flats, Near Swaminarayan Chowk, Jawaharnagar, Vasna Road, Ahmedabad, hereinafter referred to as “union” in his statement of claim has alleged that the second party workman Abdulbhai Sulemanbhai Sindhi, hereinafter referred to as “workman” has been working as casual labour (Group D) since 1989 and worked till the date of termination i.e. April, 2005. His services were terminated without following due procedure of law and also without giving him notice, paying notice pay or retrenchment compensation in violation of the provisions of Section 25 F of the Industrial Disputes Act, hereinafter referred to as “Act”. The first parties The General Manager, Post and Telegraph Department, Khanpur, Ahmedabad and The Sr. Supdt. Of Post Office, Gandhinagar Division, Sector 30, Gandhinagar, hereinafter referred to as “first party” also retained the junior casual labour while terminating him in violating the provisions of Section 25 G of the Act and Rule 77 of the Industrial Disputes (Central) Rules, hereinafter referred to as “Rules”. He has further alleged that the first party while conducting fresh recruitments did not give him the opportunity of re-employment in violation of Section 25 H and N of the Act. Thus he has prayed for reinstatement with back wages.
4. The first party in his written statement Ex. 12 submitted that this workman was engaged as Postman Group D/EDA in the leave vacancy for only 3 days from 17.09.1998 to 19.09.1998. He never worked for 240 days in the period of engagement. Thus no provision of Industrial Law was violated and the reference is fit to be dismissed.
5. The second party vide list Ex. 18 submitted the papers showing that he was engaged as EDA. He has also moved an application Ex. 15 for mandamus to be issued to first party to submit the seniority list of casual labours which was disposed of with a direction to the parties to place the documents which were never submitted by the first party on the ground of being not traceable.
6. The second party also submitted documents vide list Ex. 21 which are reproduced as under:

Serial No.	List of documents
1	Copy of certificate issued by the Post Master (HSG-I) Kalol dated 12.06.2004
2	A letter of senior Superintendent of Post Office dated 19.01.2005 approval for the post of Postman
3	Representation of second party workman (03.09.2004)
4	Acknowledgement slip for the aforesaid representation dated 03.09.2004
5	Representation of second party workman (04.09.2006)
6	Acknowledgement slip for the aforesaid representation dated 04.09.2006
7	Vouchers of payment of salary to second party workman
8	Instructions of Head Post Master, Kalol for payment of salary
9	Acquaintance Roll (Payment of salary)
10	ACG-17 Vouchers
11	Money order receipt
12	Application for leave for extra departmental agents (Page No. 1 to 28)

7. On the basis of the pleadings, the following issues arise:
 - i. Whether the action of the management of General Manager, Post and Telegraph Department in terminating the services of Shri Abdulbhai Sulemanbhai Sindhi w.e.f. April, 2007 is legal and justified?
 - ii. To what relief, if any, the concerned workman is entitled?

8. **Issue No. i and ii:** As both the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman who submitted his affidavit Ex. 8 and in his examination-in-chief in the said affidavit reiterated the averments made in the statement of claim but in his cross-examination, he has stated that he does not remember the day and month of the joining of service. It is wrong to say that he did work only for 3 days. He was not given any appointment letter. He did not pass any examination for recruitment. He used to work in the leave vacancy.

9. The first party submitted the affidavit Ex. 20 of his witness named Bhadreshkumar Kantilal Mehta, Sr. Superintendent of Post Offices, Gandhinagar reiterating the averments made in the written statement denying all the averments and evidence of the workman. He, in his cross-examination, has stated that he knows the handwriting of Sub-post Master who issued the certificate Ex. 18/2 to 18/4. These documents are genuine but these documents reveal that the workman worked from 17.09.1998 to 19.09.1998 i.e. only for 3 days. These documents Ex. 18/2 to 18/4 are submitted by the second party workman relying thereon. Thus on the basis of these documents, it can be believed that this workman worked only for 3 days.

10. I perused the oral and documentary evidence and considered the arguments of the parties. This is a case where the workman has not worked for more than 240 days. Thus a workman who worked only for 3 days on a leave vacancy has not been given any right in the Industrial Disputes Act for any relief; therefore the reference has no force. Both the issues are decided against the workman and the reference is liable to be rejected.

11. Thus the reference is dismissed. The award is passed accordingly.

P. K. CHATURVEDI Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 451.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आयोजन सचिव, रेलवे और डाक कर्मचारी संघ, अहमदाबाद (गुजरात), और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 अहमदाबाद के पंचाट (संदर्भ संख्या 549/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.02.19 को प्राप्त हुए थे।

[सं. एल-40011/1/2003-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 451.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 549/2004) of the Central Government Industrial Tribunal-cum-Labour Court-1 Ahmedabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Organising Secretary, Association of Railway and Post Employees, Ahmedabad (Gujarat) and, Others, and their workmen which were received by the Central Government on 18.02.19.

[No. L-40011/1/2003-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 07th February, 2019

Reference: (CGITA) No. 549/2004

1. The Chief Post Master General,
Gujarat Circle, Khanpur, Ahmedabad (Gujarat) – 380001
2. The Superintendent Engineer (Construction),
Postal Civil Circle, Naranpura, Ahmedabad (Gujarat)
3. The Executive Engineer (Construction),
Postal Civil Division, P & T Administration Building,
6th Floor, Khanpur,
Ahmedabad (Gujarat) – 380009

...First Parties

V/s

The Organising Secretary,
The Association of Railway and Post Employees,
15, Shashi Apartment, Near Anjali Cinema, Vasna Road,
Ahmedabad (Gujarat) – 380007

...Second Party

For the First Parties : Shri B.J. Ujjaini

For the Second Party : Shri R.C. Pathak and Shri Chintan Gohel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40011/1/2003–IR(DU) dated 31.03.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of CPMG, Ahmedabad in not regularising the services of Shri Jayantibhai M. Vaghela after having rendered more than 16 years service, with consequent benefits is just, fair and legal? If not, to what relief the workman is entitled?”

1. The reference dates back to 31.03.2003 and received on 16.04.2003 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to both the parties, the second party submitted the statement of claim Ex. 10 on 19.04.2012 and the first party submitted the written statement Ex. 11 on 21.01.2013.
3. The advocate for the first party submitted a purses Ex. 17 that the workman sweeper Jayantibhai M. Vaghela has already been regularised in service from 10.02.2014. The copy of order is also enclosed with the purses vide Ex. 18. Thus the second party workman does not want to prosecute the case in the light of the aforesaid order.
4. Thus the reference is disposed of in the light of office memorandum of the first party Ex. 17 and 18. The documents Ex. 17 and 18 shall be the part of the award.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 452.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 31/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 452.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No. 31/2017

Shri Vir Singh S/o Shri Om Prakash,
R/o Gali No.5, Sangam Vihar,
Jharoda, Delhi

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Vir Singh (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a cook with Daulat Ram College Hostel (in short the management) since 17.03.2009 and his last drawn wages was Rs.13,000.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a cook with the management since 17.03.2009. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 17.03.2009. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary

was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 17.03.2009 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner.

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

“ 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity.”

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- (i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Vir Singh, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 453.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 29/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 453.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.29/2017

Shri Shambhu Nath Yadav S/o Shri Daulat Ram Yadav,
R/o 47, Village Dabhiyar, Post Kumbhapur,
PS Dabhiyar, Distt. Pratapgarh,
Uttar Pradesh

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Shambhu Nath Yadav (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a

right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a helper with Daulat Ram College Hostel (in short the management) since 21.02.2009 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 21.02.2009. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 21.02.2009. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 21.02.2009 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

“ 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in

excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity.”

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon’ble Apex Court in case “**Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya**” has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- (i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon’ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman’s service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month’s notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Shambhu Nath Yadav, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 50% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 454.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 33/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 454.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNA-CUM LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No. 33/2017

Shri Ramniwas S/o Shri Rampal
R/o P-28/8, Timarpur,
Delhi – 110 094

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Ramniwas (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a mali with Daulat Ram College Hostel (in short the management) since 15.07.2009 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 10.06.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 10.06.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Thereafter, an application was moved of behalf of legal representatives of Shri Ramniwas, who unfortunately expired on 26.02.2018, for substitution of her name in the array of parties. Thereafter, Ms.Anita tendered her affidavit as

evidence, besides documents, to support the claim. Ms.Anita also tendered additional evidence to further buttress the claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a mali with the management since 15.07.2009. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 15.07.2009. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 15.07.2009 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25-F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

"13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case "**Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya**" has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- (i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Ramniwas, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 60% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 455.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 30/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 455.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No.1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.30/2017

Shri Bhagwat Singh S/o Shri Khem Singh,
R/o Village Nahad, Post Korla,
Thana & Zilla Almora,
Uttarakhand

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)

D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Bhagwat Singh (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a cook with Daulat Ram College Hostel (in short the management) since 08.08.2013 and his last drawn wages was Rs.13,000.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 21.02.2009. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 08.08.2013. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 08.08.2013 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment

purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

" 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case **"Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya"** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Bhagwat Singh, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 650% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 456.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स रिलायंस अग्रवाल फनसिटी मॉल, कड़कड़डूमा, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 255/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुआ था।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 456.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 255/2018) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Reliance Jio Infocomm Ltd., Aggarwal Funcity Mall, Karkardooma, Delhi and, Others, and their workmen which were received by the Central Government on 07.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No.255/2018

Shri Pankaj Kumar S/o Shri Om Prakash
R/o House No.A-4/302, Nand Nagar, Delhi 110 093

Through

All India General Mazdoor Trade Union (Registration No.3025),
170, Bal Mukund Khand, Giri Nagar,
Kalkaji, New Delhi – 110 019

...Workman

Versus

1. Reliance Jio Infocomm Ltd.,
1st Floor, Aggarwal Funcity Mall,
Karkardooma, Delhi – 110 032
2. M/s S/G. Encon Pvt. Ltd.,
B.S.-138, Sector 70
NOIDA, Zila Gautam Budh Nagar,
Uttar Pradesh

...Managements

AWARD

Present dispute has been raised by Shri Pankaj Kumar (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed on behalf of the claimant averring that he was working with M/s Reliance Infocomm. Ltd.(in short the management) through M/s S.G. Encon Pvt. Ltd.(in short the contractor) from 23.08.2015 as Filed worker at a monthly wage of Rs.17,000.00. The claimant worked to the entire satisfaction of the management and gave no chance of complaint. No memo or charge sheet was ever served on him. The claimant was deprived of genuine labour facilities, i.e. bonus, yearly leave, double overtime, increments, wage slip etc. He demanded for the above legal

facilities which irked the management and the management started paying his wages through vouchers. On objecting to the same, he was threatened to be thrown out of the job. However, when he reported for duties on 13.10.2017, the management without assigning any reason, all of a sudden, terminated his services. His earned wages for the period 01.10.2017 to 12.10.2017 and bonus and overtime for the period 23.08.2015 to 12.10.2017 have not been paid to him. Demand notice was sent to the management on 14.10.2017 but the management did not respond to the same. The management did not appear before the Assistant Labour Commissioner despite issuance of notice. The claimant is unemployed till date. Finally, it has been prayed that the claimant may be reinstated in service with full back wages.

3. Thereafter, the case was listed for filing of written statement by the managements. However, it was stated by Shri Munish Kumar, Manager of M/s S.G. Encon Private Ltd. that the matter is under settlement. On 09.01.2019, management filed Memorandum of Understanding Ex.C-1 between M/s. S.G. Encon Pvt. Ltd and the claimant, duly signed by both the parties, stating that the matter has been settled amicably between the parties and a sum of Rs.1,50,000.00 is being paid as full and final settlement. Statement of Shri Pankaj Kumar recorded separately. Cheque No.006411 dated 17.09.2018 for Rs.1,50,000.00 is Ex.C-2. In view of the Memorandum of Understanding Ex.C-1, there remains no grievance between the parties. The claim now stands settled amicably vide Memorandum of Understanding Ex.C-1 and cheque Ex.C-2, which shall form integral part of this Award. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : January 24, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 457.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 36/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुआ था।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 457.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.36/2017

Shri Dinesh Singh Bisht S/o Shri Amar Singh Bisht,
R/o C-1/825A, Gali Ni.14,
Main Som Bazar Road, Teesra Pusta,
Sonia Vihar, Delhi 110 090

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Dinesh Singh Bisht (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a helper with Daulat Ram College Hostel (in short the management) since 31.07.2009 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 31.07.2009. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 31.07.2009. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 31.07.2009 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner

9. The action of the management in not serving any notice to the claimant before his termination or payment of one month's salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

“ 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity.”

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Dinesh Singh Bisht, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 60% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 458.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 32/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 458.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No.32/2017

Shri Ram Raj S/o Shri Ram Baksh,
R/Village Joli Meerganj,
Post Gossain Ganj, Zilla Sultanpur,
Uttar Pradesh

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Ramraj (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a mali with Daulat Ram College Hostel (in short the management) since 26.09.2006 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management

obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a mali with the management since 26.09.2006. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 26.09.2006. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 26.09.2006 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner.

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25-F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

“ 13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity.”

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Ramraj, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 60% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dated : January 10, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 459.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आयोजन सचिव, रेलवे और डाक कर्मचारी संघ, अहमदाबाद (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, अहमदाबाद के पंचाट (संदर्भ संख्या 14/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.02.2019 को प्राप्त हुए थे।

[सं. एल-40012/117/2002-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 459.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2006) of the Central Government Industrial Tribunal-cum-Labour Court-1, Ahmedabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Organising Secretary, Association of Railway and Post Employees, Ahmedabad (Gujarat) and, Others, and their workmen which were received by the Central Government on 18.02.2019.

[No. L-40012/117/2002-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 07th February, 2019

Reference: (CGITA) No- 14/2006

1. The Chief Post Master General,
Gujarat Circle, Khanpur,
Ahmedabad (Gujarat)
2. The Sr. Superintendent of Post Offices,
Ahmedabad City Division,
Ashram Road, Old PMG House, Near Akashwani,
Ahmedabad (Gujarat) – 380009

...First Parties

V/s

The Organising Secretary,
The Association of Railway and Post Employees,
15, Shashi Apartment, Near Anjali Cinema, Vasna Road,
Ahmedabad (Gujarat) – 380007

...Second Party

For the First Parties : Shri A.S. Saiyed

For the Second Party : Shri R.C. Pathak and Shri Chintan Gohel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/117/2002–IR(DU) dated 03.02.2006 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Chief Post Master General/Sr. Superintendent of Post Offices, Ahmedabad in terminating the services of Shri Dashrathbhai Muljibhai Parmar w.e.f. 01.04.1994 is justified? If not, to what relief the workman is entitled?”

1. The reference dates back to 03.02.2006 and received on 13.02.2006 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to both the parties, the second party submitted the statement of claim Ex. 6 on 26.06.2006 and the first party submitted the written statement Ex. 8 on 14.08.2007.
3. Since then despite giving dozen of opportunities to lead evidence, the second party workman did not prefer to lead evidence. Moreover, Shri Chintan Gohel, advocate for the second party workman states that the workman has not been in his contact since then.
4. Thus it appears that the second party workman is not willing to prosecute the case.
5. Therefore, the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the action of the management of Chief Post Master General/Sr. Superintendent of Post Offices, Ahmedabad in terminating the services of Shri Dashrathbhai Muljibhai Parmar w.e.f. 01.04.1994 is justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 460.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अनुविभागीय अधिकारी, टेलीफोन एक्सचेंज, जेतपुर राजकोट (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, अहमदाबाद के पंचाट (संदर्भ संख्या 614/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.02.2019 को प्राप्त हुए थे।

[सं. एल-40012/215/1992-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 614/2004) of the Central Government Industrial Tribunal-cum-Labour Court-1, Ahmedabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Sub-Divisional Officer, Telephone Exchange, Jetpur Rajkot (Gujarat) and, Others, and their workmen which were received by the Central Government on 18.02.2019.

[No. L-40012/215/1992-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 07th February, 2019

Reference: (CGITA) No. 614/2004

The Sub-Divisional Officer,
Telephone Exchange, Jetpur,
Rajkot (Gujarat) – 360370

...First Party

V/s

Shri Rajesh B. Pathak,
Near Old Bus Stand, Jetpur,
Rajkot (Gujarat)

... Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : Mrs. K.L. Kalwani

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/215/92-IR(DU) dated 04.03.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Sub-Divisional Officer, Telephone Exchange, Jetpur is justified in terminating the services of Shri Rajeshkumar B. Pathak? If not, to what relief the concerned workman is entitled?”

1. The reference dates back to 04.03.1995 and received on 15.03.1995 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to both the parties, the second party submitted the statement of claim Ex. 2 and the first party submitted the written statement Ex. 11 on 29.04.1997.

3. The second party workman was also examined on 01.07.1997 but he has been absent for cross-examination since then. Today on 07.02.2019, Mrs. K.L. Kalwani has moved an application Ex. 38 for withdrawal of the case.
4. Therefore, the reference is finally disposed of as withdrawn.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 461.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 35/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O.461 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No. 35/2017

Shri Surender Singh S/o Shri Madhav Prasad,
R/o 123, Gagan Vihar, C Block,
PS Sahilpur, Tehsil & Zilla Ghaziabad,
Uttar Pradesh

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Surender Singh (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section

2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a mali general with Daulat Ram College Hostel (in short the management) since 28.11.2002 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of sections 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 28.11.2002. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 28.11.2002. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 28.11.2002 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner.

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex Court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

"13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation

equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case "**Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya**" has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Surender Singh, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 60% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed.

Dated : January 10, 2019

A.C. DOGRA , Presiding Officer

नई दिल्ली, 11 मार्च, 2019

का. आ. 462.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रिंसिपल, दौलत राम कॉलेज छात्रावास, मौरिस नगर, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 37/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 11th March, 2019

S.O. 462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal, Daulat Ram College Hostel, Maurice Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 04.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

DID No. 37/2017

Shri Subhash S/o Shri Nathu Singh,
R/o House No.355, 33 Foota Road,
Pushkar Vihar, Shiv Vihar, Phase 4,
Karwawal Nagar,
Delhi 110 094

Through

Shri Kapil Dev Pandey, General Secretary,
Mazdoor Kalyan Sangh (Regd.)
D-3/340, Gali No.6, Sonia Vihar,
Delhi – 110 094

...Workman

Versus

The Principal,
Daulat Ram College Hostel,
Malkaganj road, Patel Marg,
Maurice Nagar,
Delhi – 110 007

...Managements

AWARD

Present dispute has been raised by Shri Subhash (in short the workman) under the provisions of sub-section (2) of section 2-A of the Industrial Disputes Act, 1947 (in short the Act). A period of 45 days stood expired from the date of making his application before the Conciliation Officer. Sub-section (2) of section 2-A of the Act empowers him to file a dispute before this Tribunal, without being referred by the appropriate Government. His contention stands substantiated by the provisions of sub-section (2) of section 2-A of the Act. Workman has been given a right by the Act to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of her service, without a dispute being referred by the appropriate Government under sub-section (1) of section 10 of the Act. Since dispute was within the period of limitation, as enacted by sub section (3), and answered requirements of sub-section (2) of section 2-A of the Act, it was registered as an industrial dispute, even without being referred for adjudication by the appropriate Government, under section 10(1) (d) of the Act.

2. Claim statement was filed by the claimant that he was working as a helper with Daulat Ram College Hostel (in short the management) since 21.12.2015 and his last drawn wages was Rs.9,048.00. The claimant worked to the entire satisfaction of the management. The claimant was deprived of legal labour benefits, such as appointment letter, attendance card, leaves, pay slip, earned leave, overtime, bonus etc. When he insisted for the aforesaid benefits, that act enraged the authorities and he was not paid wages in time. On the pretext of paying his past wages, the management obtained his signatures on blank documents/vouchers. The services were finally terminated on 22.08.2016 and he was threatened with dire consequences in case he enters the premises of the management. Demand notice was served on the management on 24.08.2016 but the management failed to respond to the same. His earned wages for the period 01.06.2016 to 22.08.2016, leave encashment, overtime, bonus etc. have not been paid by the management. No charge sheet was issued to him. Neither one month notice nor pay in lieu thereof and retrenchment compensation was paid to him. Termination of services is violative of provisions of section 25-F, 25-G and 25-H of the Act and Rule 77 and 79 of the Industrial Disputes (Central) Rules, 1957. He claims reinstatement in service with continuity and full back wages.

3. Notice was sent to the management by registered post on 22.02.2017 calling upon it to file its written statement on or before 13.04.2017. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 22.02.2017 to 13.04.2017. Therefore, the Tribunal presumed that notice sent by registered post was served upon the contractor. None responded on behalf of the management despite service of the notice. Hence, the management was proceeded ex-parte, vide order dated 13.07.2017. Thereafter, ex-parte evidence of the claimant was recorded.

4. Claimant tendered his affidavit as evidence, besides documents, to support his claim. The claimant tendered additional evidence to further buttress his claim.

5. I have heard Shri Abhinav Kumar, A/R for the claimant.

6. It is the case of the claimant that he was engaged as a helper with the management since 21.12.2015. It is also admitted by the management in their reply dated 01/07.12.2016 filed before the Assistant Labour Commissioner that the claimant was working on daily wage basis from 21.12.2015. However, no appointment letter/attendance card/leave book, pay slip or annual leave/overtime or bonus was issued as he was a daily wager/casual labour and hence not entitled to any benefits. The claimant, in order to prove his case has filed copy of his pass book of the account in which the salary was being credited. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment.

7. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box.

8. It is apparent from pleadings of the claimant that he has joined services with the college from 21.12.2015 onwards. It is pertinent to note here that the management, in its reply filed before the Assistant Labour Commissioner, Ex.WW1/3, has not denied the factum of engagement of the claimant who has come with the plea that services of the claimant were requisitioned as and when the need arose and he was never in the regular employment of the management. Management has also admitted before the ALC that no letter of appointment was issued to the claimant. It is also clear from Ex.WW1/3 that the management does not possess attendance records of daily wagers from February 2010 to August 2016. Equally settled is the principle of law that it is not necessary to produce and prove the letter of appointment nor the same is necessary to prove the jural relationship of employer and employee. It is a matter of common knowledge that most of the managements are engaging workmen without issuing any letter of appointment purposely so that such workmen may not claim status of 'workman' under the Act. Admittedly, claimant has also served the management with legal demand notice Ex.WW1/1 and thereafter matter was also taken before the Assistant Labour Commissioner

9. The action of the management in not serving any notice to the claimant before his termination or payment of one months' salary or notice in lieu thereof is in clear cut violation of the provisions of section 25F of the Act. Section 25 F lays down the conditions precedent to the retrenchment of the workman and require the employer to give one month notice to the workman in writing or one month wages in lieu of such notice as well as retrenchment of compensation to such workman. This provision is mandatory and violation of the same would render action against the management under the law. The Hon'ble Apex court in *Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd.* (2014 LAB.I.C. 2643 Supreme Court) interpreted the provisions of Section 25 F of the Act and observed as under:

"13. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

10. The claimant has, in his affidavit, clearly stated that he was not gainfully employed after his termination nor there is any evidence on record to show that claimant was doing any kind of job after his termination. Under such circumstances, it is reasonable to presume that claimant was out of job after his termination. The Hon'ble Apex Court in case "**Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya**" has held as under :

The propositions which can be culled out from the aforementioned judgments are:

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

11. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

12. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law.

13. The net result of the above discussion is that the action of the management in not allowing the claimant to do his duty amounts to termination and the same is held to be illegal under the law.

14. In view of the legal position discussed above, this court is of the firm view that Shri Subhash, the claimant, is entitled to 60% of the back wages instead of full back wages as well as reinstatement with continuity of service as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. In case, the amount of 60% back wages is not paid by the management within one month from the date of publication of the Award, in that eventuality, the workman shall be entitled to recover the same with an interest @ 9% per annum from the date of publication, till its realization. An award is, accordingly, passed.

Dated : January 10, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 12 मार्च, 2019

का. आ. 463.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स जनरल मैनेजर, वलसाड टेलीकॉम डिस्ट्रिक्ट, भारत संचार निगम लिमिटेड, वलसाड (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, अहमदाबाद के पंचाट (संदर्भ संख्या 83/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.02.2019 को प्राप्त हुए थे।

[सं. एल-40012/144/2004-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 12th March, 2019

S.O. 463.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/2005) of the Central Government Industrial Tribunal-cum-Labour Court-1, Ahmedabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to the General Manager, Valsad Telecom District, Bharat Sanchar Nigam Limited, Valsad (Gujarat) and, Others, and their workmen which were received by the Central Government on 11.02.2019.

[No. L-40012/144/2004-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 22nd January, 2019

Reference: (CGITA) No. 83/2005

The General Manager,
Valsad Telecom District,
Bharat Sanchar Nigam Limited, Halar Road,
Valsad (Gujarat) - 396001

...First Party

V/s

Smt. Nanduben Ishwarbhai Dimar,
Res. At and Post Vesma,
Bazar Faliya, Tal. Jalalpor,
Navsari (Gujarat)

...Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : Shri S.K. Kazi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/144/2004—IR(DU) dated 21.12.2004 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of General Manager, Valsad Telecom District, Valsad in terminating the services of Smt. Nanduben Ishwarbhai Dimar w.e.f. 01.11.2003 is legal, proper and justified? If not, to what relief the concerned workman Smt. Nanduben Ishwarbhai Dimar is entitled?”

1. The reference dates back to 21.12.2004 and received on 05.01.2005 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to both the parties, the second party workwoman submitted the statement of claim Ex. 8 on 23.01.2009 alleging that she was engaged as part time sweeper since long but her attendance was not marked in the muster roll and her attendance was marked since 01.07.1999 on monthly wages of Rs.2000/-. She was made regular in the month of August, 2000. She used to work more than 240 days in each and every calendar year but she was removed on 20.10.2003 without giving any notice and notice pay. Therefore, she has prayed for reinstatement with back wages.
3. The first party The General Manager, Valsad Telecom District, Bharat Sanchar Nigam Limited, Halar Road, Valsad, hereinafter referred to as ‘first party’ submitted the written statement Ex. 19 on 19.09.2011 submitting that the averments made in the statement of claim are false, frivolous, illegal and untenable. No cause of action arises in the case. The second party workwoman was engaged as part time sweeper at Vesma Telephone Exchange for 2 hours a day w.e.f. 01.07.1999 receiving the official approval from BSNL Head Quarter, New Delhi. Later the department issued instructions vide communication no. 269-94/98-STN-2 dated 29.09.2000 giving directions that all the casual labours engaged after 01.08.1998 be discharged, therefore, this workwoman was removed as she has joined on 01.07.1999. Therefore, the reference is not maintainable and liable to be dismissed.
4. The copies of aforesaid order and notifications have been submitted by the first party. The second party workwoman has also submitted number of documents vide Ex. 31 regarding the communication of removal of her on 18.10.2003 and also removing the other workmen at other telephone exchanges vide letter dated 05.11.2003.
5. On the basis of the pleadings, the following issues arise:
 - i. Whether the action of the management of General Manager, Valsad Telecom District, Valsad in terminating the services of Smt. Nanduben Ishwarbhai Dimar w.e.f. 01.11.2003 is legal, proper and justified?
 - ii. To what relief, if any, the concerned workman is entitled?
6. **Issue No. i and ii:** As both the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman who submitted her affidavit Ex. 10 reiterating the averments made in the statement of claim but she has not stated anything contrary in her cross-examination.
7. The first party examined one Shri Anwar Mohammad Patel vide affidavit Ex. 22 who reiterated the averments made in the written statement but in his cross-examination, he has admitted that this workwoman had been working under his overall administrative control. She was not given any appointment letter as she was a casual labour. She was not given notice or notice pay at the time of removal as daily wages sweeper. He has also admitted the work which this workwoman sweeper used to do still exist and so far no sweeper has been appointed till date. Thus the removal of daily wagger without giving notice and paying notice pay is violation of Section 25 F of the Industrial Disputes Act. Thus she is entitled for reinstatement with lump-sum compensation of Rs.10000/- (Rupees Ten Thousand).
8. The issue no i and ii are decided accordingly. The first party is directed to reinstate the second party workwoman Nanduben Ishwarbhai Dimar along with Rs.10000/- (Rupees Ten Thousand) as lump-sum compensation within 30 days from the publication of this award in the gazette.
9. The award is passed accordingly.

नई दिल्ली, 13 मार्च, 2019

का. आ. 464.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स गुड ईयर सिक्योरिटी सर्विसेस, द्वारका, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 39/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 464.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s. Good Year Security Services, Dwarka, New Delhi and, Others, and their workmen which were received by the Central Government on 26.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, DWARKA COURTS COMPLEX : NEW DELHI

ID No. 39/2017

Shri Jayprakash Saini S/o, Shri Kallu Ram Saini,
C/o. Delhi Pradesh Factory & Dehari Mazdoor Congress,
627, Baba Farid Puri,
West Patel Nagar, Delhi 8.

...Workman/Claimant

Versus

1. M/s. Good Year Security Services,
203, Vikash Suriya Okard, Sector 11,
Plot No.8, Ashirwad Chowk, Dwarka,
New Delhi 75.

2. Ram Manohar Lohia Hospital,
Baba Kharak Singh Marg,
New Delhi -01

... Management/Respondents

AWARD

This is a claim directly filed by the workman/claimant Jayprakash under Section 2(A) of the Industrial Disputes Act (hereinafter referred to as "the Act"), with the averments that he was appointed by Management No.1 on the post of Security Guard in the month of December, 2009 and was deputed to work with the Management No.2. His last drawn wages were Rs.7000/- per month. The workman used to work sincerely, honestly and without any complaint to the Managements. Management No.1 and 2 used to take work for 10 hours per day but the Management no.1 has not paid over time wages and other legal facilities viz. ESI, PF, casual leave, yearly increment and minimum wages. Ultimately at the persistent demand of the workman, he was provided with PF and ESI facilities but the management No.1 got annoyed with him and in order to get rid of him, the Management No.1 illegally terminated the workman from services without any rhyme or reason on 18/1/2016 on the direction of Management No.2. The workman approached the Conciliation Officer but to no avail. A demand notice was sent to the Management through the Union but to no response. It is pleaded that the workman had worked continuously with the management since the day of his joining in December, 2009 till his illegal termination on 18/1/2016 and as such he worked for more than 240 days with the Management. It is also pleaded that after illegal termination, the workman searched for the job at many places but does not find any job and as such he is completely unemployed and dependent upon his family. Prayer has been made for reinstatement of the workman with full back wages and all consequential benefits.

2. Notice of the claim petition was issued to the Managements but none appeared on behalf of the Management No.1. Though Shri Ajay Ekka, UDC and Murari Kumar, LDC appeared on behalf of Management No.2 in response to

the notice issued and took time to file written statement, however, Management no.2 also opted not to participate in the proceedings and as such the case was proceeded ex parte against both the Managements vide order dated 2/8/2017.

3. In order to prove his case, the workman examined himself as WW1 & tendered his affidavit Ex.WW1/A and relied on documents Ex.WW1 to Ex.WW1/13.

4. I have heard Shri Ajit Singh, A/R for the workman./claimant and have gone through the record carefully.

5. I may mention that affidavit Ex.WW1/A filed by the claimant is in line with the averments made in the claim petition. He has filed on record copy of the complaint/representation dated 10/2/2016 which he had moved to the Asstt. Labour Commissioner/Conciliation Officer; copy of demand notice Ex.WW1/2 sent to the Management No.1 and its postal receipts Ex.WW1/3 & Ex.WW1/4; claim petition filed before the Conciliation Officer as Ex.WW1/5; certificate Ex.WW1/6 issued by the Conciliation Officer regarding no settlement arrived at between the parties during the conciliation proceedings; copies of identity cards Ex.WW1/7 to Ex.WW1/11 issued by Management NO.1 M/s Good Year Security Services; copy of ESI card as Ex.WW1/12 and copy of PF statement as Ex.WW1/8. Perusal of these documents clearly substantiate the claim of the claimant/workman that it was the Management No.1 who had appointed him on the post of Security Guard in December, 2009 and he worked as such for more than six years. As such, it stands proved on record that there existed relationship of employer-employee exclusively between the Management No.1 and the claimant herein and that the claimant falls within the definition of “workman” as provided under Section 2(S) of the Act.

6. The version of the claimant that the Management No.1 illegally terminated his services on 18/1/2016 in violation of the provisions of Section 25-F and 25-G of the Act and that since then he is unemployed, has gone unchallenged and rebutted. The Management No.1 has not come forward either to deny or rebut the allegations of the claimant/workman or to show that services of the claimant were retrenched/terminated after serving him a prior notice or payment of compensation in lieu of notice period as required under Section 25-F of the Act. There is long line of decisions of Hon’ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render whole action of the Management to be illegal and wrong under the law.

7. In his affidavit, the workman has specifically stated that worked for more than 240 days with the Management. It is also pleaded that after illegal termination, the workman searched for the job at many places but does not find any job and as such he is completely unemployed and dependent upon his family. The Management has not adduced any evidence to show that the claimant is gainfully employed somewhere else on full time/regular basis. Even if it is assumed that the workman is doing some intermittent or adhoc work to make his both ends meet on daily wage basis, that would not itself amount to gainful employment. In the circumstances, it is held that action of the Management in terminating the service of the workman is totally illegal and wrong and is in violation of Section 25-F of the Act.

8. Now the residual question is whether workman is entitled to be reinstated with full back wages. It depends on number of factors – whether workman was regular, temporary or daily wager; he was recruited in proper manner or whether his work is of regular and temporary nature; length of service or delay in approaching the Tribunal and whether termination is in gross violation of provisions of the Act.

9. The Hon’ble Apex Court in case “Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya” reported as (2013) 10 SCC 324 has held as under :

“The propositions which can be culled out from the aforementioned judgments are :

- (i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

10. The Hon’ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman’s service/ employment/engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month’s notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the

employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

11. A Bench of three Judges of the Hon'ble Supreme Court in the case of *Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited* (1979) 2 SCC 80 held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be totally, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen alongwith payment of back wages.

12. Hon'ble Apex Court in the case ***General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L&S) 716*** observed as under :-

“8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. *One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year.*”

13. Their Lordships of Hon'ble Supreme Court in ***(2015) 9 SCC 345, titled as Raj Kumar Dixit Vs. Vijay Kumar Gauri Shanker***, on the question of reinstatement of workman after his retrenchment is declared void ab initio have held as under :-

20. The High Court has exceeded in its jurisdiction in setting aside the Award passed by the Labour Court in awarding reinstatement of the Appellate-workman in his post alongwith 50% back wages, which is erroneous in law as the High Court has not noticed the fact that the appropriate Government has referred the dispute to the Labour Court for its adjudication on the points of dispute referred to it. Since, there was non-compliance of the mandatory requirements as provided under the provisions of the Act by the Respondent-firm at the time of passing an order of termination against the Appellant-workman, therefore, the same has been held to be bad in law and as such it should have awarded full back wages to the workman from the date of termination till the date of passing the Award unless the employer proves that the workman was gainfully employed during the aforesaid period which fact is neither pleaded nor proved before the Labour Court.

21. Therefore, the impugned judgement of the High Court is bad in law as the normal rule to be followed by the Respondent-firm with regard to the termination of the services of the workman has not been done in the present case and further, the High Court has once again exceeded in its supervisory jurisdiction in exercise of its judicial review power under Article 227 of the Constitution of India by setting aside the Award of reinstatement with 50% back wages passed by the Labour Court and has instead awarded Rs.2 lakhs as compensation to the Appellate –workman, which is contrary to the law laid down by this Court. The High Court cannot exercise its supervisory jurisdiction and act as either original court or appellate court to set aside the finding of fact recorded on the points of dispute referred to the Labour Court on proper appreciation of pleadings and evidence on record in favour of the workman as has been done in the instant case. The Award of compensation of Rs.2 lakhs awarded in place of reinstatement with 50% back wages as awarded by the Labour Court, has been modified by the High Court without assigning any cogent and valid reason which is not only erroneous in law but suffers from error in law as well, as the same is contrary to the catena of decisions of this Court. On this ground itself, the impugned judgement of the High Court is liable to be set aside and we pass an order to restore the Award passed by the Labour Court.”

14. Their Lordships of Hon'ble Supreme Court in ***(2016) 6 SCC 541, titled as Raj Kumar Vs. Director of Education and others***, have ordered for the reinstatement of the petitioner with full back wages, where retrenchment of the service of the workman was in violation of Section 25(f)(a), (b) & (c) of the Industrial Disputes Act, 1947.

15. Yet in another latest case of ***Bholanath Lal and others Vs. Shree Om Enterprises (P) Ltd., Manu/DE/1922/2018*** (decided on 10/5/2018), Hon'ble High Court of Delhi while considering the question of illegal termination and reinstatement held as under :-

“The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere

with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages."

A similar view has been taken in the case of **Delhi Jal Board Vs. Vimal Kumar (decided on 5-4-2018) MANU/de/1322/2018** wherein service of a casual driver was terminated without any notice or payment of one month's salary in lieu of such notice. The Industrial Tribunal answering the reference held the action of the management to be illegal and in violation of Section 25-F of the Act. The Award was upheld by Hon'ble High Court of Delhi by observing as under :-

"In view of the above discussion, I am unable to discern any illegality or infirmity in the impugned Award, dated 29th May, 2003, of the Labour Court, to the extent that it holds the termination of the services of the respondent, by the petitioner, to be illegal and unlawful. I am entirely in agreement with the finding, of the Labour Court, that the services of the respondent were retrenched in violation of Section 25-F of the ID Act and that, therefore, he was entitled to be reinstated in service with all consequential benefits. In view of the fact that going by the age of the respondent as disclosed in the counter affidavit filed before this Court, he would, today, be only 50 years of age, and also in view of the fact that the termination of his services as SCM Driver was not on account of any deficiency or shortcoming detected in the manner of discharge by the respondent, of his duties as such, I am of the opinion, that the facts of the present case, do not warrant any interference with the direction, of the Labour Court, to the petitioner to reinstate the respondent in service with the benefit of continuity of service. The petitioner is, therefore, directed to reinstate the respondent in service forthwith.

Inasmuch as the respondent has not been rendering any service to the petitioner since the date of his termination, however, the back wages payable to the respondent would be limited to 50 per cent of the wages which he would have drawn he had continued to serve the petitioner....."

16. Having regard to the background of the case, legal position as discussed above, coupled with the fact that the claimant was performing duty as a Security Guard – a job of regular/perennial nature of job, this Tribunal is of the firm view that the claimant herein is entitled for reinstatement into service, with 50 per cent back wages to the post held by him, inasmuch as termination of the claimant/workman by Management No.1 is per-se illegal. Award is passed accordingly against Management No.1.

Date : 22.2.2019

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 13 मार्च, 2019

का. आ. 465.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेयरमैन सह प्रबंधन निदेशक, कंटेनर कॉर्पोरेशन ऑफ इंडिया लिमिटेड नई दिल्ली (कॉन्सोर) और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 138/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 29.09.2018 को प्राप्त हुए थे।

[सं. एल-42025/03/2018-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 465.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 138/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Chair Man-cum Management Director, Container Corporation of India (Concor) Ltd. New Delhi, and, Others, and their workmen which were received by the Central Government on 29.09.2018.

[No. L-42025/03/2018-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT No. 1, DWARKA COURTS COMPLEX : NEW DELHI****ID No. 138/2016**

Shri Sanjeev Kumar
Senior Assistant (C & O)/Concor,
R/o. D-934 Tigri Colony
New Delhi 110062.

...Workman

Versus

The Chairman cum Management Director,
Container Corporation of India (Concor) Ltd.,
Concor Bhawan,
C-3 Mathura Road,
New Delhi 110076.

... Management

AWARD

This is a claim filed directly by the Workman/claimant Sanjeev Kumar under Section 2(A) of the Industrial Disputes Act (hereinafter referred to as "the Act"), with the averments that the claimant/workman was employed as Senior Assistant (Commercial & Operation) and was posted at Inland Container Depot, Tughlakabad, Okhla, New Delhi, Northern region office of the Management. Service record of the workman was excellent as he was doing his duty even in adverse circumstances with utmost sincerity, honesty and full dedication and the management has acknowledged the same by giving the citations dated 15/2/1999 and 16/6/1999 with cash award for outstanding performance of the workman. On 13/1/99 the workman was deemed suspended for the period from 18/8/1998 to 5/9/98 and was also placed under suspension indefinitely w.e.f. 18/2/99 in view of contemplating the disciplinary proceedings. A chargesheet was issued to the workman vide memorandum dated 25/2/1999 and charges were framed against him in terms of Rule 14(3) of Scheduled of the Industrial Employment (Standing Orders) Central Rules, 1946 regarding unauthorized absence from duty inasmuch as he remained in police custody on 18th and 19th August, 98 and in judicial custody from 28/8/98 to 5/9/98 and was released on bail on 5/9/98. It has been averred that the Enquiry Officer Shri Manish Puri without following principle of natural justice conducted & completed the domestic inquiry and submitted his report dated 30/5/2000. Resultantly, the Management mechanically imposed punishment of "Removal from Service" upon the workman vide order dated 12/7/2000, without appreciating the materials on record and without considering the representation/submissions made by the workman against the Inquiry Report. The workman preferred an administrative appeal against the punishment order before the Departmental Appellate Authority which accepted the submissions of the workman and passed an order dated 13/9/2000, thereby the punishment of "Removal from Service" was kept in abeyance and directions were issued for de-novo inquiry after obtaining the authenticated certified/attested copies of FIR, arrest memo etc. But again the same Inquiry Officer submitted his report dated 23/3/2001 with the same conclusion and same result, against which the workman also filed his representation/submissions before Departmental Appellate Authority, which set aside order (of removal from Service) dated 12/7/2000 and issued directions for de-novo inquiry against charges. Vide order dated 10/12/2001 Shri PS Nerwal was appointed as Enquiry Officer to enquire into the old charges listed in the memorandum dated 25/2/1999. It is averred that the order dated 10/12/2001 gave another lease of life to the dead chargesheet/ memorandum dated 25/2/99 and issued re-notified chargesheet which was also based without any material to support and without giving workman the opportunity to make submissions. The said inquiry was held at the corporate office of the Management situated in Le Meridian Commercial Tower, Raisina Road, New Delhi vide memorandum dated 31/12/2001. It has further been averred that the Enquiry Officer conducted the enquiry in complete violation of principle of natural justice and in a biased manner and consequently, the workman vide his memorandum dated 14/3/2002 and 25/3/2002 informed the Disciplinary Authority about the behavior and biased attitude of the Enquiry Officer with the request to take action. The workman received memo dated 2/4/2002 from the Inquiry Officer, intimating him the postponement of the inquiry fixed for 5/4/2002 till further advice. Thereafter the workman received an order dated 30/4/2002 of the disciplinary Authority, informing the workman that Shri P.S. Nerwal was re-appointed as Enquiry Officer but his representation dated 14/3/2002 and 25/3/2002 were rejected vide order dated 16/4/2002. During pendency of the inquiry proceedings, suspension of the workman was revoked by the Appellate Authority vide its order dated 13/6/2002 but vide order dated 29/6/2002 the workman was transferred & posted at Jodhpur unit with malafide intention for harassing and victimizing the workman. Being aggrieved from the transfer order dated 29/6/2002, the workman filed Writ Petition Civil No.3990/2002 before the Hon'ble High Court and vide order dated 8/7/2002 Hon'ble High Court directed the Management to find out alternative place of posting of the workman within the radius of 100 km. and fixed the matter for 17/7/2002. The workman gave his acceptance to be posted at Ludhiana unit. The Inquiry Officer conducted the inquiry on 27/5/2002 and 17/7/2002 at the back of the workman without intimating him the dates and in a biased manner and did not offer a single opportunity to the workman to cross examine the witness Shri Jaivir Singh Gill and finally the Enquiry Officer gave his report on 20/11/2002, against which the workman submitted his representation dated 26/5/2003. Thereafter, on the basis of order dated 26/3/2004 of Disciplinary Authority, the Management while imposing punishment of removal from service of the workman, filed application under Section 33(2)(b) of the Act before Industrial Tribunal for approval of its action. The

said application was rejected by the Tribunal vide order dated 2/3/2006. Thereafter, the workman moved the Hon'ble High Court vide Writ Petition (Civil) No.5316/2006 for enforcement of his rights to be taken back in service with consequential benefits. The said Writ petition was dismissed by Hon'ble High Court vide its order dated 2-11-2006 with the observation that the workman has an efficacious remedy provided under the Act. Thereafter the workman filed an application under Section 33-A of the Act before the Labour Court cum Industrial Tribunal-II, Delhi which was registered as ID No.11/2008/ The Tribunal was pleased to pass an Award dated 27/7/2001 thereby directed for reinstatement of the workman in service with back wages & consequential benefits. Against the said Award, the Management filed Writ Petition (C) No. 7387/2001 before Hon'ble High Court and the said petition was dismissed vide order dated 10/10/2011 passed by Hon'ble High Court. Against that order, the Management preferred LPA NO. 943/2011 and the Division Bench of Hon'ble High Court passed order dated 21/8/2012, thereby allowing the LPA of the Management & setting aside the order dated 10-10-2011 passed by the Single Judge in W.P.(C) No. 7387/2001 as well as award dated 27/7/2011 passed in ID No. 11/2008 and directed the workman herein to raise the dispute in respect of his termination. Thereafter the workman approached the Conciliation Officer who made efforts for reconciliation between the workman and management but to no success and ultimately, the Conciliation Officer issued certificate dated 25/4/2016, directing the workman to approach the Tribunal. In this background, the present claim petition has been filed by the Workman alleging that action of the Management is illegal; the workman has not been gainfully employed since the management did not allow him to join duties since 26/3/2004 and as such the workman is entitled for reinstatement with continuity of service and full back wages. Prayer has been made and action of the Management imposing punishment of removal from service vide order dated 26/3/2004 to be not justified and/or alternatively, inquiry held by the Enquiry Officer Shri PS Nerwal be declared as wrong, malafide and perverse and further that, the Management be directed to reinstate the workman with continuity of service alongwith full back wages and consequential benefits.

2. The claim petition has been resisted by the Management who filed reply thereof & took preliminary objections that in fact, the claimant/workman was removed from service vide order dated 26/3/2004 and the appeal filed by the workman was dismissed by the Ld. Appellate Authority vide order dated 29/6/2004 but no prayer challenging the order dated 26/3/2004 and/or order dated 29/6/2004 has been made in the claim petition and as such, the claim petition is not covered under Section 2-A of the Act. The claim petition is barred by time and hence liable to be rejected on this score. It is alleged in para (f) of the preliminary objections that this Tribunal has no territorial jurisdiction to entertain the claim petition inasmuch as when the order of removal dated 26/3/2004 was passed, the claimant was admittedly posted and working at Ludhiana (Punjab). The claimant/workman was arrested on 18/8/98 and remained in custody from 18/8/98 to 5/9/98 i.e. for more than 48 hours and as such he was required to be under deemed suspension in view of provisions of clause No.36.2 of Standing Orders. The claimant had not informed the office about his arrest and custody etc., rather with a view to conceal his arrest, he had applied for leave only on the ground of "personal". It has been alleged that proper charge sheet was issued to the claimant and proper enquiry has been held. Disciplinary Authority had passed the order of punishment of removal from service, upon the workman after giving him due opportunity to make his submissions. It is also alleged that the claimant has pursued his further studies and completed graduation in law and he is practicing in law. Prayer has been made for rejection of the claim petition.

3. The claimant/workman filed rejoinder wherein he denied all the allegations made by the Management and reiterated his own case as set up in the claim petition.

4. Against this factual background, this Tribunal on the pleadings of the parties, framed three issues on 8/11/2016, whereas additional issue No. 2-A was framed vide order dated 9/3/2017. The issues so framed by this Tribunal read as under

- 1) Whether the Domestic Inquiry held against the workman is not fair and perverse as same is also against regulation and principle of natural justice ?
- 2) Whether the management was not justified in not allowing the workman to join his duty ?
- 2-A) Whether the claim is not legally maintainable, the Court has no jurisdiction and the claim filed by the claimant is time barred as alleged ?
- 3) Whether the workman is entitled for reinstatement with back wages and consequential benefits ?

5. It is notable that issue No. 1 was treated as Preliminary issue and parties were called upon to produce evidence on these issues first. The Claimant in support of his case examined himself as W.W.1 and tendered his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to WW1/59. On the other hand, the Management in support of its case examined Shri Rajeev Bhardwaj, Senior Manager, as MW1 and he tendered his evidence by way of affidavit Ex.MW1/A alongwith documents Ex.MW1/1 to Ex.MW1/8. This witness has also tendered in evidence Enquiry proceedings as well as other documents relating thereto.

I would be discussing the same while giving my findings on aforesaid issue No.1.

Issue No.1

6. It was strongly urged by the workman/claimant that he was wrongly charge-sheeted under the Standing Orders, 1997 (Ex.WW1/6), whereas Discipline & Appeal Rules, 1993 (Ex.WW1/5) would be applicable to him being the workman/employee working in the Yard and that he was not governed by the Standing Orders 1997 Ex.WW1/6). The claimant was admittedly employed in the Yard at Tughlagabad and not in the workshop. Attention of this Tribunal was also invited to the counter affidavit (Ex.VWV1/7) filed by the Management as respondent No.2 before Hon'ble High Court of Delhi in W.P.(Civil) No. 142/97 titled as Container Corporation of India Employees Union Versus UOI & another, wherein there is reference to the fact that Disciplinary and Appeal Rules are applicable on those employees who are not working in the workshop. Therefore, entire action since issuance of chargesheet (Ex.WW1/9) till passing of the

order of removal from service are not valid.

7. It was also urged by the workman/claimant that documents on which reliance was placed by the Management during the course of domestic enquiry were not supplied to him alongwith the chargesheet. Even witnesses were later on introduced in the said enquiry, though their names were not mentioned in the list when chargesheet was served upon him. Attention of this Tribunal was invited to the proceeding of domestic enquiry dated 27/5/2002 (Ex.A/W1/30) to show that one Shri Jaivir Singh Gill, MHER of P S. Parliament Street, New Delhi whose name does not find mentioned in the List of witnesses relied upon by the Management, was examined by the Enquiry Officer at the back of the workman who being unwell, could not attend the inquiry proceedings on that day and in fact, no opportunity was granted to the workman to cross examine the witness..

8. It has been submitted that no opportunity for leading evidence in defence was afforded to the workman, as provided in para 42.13 of the Standing Orders (Ex.WW1/6). In nut shell, thrust of arguments advanced by the workman is that principle of natural justice was not adopted by the Enquiry Officer and that fair opportunity was not granted during the enquiry proceedings . The workman placed reliance on a number of authorities so as to buttress his submission that fair opportunity is required to be granted to the chargesheeted employee besides supplying him copies of all documents and list of witnesses alongwith chargesheet.

9. I may mention that during the course of arguments, reference was made by both the parties to the earlier litigation between the parties. Perusal of the record shows that against the order dated 26/3/2004 regarding termination of services of the workman, LPA was preferred before Hon'ble High Court which was decided against the workman on 21/8/2012 and against that order, the workman filed SLP before the Hon'ble Supreme Court , which was decided on 29/4/2013.

10. On the other hand, A/R for the Management strongly urged that the Management adhered to the principle of natural justice and that all relied upon documents were supplied to the workman during the course of domestic enquiry proceedings and hence no prejudice has been caused to the workman. It has been submitted that the witness Jaiveer Singh was just a formal witness who was examined to prove entry in the Roznamcha and First Information Report regarding the case registered against the workman at the Police Station. Ld.A/R for the Management invited attention of this Tribunal to the proceedings dated 2/9/2002 before the Enquiry Officer to show that the workman himself did not lead any evidence despite the fact that he was asked to submit his defence evidence on 24/6/2002. 9/7/2002. 17/7/2002. 31/7/2002, 12/8/2002 and 26/8/2002 and hence, the Enquiry Officer closed the enquiry vide order dated 2/9/2002.

11. I have given my thoughtful consideration to the rival contentions of the parties and have gone through the record carefully.

12. Before I proceed to scan and analyse the enquiry report conducted against the workman/claimant herein, it is worthwhile to mention that when a departmental/domestic enquiry is conducted against an official, it can not be treated as a casual exercise and that the Inquiry Officer has to be wholly unbiased and should act as an Independent Adjudicator. Hon'ble Apex Court in the case of **State of Uttar Pradesh Vs. Saroj Kumar Sinha, reported as (2010) 2 SCC 772 had held** as under :

“An inquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, eve in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved....

When a departmental enquiry is conducted against the Govt, servant, it can not be treated as a casual exercise. The enquiry proceedings also can not be conducted with a closed mind. The Inquiry Officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a Govt, servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.”

13. Original Report of Enquiry against the workman alongwith the proceedings has been filed on record as Ex.MW1/3 (colly). Perusal of its running page 52 viz. proceeding of enquiry conducted on 22/1/2002 against the workman, would show that when the workman informed the Enquiry Officer that he had no received copy of the chargesheet and enclosures thereof, the Presenting Officer was directed to provide the workman with the copy of the chargesheet and all relied upon documents and only then and there, the same were supplied to the workman. Record of domestic enquiry shows that two witnesses namely S.K. Tyagi, Terminal Manager, TKD (PW1) and Shri Sanjeev Kumar Jain, Partner of M/s Arihant Industries, Okhla (PW 2) were examined before the Inquiry Officer on 9/5/2002 and 16/5/2002 respectively but the workman/charged official had refused to cross examine the witnesses, though he was afforded opportunity to do so. The conscience of this Tribunal was shaken to see the manner in which these witnesses were examined, inasmuch as all the questions to those witnesses were put by the Inquiry Officer (I.O.) himself and not by the Presenting Officer Shri Rajeev Bhardwaj who was very well present and was supposed to put questions to the witnesses to substantiate the charges framed against the charged official/workman here.

14. It is, thus, apparent from the face of record of enquiry proceedings that the Inquiry Officer did not act as an independent and impartial officer to find out the truth, rather he acted as a representative of the Management.

15. In the aforesaid facts & circumstances of the case and the legal position as explained above, the domestic enquiry conducted against the workman can not be said to be in conformity with the principle of natural justice, fair play and fair hearing. As such the enquiry got conducted by the Management against the workman is held to be illegal and improper. This issue is decided accordingly.

Issue No.2-A

16. Ld. A/R for the Management strenuously contended that this Tribunal has no territorial jurisdiction to entertain the claim petition because when the order of removal dated 26/3/2004 was passed, the claimant was admittedly posted and working at Ludhiana (Punjab). On the other hand, the claimant who argued the matter personally, submitted that this Tribunal has the jurisdiction to try the claim petition because all important events like issuance of charge- sheet, conducting the domestic enquiry and passing the punishment order all are happened at Delhi.

17. I have carefully gone through the record and I am of the considered opinion that there is no force in the submission of the A/R of the Management, inasmuch as admittedly the affairs and activities of the Management Corporation are run & controlled from the office situated here in Delhi i.e. within the jurisdiction of this Tribunal. Apart from this, the domestic enquiry report Ex.MW1/3 clearly shows that the enquiry proceedings were conducted at Delhi against Shri Sanjeev Kumar, the claimant herein, relating to the misconduct during the period he was posted as Assistant (C&O), Northern Region at Tughlagabad, Delhi. The witnesses before the Inquiry Officer were examined at Delhi. As such, it does not lie in the mouth of the Management to argue that this Tribunal has no territorial jurisdiction to try and decide the claim petition. Accordingly, it is held that this Tribunal has jurisdiction to entertain and decide the claim petition.

18. It has also been argued on behalf of the Management that in fact, the claimant/workman was removed from service vide order dated 26/3/2004 and the appeal filed by the workman was dismissed by the Ld. Appellate Authority vide order dated 29/6/2004 but no prayer challenging the order dated 26/3/2004 and/or order dated 29/6/2004 has been made in the claim petition and as such, the claim petition is not covered under Section 2-A of the Act. The claim petition is barred by time.

19. Per contra, it has been argued by the claimant that the claim petition is well within time because the Special Leave Petition bearing No.7937 of 2013 preferred by him against the order dated 21/8/2012 passed by Division Bench of Hon'ble High Court of Delhi, was dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015.

20. Perusal of the record shows that the claimant was removed from service by the Management vide order dated 29/6/2004 on the basis of order dated 26/3/2004 of the Disciplinary Authority of the Management. The claimant had filed a complaint bearing LCA/ID No.11/2008 under Section 33-A of the Act on the ground that the Management failed to seek approval of the punishment from the Tribunal regarding his removal from service. The said complaint was decided by the Tribunal vide Award dated 27/7/2011 (Ex.WW1/53). whereby the order dated 26/3/2003 of the Disciplinary Authority of CCIL removing the claimant from service was declared to be null and void and Management/CCIL was directed to pay all dues of Shri Sanjeev Kumar deeming him to have continued in service of CCIL. Against the said Award, the Management/CCIL approached Hon'ble High Court vide Writ Petition No.7387/2011 but the Single Judge of Hon'ble High Court vide order dated 11/10/2011 (Ex.WW1/54) dismissed the said petition. Then, the Management again moved Hon'ble High Court vide LPA No.943/2011 and the Division Bench of Hon'ble High Court vide order dated 21/8/2012 set aside the judgement of Learned Single Judge and quashed the order dated 27/7/2011 of the Industrial Tribunal which was passed on the application of claimant Sanjeev Kumar under Section 33-A of the Act. Thereafter, Special Leave Petition bearing No.7937 of 2013 was preferred by the claimant which was dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015.

21. It is fairly settled that provisions of Section 2-A of the Act enables a workman to approach Labour Court or Industrial Tribunal directly, without requirement of reference by Govt, in the cases where any employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, for adjudication of the dispute after expiry of forty five days from the date he makes an application to the Conciliation Officer of the Appropriate Govt. However, clause (3) of Section 2-A of the Act clearly provides that such an application/claim shall be made to the Labour Court or Tribunal **before the expiry of three years from the date of his/her discharge, dismissal, retrenchment or otherwise termination of service.**

22. It appears that the claimant adopted a very casual approach for redressal of his grievance, inasmuch as the claim petition under Section 2-A of the Act was filed by him only on 5th July, 2016, though the Management had imposed punishment of his removal from service vide order dated 29/6/2004 on the basis of report dated 26/3/2004 of Disciplinary Authority. Even if it is admitted for the sake of arguments that the claimant had earlier moved a complaint under Section 33-A of the Act before the Tribunal, only in the year **2008, that is to say** not before the expiry of three years from the date of his **removal from service.** As discussed in para 20 above, the Management/CCIL had filed LPA No.943/2011 before Hon'ble High Court against the judgement dated 10/10/2011 of Single Judge. While disposing & summing up of the said LPA, Division Bench of Hon'ble High Court in para 57 of the judgement dated 21/8/2012 had held as under :-

“Though we have earlier observed that the question of justifiability of the disciplinary action was also required to be gone into in Section 33-A proceedings but having now found that there was no dispute requiring any application under Section 33(2)(b), the complaint under Section 33-A itself would be not maintainable. The question thus, of the justifiability of the disciplinary action of removal from service being tested in Section 33A proceedings or the matter being required to be remanded for the said purpose, does not arise. **The remedy now of Shri Sanjeev Kumar is only to raise a dispute qua his termination.**”

As mentioned above, the Division Bench of Hon'ble High Court had clearly held that the remedy available with Sanjeev Kumar (claimant herein) was only to raise a dispute qua his termination but he did not raise any dispute qua his termination. Rather, he preferred Special Leave Petition bearing No.7937 of 2013 before Hon'ble Supreme Court,

against the aforesaid order of the Hon'ble High Court The SLP was also dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015. Even then the claimant did not take steps at the earliest because he filed the instant claim petition under Section 2-A of the Act only on 5th July, 2016 i.e. after expiry of more than 15 months of the dismissal of his review application by the Hon'ble High Court. All this shows callousness on the part of the claimant/workman.

23. Before concluding I may mention that during the course of arguments, the claimant had heavily relied on the decision of Hon'ble Supreme Court in the case of **Sree Narayana Dharmasanghom Trust Versus Swami Prakasanand & others, (1997) 6 SCC 778** to stress that order of Hon'ble Supreme Court dismissing his SLP in limine operates as a final order between the parties and the order passed by the Hon'ble High Court stands merged with the order of the Hon'ble Supreme Court and as such, the period of limitation be calculated from the order so passed by Hon'ble Supreme Court. It is reiterated that the SLP so filed by the claimant herein against the order dated 21/8/2012 of the Hon'ble High Court was dismissed by the Hon'ble Supreme Court vide order dated 29/4/2013. Even in such a situation, the claimant ought to have filed the present petition under Section 2-A of the Act, latest by 29-4-2016 which was not done by him, rather the present petition was filed only on 5/7/2016. It has been held in the case of **Smt. Swapana Adhikari Versus State of West Bengal, 2014 LLR 498 (CaL.)** that under no circumstances, the Industrial Tribunal/Labour Court can accept and decide such an application under Section 2-A of the Act after expiry of three years. Hon'ble Apex Court in the case titled **Ajaib Singh Versus The Sirhind Co-operative Marketing-cum-Processing Service Society Limited and another, AIR 1999 SC 1351** has held that provisions of Limitation Act are not applicable to the proceedings under the Limitation Act. Hon'ble Karnataka High Court in the case of **M/s. ITC Infotech India Ltd. Versus Mr Venkataramana Uppada (W.P. No. 27510/2015 -decided on 3/3/2016)** held that the provisions of Section 2-A of the Act are mandatory and that on the expiry of three years from the date of discharge, dismissal etc., the right to invoke Section 2-A of the Act would stand extinguished.

24. Having regard to the legal position as explained above as well as the facts & circumstances of the case, this Tribunal is of the considered view that there is inordinate delay in moving the instant claim petition and it is held that the claim so filed by the claimant is patently barred by time and the claim petition is liable to be dismissed on this score alone. This issue is therefore decided accordingly against the claimant.

Issue No. 2 and 3

25. In view of my findings on issue No.1 and 2-A above, these issues have become redundant and no findings are called for.

Relief

In the light of the aforesaid, this Tribunal is constrained to hold that the present claim petition being hopelessly barred by limitation is liable to be dismissed. Award is passed accordingly.

Date : 11.09.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 13 मार्च, 2019

का. आ. 466.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स गुड ईयर सिक्योरिटी सर्विसेस, द्वारका, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 40/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 466.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2017) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The M/s. Good Year Security Services, Dwarka, New Delhi and, Others, and their workmen which were received by the Central Government on 26.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, DWARKA
COURTS COMPLEX : NEW DELHI**

ID No. 40/2017

Shri Raj Kumar s/o. s/o, Shri Sultan Singh,
C/o. Delhi Pradesh Factory & Dehari Mazdoor Congress,
627, Baba Farid Puri,
West Patel Nagar, Delhi 8

...Workman/Claimant

Versus

1. M/s. Good Year Security Services,
203, Vikash Suriya Okard, Sector 11,
Plot No.8, Ashirwad Chowk, Dwarka,
New Delhi 75.

2. Ram Manohar Lohia Hospital,
Baba Kharak Singh Marg,
New Delhi -01

...Management/Respondents

AWARD

This is a claim directly filed by the workman/claimant Raj Kumar under Section 2(A) of the Industrial Disputes Act (hereinafter referred to as "the Act"), with the averments that he was appointed by Management No.1 on the post of Security Guard in the month of December, 2009 and was deputed to work with the Management No.2. His last drawn wages were Rs.6000/- per month. The workman used to work sincerely, honestly and without any complaint to the Managements. His last drawn wages were Rs.6800/- per month. Management No.1 and 2 used to take work for 10 hours per day but the Management no.1 has not paid over time wages and other legal facilities viz. ESI, PF, casual leave, yearly increment and minimum wages. Ultimately at the persistent demand of the workman, he was provided with PF and ESI facilities but the management No.1 got annoyed with him and in order to get rid of him, the Management No.1 illegally terminated the workman from services without any rhyme or reason on 12/4/2016. The workman approached the Conciliation Officer but to no avail. A demand notice was sent to the Management through the Union but to no response. It is pleaded that the workman had worked continuously with the management since the day of his joining in December, 2009 till his illegal termination on 12/4/2016 and as such he worked for more than 240 days with the Management. It is also pleaded that after illegal termination, the workman searched for the job at many places but does not find any job and as such he is completely unemployed and dependent upon his family. Prayer has been made for reinstatement of the workman with full back wages and all consequential benefits.

2. Notice of the claim petition was issued to the Managements but none appeared on behalf of the Management No.1. Though Shri Ajay Ekk, UDC and Murari Kumar, LDC appeared on behalf of Management No.2 in response to the notice issued and took time to file written statement, however, Management no.2 also opted not to participate in the proceedings and as such the case was proceeded ex parte against both the Managements vide order dated 2/4/2017.

3. In order to prove his case, the workman examined himself as WW1 & tendered his affidavit Ex.WW1/A and relied on documents Ex.WW1 to Ex.WW1/8.

4. I have heard Shri Ajit Singh, A/R for the workman./claimant and have gone through the record carefully.

5. I may mention that affidavit Ex.WW1/A filed by the claimant is in line with the averments made in the claim petition. He has filed on record copy of the complaint/representation dated 26/4/2016 which he had moved to the Asstt. Labour Commissioner/Conciliation Officer; copy of the certificate Ex.WW1/2 issued by the Conciliation Officer regarding no settlement arrived at during the conciliation proceedings; copies of identity cards Ex.WW1/3 to Ex.WW1/6 issued by Management NO.1 M/s Good Year Security Services; copy of ESI card as Ex.WW1/7 and copy of PF statement as Ex.WW1/8 for the period from

1/4/2010 to 1/5/2014. Perusal of these documents clearly substantiate the claim of the claimant/workman that it was the Management No.1 who had appointed him on the post of Security Guard in December, 2009 and worked for more than six years. As such, it stands proved on record that there existed relationship of employer-employee exclusively between the Management No.1 and the claimant herein and that the claimant falls within the definition of "workman" as provided under Section 2(S) of the Act.

6. The version of the claimant that the Management No.1 illegally terminated his services on 12/4/2016 in violation of the provisions of Section 25-F and 25-G of the Act and that since then he is unemployed, has gone unchallenged and rebutted. The Management No.1 has not come forward either to deny or rebut the allegations of the claimant/workman or to show that services of the claimant were retrenched/terminated after serving him a prior notice or payment of compensation in lieu of notice period as required under Section 25-F of the Act. There is long line of decisions of Hon'ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are

mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render whole action of the Management Bank to be illegal and wrong under the law.

7. In his affidavit, the workman has specifically stated after illegal termination, the workman searched for the job at many places but does not find any job and as such he is completely unemployed and dependent upon his family. The Management has not adduced any evidence to show that the claimant is gainfully employed somewhere else on full time/regular basis. Even if it is assumed that the workman is doing some intermittent or adhoc work to make his both ends meet on daily wage basis, that would not itself amount to gainful employment. In the circumstances, it is held that action of the Management in terminating the service of the workman is totally illegal and wrong and is in violation of Section 25-F of the Act.

8. Now the residual question is whether workman is entitled to be reinstated with full back wages. It depends on number of factors – whether workman was regular, temporary or daily wage; he was recruited in proper manner or whether his work is of regular and temporary nature; length of service or delay in approaching the Tribunal and whether termination is in gross violation of provisions of the Act.

9. The Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** reported as (2013) 10 SCC 324 has held as under :

“The propositions which can be culled out from the aforementioned judgments are :

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

10. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/ employment/engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

11. A Bench of three Judges of the Hon'ble Supreme Court in the case of **Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited** (1979) 2 SCC 80 held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be totally, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen alongwith payment of back wages.

12. Hon'ble Apex Court in the case **General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L&S) 716** observed as under :-

“8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. ***One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year.***”

13. Their Lordships of Hon'ble Supreme Court in **(2015) 9 SCC 345, titled as Raj Kumar Dixit Vs. Vijay Kumar Gauri Shanker**, on the question of reinstatement of workman after his retrenchment is declared void ab initio have held as under :-

20. The High Court has exceeded in its jurisdiction in setting aside the Award passed by the Labour Court in awarding reinstatement of the Appellate-workman in his post alongwith 50% back wages, which is erroneous in law as the High Court has not noticed the fact that the appropriate Government has referred the dispute to the Labour Court for its adjudication on the points of dispute referred to it. Since, there was non-compliance of the mandatory requirements as provided under the provisions of the Act by the Respondent-firm at the time of passing an order of termination against the Appellant-workman, therefore, the same has been held to be bad in law and as such it should have awarded full back wages to the workman from the date of termination till the date of passing the Award unless the employer proves that the workman was gainfully employed during the aforesaid period which fact is neither pleaded nor proved before the Labour Court.

21. Therefore, the impugned judgement of the High Court is bad in law as the normal rule to be followed by the Respondent-firm with regard to the termination of the services of the workman has not been done in the present case and further, the High Court has once again exceeded in its supervisory jurisdiction in exercise of its judicial review power under Article 227 of the Constitution of India by setting aside the Award of reinstatement with 50% back wages passed by the Labour Court and has instead awarded Rs.2 lakhs as compensation to the Appellate –workman, which is contrary to the law laid down by this Court. The High Court cannot exercise its supervisory jurisdiction and act as either original court or appellate court to set aside the finding of fact recorded on the points of dispute referred to the Labour Court on proper appreciation of pleadings and evidence on record in favour of the workman as has been done in the instant case. The Award of compensation of Rs.2 lakhs awarded in place of reinstatement with 50% back wages as awarded by the Labour Court, has been modified by the High Court without assigning any cogent and valid reason which is not only erroneous in law but suffers from error in law as well, as the same is contrary to the catena of decisions of this Court. On this ground itself, the impugned judgement of the High Court is liable to be set aside and we pass an order to restore the Award passed by the Labour Court.”

14. Their Lordships of Hon'ble Supreme Court in **(2016) 6 SCC 541, titled as Raj Kumar Vs. Director of Education and others**, have ordered for the reinstatement of the petitioner with full back wages, where retrenchment of the service of the workman was in violation of Section 25(f)(a), (b) & (c) of the Industrial Disputes Act, 1947.

15. Yet in another latest case of **Bholanath Lal and others Vs. Shree Om Enterprises (P) Ltd., MANU/DE/1922/2018** (decided on 10/5/2018), Hon'ble High Court of Delhi while considering the question of illegal termination and reinstatement held as under :-

“The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee./workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/ workman his dues in the form of full back wages.”

A similar view has been taken in the case of **Delhi Jal Board Vs. Vimal Kumar (decided on 5-4-2018) MANU/de/1322/2018** wherein service of a casual driver was terminated without any notice or payment of one month's salary in lieu of such notice. The Industrial Tribunal answering the reference held the action of the management to be illegal and in violation of Section 25-F of the Act. The Award was upheld by Hon'ble High Court of Delhi by observing as under :-

“In view of the above discussion, I am unable to discern any illegality or infirmity in the impugned Award, dated 29th May, 2003, of the Labour Court, to the extent that it holds the termination of the services of the respondent, by the petitioner, to be illegal and unlawful. I am entirely in agreement with the finding, of the Labour Court, that the services of the respondent were retrenched in violation of Section 25-F of the ID Act and that, therefore, he was entitled to be reinstated in service with all consequential benefits. In view of the fact that going by the age of the respondent as disclosed in the counter affidavit filed before this Court, he would, today, be only 50 years of age, and also in view of the fact that the termination of his services as SCM Driver was not on account of any deficiency or shortcoming detected in the manner of discharge by the respondent, of his duties as such, I am of the opinion, that the facts of the present case, do not warrant any interference with the direction, of the Labour Court, to the petitioner to reinstate the respondent in service with the benefit of continuity of service. The petitioner is, therefore, directed to reinstate the respondent in service forthwith.

Inasmuch as the respondent has not been rendering any service to the petitioner since the date of his termination, however, the back wages payable to the respondent would be limited to 50 per cent of the wages which he would have drawn he had continued to serve the petitioner.....”

16. Having regard to the background of the case, legal position as discussed above, coupled with the fact that the claimant was performing duty as a Security Guard – a job of regular/perennial nature of job, this Tribunal is of the firm view that the claimant herein is entitled for reinstatement into service, with 50 per cent back wages to the post held by him, inasmuch as termination of the claimant/workman by Management No.1 is per-se illegal. Award is passed accordingly against Management No.1.

Date : 7.2.2019

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 13 मार्च, 2019

का. आ. 467.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष-सह-प्रबंध निदेशक, भारतीय पर्यटन विकास निगम, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 40/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

बी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 467.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2012) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman-cum-Managing Director, Indian Tourism Development Corporation, Nagar, Delhi and, Others, and their workmen which were received by the Central Government on 26.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 40/2012

Shri Santosh & 9 others, represented by
Shri S.S. Upadhyay, General Secretary,
All India ITDC Mazdoor Janta Union
C-48-49 Staff Quarters,
Ashok Hotel,
50-B, Chanakyapuri,
New Delhi – 110 021

...Workman

Versus

The Chairman-cum-Managing Director,
Indian Tourism Development Corporation,
SCOPE Building,
Core 8, 6th Floor, 6 Lodhi Road,
New Delhi

...Management

AWARD

In the present case, a reference was received vide letter No.L-42011/96/ 2011- IR(DU) dated 06.02.2012 under clause (d) of sub-section (1) and Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial disputes, terms of which are as under:

‘Whether the action of the management of ITDC in not regularizing the services of Shri Santosh Kumar & 9 others (as per annexure enclosed) as demanded by All India ITDC Mazdoor Janta Union with all consequential benefits retrospectively is just, fair and legal?’

2. After receipt of the above reference, both the parties were put to notice and workmen herein filed statement of claim giving particulars of their employment with ITDC (in short management) which is as under:

S.No.	Name of Employee	Father's Name	Working since
1.	Shri Santosh Kumar	Shri Sunil Kumar	1999
2.	Shri Bharat Arya	Shri Jaswan Ram Arya	2002
3.	Shri Karan Kanojiya	Late Jagdish Praad	2003
4.	Shri Sumit Das	Late Bhagwaj Das	2004
5.	Shri Deepak	Shri Narendra Singh	2004
6.	Shri Monu	Shri Rajendra Singh	2005
7.	Shri Ajit	Late Shri Ashok Mehta	2004
8.	Shri Tarkeshwara Tiwari	Shri B.R. Tiwari	2004
9.	Shri Jitendra Kumar	Shri Sunil Kumar	2005
10.	Shri Amar Singh	Shri B.S. Mehta	2005

3. Management, Vigyan Bhawan's VVIP Catering is a unit of ITDC, which is a public Sector undertaking and has its own standing orders. The management of Vigyan Bhawan has been changing the contractor from time to time and the management is using the services of the above claimants through M/s Beads Services Group and M/s Suraksha Security Agency and the claimants continued to work under them. The job carried out by the claimants is of perennial nature and they are working continuously 8 hours a day, including performing extra duties. Officials of the Hotel used to mark attendance of the claimants herein and also assigned work and job to the workmen, supervise their job and are working under administrative control of the management. As per Contract Labour Act, 1970, claimants are entitled to same wages to which their regular counterparts are getting in the same Department/category on regular basis. But the Hotel is paying minimum wages to them as declared by Delhi Government from time to time, which is in violation of the Contract Labour Act, 1970. The job carried out by the claimants is of perennial nature and is carried out through contractors. Management of Ashok Hotel is not registered with Labour Department and the so called contractors are also having no licence from Labour Department; as such contract between the management of Ashok Hotel and the contractor are sham, camouflage and not genuine. ITDC has an EPF Trust and the PF contribution is deposited in EPF Trust of ITDC and the PF of the employee concerned is retained by the contractor contrary to the decision of Delhi High Court in WP(C) 3762/78-2004. The claimants were deployed by the management after proper selection and interview and are working against the permanent posts lying vacant for years. The claimants have put in more than 240 days in each calendar year. Finally, it has been prayed that the claimants may be regularized in the minimum pay scale of Rs.4060-5385 as revised from 01.01.2007 from the date they have been working with the management.

4. Claim was demurred by the management, who filed written statement thereto taking various preliminary objections. It has been alleged that the claim is misconceived, ill conceived and not tenable and is not maintainable against the management as the claimants are not employees of the management but of the contractors. There is no cause of action of the claimant against the management. Answering management is neither necessary party nor an appropriate party for adjudication of the claim. Liability towards the claimants, if any, is that of the contractor who has engaged the claimants. It is further averred that this Tribunal has no jurisdiction to decide the case. On merits, management has denied most of the averments made in the statement of claim. However, it has been admitted that the claimants were employees of the contractors and were employed at some point of time under the contract awarded to the contractor by the management. The said contracts were awarded purely on temporary basis for a period of one year. As such, the claimants are employees of the said contractor and not that of the management. It has been prayed that that the claim may be rejected.

5. Rejoinder was filed on behalf of the claimants to the statement of defence filed by the management wherein the stand taken in the statement of claim was reiterated.

6. Against this factual background, this Tribunal on the basis of pleadings of the parties, vide an order dated 10.12.2015 framed the following issues:

- (i) Whether the claimants are employees of M/s Suraksha Security Agency, the contractor or Indian Tourism Development Corporation?
- (ii) Whether the contract between Indian Tourism Development Corporation and M/s. Suraksha Security Agency for providing VVIP Catering at Vigyan Bhawan is sham/bogus? If yes, its effects.
- (iii) As in terms of reference

7. Claimant, in support of their claim, examined Shri Karan Kanojia (WW1), Shri Bharat Chand Arya (WW2), Shri Ajit Kumar (WW3), Shri Santosh Kumar (WW4), Shri Monu (WW5), Shri Rama Kant Awasthy (WW6), Shri Sumit (WW7), Shri Amar Singh (WW8), Shri Deepak (WW9), Shri Tarakeshwar (WW10), Shri Jitender Kumar (WW11) whose affidavits are Ex.WW1/A to Ex.WW11/A respectively. The claimant also relied on documents

Ex.WW1/1 to Ex.WW1/12, Ex.WW2/1 to Ex.WW2/10, Ex.WW3/1 to Ex.WW3/8, Ex.WW4/1 to Ex.WW4/33, Ex.WW5/1 to Ex.WW5/12, Ex.WW7/1 to Ex.WW7/11, Ex.WW8/1 to Ex.WW8/9, Ex.WW9/1 to Ex.WW9/8, Ex.WW10/1 to Ex.WW10/8 and Ex.WW11/1 to Ex.WW11/17 but WW6 did not rely on any documents. Management in order to rebut the case of the claimants, examined Shri Aditya Nanda, Manager(Hotel Operations) as MW1 whose affidavit is Ex.MW1/A and he also relied on documents Ex.MW1/1 to Ex. MW1/3.

8. I have heard Shri S.S. Upadhyay, A/R for the claimant and Shri B.K.Singh, A/R for the management.

9. Affidavits filed by most of the workmen are on the similar lines. It is clear from perusal of the above affidavits that it is in consonance with the averments contained in the statement of claim. The claimants have been subjected to cross examination by the management and it has been admitted that no appointment letter was issued in their favour and they were engaged on the job by the management. They have further admitted that payment of salary was made to the claimants by the contractor after receiving the same from the management(Ashok Hotel). Contractor also used to deduct provident fund contribution from the wages of the claimant and as per rule, this contribution ought to have been deposited in the Trust Account. He has specifically denied that claimants were employees by M/s Suraksha Security Agency and clarified that employees of the management used to supervise the work of the claimants and assign job to them. Their attendance was also marked by the management and the claimants unemployed as on date.

10. It is necessary to mention at the outset that the contractor, M/s. Suraksha Security Services has not been examined either by the workman herein nor the management. Admittedly, M/s. Suraksha Security Services has not been arrayed as a party in the present reference. During the course of arguments, it was not disputed that the workman herein were deployed in F&B Service Department and looking after the job of service of the VIPs from the dates mentioned in Annexure A. Later on, their services were terminated and now they are not at all in employment of the management. It was also not disputed that annual contracts is being given by the management of Ashok Hotel from time to time to different contractors, though employees mostly remained the same.

11. Now, the vital question which requires consideration in the present case is whether the workmen were in the employment of the management or were deployed by M/s Suraksha Security Services from the date mentioned in Annexure A. Equally important is also the question whether agreement between the management and M/s Suraksha Security Service is genuine or the same is simply sham and a camouflage so as to deny status of workmen under the principal employer herein. It is also appropriate to refer to the statement of Shri Aditya Nanda, MW1, who specifically alleged in the affidavit that the claimants were employees of M/s Suraksha Security Services and presently with Mass Management. He has further averred that the management is registered under the provisions of Contract Labour (Regulation & Abolition) Act, 1970 and Certificate of Registration dated 12.09.2006 of Suaksha Security Services is Ex.MW1/1. It is clear from the cross examination of this witness that he is an employee of ITDC and is working with the management since 01.07.2007. Thus, during the relevant period, i.e. period prior to termination of the claimants herein, he was not working with the management. It is, further, admitted that the claimant are working with the management as on date alongwith permanent employees and that the management is marking the attendance of the claimants herein. It is further clarified that in April 2012 contract of Suraksha Security Agency stands expired and at present contract is awarded to M/s Mass Management.

12. It is pertinent to mention here that this witness has admitted in his cross examination that he is looking after the catering work in Vigyan Bhawan, the claimants are also working with permanent employees and the overall control over the workers pertaining to catering was that of the management.

13. During the course of arguments, Shri Upadhyay, learned authorized representative appearing on behalf of the claimant place strong reliance upon the case of Steel Authority of India Ltd. and others Vs. National Union Waterfront Workers and others (2001) 7 SCC 1, wherein the Hon'ble Supreme Court considered extensively various provisions of the Industrial Disputes Act, 1947 as well as Contract Labour Act, 1970 alongwith relevant notification issued under Section 10 of the Contract Labour Act, 1970. A critical appraisal of the above judgement would show that the Hon'ble Apex Court has taken into consideration the entire spectrum of the case law on the subject and held in para 107 as under:

107. An analysis of the cases, discussed above, shows that they fall in three classes: (i) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the industrial adjudicator/court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered; (ii) where the contract was found to be a sham and nominal, rather a camouflage, in which case the contract labour working in the establishment of the principal employer were held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited; (iii) where in discharge of a statutory obligation of maintaining a canteen in an establishment the principal employer availed the services of a contractor the courts have held that the contract labour would indeed be the employees of the principal employer.

14. Ratio of the above judgement has been cited with approval in all the subsequent pronouncement by the various High Courts as well as the Hon'ble Supreme Court and while making various conclusions, ratio of the law in Hussanbhai case (three judgements decision) was approved and ratio of the judgement in Air India Statutory Corporation Vs. United Labour Union (1997) 9 SCC 377 was partly overruled prospectively. It was also made clear that neither Section 10 of the Contract Labour Act nor any other provisions under the Act, whether expressly or by necessary implication provides for

automatic absorption of the contract labour on issuance of notification by the appropriate Government under sub-section 1 of Section 10 prohibiting employment of contract labour in any process, operation or other work in any establishment. Matter is to be decided judiciously by the Industrial Adjudicator where a contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for the work of the establishment **under a genuine contract** or is merely a ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so called contract labour will be treated as employees of the principal employer who shall be directed to regularize services of the contract labour in the establishment concerned, subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder:

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

15. This Tribunal has to keep one thing in mind that the Industrial Disputes Act as well as Contract Labour Act. Essential and beneficial legislation of the scheme of the Contract Labour Act 1970 is to regulate conditions of workers under the contract labour system and to provide for its abolition by the appropriate Government as provided under Section 10 of the said Act. Section 12 of the said Act bars a contractor from undertaking or executing any work through contract labour, except under and in accordance with a licence issued. Section 23, 24 and 25 of the Act makes contravention of provisions of the Act punishable thereunder. There is also requirement for the principal employer of the establishment to get itself registered under the Act so as to avail the benefit of provisions of the Act.

16. In Durgapur Casual workers Union vs. Food Corporation of India(2015) 2 SCC 786, question of sham, bogus or such contract labour was considered by Hon'ble Ape Court and the management in the said case also came with the plea that the workmen were directly employed by the contractors as contract labour and as such, there was no relationship of employer and employee between the management and the workmen. Matrix of the case also shows that Food Corporation of India, i.e. the management had set up rice mill which was being run by successive contractors who have engaged contract labour. Rice mill was ultimately closed in the year 1990-91 and workers were employed by the Corporation as casual labour on daily basis. Later on, such workers raised an industrial dispute for regularization of their services as they were working under various contractors since long but were doing work for the management who was exercising supervisory control over them. Management also came with the pleading that demand of the workmen was in fact illegal and they were simply engaged as casual labour. Tribunal as well as Hon'ble High Court passed award in favour of the workman directing regularization of their services and their retrenchment by Food Corporation of India was held to be illegal. In intra court appeal, Division Bench of High Court set aside the judgement of the Single Judge, as such, matter was taken to the Hon'ble Apex Court who upheld the order of the Single Judge of the High Court as well as that of the Industrial Tribunal. It was also observed that FCI had committed unfair trade practice and terminated their services illegally instead of absorbing them. Contention of the management that their employment was to the contrary to the directions given by the Constitution Bench of Hon'ble Apex Court in Uma Devi case was rejected by the Hon'ble Apex Court by observing as under:

“34. It is true that the case of Dharwad District PWD Literate Daily Wage Employees Association vs. State of Karnataka (1990 2 SCC 396) arising out of industrial adjudication has been considered in Umadevi (3) (2006 (4) SCC1) and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. Umadevi(3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. Umadevi (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established.”

17. Reliance was also placed upon the case of Management of Ashok Hotel vs Their Workmen decided on 19.02.2013 in WP(C) No.14828/2006 wherein similar question was involved. It was a case where various workmen were working continuously as safaiwala/Housemen in the kitchen department etc. and they were alleged to be working directly under the contractor who has entered into a contract with the principal employer, i.e. Ashok Hotel. Strong reliance was placed on behalf of the workmen upon ratio of the case in Steel Authority of India (supra) and contention of the management to the effect that workmen were employees of the contractor was rejected. Further, contract in the said case was also held to be sham and camouflage so as to deny direct relationship of employer and the workmen.

18. In the case in hand also, situation is almost similar and there is ample evidence on record, as discussed above, to show that the workman herein were working under the direct supervision of the management. Work of catering at Vigyan Bhawan, as is evident from statement of MW1, is regular and perennial in nature. It is further clear that contract is being awarded to different contractors on yearly basis and in the year 2011 it was M/s Suraksha Security Services to whom contract of employment was given by the management. The said contract in the light of the ratio of the decision in Steel Authority of India coupled with evidence on record is held to be sham and a mere camouflage so as to deny relationship of employer and the workman herein.

19. It is further clear from the critical appraisal of the above judgements that services of the workman is taken in connection with the work of the establishment, by the principal employer through contractor, in that eventuality, contractor merely acts as an agent or a broker on behalf of the principal employer and the workman in such a situation would continue to be a direct employee of the principal employer and not that of the agent or the broker. In the case in hand also, it is clear from the evidence on record, that the workmen herein were admittedly working in the Catering Department of the management regularly, though alleged to be in the employment of M/s Suraksha Security Service. Supervisory control upon them remained with that of the management.

20. Shri Nanda has admitted in his cross examination dated 02.06.2015 as well as during the course of arguments, that several posts of various categories are lying vacant in the establishment of the management and have not been filled up so far as the Central Government has not granted permission to fill up the same. In such a situation, one thing is crystal clear that though the work of the workman herein who were admittedly working in the catering job of the management is regular in nature, yet the management is running the job of catering by deploying workers through contractors.. It is further clear that management has adopted this device so as to deprive the workmen of regular employment and deprive them of their permanent livelihood, which is totally against the spirit of Contract Labour Act, 1970 wherein it is clearly provided that when a work is regular or permanent in nature, there is no question of employing contract labour.

21. In view of the emphatic pronouncements made in the various rulings discussed above, this Tribunal is left with no choice except to hold that the claimants herein are also working since 2002 and their salaries have been revised from time to time, as such, there is relationship of employer-employee between the management and the claimants herein. Consequently, it is held that Shri Santosh Kumar and 9 others as mentioned in para 2 above, the claimants herein are entitled to be regularized in accordance with the Regulations/policy of the management applicable in this behalf. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 मार्च, 2019

का. आ. 468.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रबंधन, राष्ट्रीय तकनीकी अनुसंधान संगठन, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 162/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 468.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 162/2018) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Management, National Technical Research Organization, New Delhi and, Others, and their workmen which were received by the Central Government on 22.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 162/2018

Shri Radha Krishan Yadav, S/o Shri Rameshwar Lal,
R/o House No.946, Block - C,
Netaji Nagar,
New Delhi – 110 023

...Workman

Versus

The Management,
National Technical Research Organization,
Block – III, Old JNU Campus,
New Delhi – 110 067

...Management

AWARD

In the present case, a reference was received vide letter No.L-42012/03/2018-IR(DU) dated 21.03.2018 under clause (d) of sub-section (1) and Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial disputes, terms of which are as under:

“Whether the services of Shri Radha Krishan Yadav, who had worked as MTS on adhoc basis from 27.04.2009 to 30.08.2010 were terminated by the management of National Technical Research Organization (NTRO) on 30.08.2010 or the workman on being posted to Bhilai/Vishakhapatnam left on his volition, as claimed by the management? (2) If he has been terminated, then is the action of management of National Technical Research Organization (NTRO) in terminating his services fair, just & legal? If not, to what relief the workman is entitled to? (3) Is the workman also entitled to other dues as claimed of not being paid? If yes, what directions are necessary in this regard? “

2. In the reference order, the appropriate Government commanded the party/ies 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 the opposite parties involved in the dispute. Despite directions so given, Shri Radha Krishan Yadav, the workman, opted not to file his claim statement with the Tribunal.

3. Further, on receipt of the above reference, notice was also sent to the workman as well as the management. Neither the postal article, referred above, was received back undelivered nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman. Despite service of the notice, the workman opted to abstain from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. However, it will not debar Shri Radha Krishan Yadav, the claimant, from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 14, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 मार्च, 2019

का. आ. 469.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सीनियर डीजीएम (एचआर और ए), भारत इलेक्ट्रॉनिक्स लिमिटेड, गाजियाबाद, उत्तर प्रदेश और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 151/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.02.2019 को प्राप्त हुए थे।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th March, 2019

S.O. 469.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151/2018) of the Central Government Industrial Tribunal-cum-Labour Court-1 New Delhi, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Senior DGM (HR & A), Bharat Electronics Limited, Ghaziabad, Uttar Pradesh and, Others, and their workmen which were received by the Central Government on 26.02.2019.

[No. L-42025/03/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 151/2018

- i. The General Secretary,
Bharat Electronic Shramik Trade Union (BESTU),
C/o Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010
- ii. The General Secretary,
Bharat Electronics Mazdoor Union (BEMU),
C/o Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010
- iii. The General Secretary,
Bharat Electronics Production Karmik Union (BEPKU),
C/o Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010
- iv. The General Secretary,
Bharat Electronics Mazdoor Union (BMS),
C/o Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010
- v. The General Secretary,
Bharat Electronics Employees Union, (BEEU),
C/o Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010

...Workmen

Versus

The Senior DGM (HR & A),
Bharat Electronics Limited,
Ghaziabad,
Uttar Pradesh – 201 010

...Management

AWARD

In the present case, a reference was received vide letter No.L-42011/196/2017-IR(DU) dated 27.02.2018 under clause (d) of sub-section (1) and Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial disputes, terms of which are as under:

“Whether the action of the management of Bharat Electronics Ltd. Ghaziabad in proposing changes in the CMA(Contributory Medical Attenuance) Rules in vogue in the company by issuing the notice dated 04.10.2013 under Section 9-A of the ID Act, 1947 is legal and justified? If not, what relief are the Unions/concerned workmen entitled to? ”

2. In the reference order, the appropriate Government commanded the party/ies 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 the opposite parties involved in the dispute. Despite directions so given, the Unions/concerned workmen, opted not to file their claim statement with the Tribunal.

3. Further, on receipt of the above reference, notice was also sent to the Unions/concerned workmen as well as the management. Neither the postal article, referred above, was received back undelivered nor was it observed by the

Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the Unions/concerned workmen. Despite service of the notice, the Unions/concerned workmen opted to abstain from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the Unions/concerned workmen are not interested in adjudication of the reference on merits.

4. Since the Unions/concerned workmen have neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. However, it will not debar the Unions/concerned workmen, from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 20, 2019

A. C. DOGRA, Presiding Officer

नई दिल्ली, 18 मार्च, 2019

का. आ. 470.—औद्योगिक विवाद अधिनियम 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय उष्णकटिबंधीय मौसम विज्ञान संस्थान पासन, पुणे और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 12/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.12.2018 को प्राप्त हुए थे।

[सं. एल-42011/09/2009-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 18th March, 2019

S.O. 470.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Pune, as shown in the Annexure, in the Industrial dispute between the employers in relation to the Indian Institute of Tropical Meteorology Pashan, Pune and, Others, and their workmen which were received by the Central Government on 04.12.2018.

[No. L-42011/09/2009-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE SHRI. P.R. BHAVAKE-PATIL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AT PUNE

REFERENCE (IT) NO. 12 OF 2009

CNR NO. MHIC120001372009

Indian Institute of Tropical Meteorology
Dr. Homi Bhabha Road
Pashan, Pune 411 008

...First Party

And

Mr. Tushar Madhukar Khadake
& 20 Others
C/o. M.S. Sapkal
39, Aundh Road, Chandramani Sangh
Khadaki, Pune

...Second Party

CORAM : SHRI. P.R. BHAVAKE-PATIL, INDUSTRIAL TRIBUNAL, PUNE.

APPEARANCES : ► Smt. S.R. Mharolkar, Ld. Advocate for the First Party.
► Shri. Patel, Union Representative for the Second Party.

AWARD

(Dated 2nd November, 2018)

The reference is made by the Government of India, Ministry of Labour u/s 10 of the Industrial Disputes Act, 1947. This dispute is between the management of Indian, Institute of Tropical Meteorology, Pashan, Pune and its workmen.

The dispute between the parties is about the termination of services of Shri. TusharMadhukarKhadake and 20 others. The reference is made to find out that whether the action taken by the management of terminating the services of Shri. TusharKhadake and 20 other employees dated 17.4.2008 is legal and justified, and what relief the workmen are entitled to ?

2. Notices were issued to both the parties. The Second Party i.e. workmen have filed their statement of claim vide Exh. 14 and the First Party has filed its written statement at Exh. C-4. According to the First Party, they are workmen within the definition of section 2(s) of the Industrial Disputes Act, 1947. There is employer-employee relationship between them. Without following due process of law their services have been terminated. Hence, the First Party be directed to reinstate them and pay them salary and other benefits from the date of termination i.e. 17.4.2008.

3. It is claimed by the Second Party that they were working as “Gardener” and “Sweeper” since last 1-18 years before termination of their services dated 17.4.2008. They have discharged their duties properly and with integrity. They were being paid monthly salary of Rs. 4,227/-. They have worked continuously for 240 days in a year. Even though they were treated as seasonal workmen. In fact they are permanent workmen. They are not made permanent. Without considering the seniority of the employees only 3-5 workmen are made permanent by the Officers of the First Party. Therefore, the Second Party had raised industrial dispute before the Labour Commissioner. The First Party illegally transferred services of these workmen to the contractor. The Second Party has opposed for the same and raised industrial dispute. The act of contractors of First Party amounts to unfair labour practice. Therefore, all the workmen have become member of MavalTaluka General Sanghatana, District Pune, and raised grievances to the Government of India about their status and salary. As per agreement between both the parties before the Divisional Labour Commissioner, Government of India, Pune, dated 18.1.2008, the First Party has paid arrears of salary for the month of October to December 2007 before the Divisional Labour Commissioner Pune, on 18.1.2008. So also the First Party has paid further salary from January 2008 to March 2008 through cheque dated 9.4.2008. The First party failed to pay wages since 1.4.2008 to 16.4.2008. The First Party restrained them to join their duties and thereby terminated their services. The First Party by taking policy decision have transferred their services to the contractor and thereby committed illegal acts. They have also violated the provisions of Industrial Disputes Act by transferring the services of the Second Party during pendency of the conciliation proceeding before the conciliator.

4. It is further contended that the First Party conducted its business through Board of Directors. The First Party has its private Board of Directors. They have accepted rules of the Central Government. In all about 300 workmen are working properly in the said establishment. They are given Sixth Pay benefits. On the other hand, the First Party is paying the minimum wages to the Second party. There is no equality in pay of the Second Party and other permanent workmen of the First party. The First Party has its business of making research on different projects and in the field of meteorology in all its aspects including weather modification, with special reference to tropics and sub-tropics on the basis of funds provided by the Central Government. By making research on various aspects, the First Party is earning profits by sale of said products and therefore, it is an Industry within the meaning of the reported ruling in the case of Bangalore Water Supply and Sewerage Board Vs. A.V. Rajappa and Others reported in 1978 (1) LLJ 349 and Allahabad Textiles Industries Research Association Vs. Mumbai Rajya reported in 1960 (2) LLJ 720. Hence, the reference be allowed and the reliefs claimed in the statement of claim be granted.

5. The First Party has strongly resisted claim of the Second party in its written statement at Exh. C-4. According to the First Party, the dispute is not legal, proper and maintainable. The First Party is a society registered under the Societies Registration Act. It is an autonomous research organisation under the administrative control of Ministry of Earth Science. It is run under the executive control of Governing Council whose members are appointed by the Central Government. The Director who is the Chief Executive of the Institute is appointed by the Governing Council with the prior approval of the Central Government. It is run mainly from the funds received from the Government and grants, gifts, donations or other contributions approved by the Central Government. The annual budget of the Institute is drawn up as per the instructions and prior approval of the Central Government. The objects or the functions of the Institute are mainly to promote, guide and conduct research in the field of Meteorology in all its aspects, including weather modification with special reference to tropics and sub-tropics. It assists the scientific research. The Institute maintains and manages laboratories or other units wherein experiments are conducted and activities relating to design, development and construct special meteorological instrument for research are undertaken. It facilitates the research activities and the same are not made with any commercial purpose. It organises training facilities for advanced study and research in Meteorology and arranges lectures, seminars for diffusion of knowledge. The advanced study, and knowledge acquired through research conducted at the Institute is useful in weather prediction of the country. The knowledge acquired or results of research are not marketable. The activities of the institute cannot be called as business or trade as it is not producing or distributing services meant for satisfying human wants and needs. The Institute discharges Government functions and not a commercial enterprise. Therefore, the First Party is not an Industry within the meaning of section 2(s) of the Industrial Disputes Act, 1947.

6. It is further contended that Standard Security Services is the employer of the Second Party. The Standard Security Services are not made party to this reference. The employees of the First Party comprises of five categories including research staff, scientific staff, technical staff, administrative staff and non technical maintenance staff. All the appointments, recruitments, in these cadres are to be made against the sanctioned posts as per the guidelines by advertising posts and inviting nominations from central as well as local Employment Exchange. The Central Civil Services (Conduct) Rules are applicable to the employees of the First Party Institute. The Second party are not appointed by following recruitment process and they are not covered under any of the category of the employees of the First Party. There is no question of oral termination of the services of the Second Party on 17.4.2008. The Second Party are not

workmen of the First Party. The First Party denied that the Second Party have completed 240 days of continuous service with the First Party. The First party has also not made permanent to any of the employees i.e. 3 to 5 employees as alleged by the Second Party. The services of the Second Party were purely on contractual basis and the same came to an end when the contract came to an end due to expiry of the period i.e. on 31.3.2008. The workmen of the Second Party were also previously appointed as contingent Mazdoor in contingency and exigency of work on daily wages. They were not appointed on regular posts at any time. No such regular posts are available with the First Party. The Second party workmen were fully aware of all these things. The reference is false. It be rejected with costs.

7. From the above rival contentions of the parties, following issues have been framed by my learned pre-decessor. My findings thereon for the reasons given here-in-below are as follows:-

<u>ISSUES</u>	<u>FINDINGS</u>
(1) Whether the First Party Institute is an Industry within the meaning of sec 2(j) of the Industrial Disputes Act, 1947 ?	In the negative
(2A) Whether the concerned workmen were "workmen" of the First Party within the meaning of section 2(s) of the Industrial Disputes Act, 1947 ?	In the negative
(2B) Whether the services of the Second Party were terminated ? If yes, whether the termination was legal and justified ?	In the affirmative
(3) What Award ?	Reference stands rejected.

REASONS

AS TO ISSUE NOS. 1 TO 2(B) :

8. This reference is contested by the First Party mainly on the issue that it is not an Industry. Much argument is also advanced on this point only. Undisputedly, the Second party workmen were appointed without any appointment order and for limited period. Though it is contended by the Second Party that they are working from 1 to 18 years continuously with the First Party as a Gardener and the Sweeper, except their oral evidence there is nothing on record to substantiate this fact. On the contrary, the First Party has admitted the appointment of the Second Party but purely on contractual posts. On the expiry of the contract period their services were automatically terminated. They were appointed as contingent Mazdoor and in case of contingency and exigency of work only on daily wages. Hence, there is no question of completing continuous work of 240 days in a year.

9. The Second Party adduced their oral evidence at Exh. U-32, U-33, U-34, and U-39. The First Party has adduced oral evidence of one Mr. Sunil Hendre – Registrar at Exh. C-10. The Second party has adduced oral evidence at Exh. U-46C. The Id. Union Representative of the Second Party – Mr. Patel argued that the First Party has not taken any permission of the Conciliation Officer u/s 43 and 43A of the Industrial Disputes Act, 1947, and have retrenched services of the Second Party. No retrenchment compensation is paid to them. It is in clear violation of section 11 (a) and (b) of the Industrial Disputes Act, 1947. There is no any control of Central Government on the First Party. The First Party is running business of prediction of weather. It is nothing but business of First Party. This business comes under the building and road construction department. It has no concern with the research. The employees are not appointed by nomination through Employment Exchange. The First Party has not produced on record muster roll and the salary register. The First Party has never raised any objection before the Divisional Labour Commissioner that the Second Party are not workmen. For last 18 years the Second Party are working with the First Party. Hence, as per section 4(c) and (d) of the Industrial Employment (Standing Orders) Act, 1946 these workmen are entitled to become permanent workmen. The Factories Act is also applicable to the First Party. Section 91 of the Maharashtra Co-operative Societies Act and provisions of Industrial Disputes Act, 1947 are also applicable to the First Party. There are no chances of getting another employment to these workmen. They have crossed their age of 35 years. Therefore, the First Party be ordered to grant them permanency and all the benefits and salary of the said post. It is also further argued that the agreement before the conciliation officer was in respect of arrears of salary only. Therefore, the reference be allowed.

10. The Id. Advocate for the First Party Mrs. Mharolkar argued that the rules of Gratuity and Pension are applicable to the employees of the Government. The First Party had raised objection before the Labour Commissioner about the status of these workmen. As per the contract between the First Party and Second Party the services of the Second Party came to an end on 31.3.2008 on the date of expiry of contractual period. Hence, there is no question of coming of the Second Party to the First Party since 1.4.2008 to 16.4.2008. So also there is no question of oral termination of services of Second Party on 17.4.2008. Hence, the reference raised by the Second Party is false. The First Party is not an Industry within the meaning of section 2(j) of the Industrial Disputes Act, 1947. The work of research of prediction of weather is being done in the office of the First Party. There is no any production which can be sale by the First Party. Research is being given to the Government only. It is not used commercially. There is no evidence on record, placed

by the Second Party to show commercial nature of the work of the First Party. The Second Party were not appointed on the regular post of five categories employees of the First Party. The Central Civil Services Rules are applicable to the employees of the First Party. The object of the First Party is given in Memorandum of Association. Funds are being provided by the Central Government. So also budget is sanctioned by the Government. There are rules of appointment of body members. The Second Party were working in contingency only. They were not working continuously for 18 years. No any appointment orders were given to them. The contractor is not made party who was the immediate employer of the Second party. The so-called application dated 22.2.2008 is not placed on record to show that they had applied for permanency. There is no question of violation of section 25-F and 33 of the Industrial Disputes Act, 1947. The Second Party were not appointed on sanctioned posts which are sanctioned by the Central Government. The ruling placed on record by the Second Party of Ahmedabad Textile Industries Research Association is in respect of research in textile which is a private business. But same fact is not here. Other rulings placed by the Second Party are not applicable.

11. The Id. Advocate – Mrs. Mharolkar for the First Party placed reliance on the reporting ruling in the case of **Physical Research Laboratory Vs. K.G. Sharma reported in AIR 1997 SC 1855 and Sub-Divisional Inspector of Post, Vaikam and Others Vs. Theyyam Joseph reported in AIR 1996 SC 1271.** She has also placed her reliance on another reported rulings.

12. Now the short question to be decided here is whether the First Party is an Industry or not ? The fate of other issues are depending on the decision of this issue.

13. Though the Second Party claims that it is Industry and contended number of factors to treat it as Industry, except the oral evidence of four witness no any other documentary evidence is placed on record to prove status of First Party to be Industry. It is not disputed by the Second Party that First Party is a society registered under the Societies Registration Act. It is an autonomous research organisation under the administrative control of Ministry of Earth Science. It is run under the executive control of the Government counsel whose members are appointed by the Central Government. The Second Party has placed on record Annual Reports of the First Party alongwith list Exh. U-54 which shows that it is being run from the Central Government and from grants, gifts, donations and other contributions approved by the Central Government. The First Party has also brought on record in the oral as well as documentary evidence that the Annual Budget of the First Party is done as per instructions and prior approval of the Central Government. The object and the function of the Institute are mainly to promote, guide and conduct research in the field of meteorology in all its aspects including weather modification, tropics and sub-tropics. The Institute has maintained laboratories and other units wherein experiments are conducted and activities relating to design, development and to construct special meteorological instruments for research are undertaken in the field of meteorology. The First Party also failed to prove before this Court that the instruments prepared in the workshop of the First Party are sold commercially and First Party is engaged into commercial activities and business.

14. It also further reveals that the advance study, knowledge acquired through research conducted at the First Party Institute is useful in weather prediction of the country. The knowledge acquired or results of research are not marketable or do not have any commercial value. The activities conducted at the First Party Institute cannot be called as business or trade in absence of any positive evidence on record. The Institute is not producing or distributing services for the commercial purpose but for satisfying human wants and needs. It is discharging sovereign functions of the Government.

15. The Id. Representative for the Second Party placed his reliance mainly on the reported ruling in the case of **Bangalore Water Supply and Sewerage Board Vs. Rajappa and Others reported in 1978 (1) LLJ Page 73** in which the Hon'ble Apex Court has held that :

“An industry is a continuity, is an organised activity, is a purposeful pursuit - not any isolated adventure, desultory excursion or casual, fleeting, engagement motivelessly undertaken. Such is the common feature of a trade, business, calling, manufacture – mechanical or handicraft based – service employment, industrial occupation or avocation. For those who know English and are not given to the luxury of splitting semantic hairs, this conclusion argues itself. The expression “undertaking” cannot be torn of the words whose company it keeps. If birds of a feather flock together and noscitur a sociis is a commonsense guide to construction, “undertaking” must be read down to conform to the restrictive characteristic shared by the society of words before and after. Nobody will torture “undertaking” in section 2(j) to mean meditation or musheira which are spiritual and aesthetic undertakings. Wide meanings must fall in line and discordance must be excluded from a sound system.

Likewise, an “industry” cannot exist without co-operative endeavour between employer and employee. No employer; no industry; no employee, no industry – not as a dogmatic proposition in economics but as an articulate major premise of the definition and the scheme of the Act, and as a necessary postulate of industrial disputes and statutory resolution thereof.

An industry is not a futility but geared to utilities in which the community has concern. And in this mundane world where law lives now, economic utilities – material goods and services not transcendental flights nor intangible achievements are the functional focus or industry. Therefore, no temporal utilities, no statutory industry is axiomatic. If society in its advance, experience, subtle realities and assigns values to them, jurisprudence may reach out to such collective good. Today, not tomorrow is the first charge of pragmatic law of western heritage. So we are confined to material, not ethereal end products.

This much flows from a plain reading of the purpose and provision of the legislation and its western origin and the ratio of all the rulings. We hold these triple ingredients to be unexceptionable.

The negation of profit motive is a tallying test against industry is clear.

As a working principle it may be stated that an activity systematically or habitually undertaken for the production or distribution of goods or for the rendering of material service to the community at large or a part of such community with the help of employees is an undertaking. Such an activity generally involves the co-operation of the employer and the employees, and its object is the satisfaction of material human needs. It must be organised or arranged in a manner in which trade or business is generally organised or arranged. It must not be casual nor must it be for oneself nor for pleasure. Thus, the manner in which the activity in question is organised or arranged, the condition of the co-operation between employer and employee necessary for its success and its object to render material service to the community can be regarded as some of the features which are distinctive of activities to which section 2(j) applies."

16. The Second Party also placed its reliance on another number of rulings as per Exh. U-68. However, with due respect, I hold that these rulings are not applicable to the case in hand.

17. The Id. Advocate Mrs. Mharolkar for the First Party rightly pointed out ruling reported in the case of *The Workmen of the Indian Standards Institution Vs. The Management of the Indian Standards Institution* reported in 1975 I LLJ Page 33 is not applicable to the present case as the Ahmedabad Research Centre was having private business. Such is the position in the present case.

18. The Id. Advocate Mrs. Mharolkar for the First Party placed her reliance on one reported ruling in the case of **Physical Research Laboratory Vs. K.G. Sharma reported in AIR 1997 SC 1855**. The Hon'ble Apex Court has held therein that the Physical Research Laboratory (PRL) is an institution under the Government of India Department of Space carrying activities of research not for benefits or use of others. It is not engaged in Government activities and is not an Industry within the meaning of section 2(j) of the Industrial Disputes Act, 1947. This ruling is perfectly applicable to the present case also as the Second Party failed to prove the commercial activity of the First Party. On the contrary, the First Party has brought on record that it is being run under the control of the Central Government. As per funds provided by the Central Government, it has no any commercial activity but the Institute gives research and prediction of weather to the Government only.

19. The Id. Advocate Mrs. Mharolkar for the First Party further placed her reliance on one another reported ruling in the case of **Sub-Divisional Inspector of Post, Vaikam and Others Vs. Theyyam Joseph etc reported in AIR 1996 SC 1271**. The Hon'ble Apex Court has held therein that :

"The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of State policy enjoin on the State diverse duties under Part IV of the Constitution and the performance of the duties is constitutional function. One of the duties of the State is to provide telecommunication service to the general public and an amenity, and so is one essential part of the sovereign functions of the State as a welfare State. Postal and Telecommunication Department are not therefore industry."

I hold that the same analogy is applicable to the case in hand also. The functions carried out by the First Party is nothing but the sovereign functions and for the benefits of the general public. Hence, in view of the above cited ruling, I hold that the First Party is not an Industry within the meaning of section 2(j) of the Industrial Disputes Act, 1947.

20. I have also observed above that the Second Party are not appointed on regular sanctioned post by the Government. They were not working in the Research Institute but they were appointed on contract for doing the work outside the Research Institute. Admittedly, they were working as Gardener and Sweepers. They are not working in any of the category of the workmen of the Institute being appointed on regular sanctioned post. The oral evidence of the witness for the First Party clearly reveals that the Second party were appointed on the contractual basis for a limited period and their services came to an end on expiry of contractual period. The Second Party has also not placed on record any evidence to show that they were appointed on the sanctioned regular post by following due process of law. Hence, in such circumstances, and as I have held above that the First Party is not an Industry they cannot claim any rights under the Industrial Disputes Act, 1947. There is no question of oral termination of their services since 17.4.2008. Hence, on the above discussions I hold that Issue No. 2A and 2B does not survive. In view of findings on Issue No. 1 in the negative, I hold that this reference is not maintainable. Hence, I record my findings on Issue No. 2 in the negative. In the result, I proceed to pass following order :

ORDER

1. This reference is answered in the negative as the First Party is not an Industry within the meaning of section 2(j) of the Industrial Disputes Act, 1947.
2. The Second Party is not entitled for any reliefs claimed.
3. The copies of Award be sent to the appropriate Government for its publication.

Date: 2.11.2018

P. R. BHAVAKE-PATIL, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 471.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईएनजी वैश्य बैंक लि. प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 04/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुए थे।

[सं. एल-12011/20/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 19th March, 2019

S.O. 471.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2007) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore, as shown in the Annexure, in the Industrial dispute between the management of ING Vysya Bank Ltd. and their workmen received by the Central Government on 19.03.2019.

[No. L-12011/20/2005-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE – 560 022

DATED : 07TH MARCH 2019

PRESENT : Justice Smt. Rathnakala, Presiding Officer

C.R No. 04/2007

I Party

1. The Secretary,
All India Bank Deposit Collectors
Workmen Union,
No.435, Renukacharya Temple Street,
K.P. Agrahara,
Mysore – 570 024.
2. The General Secretary,
All India Vysya Bank Employees Union,
Kranti No. 86/5, Shell House,
II Floor, J.C. Road,
Bangalore – 560 002.

II Party

The Vice President (IR&W),
ING Vysya Bank Ltd.,
Corporate Office,
No. 22, M.G. Road,
Bangalore – 560 001.

Advocate for I Party No. 1 : Ms. H. Mangalamba Rao Advocate for II Party:

Advocate for I Party No. 2 : Mr. Muralidhara Mr. B.C. Prabhakar

AWARD

The Central Government vide Order No.L-12011/20/2005-IR(B-I) dated 04.01.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 referred the following Industrial Dispute for adjudication.

“Whether the action on the part of the management of ING Vysya Bank Ltd., in issuing circular dated 10.05.2004 unilaterally modifying the scheme thereby enhancing the minimum contribution per day to account from Rs. 1/- to Rs. 100/- in rural and semi-urban areas and from Rs. 2/- to Rs. 200/- in urban and metro centres in respect of Pragathi Deposit Collectors of ING Vysya Bank is legal and justified? If not what relief the Pragathi Deposit Collectors are entitled to?”

1. The above question for adjudication was as a measure of corrigendum to the earlier reference dated 22.01.2007 which read as follows:-

“Whether the action of the management of ING Vysya Bank Ltd. In issuing circular dated 10.05.2004 to revise the rate of interest on Pragathi Deposits and there by causing lot of financial hardships to the Pragathi Deposit Collectors in ING Vysya Bank Ltd. Is fair and justified? If not, to what relief the Pragathi Deposit Collectors are entitled to?”

2. Both parties have placed on record their respective statements; affidavit evidence placed by the 2nd Party/Management was not subjected to cross-examination and there is no rebuttal evidence.
3. Sh. Muralidhara advocate for the 1st Party union No. 2 had submitted to the effect that, 1st Party union does not wish to press the claim in view of the order of reference made by Government of India, Ministry of Labour and Corrigendum date 04.01.2008; as such their claim in the claim statement may be treated as not pressed. The matter was posted for cross examination of MW-1 by the 1st Party union No. 1 i.e., All India Bank Deposit Collectors Workmen Union, No. 435, Renukacharya Temple Street, K.P. Agrahara, Mysore – 570 024. Thereafter no representation was made by 1st Party union No. 1. Thus, the affidavit evidence of the Management remained unchallenged.
4. It is the evidence of MW-1/Process Lead Employee relations of the 2nd Party that 2nd Party introduced the “Pragathi Deposit Scheme” in order to encourage the savings of small and middle income group people; as per the scheme minimum deposit shall be in multiples of Re. 1/- with a minimum of Re.1/- in rural and semi-urban branches and deposit shall be in multiples of Re.1/- with a minimum of Rs.2/- in urban and metropolitan branches; there was no revision of payment of minimum contribution per day; later it was felt to revise the contribution of the scheme; they revised the scheme as far as the minimum contribution per day by the Pragathi Account Holders from Re.1/- to Rs. 100/- in rural and semi urban areas and from Rs.2/- to Rs. 200/- in urban and metropolitan centres/branches vide circular dated 10.05.2004. The earlier scheme was not financially viable; revision of the minimum deposit will benefit the Pragathi Collectors and help them to get more commission and this decision will not affect them. It was a policy decision taken by the 2nd Party/Management; Banking transactions have undergone sea change in the recent past; in the present competitive market a need to take comfortable place is necessary. Earlier scheme formulated by the Bank way back in 1978 is re-studied and corrective steps are taken to suit the market needs. Hence, the decision of revision of minimum contribution in Pragathi Deposit is fully justified. They have not discontinued the scheme.
5. The witness has produced the circular dated 10.05.2004 whereby the Bank revised the rate of interest payable on Pragathi Deposit, accordingly they have enhanced the interest rate of 1% on the existing deposits. Basically it is a policy decision of the 2nd Party in modifying the scheme taking into consideration the financial viability and the best interest of the Bank; neither of the 1st Party have shown how they have any locus standi to question the modification of the scheme. They are not entitled for any relief in this reference.

AWARD

The reference is rejected.

(Dictated, corrected and signed by me on 07th March, 2019)

Justice Smt. RATHNAKALA, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 472.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कर्नाटक विकास ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलूर के पंचाट (संदर्भ संख्या 24/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुए थे।

[सं. एल-12012/88/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 19th March, 2019

S.O. 472.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2011) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore, as shown in the Annexure, in the Industrial dispute between the management of Karnataka Vikas Grameena Bank and their workmen received by the Central Government on 19.03.2019.

[No. L-12012/88/2010-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE – 560 022****DATED** : 5th MARCH 2019**PRESENT** : JUSTICE SMT. RATHNAKALA, Presiding Officer**C R No. 24/2011**

<u>I Party</u>	<u>II Party</u>
Sri Rajashekar, Kamath Compound, 1 st Cross, Ashwininagar, HAVERI.	The Chairman, Karnataka Vikas Grameena Bank, Head Office, Belgaum Road, DHARWAD.

AppearancesI Party : **Shri V S Naik**, AdvocateII Party : **Shri B C Prabhakar**, Advocate**AWARD**

1. The Central Government vide order No. L-12012/88/2010-IR(B-I) dated 26.05.2011 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the action of the management of Karnatka Vikas Grameena Bank in dismissing Shri Rajashekar U.Prasad, Ex-Clerk-cum-Cashier from service vide their order dated 21/11/2009, is legal and justified? To what relief the workman is entitled?”

2. I Party workman was reported dead vide Memo dated on 20.04.2017. It was reported that I Party workman has expired. Thereafter, no steps is taken to bring the legal heirs of the I Party workmen. The Management has already adduced evidence on Domestic Enquiry. The case of the I Party workman has abated in that view of the matter no relief can be awarded in favour of the I Party in this reference.

ORDER**Reference is Rejected**(Dictated to U D C, transcribed by him, corrected and signed by me on 5th March 2019)

Justice Smt. RATHNAKALA, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 473.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व्हील और एक्सल प्लांट प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 48/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुआ।

[सं. एल-41011/20/2003-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 19th March, 2019

S.O. 473.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2003) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore, as shown in the Annexure, in the Industrial dispute between the management of Wheel & Axle Plant and their workmen received by the Central Government on 19.03.2019.

[No. L-41011/20/2003-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT,
BANGALORE – 560 022DATED : 12TH MARCH 2019

PRESENT : Justice Smt. Rathnakala, Presiding Officer

C.R No. 48/2003

<u>I Party</u>	<u>II Party</u>
The President, Wheel & Axle Plant Contract Workers Union, No.43, MIG II Floor, II Stage, KSB Colony, Basaveswaranagar, Bangalore – 560 079.	The General Manager, Wheel & Axle Plant, Yelahanka, Bangalore – 560 064.

Advocate for I Party : Advocate for II Party:

Mr. B.D. Kuttappa : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No.L-41011/20/2003-IR(B-I) dated 18.11.2004 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of Wheel and Axle Plant is justified in denying employment to 119 Contract Labourers with effect from 31.03.2001? If not, what relief the Labourers are entitled to?”

1. The claim as set up by the 1st Party is they are the contract labourers at various departments like
 - i) Oxy-cutting of steel scrap
 - ii) Handling of materials
 - iii) Painting Packing, loading of wheel sets
 - iv) Oxy-cutting of skull
 - v) Maintenance of factory premises
 - vi) Re-lining of electric arc furnaces and ladles etc.,

Though, there job is perennial in nature, they were not paid wages on par with the permanent workers performing similar nature of jobs. The 1st Party through their union gave representation before Central Advisory Labour Board, constituted under the Contract Labour (Regulation & Abolition) Act, 1970 (for brevity 'the CLRA Act' hereafter). After thorough enquiry on their representation the committee submitted the report and observed that the works like Oxy-cutting, re-lining of electric arc furnaces and ladles etc., is carried out with the help of contract workers on regular basis. Without giving valid licence, under the guise of each contractor they have engaged less than 20 workers. Though many of the works are inter connected the management is dividing the work into three parts to different contractors probably to avoid legal obligations of the applicable enactments. The management has committed a plain irregularity, by camouflage of actual nature of jobs/works and hiding the factual relationship between the workers, contractors and the principal employer. The contract workers are engaged in various sections to do regular job of helping, cleaning and other regular maintenance without appointing supervisor and without contract; the workers are under the direct supervision and control of the respective regular supervisors of the principal employer. The committee further recommended to abolish the contract employment in respect of the above cited 6 jobs. In pursuance of the said recommendation of the committee after consultation with the Central Advisory Board, Government of India issued notification prohibiting the employment of contract labourers in the above said jobs.

2. The 1st Party on behalf of the erstwhile contract workers is making a claim, placing reliance in the Judgment of the Hon'ble Supreme Court in SAIL and others Vs National Union Water Front Workers and others reported in 2001(6) scale 626 that, the workman having lost employment in view of the abolition of the contract service in the 2nd Party their service may be regularized and they may be reinstated in the original post.

3. The 2nd Party countered the claim of the 1st Party on the following lines – The contractors ought to have been impleaded as necessary party, the contract labourers were employed by different contractors to enter into the contract with the 2nd Party. The contractors had full control over the labour force employed by them. There is no relationship of master-servant/employer-employee between the 2nd and the 1st Parties. The contract with the then contractors either has

expired or contract agreement lapsed or terminated on 26.08.2000 or on 31.03.2001. The 2nd Party in its capacity has ensured that the contract labourers are paid minimum wages, over time allowance etc., The Railway Board, the policy making body of the 2nd Party with a view to absorb the contract labourers who were working in the specified areas, after engagement of contract labourers was prohibited, issued guidelines vide Letter No. E(LL)88/AT/CNR/1-57 dated 30.06.2000 for absorption of Ex-contract labourers. The regularization of the contract labourers was subject to fulfilling the condition regarding age, education qualification and medical standards etc., stipulated by the Railways in their Recruitment Rules.

4. Ex-contract labourers to be regularized in the post was required to have education qualification of 8th Standard, minimum age of 18 years and also who have been within the age limit contemplated under the rules. 92 Ex-contract labourers were found eligible and they were absorbed/appointed by the 2nd Party. Thus who did not meet the education qualification or age limit stipulated within permissible relaxation could not be absorbed. Though the notification was published by the Government of India abolishing the contract works in the 2nd Party vide order dated 10.03.1999 and was published in the Gazette of India, until said order was communicated in the year 2000 they had no knowledge of the order. After coming to know the order during September 2000 the 2nd Party took steps to abolish contracts in those areas and absorbed the Ex-contract labourers as per law, till alternative arrangement the contract had to be continued so that production was not hindered.

5. The 1st Party placed its evidence by examining two of the concerned workmen and also its president. The rebuttal evidence was adduced by one of the official of the 2nd Party. During the evidence of WWs, they have produced ID cards, Gate passes, wage slips, ESI cards, Education qualification proof, Employment cards, leave cards and entry permits to establish the identity of the concerned workmen. During the evidence of 2nd Party it was asserted that workers found at Serial Nos. 35,37,48,53,76,79,99,138 and 145 were either under or over age; the integrity of Serial Nos. 133 and 147 was under question, the names at Serial Nos.10, 13, 15, 23, 26, 30, 39, 55, 62, 63, 64, 77, 78,80-88, 97, 98, 103, 107, 108, 109, 113, 121, 122, 129, 134, 141-144, 146, 149-151 were not on rolls as on the cut of date 10.03.1999, they are not necessary parties in this reference. 94 candidates were not qualified. Wherefore, the single application on behalf of all the 1st Party workmen is not maintainable.

6. It is admitted between the parties that even after the abolition of the contract work in the 6 departments of the 2nd Party vide notification of the Government dated 10.03.1999, the contract employees who were brought inside by the licensed contractors, continued to work; the reason assigned by the 2nd Party now is, the order of the Government was not communicated to them. It is an unequivocal admission by the 2nd Party that, until alternative arrangement was made, the contract employees continued to work so that the production was not hindered. If not anything more, this admission by itself is sufficient to take all the 1st Party workmen to the status of workmen contemplated by section 2(s) of the Act. It is to be borne in mind that the identity of these men is not disputed by 2nd Party nine workmen from the list of 119 concerned workmen were considered and rejected for absorption. In respect of workmen at Sl. No. 10, 13, 15, 23, 26, 30, 39, 55, 62, 63, 64, 77, 78,80-88, 97, 98, 103, 107, 108, 109, 113, 121, 122, 129, 134, 141-144, 146, 149-151, their disqualification according to 2nd Party was, they were not on the roll of 2nd Party on the cut off date of 10.03.1999. Since, there was a wide gap from the date of notification to the date of communication and for realignment of works by necessary implication, above workmen worked for the 2nd Party subsequent to 10.03.199. Having continuously worked prior to 31.03.2001 for number of days at least for one year or more than one year this duration qualifies to the phrase 'Continuous Service' contemplated by section 25(B) of 'the act'. Thus, all the 119 of them are direct employees of the 2nd Party.

7. Now the underlining question is having worked for the 2nd Party, continuously for a term stipulated by section 25B(a) of the Act (more than 240 days in the preceding twelve calendar month calculated from 31.02.2001) the 1st Party workman have acquired any right. As such now they are not working for the 2nd Party though some of their colleagues are fortunate enough to be absorbed/ regularized to the post they were doing. The workman before this Tribunal, though have come out of the 2nd Party with empty hand, on a superficial look it sounds that there was no illegality on the part of the employer in denying work to them w.e.f 31.03.2001, consequent upon the order of the Government abolishing the contract employment in the above mentioned 6 areas. Still there is a dent in this case. They are said to have employed only the eligible candidate and scored off 52 of 1st Party from their list. The 1st Party has given a list of 41 workmen claiming to possess requisite qualification as contemplated by the guidelines as dated 30.06.2000. It appears these workmen had not applied for the posts when the applications were called for. However, MW-1 during his cross-examination admits that, if they find that the workman has the requisite qualification they are even now ready to absorb the services of the contract labourers.

8. Since, 41 workmen listed by the 1st Party as having essential qualification required for absorption are not brought before this Court, an omnibus order cannot be passed in their favour. One thing is certain from the evidentiary material that apart from those lucky ones who were absorbed, the remaining workmen were sent out without any compensation. Though it is an abolition of contract works in the specified area of the management as declared by the Government, under 'the CLRA Act' viewing from the side of the workman it was refusal of employment and falls within the category of retrenchment contemplated by section 2(o) of 'the Act' not falling under any of the exemption contemplated by sub clause (a), (b), (bb) and (c). Retrenchment to be legal and valid warrants prior retrenchment compensation contemplated by section 25F of the act. Without complying the mandatory provision of section 25F they could not have get rid of the workman. In that view of the matter the action of the management in denying employment on 31.03.2001 to the 1st Party workmen cannot be endorsed.

9. Having answered the issue against the management, now the focus is on moulding proper relief to the aggrieved workmen. In view of the Judgment of the Apex Court in Secretary State of Karnataka & Others vs Umadevi and another in Appeal (Civil) No. 3595-3612/1999, no order can be passed in disregard to the relevant rules of appointment directing the 2nd Party to regularise these workmen. The only solution is, they can be paid retrenchment compensation proportional to the duration of their service with 6% interest from 31.03.2001. So far as the list of 41 workmen is concerned the management shall consider their applications when the post are called for in the concerned departments; By relaxing age limit they shall be considered for the post if they are found otherwise suitable. Though, these workmen had worked under the licensed contractor, now those contractors are not in the scene. Being the principal employer it was the obligation of the 2nd Party to dispense the service of the 1st Party in the manner known to law. However, in the preceding paras we have noticed that these workmen are under direct service of the 2nd Party. Having failed to comply the pre-condition contemplated under section 25F of the act, while severing relationship with the employees, thus due of statutory obligation, now the 2nd Party is answerable to the claim of the 1st Party workmen. Hence, the following

AWARD

The reference is accepted. The respondent is directed to calculate the retrenchment compensation due to 1st Party workman as on 31.03.2001. 1st Party workmen shall be paid retrenchment compensation with interest at 6% per annum from 31.03.2001 till the date of disbursement in the favour of the 1st Party workmen after proper verification and identification. If they apply for any vacancy which may arise in the 2nd Party they shall be considered for the post by giving benefit of age relaxation if they are found suitable otherwise.

(Dictated, corrected and signed by me on 12th March, 2019)

Justice Smt. RATHNAKALA, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 474.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक न्यायालय एवं श्रम न्यायालय, भीलवाड़ा के पंचाट (संदर्भ संख्या 82/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुआ था।

[सं. एल-39025/01/2019-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 19th March, 2019

S.O. 474.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhilwada, as shown in the Annexure, in the Industrial dispute between the management of Bank of Baroda and their workmen received by the Central Government on 19.03.2019.

[No. L-39025/01/2019-IR (B-II)]

SEEMA BANSAL, Section Officer

अनुबंध

श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारी : श्री सत्यजीत राय, आर.एच.जे.एस.

श्रम विवाद प्रकरण संख्या : 82 सन् 2014

श्री राजेन्द्र वैष्णव पिता श्री देवी लाल वैष्णव, निवासी—रूपाहेली कला,
तह.—हुरडा, जिला—भीलवाड़ा।

...प्रार्थी

:: बनाम ::

1. उप महाप्रबंधक, क्षेत्रिय कार्यालय, बैंक ऑफ बड़ौदा वैशाली नगर, अजमेर
2. मै. बैंक ऑफ बड़ौदा, जरिये शाखा प्रबंधक, बैंक ऑफ बड़ौदा शाखा—आंगूचा,
तह.—हुरडा, जिला— भीलवाड़ा।

...विपक्षी

उपस्थित :

श्री आर.एस. सोडानी, अधिवक्ता—प्रार्थी की ओर से।

श्री राम स्वरूप असावा, अधिवक्ता—विपक्षीगण की ओर से।

:: पंचाट ::

दिनांक 18.9.2017

प्रार्थी श्रमिक ने सेवा पृथक्करण के संबंध में अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त, केन्द्रीय, अजमेर के समक्ष पेश किया गया। जहां 45 दिन की अवधि में कोई समझौता नहीं होने के कारण उक्त विवाद औ. वि. अधि. 1947, जिसे पंचाट में आगे अधि. 1947 से सम्बोधित किया जायेगा, की धारा 2 (ए) (2) के तहत इस न्यायालय के समक्ष पेश किया।

संक्षेप में प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि प्रार्थी विपक्षी बैंक की आगूचा शाखा में बतौर सफाई एवं अन्य सहायक कार्य करने हेतु दिनांक 15.7.13 को दैनिक वेतन पर नियोजित किया गया। 150 रु. दैनिक की दर से मजदूरी का भुगतान किया जाता था। दिनांक 9.4.14 को मौखिक आदेश से सेवा से पृथक् कर दिया। प्रार्थी की सेवाएं अधि. 1947 की धारा 25—बी के तहत नियमित सेवाएं हैं। प्रार्थी ने निरंतर व नियमित रूप से 240 दिन से अधिक की सेवाएं विपक्षी बैंक के अधीन दी है। विपक्षी बैंक के द्वारा सेवा पृथक्करण से पूर्व प्रार्थी को कोई नोटिस, छटनी मुआवजा नहीं दिया गया। प्रार्थी को सेवा पृथक् कर अन्य कर्मचारी को नियुक्त कर दिया गया है। इस प्रकार बैंक के द्वारा अधि. 1947 की धारा 25— एफ, जी, एच का उल्लंघन किया गया है। प्रार्थी ने समझौता अधिकारी एवं सहायक श्रम आयुक्त, केन्द्रीय, अजमेर के समक्ष शिकायत की। जहां विपक्षी ने समझौता में कोई रुचि नहीं दिखाई। अतः प्रार्थी को दिनांक 9.4.14 को की गई सेवा मुक्ति को अनुचित एवं अवैध घोषित कर प्रार्थी को पुनः पूर्व पद पर नियोजित करने तथा सेवा मुक्ति की दिनांक से पुनः सेवा में लेने तक की अवधि के समस्त वेतन व परिलाभ के भुगतान किये जाने एवं 10,000 रु. वकील मेहन्ताना दिलाये जाने के आदेश दिये जायें।

विपक्षीगण को न्यायालय में तलब किया गया।

विपक्षीगण ने उक्त प्रार्थना पत्र में वर्णित तथ्यों को अस्वीकार करते हुए व मान. उच्चतम न्यायालय द्वारा पारित विभिन्न निर्णयों का हवाला जवाब में देते हुए यह अंकित किया कि प्रार्थी को आगूचा शाखा में अंशकालीन रूप से कार्य पर रखा गया था। प्रार्थी व विपक्षी के मध्य नियोजक व श्रमिक का कोई संबंध नहीं है। प्रार्थी बेक डोर एन्ट्री से सेवा में आना चाहता है, जबकि बैंक पब्लिक सेक्टर यूनिट है। प्रार्थना पत्र खारिज किया जाये।

प्रार्थी की ओर से साक्ष्य में ए.ड. 1 प्रार्थी राजेन्द्र वैष्णव के बयान शपथ पत्र पर दर्ज कराये गये, जिन्होंने बतौर प्रलेखीय साक्ष्य प्रदर्श 1 से 5 दस्तावेज पेश किये। विपक्षी बैंक की ओर से एन ए ड 1 साहब राम, शाखा प्रबंधक के बयान दर्ज करवाये गये।

मैंने उभयपक्षों को सुना। पत्रावली का गहनता से अवलोकन किया।

प्रार्थी ए ड 1 राजेन्द्र वैष्णव ने अपने मुख्य परीक्षण में क्लेम प्रार्थना पत्र में वर्णित तथ्यों की ताईद करते हुए यह कथन किया है कि प्रार्थी विपक्षी बैंक की आगूचा शाखा में बतौर सफाई एवं अन्य सहायक कार्य करने हेतु दिनांक 15.7.13 को दैनिक वेतन पर नियोजित किया गया। 150 रु. दैनिक की दर से मजदूरी का भुगतान किया जाता था। 240 दिन से अधिक अवधि तक की सेवाएं दी है, जिससे उसकी सेवाएं अधि. 1947 की धारा 25— बी के तहत नियमित सेवाएं हैं। विपक्षी बैंक के द्वारा सेवा पृथक्करण से पूर्व प्रार्थी को कोई नोटिस, छटनी मुआवजा नहीं दिया गया। दिनांक 9.4.14 से मौखिक आदेश से बिना कोई कारण बताये सेवा पृथक् कर दिया। प्रार्थी के स्थान पर अन्य कर्मचारी को नियुक्त कर दिया गया है। इस प्रकार बैंक के द्वारा अधि. 1947 की धारा 25—एफ, जी, एच का उल्लंघन किया गया है। सेवा पृथक्करण के बाद से ही वह बेरोजगार है। प्रार्थी की दिनांक 9.4.14 को की गई सेवा मुक्ति को अनुचित एवं अवैध घोषित कर प्रार्थी को पुनः पूर्व पद पर नियोजित करने तथा सेवा मुक्ति की दिनांक से पुनः सेवा में लेने तक की अवधि के समस्त वेतन व परिलाभ के भुगतान किये जाने के आदेश दिये जायें। प्रार्थी ने दस्तावेजात में प्रदर्श 1 लेजर की फोटो प्रति, प्रदर्श 2 से प्रदर्श 5 वाउचर पेश किये। जिरह में प्रार्थी ने यह कथन किया है कि मैंने बैंक में नौकरी के लिए लिखित में कोई आवेदन नहीं किया। मुझे नियोजन विभाग द्वारा नियुक्त नहीं किया गया, न ही बैंक में भेजा गया। बैंक में मेरा साक्षात्कार मेरे पिता की मृत्यु के बाद बैंक अधिकारी के कहने पर हुआ था। मुझे साक्षात्कार के लिए पत्र दिया गया था, जो मेरे पास आज उपलब्ध नहीं है। मुझे लिखित में पत्र नहीं दिया गया। आगे जिरह में यह कहना है कि बैंक में मैंने काम किया उसका वाउचर पेश किया। प्रदर्श 3 से 5 उसी बाबत है। साफ सफाई का कार्य करता था। आगे जिरह में यह भी कहा है कि प्रदर्श 1 में दिनांक 1.8.13 की प्रविष्टि में मैं बैंक में सफाई करना व कार्य करने की मजदूरी का भुगतान करने बाबत लिखा हुआ है। उक्त साक्ष्य के खंडन में एन ए ड 1 साहब राम का बयान है कि प्रार्थी को दैनिक वेतन भोगी के रूप में दिनांक 15.7.13 से बैंक आफ बडोदा, शाखा आगूचा में 150 रु. प्रति दिन की दर से नियोजित नहीं किया गया था। उसके द्वारा एक वर्ष में 240 दिन से अधिक अवधि तक सेवाएं नहीं दी गई। जब प्रार्थी को विपक्षी बैंक द्वारा नियोजित ही नहीं किया गया तो ऐसी स्थिति में उसे पद पर रखने अथवा हटाने का कोई प्रश्न उत्पन्न नहीं होता है, न ही किसी प्रकार की सूचना की आवश्यकता रही है। प्रार्थी को अस्थायी तौर पर समय समय पर अंशकालीन अवधि के लिए सफाई काम के लिए रखा गया था तथा उसकी मजदूरी का भुगतान किया गया। ऐसी स्थिति में प्रार्थी व विपक्षी का संबंध श्रमिक—नियोजक का नहीं माना जा सकता है। जिरह में गवाह का यह कहना है कि मैं आगूचा ब्रांच में पिछले दो माह से ब्रांच मेनेजर के पद पर काम कर रहा हूं। यह सही है कि जुलाई 2013 में मेरी पोस्टिंग आगूचा ब्रांच में नहीं थी। मैंने राजेन्द्र कुमार का रिकार्ड देख लिया है। हमारे यहां रिपेयर मेन्टीनेन्स रजिस्टर रखा जाता है। उसमें मजदूरी के भुगतान के वाउचर बनते हैं। प्रदर्श 2 बैंक का ही है। प्रदर्श 1 भी बैंक का रिकार्ड है। राजू की मजदूरी 150 रु. प्रति दिन की दर से लिखी हुई है। राजू कौन है, मैं नहीं जानता हूं। मुझे पता नहीं है कि राजेन्द्र व

राजू एक ही व्यक्ति हों। प्रदर्श 3 व 4 बैंक के दस्तावेज हैं। प्रदर्श 5 बैंक का रेकार्ड है। आगे जिरह में यह कहा है कि प्रार्थी ने जुलाई 2013 में 15 दिन, अगस्त में 24 दिन, सितम्बर में 24 दिन, अक्टूबर में 25 दिन, नवम्बर में 23 दिन, दिसम्बर 2013 में 25 दिन, जनवरी 2014 में 27 दिन, फरवरी 2014 में 24 दिन, मार्च 2014 में 23 दिन, अप्रैल 2014 में 6 दिन काम किया। इस प्रकार प्रार्थी ने बैंक में छिटपुट काम किया था।

इस प्रकार जो उपरोक्त साक्ष्य न्यायालय के समक्ष प्रस्तुत की गई है, उसके संबंध में प्रार्थी के विद्वान अधिवक्ता ने बहस के दौरान यह निवेदन किया कि प्रार्थी ने दिनांक 15.7.13 से 8.4.14 तक विपक्षी बैंक में बतौर सहायक कर्मचारी कार्य किया है। इस संबंध में प्रदर्श 1 बैंक का रिकार्ड पत्रावली पर मौजूद है। प्रार्थी ने कुल 217 दिन काम किया है परंतु रविवारीय व पेड़ होली डेज को जोड़ने पर उक्त अवधि करीब 255 दिन की हो जाती है। यह तथ्य प्रदर्श 1 से साबित है। मान. उच्च न्यायालय ने जे.डी. ए. बनाम महेश कुमार एल एल जे 2007 (1) पेज 142 में यह मार्गदर्शन दिया है कि अधि० 1947 की धारा 25-बी में 240 दिन की अवधि में रविवार एवं पेड़ होलीडेज भी जोड़े जायेंगे। इस प्रकार प्रार्थी की सेवाएं 240 दिनों से अधिक की होती है तथा अधि० 1947 की धारा 25-बी के तहत नियमित सेवा की श्रेणी में आती है। अतः विपक्षी को सेवा पृथक्करण से पूर्व अधि० 1947 की धारा 25-एफ की पालना करनी चाहिये थी, जो नहीं की गई है। इस प्रकार प्रार्थी का सेवा पृथक्करण अवैध है। उक्त बहस के विरोध में विपक्षी नियोजक की ओर से उपस्थित अधिवक्ता ने निवेदन किया कि प्रार्थी को अस्थायी रूप से दैनिक वेतन पर रखा गया था तथा प्रार्थी ने 240 दिन की लगातार व नियमित सेवाएं नहीं दी है। इस प्रकार प्रार्थी की सेवाएं अधि० 1947 की धारा 25-बी के तहत नियमित सेवाएं नहीं हैं। बहस के समर्थन में उन्होंने न्यायिक दृष्टांत यूनियन पब्लिक सर्विस कमीशन बनाम गिरीश जयन्ती लाल वाघेला व अन्य ए आई आर 2006 पेज 1165 पेश किया।

मैंने उपरोक्त बहस पर गौर किया। प्रस्तुत न्यायिक दृष्टांतों का भी ससम्मान अध्ययन कर उनसे मार्गदर्शन प्राप्त किया।

प्रार्थी का मुख्य परीक्षण में यह कथन है कि उसने दिनांक 15.7.13 से विपक्षी के अधीन बतौर सहायक कर्मचारी दिनांक 8.4.14 तक कार्य किया है। दिनांक 9.4.14 को उसे बिना किसी सूचना, नोटिस के सेवा से पृथक् कर दिया गया। इस संबंध में प्रार्थी ने प्रदर्श 1 बैंक का रिकार्ड प्रस्तुत किया है। विपक्षी की ओर से एन ए ड 1 साहब राम, शाखा प्रबंधक, ने मुख्य परीक्षण में तो प्रार्थी के बयानों का खंडन किया है और यह कहा है कि प्रार्थी को दिनांक 15.7.13 से आगूचा शाखा में 150 रु. प्रति दिन की दर से नियोजित नहीं किया गया है परंतु जिरह में उसने यह स्वीकार किया है कि प्रार्थी ने जुलाई 13 में 25 दिन, अगस्त में 24 दिन, सितम्बर में 24 दिन, अक्टूबर में 25 दिन, नवम्बर में 23 दिन, दिसम्बर 13 में 25 दिन, जनवरी 14 में 27 दिन, फरवरी 14 में 24 दिन, मार्च 14 में 23 दिन, अप्रैल 14 में 6 दिन काम किया है। प्रार्थी का यह भी कहना है कि उसे दैनिक वेतन पर नियोजित किया गया था। मेरे विनम्र विचार में दैनिक वेतन पर नियोजित श्रमिक भी अधि० 1947 की धारा 2 (एस) के तहत श्रमिक की श्रेणी में आता है तथा दैनिक वेतन भोगी कर्मचारी होने के आधार पर उसे अधि० 1947 की परिधि से बाहर नहीं रखा जा सकता है। यह स्थिति उभय पक्षों की साक्ष्य से तथा प्रस्तुत दस्तावेजात प्रदर्श 1 से पूर्ण रूप से प्रमाणित हुआ है कि प्रार्थी ने दिनांक 15.7.13 से 8.4.14 तक विपक्षी के नियोजन में बतौर सहायक कर्मचारी कार्य किया है। इस प्रकार प्रार्थी ने 217 दिन की अवधि तक कार्य किया है परंतु जैसाकि मान. राज. उच्च न्यायालय द्वारा जे.डी.ए. बनाम महेश कुमार 2007 एल एल जे (1) में मान. सर्वोच्च न्यायालय द्वारा अमरीकन एक्सप्रेस इंटरनेशनल बैंकिंग कार्पो. बनाम मेनेजर आफ अमरीकन एक्सप्रेस इंटरनेशनल बैंकिंग कार्पो. ए आई आर 1986 (एस.सी) पेज 458 का हवाला दिया गया है, जो इस प्रकार से है—

The qualification for relief under section 25-F is that he should be a workman employed in an industry and has been in continuous service for not less than one year under an employer. What is continuous service has been defined and explained in section 25-B of the Act. In view of sub Section 2 of section 25-B the workman shall be deemed to be in continuous service if he has 'actually worked under the employer' for particular period. The expression 'actually worked under the employer' cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. Thus, Sundays and other paid holidays should be taken into account for the purpose of reckoning the total number of days on which the workman could be said to have actually worked...

इस प्रकार उक्त न्यायिक दृष्टांत के अनुसार अधि० 1947 की धारा 25-बी के तहत 240 दिनों की निर्धारित अवधि में रविवार तथा पेड़ होली डेज को भी शामिल किया गया है। इस प्रकार यदि दिनांक 15.7.13 से 8.4.14 के बीच के रविवारीय एवं राजपत्रित अवकाशों की अवधि को भी इसमें शामिल किया जाये तो कार्य की अवधि 240 दिन से अधिक की हो जाती है। इस प्रकार प्रार्थी की सेवाएं अधि० 1947 की धारा 25-बी के तहत नियमित सेवाएं रही हैं। विपक्षी द्वारा प्रस्तुत न्यायिक दृष्टांत यूनियन पब्लिक सर्विस कमीशन बनाम गिरीश जयन्ती लाल वाघेला व अन्य के तथ्य विचाराधीन मामले के तथ्यों से भिन्न हैं तथा उक्त न्यायिक दृष्टांत औ. वि. अधि. 1947 से संबंधित नहीं है तथा न ही मामले में प्रार्थी को सेवा में नियमितीकरण का बिन्दु तय किया जाना है। मामले में यह देखा जाना है कि क्या प्रार्थी को सेवा से पृथक् किये जाने से पूर्व अधि० 1947 के प्रावधानों की पालना की गई है अथवा नहीं? चूंकि प्रार्थी की सेवाएं जैसाकि ऊपर विवेचना की गई हैं, अधि० 1947 की धारा 25-बी के तहत नियमित सेवा रही हैं। अतः उसे सेवा से पृथक् किये जाने से पूर्व नियोजक को धारा 25-एफ की पालना करनी चाहिये थी। अर्थात् छंटनी से पूर्व एक माह का नोटिस या नोटिस की एवज में वेतन राशि दिया जाना आवश्यक है। जो निर्विवादित रूप से बैंक के द्वारा नहीं दिया गया है। इस प्रकार प्रार्थी को दिनांक 9.4.14 को अवैध रूप से सेवा से पृथक् किया गया है।

अब देखना यह है कि प्रार्थी को क्या अनुतोष दिलाया जाये? मेरे विनम्र विचार में प्रार्थी पुनः सेवा में नियोजित होने एवं सेवा पृथक्करण की तिथि से पुनः नियोजन तक सेवा पृथक्करण के समय देय वेतन व परिलाभ की 50 प्रतिशत राशि प्राप्त करने का अधिकारी है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि —

प्रार्थी श्रमिक श्री राजेन्द्र वैष्णव पिता श्री देवी लाल वैष्णव, निवासी—रूपाहेली कला, तह0—हुरडा, जिला—भीलवाडा को उप महा प्रबंधक, क्षेत्रीय कार्यालय, बैंक ऑफ बड़ोदा, वैशाली नगर, अजमेर व मै. बैंक ऑफ बड़ोदा, जरिये शाखा प्रबंधक, बैंक ऑफ बड़ोदा, शाखा—आगूचा, तह.—हुरडा, जिला—भीलवाडा द्वारा दिनांक 9.4.2014 से सेवा पृथक् करना उचित एवं वैध नहीं है।

प्रार्थी श्रमिक पुनः पूर्व पद पर नियोजित होने का अधिकारी है। प्रार्थी श्रमिक को पंचाट प्रकाशित होने की तिथि से एक माह के भीतर पुनः पूर्व पद पर नियोजित किया जाये।

प्रार्थी श्रमिक सेवा पृथक्करण की तिथि से लेकर पुनः नियोजित होने तक सेवा पृथक् करते समय देय वेतन की दर से कुल वेतन की 50 प्रतिशत राशि भी विपक्षीयता से प्राप्त करने का अधिकारी होगा। पंचाट की प्रति केन्द्र सरकार को भेजी जाये।

पंचाट आज दिनांक 18.9.2017 को खुले न्यायालय में लिखाया जाकर सुनाया गया।

सत्यजीत राय, न्यायाधीश

नई दिल्ली, 19 मार्च, 2019

का. आ. 475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ संख्या 56/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुआ था।

[सं. एल-12012/36/1997-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 19th March, 2019

S.O. 475.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore, as shown in the Annexure, in the Industrial dispute between the management of Vijaya Bank and their workmen received by the Central Government on 19.03.2019.

[No. L-12012/36/1997-IR (B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BANGALORE – 560 022.

DATED : 12th MARCH 2019

PRESENT : JUSTICE SMT. RATHNAKALA, Presiding Officer

C R No. 56/2001

<u>I Party</u>	<u>II Party</u>
Sh. J L Hiremath, H No. 153, ShriMallikarju Nilay, vinayak Colony, Vidyanagar, HUBLI - 31.	The Chairman and Managing Director, Vijaya Bank, Head Office, 41/2, M G Road, BANGALORE – 560 001

Appearances :

I Party : Shri B. D. Kuttappa, Advocate
II Party : Shri Pradeep S. Sawkar, Advocate

AWARD

1. The Central Government vide order No. L-12012/36/1997-IR(B-II) dated 16.08.2001 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the management of Vijaya Bank is justified in not considering Sh. J.L.Hiremath, Sub-staff for permanent absorption w.e.f. 24.08.1982? If not, what relief he is entitled to and from which date?”

2. A Memo is filed of the I Party on 13.12.2017 which reads thus:

“That I had filed the above case against the Vijaya Bank for claiming arrears of salary. I have been appointed as part-time sweeper at 1/3 scale wages on 15/09/1992. I was converted as PEON on 24/05/1993. Presently I have been working as PEON in Lamington Branch, Hubli. Whereas I have settled all my disputes and difference and claims with the bank amicably without recourse to further litigation and for that purpose I am willing to abandon all my claims against the bank and I have no grievances whatsoever against the bank”.

3. II Party today filed a memo as below :

“The Second party submits that in this case the Reference is that “Whether the Management of Vijaya Bank is justified in not considering Sri J.L.Hiremath, sub staff for permanent absorption w.e.f. 24-08-1982? If not, what relief he is entitled to and from which date?”

The Second party prays that for the reasons stated in the Memo filed by the first party Hiremath on 24-11-2017 wherein it is stated that the first party was converted as peon on 24-05-1993 at present he is working as peon in Lamington Branch at Hubli, drawing a gross salary of Rs. 40,840/- and that he has settled all his disputes and differences and claims with the Bank amicably without recourse to further litigation and for that purpose he is willing to abandon all his claims against the Bank and he has no grievances whatsoever against the Bank. Hence, he withdrew the above case unconditionally”.

3. When the I Party himself has no further claim against II Party the inference is, there is no dispute between the parties.

ORDER

Reference is Rejected.

(Dictated to U D C, transcribed by him, corrected and signed by me on 12th March 2019)

Justice Smt. RATHNAKALA, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 476.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक न्यायालय एवं श्रम न्यायालय, भीलवाड़ा के पंचाट (संदर्भ संख्या 81/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.03.2019 को प्राप्त हुआ था।

[सं. एल-39025/01/2019-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 19th March, 2019

S.O. 476.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhilwada, as shown in the Annexure, in the Industrial dispute between the management of Bank of Baroda and their workmen received by the Central Government on 19.03.2019.

[No. L-39025/01/2019-IR (B-II)]

SEEMA BANSAL, Section Officer

अनुबंध

श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारी : श्री सत्यजीत राय, आर.एच.जे.एस.

श्रम विवाद प्रकरण संख्या : 81 सन् 2014

श्री भाग चंद पिता श्री शंकर लाल शर्मा,
निवासी— डाबला, तह.—बनेडा, जिला—भीलवाड़ा।

...प्रार्थी

बनाम

1. उप महाप्रबंधक, क्षेत्रीय कार्यालय, बैंक ऑफ बड़ोदा वैशाली नगर, अजमेर
2. मै. बैंक ऑफ बड़ोदा, जरिये शाखा प्रबंधक, बैंक ऑफ बड़ोदा शाखा—डाबला, तह.— बनेडा, जिला— भीलवाड़ा।

...विपक्षी

उपस्थित

श्री आर.एस. सोडानी, अधिवक्ता—प्रार्थी की ओर से।

श्री राम स्वरूप असावा, अधिवक्ता—विपक्षीगण की ओर से।

पंचाट

दिनांक 18.9.2017

प्रार्थी श्रमिक ने सेवा पृथक्करण के संबंध में अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त, केन्द्रीय, अजमेर के समक्ष पेश किया गया। जहां 45 दिन की अवधि में कोई समझौता नहीं होने के कारण उक्त विवाद औ.वि.अधि. 1947, जिसे पंचाट में आगे अधि01947 से सम्बोधित किया जायेगा, की धारा 2 (ए) के तहत इस न्यायालय के समक्ष पेश किया।

संक्षेप में प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया कि प्रार्थी विपक्षी सं. दो बैंक ऑफ बड़ोदा शाखा— डाबला, तह.— बनेडा में बतौर सफाई एवं अन्य सहायक कार्य करने हेतु दिनांक 17.10.01 को दैनिक वेतन पर नियोजित किया गया। 1200 वर्ग फिट फ्लोर एरिया तथा सभी फर्नीचर, काउंटर की सफाई के अतिरिक्त शाखा प्रबंधक को वसूली व एल.ए. डी. में सहयोग करता था। कक्षा आठवीं तक पढ़ा होने से दफ्तरी का कार्य निष्ठापूर्वक कर रहा था। विपक्षी सं. दो ने प्रार्थी को नियमित किये जाने हेतु उच्चाधिकारियों को पत्र भी लिखा। 1050 रु. मासिक वेतन दिया जाता था। बैंक व यूनियन के मध्य हुए द्विपक्षीय समझौते के अनुसार बैंक शाखा के फर्श का क्षेत्रफल अधिक होने से उसको स्केल वेज का एक तिहाई भुगतान होने लगा था। प्रार्थी को विपक्षीगण ने दिनांक 29.3.14 को मौखिक रूप से सेवा से पृथक् कर दिया। प्रार्थी दिनांक 17.10.01 से दिनांक 28.3.14 तक निरंतर व नियमित रूप से विपक्षी बैंक की सेवा में रहा है। मौखिक रूप से दिनांक 29.3.14 को सेवा पृथक्करण से पूर्व प्रार्थी को एक माह का नोटिस नहीं दिया गया, न ही नोटिस की एवज में वेतन एवं छंटनी मुआवजे का भुगतान किया गया। बैंक के द्वारा अधि0 1947 की धारा 25—एफ का उल्लंघन किया गया है। प्रार्थी से कनिष्ठ कर्मचारी अभी भी बैंक में सेवारत है। इस प्रकार अधि0 की धारा 25—बी व एच का भी उल्लंघन हुआ है। प्रार्थी ने समझौता अधिकारी एवं सहायक श्रम आयुक्त, केन्द्रीय, अजमेर के समक्ष शिकायत की। विपक्षी ने समझौता वार्ता में कोई रुचि नहीं दिखाई। 45 दिन से कई अधिक दिवस व्यतीत हो जाने पर भी कोई समझौता नहीं हुआ। इस कारण यह विवाद अधि0 1947 की धारा 2(ए) (2) के तहत न्यायालय के समक्ष पेश किया जा रहा है। दिनांक 29.3.14 को की गई सेवा मुक्ति को अनुचित एवं अवैध घोषित कर प्रार्थी को पुनः पूर्व पद पर नियोजित करने तथा दिनांक 29.3.14 से पुनः सेवा में लेने तक की अवधि के समस्त वेतन व परिलाभ के भुगतान किये जाने एवं 10,000 रु. वकील मेहन्ताना दिलाये जाने के आदेश दिये जायें।

विपक्षीगण को न्यायालय में तलब किया गया।

विपक्षीगण ने उक्त प्रार्थना पत्र में वर्णित तथ्यों को अस्वीकार करते हुए जवाब में यह अंकित किया कि अधि0 1947 के अनुसार केन्द्र सरकार बैंकिंग सेवाओं के लिए उपयुक्त सरकार है। अतः न्यायालय द्वारा मामले की सुनवाई नहीं की जा सकती है। चतुर्थ श्रेणी कर्मचारी की नियुक्ति रोजगार कार्यालय के माध्यम से केन्द्र सरकार के निर्देशानुसार की जानी चाहिये, जिसके लिए स्थानीय समाचार पत्र में सूचना देकर आवेदन मंगवाया जाना आवश्यक है। प्रार्थी कभी भी बैंक का कर्मचारी नहीं रहा है। प्रार्थी को अस्थायी तौर पर समय— समय पर अंशकालीन अवधि के लिए सिर्फ सफाई कार्य के लिए डाबला शाखा में रखा गया था जिसकी मजदूरी का भुगतान कर दिया गया है। प्रार्थी व विपक्षी के मध्य नियोजक व श्रमिक का कोई संबंध अस्तित्व में नहीं है। विपक्षी सर्वोच्च न्यायालय के विभिन्न न्यायिक निर्णयों, जिनका हवाला जवाब में दिया गया है, की पालना करने के लिए बाध्य है। प्रार्थना पत्र खारिज किया जाये।

प्रार्थी की ओर से साक्ष्य में ए.ड.1 प्रार्थी भाग चंद के बयान शपथ पत्र पर दर्ज कराये गये, जिन्होंने बतौर प्रलेखीय साक्ष्य प्रदर्श 1 से 14 दस्तावेज पेश किये। विपक्षी बैंक की ओर से एन ए ड 1 देव कमल राजन के बयान दर्ज करवाये गये।

मैंने उभयपक्षों को सुना। पत्रावली का गहनता से अवलोकन किया।

प्रार्थी ए ड 1 भाग चंद ने अपने मुख्य परीक्षण में क्लेम प्रार्थना पत्र में वर्णित तथ्यों की ताईद करते हुए यह कथन किया है कि प्रार्थी विपक्षी सं. दो के अधीन दिनांक 17.10.01 को दैनिक वेतन पर सफाई व अन्य सहायक कार्य करने हेतु नियोजित किया गया था। नियुक्ति दिनांक से ही फ्लोर एरिया, फर्नीचर, काउंटर की सफाई के अतिरिक्त शाखा प्रबंधक को वसूली व एल. ए.डी. में सहयोग करते हुए दफ्तरी का कार्य निष्ठापूर्वक दिनांक 28.3.14 तक किया। नियुक्ति तिथि 17.10.01 से ही सेवा समाप्ति तिथि 28.3.14 तक उसने विपक्षी सं. दो के अधीन निरंतर व नियमित सेवाएं दी हैं। विपक्षी सं. दो ने कई बार प्रार्थी को नियमित किये जाने हेतु पत्र भी लिखे। ऐसे पत्र दिनांक 2.9.06, 10.1.11 व 18.7.11 हैं, जो विपक्षी सं. दो के कब्जे में हैं। सेवाओं से संतुष्ट होकर ही विपक्षी द्वारा प्रारंभ में 1050 रु. मासिक वेतन व बाद में स्केल वेज का एक तिहाई भुगतान होने लगा तथा वर्ष 09 से पूरा वेतन मिलने लगा तथा बैंक में मेरा वेतन खाते में जमा होकर भुगतान हुआ। प्रार्थी को विपक्षीगण ने दिनांक 29.3.14 से बिना कोई नोटिस अथवा नोटिस वेतन, छंटनी मुआवजा दिये बिना, कोई कारण बताये बिना अचानक सेवा से पृथक कर दिया। प्रार्थी ने दस्तावेजात में प्रदर्श 1 बैंक का पत्र दिनांक 6.7.11, प्रदर्श 2 बैंक द्वारा प्रार्थी का बायोडेटा, ब्रांच अधिकारी, डाबला द्वारा प्रार्थी के पक्ष में लिखा गया पत्र, प्रदर्श 3 व 4 ब्रांच का पत्र, प्रदर्श 5 बडोदा बैंक यूनियन का पत्र, प्रदर्श 6 बैंक का सर्व्यूलर, प्रदर्श 7 जनरल मेनेजर का आदेश बाबत समझौते की पालना, डीपीजीएम का पत्र प्रदर्श 8, प्रदर्श 9 ब्रांच मेनेजर का पत्र, प्रार्थी का शैक्षणिक प्रमाण पत्र टी.सी. प्रदर्श 10, प्रार्थी का प्रार्थना पत्र प्रदर्श 11, बैंक पास बुक की फोटो प्रति प्रदर्श 12, शाखा प्रबंधक का पत्र प्रदर्श 13 व 14 पेश किये। जिरह में प्रार्थी ने यह कथन किया है कि मेरे पास नियोजन विभाग व बैंक द्वारा दिया गया कोई नियुक्ति पत्र नहीं है। लिखित में आदेश भी नहीं है। यह सही है कि मैं बैंक की साफ सफाई व अन्य काम करता था। डाबला शाखा में स्केल नंबर 2 के अधिकारी थे। मेरे को नियोजन में रखने के लिए उक्त अधिकारी ने सिफारिश की थी। जो भी भुगतान होता था उसका रेकार्ड बैंक में रहता था। उपस्थिति बाबत रिकार्ड भी बैंक में रहता था। यह सही है कि मैंने बैंक में उपस्थित रहने व मजदूरी का रिकार्ड पत्रावली पर पेश नहीं किया है। प्रदर्श 1 जनरल सर्व्यूलर है। प्रदर्श 2 के साथ शैक्षणिक योग्यता का कोई प्रमाण संलग्न नहीं है। प्रदर्श 3 से 9 पत्र फावर्ड किये गये हैं उनके द्वारा प्रार्थी का नियोजन तो था परंतु नियमित नहीं था। यह कहना गलत है कि मैं योग्य नहीं हूँ इस कारण मेरी नियुक्ति नहीं हुई हो। मेरी टी.सी. आठवीं कक्षा की शिक्षा की है। आगे जिरह में यह भी कहा है कि प्रदर्श 13 व 14 मेरी सिफारिश से संबंधित पत्र हैं। जो सेलेरी देते थे वह बैंक खाते में जमा होता था। प्रदर्श 12 पास बुक की प्रति है। उक्त साक्ष्य के खंडन में एन ए ड 1 देव कमल राजन का मुख्य परीक्षण में यह कहना है कि प्रार्थी दैनिक वेतन भोगी कर्मचारी के रूप में दिनांक 17.10.01 से बैंक आफ बडौदा, शाखा डाबला में दैनिक वेतन पर सफाई एवं अन्य सहायक कार्य करने हेतु नियोजित नहीं हुआ। प्रार्थी ने शाखा प्रबंधक के निर्देशानुसार सहायक कर्मचारी के रूप में दिनांक 28.3.14 तक कोई कार्य सम्पादित नहीं किया, न ही काउन्टर संबंधित, एल.ए.डी. व पत्रावली, रुपये संबंधित कार्य किये क्योंकि वह कभी भी बैंक के द्वारा कर्मचारी के रूप में नियोजित नहीं किया गया था। प्रार्थी की नियुक्ति दिनांक 17.10.01 से 28.3.14 तक विपक्षी बैंक में नहीं रही है, न ही नियमित सेवाएं दी गई। दिनांक 2.9.06, 10.1.11 व 18.7.11 के द्वारा प्रार्थी को स्थायी रूप से कर्मचारी नियुक्त किये जाने हेतु सिफारिश किये जाने का तथ्य गलत लिखा है। जिस अधिकारी के द्वारा यदि उक्त प्रकार के पत्र प्रेषित भी किये गये हों तो भी अवैध व अमान्य हैं क्योंकि उस अधिकारी को नियोजन संबंधित कोई अधिकार प्राप्त नहीं है। प्रार्थी ने दैनिक वेतनभोगी के रूप में उसे 1050 रु. मासिक वेतन दिया जाना गलत लिखा है। यह भी गलत लिखा है कि प्रार्थी को 2009 से पूरा वेतन मिलने लगा। प्रार्थी ने दिनांक 29.3.14 से बिना नोटिस दिये सेवा पृथक करना व उसकी 13 वर्ष की लम्बी सेवा होना लिखा है लेकिन प्रार्थी कभी विपक्षी के नियोजन में नहीं रहा है, अतः सेवा पृथक करने का प्रश्न ही उत्पन्न नहीं होता है। प्रार्थी ने नियोजन संबंधित शैक्षणिक योग्यता बाबत दस्तावेज पेश नहीं किये हैं। विपक्षीगण के अधीन नियुक्ति रोजगार कार्यालय के माध्यम से की जाती है एवं स्थानीय समाचार पत्र में दी गई सूचना के माध्यम से आवेदन मांगे जाते हैं। प्रार्थी को अस्थायी तौर पर समय समय पर अंशकालीन अवधि के लिए सफाई कार्य के लिए विपक्षी बैंक द्वारा रखा गया है तो ऐसी स्थिति में प्रार्थी व विपक्षी बैंक का संबंध श्रमिक व नियोजक का होना नहीं माना जा सकता है। जिरह में गवाह का यह कहना है कि मैंने डाबला ब्रांच में 17 अक्टूबर 2016 को जोईन किया था। शाखा प्रबंधक के पद पर जोईन किया था। प्रार्थी बैंक में वर्ष 2001 में नौकरी पर लगा था। यह सही है कि प्रार्थी ने दिनांक 28.3.14 तक काम किया था। प्रार्थी ने लगातार कार्य किया या नहीं मैं नहीं बता सकता हूँ क्योंकि मेरी पोस्टिंग वहां नहीं थी। प्रदर्श 1 बैंक को चिट्ठी प्राप्त होना सही है। प्रदर्श 2 प्रार्थी का बायोडेटा तत्कालीन ब्रांच मेनेजर ने भेजा है। वर्ष 2011 में ब्रांच मेनेजर कौन थे पता नहीं है, न ही मैं उनके हस्ताक्षर पहचानता हूँ। प्रदर्श 2 पर बैंक की मोहर लगी होना सही है। प्रदर्श 3 व 4 बैंक के हो तो मैं नहीं बता सकता क्योंकि बैंक के लेटर हेड पर नहीं है, न ही इन पर बैंक की सील लगी हुई है। यह सही है कि प्रदर्श एम 1 हमारे द्वारा पेश किया गया है। प्रदर्श एम 2 भी बैंक ने पेश किया है, जो मेरे पूर्व अधिकारी ने पेश किया है। प्रदर्श एम 3 बैंक की ओर से पेश किया गया है, उसमें रिमार्क ए से बी में 1/3 वेतन के बाबत लिखा हो तो मुझे जानकारी नहीं है क्योंकि मेरी पोस्टिंग उस समय ब्रांच में नहीं थी। प्रदर्श एम 4 से एम 9 बैंक द्वारा पेश किये गये हैं। दिनांक 28.3.14 को प्रार्थी को सेवा से हटाये जाने बाबत नोटिस दिया या नहीं पता नहीं है। यह कहना गलत है कि भाग चंद की तनखाह बैंक में जमा होती हो। प्रदर्श 12 बैंक की पास बुक है। दिनांक 31.6.14 मार्क पर वेजेज लिखा हुआ है डेली वेजेज लिखा हुआ है। डेली वेजेज कितना था, इसकी मुझे जानकारी नहीं है। 2001 में प्रार्थी को 1050 व 2014 में 9000 रु. से उपर वेतन दिया गया हो तो मुझे जानकारी नहीं है। मेरी पोस्टिंग तत्समय ब्रांच में नहीं थी। 2001 से 2013 के बीच प्रार्थी ड्यूटी से कब कब गैर हाजिर रहा नहीं बता सकता क्योंकि उसका कोई हाजरी रजिस्टर नहीं है। बैंक का कारपेट एरिया 1100—1200 के बीच में होगा। प्रार्थी आठवीं पास था जो रेकार्ड से सही है। प्रार्थी नियोजन के दौरान सफाई व दफ्तरी का काम करता था। भाग चंद के अलावा और कोई कर्मचारी बैंक में रहा हो तो मुझे पता नहीं है। आगे जिरह में यह भी कहा है कि प्रार्थी

को दैनिक वेतन पर भुगतान नियमित रूप से होता था। यह कहना गलत है कि बैंक कर्मचारी होने के कारण झूठे बयान दे रहा हूँ।

इस प्रकार जो उपरोक्त साक्ष्य न्यायालय के समक्ष प्रस्तुत की गई है, उसके संबंध में प्रार्थी के विद्वान अधिवक्ता ने बहस के दौरान यह निवेदन किया कि प्रार्थी ने बैंक आफ बडौदा, शाखा डाबला, तह0 बनेडा में दिनांक 17.10.01 से 28.3.14 तक लगातार व नियमित रूप से सफाई एवं अन्य सहायक का कार्य किया है, जिसको नियमित रूप से मजदूरी का भुगतान किया गया है। दिनांक 29.3.14 को बिना किसी नोटिस एवं नोटिस के बदले वेतन दिये बिना एवं छंटनी मुआवजा दिये बिना प्रार्थी को सेवा से पृथक कर दिया गया है। जो अधि0 1947 की धारा 25—एफ का उल्लंघन है। इस प्रकार प्रार्थी का सेवा पृथक्करण अवैध है। वह पुनः सेवा में नियुक्त होने एवं सेवा पृथक्करण की तिथि से पुनः नियुक्ति तक सम्पूर्ण लाभ परिलाभ प्राप्त करने का अधिकारी है। अपने बहस के समर्थन में न्यायिक दृष्टांत स्टेट बैंक आफ बीकानेर एंड जयपुर बनाम सेन्ट्रल गवर्नमेंट इंडस्ट्रीयल ट्रिब्यूनल कम लेबर कोर्ट 2017—II—एल एल जे पेज 456, जसमेर सिंह बनाम हरियाणा राज्य 2015 एल एल आर पेज 225 व राज कुमार दीक्षित बनाम विजय कुमार गौरी शंकर 2015 एल एल आर पेज 990 पेश किये। उक्त बहस के विरोध में विपक्षी नियोजक की ओर से उपस्थित अधिवक्ता ने निवेदन किया कि प्रार्थी व विपक्षी बैंक के मध्य नियोजक व श्रमिक के संबंध नहीं रहे हैं। प्रार्थी को बैंक द्वारा कभी भी नियुक्त नहीं किया गया है, न ही इस न्यायालय को मामले की सुनवाई का क्षेत्राधिकार है। प्रार्थी को अंशकालीन अवधि के लिए सफाई कार्य के लिए डाबला शाखा में रखा गया था। जिस अधिकारी ने प्रार्थी को नियमित किये जाने बाबत सिफारिश की उन्हें सिफारिश करने का कोई अधिकार नहीं था, न ही बैंक किसी प्रकार के यूनियन के साथ हुए समझौते से पाबंद हैं। बैंक में सहायक कर्मचारियों की नियुक्ति रोजगार कार्यालय के मार्फत की जाती है, जिसके बारे में स्थानीय समाचार पत्रों में सूचना दी जाती है। बहस के समर्थन में उन्होंने न्यायिक दृष्टांत यूनियन पब्लिक सर्विस कमीशन बनाम गिरीश जयन्ती लाल वाघेला व अन्य ए आई आर 2006 पेज 1165 पेश किया।

मैंने उपरोक्त बहस पर गौर किया। प्रस्तुत न्यायिक दृष्टांतों का का भी ससम्मान अध्ययन कर उनसे मार्गदर्शन प्राप्त किया।

न्यायालय के समक्ष विचारणीय बिन्दु यह है कि क्या दिनांक 29.3.14 को विपक्षी बैंक ने प्रार्थी को अवैध रूप से सेवा से पृथक किया है? इस संबंध में प्रार्थी ने मुख्य परीक्षण में यह कथन किया है कि उसे दिनांक 17.10.01 को दैनिक वेतन पर सफाई व अन्य सहायक कार्य हेतु विपक्षी सं. 2 शाखा प्रबंधक, बैंक आफ बडौदा, शाखा डाबला द्वारा नियोजित किया गया था। प्रार्थी ने दिनांक 28.3.14 तक लगातार बैंक में कार्य किया है। प्रार्थी की सेवाएं नियमित किये जाने के संबंध में विपक्षी बैंक के अधिकारी ने दिनांक 2.9.06, 10.1.11 व 18.7.11 को सिफारिश भी की है। शुरु में 1050 रु. मासिक वेतन दिया जाता था। 2009 से पूरा वेतन मिलने लगा। दिनांक 29.3.14 को बिना कोई नोटिस दिये एवं नोटिस के बदले वेतन दिये व छंटनी मुआवजा दिये बिना प्रार्थी को सेवा से पृथक कर दिया गया। प्रार्थी ने प्रदर्श 1 से 14 दस्तावेज जिसमें नियमित किये जाने के संबंध में सिफारिश पत्र प्रदर्श 3 से 5 भी पेश किये हैं। उक्त साक्ष्य के खंडन में एन ए ड 1 देव कमल, शाखा प्रबंधक, जो कि दिनांक 17.10.16 से उक्त शाखा में कार्यरत रहे हैं, उन्होंने मुख्य परीक्षण में तो अपने बयानों में यह कहा है कि प्रार्थी को दिनांक 17.10.01 से बैंक ऑफ बडौदा, शाखा डाबला में दैनिक वेतन पर सफाई व अन्य कार्य हेतु नियोजित नहीं किया गया है। आगे यह भी कहा है कि शाखा प्रबंधक के निर्देशानुसार दिनांक 28.3.14 को तक कोई कार्य प्रार्थी ने सम्पादित नहीं किया है। दिनांक 17.10.01 से 28.3.14 तक निरंतर व नियमित सेवाएं नहीं दी गई है परंतु जिरह में यह स्वीकार किया है कि प्रार्थी 2001 में नौकरी पर लगा था और उसने दिनांक 28.3.14 तक कार्य किया है। मैं यह नहीं बता सकता कि प्रार्थी ने लगातार कार्य किया या नहीं क्योंकि मेरी पोस्टिंग नहीं थी। विपक्षी ने प्रदर्श एम 1 से एम 9 प्रार्थी से संबंधित बैंक के दस्तावेज भी न्यायालय के समक्ष पेश किये हैं।

इस प्रकार विपक्षी की ओर से उपस्थित गवाह ने प्रार्थी का 2001 से 28.3.14 तक विपक्षी बैंक में कार्य किया जाना स्वीकार किया है। उक्त तथ्य प्रार्थी व विपक्षी बैंक के द्वारा प्रस्तुत किये गये विभिन्न दस्तावेजों से भी प्रमाणित है। प्रार्थी को नियमित किये जाने हेतु तत्कालीन शाखा प्रबंधक ने अपने उच्चाधिकारियों को पत्र भी लिखा है। इस प्रकार उक्त अवधि में प्रार्थी का विपक्षी बैंक में बतौर सहायक कर्मचारी कार्यरत होना पूर्ण रूप से प्रमाणित है। न्यायालय को यह देखना है कि क्या प्रार्थी की सेवाएं अधि0 1947 की धारा 25—बी के तहत नियमित सेवा की श्रेणी में आती है क्योंकि प्रार्थी का वर्ष 2001 से 28.3.14 तक विपक्षी बैंक में बतौर सहायक कर्मचारी कार्यरत होना प्रमाणित हुआ है। इस प्रकार प्रार्थी की नियमित व लगातार रूप से एक वर्ष से अधिक की सेवाएं विपक्षी बैंक में रही है। यदि प्रार्थी की सेवाएं नियमित व लगातार नहीं थी तो इस संबंध में पुख्ता साक्ष्य विपक्षी बैंक को न्यायालय के समक्ष पेश करनी चाहिये थी जो उनके द्वारा नहीं की गई है। अधि0 1947 की धारा 25—एफ के तहत यदि किसी श्रमिक की सेवाएं लगातार व नियमित रूप से एक वर्ष से अधिक की रही हो तो उसकी छंटनी से पूर्व नियोजक को अधि0 1947 की धारा 25—एफ की पालना करना आवश्यक है। अर्थात् छंटनी से पूर्व एक माह का नोटिस या नोटिस की एवज में वेतन राशि दिया जाना आवश्यक है। जो निर्विवादित रूप से बैंक के द्वारा नहीं दिया गया है। जो न्यायिक दृष्टांत प्रार्थी ने पेश किये हैं उनमें स्टेट बैंक आफ बीकानेर एंड जयपुर बनाम सेन्ट्रल गवर्नमेंट इंडस्ट्रीयल ट्रिब्यूनल कम लेबर कोर्ट 2017—II—एल एल जे पेज 456, जसमेर सिंह बनाम हरियाणा राज्य 2015 एल एल आर पेज 225 दोनों ही मामलों में उक्त मामलों के तथ्यों के अनुसार न्यायालय ने प्रार्थी की सेवाओं को अधि0 1947 के तहत नियमित सेवा माना था। विपक्षी बैंक द्वारा जो न्यायिक दृष्टांत यूपी.एस.सी. बनाम गिरीश जयन्ती लाल का पेश किया गया है। उक्त न्यायिक दृष्टांत के तथ्य विचाराधीन मामले के तथ्यों से पूर्ण रूप से भिन्न हैं। उक्त न्यायिक दृष्टांत अधि0 1947 से संबंधित नहीं है, न ही विचाराधीन मामले में प्रार्थी को बैंक सेवा में नियमित रूप से नियुक्ति के संबंध में किसी विवाद को तय करना है। इस न्यायालय को मात्र यह देखना है कि प्रार्थी को दिनांक 29.3.14 को अधि0 1947 की पालना नहीं करते हुए अवैध रूप से सेवा से पृथक किया गया है अथवा नहीं, जो कि उपरोक्त विवेचन के अनुसार प्रमाणित हुआ है कि प्रार्थी की सेवाएं अधि0 1947 के तहत नियमित सेवाएं रही है तथा उसे सेवा से पृथक किये जाने से

पूर्व अधि० 1947 की धारा 25—एफ की पालना नहीं की गई है तथा अधि० 1947 की धारा 2—एस के तहत प्रार्थी श्रमिक की परिभाषा में आता है। इस प्रकार प्रार्थी को दिनांक 29.3.14 को अवैध रूप से सेवा से पृथक किया गया है।

अब देखना यह है कि प्रार्थी को क्या अनुतोष दिलाया जाये? मेरे विनम्र विचार में प्रार्थी ने 13 वर्षों तक की लम्बी सेवाएं विपक्षी बैंक के अधीन दी हैं। जो न्यायिक दृष्टांत प्रार्थी ने राज कुमारी दीक्षित बनाम विजय कुमार का पेश किया है। उक्त न्यायिक दृष्टांत में भी उक्त न्यायिक दृष्टांत के तथ्यों के अनुसार प्रार्थी को पूर्ण वेतन के साथ सेवा में बहाल किये जाने के आदेश दिये गये थे। विचाराधीन मामले में प्रार्थी को बैंक की सेवा में पुनः नियोजन के साथ सेवा पृथक्करण की तिथि से पुनः नियोजन तक सेवा पृथक्करण के समय देय वेतन व परिलाभ की 50 प्रतिशत राशि दिलाई जाने के आदेश दिये जाना न्यायोचित समझता हूं।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि —

प्रार्थी श्रमिक श्री भाग चंद पिता श्री शंकर लाल शर्मा को उप महाप्रबंधक, क्षेत्रीय कार्यालय, बैंक ऑफ बड़ोदा, वैशाली नगर, अजमेर व मै० बैंक ऑफ बड़ोदा, जरिये शाखा प्रबंधक, बैंक ऑफ बड़ोदा, शाखा — डाबला, तह०— बनेडा, जिला— भीलवाड़ा द्वारा दिनांक 29.3.2014 से सेवा पृथक करना उचित एवं वैध नहीं है। प्रार्थी श्रमिक पुनः पूर्व पद पर नियोजित होने का अधिकारी है। प्रार्थी श्रमिक को पंचाट प्रकाशित होने की तिथि से एक माह के भीतर पुनः पूर्व पद पर नियोजित किया जाये।

प्रार्थी श्रमिक सेवा पृथक्करण की तिथि से लेकर पुनः नियोजित होने तक सेवा पृथक करते समय देय वेतन की दर से कुल वेतन की 50 प्रतिशत राशि भी विपक्षीगण से प्राप्त करने का अधिकारी होगा। पंचाट की प्रति केन्द्र सरकार को भेजी जाये।

पंचाट आज दिनांक 18.9.2017 को खुले न्यायालय में लिखाया जाकर सुनाया गया।

सत्यजीत राय, न्यायाधीश

नई दिल्ली, 19 मार्च, 2019

का. आ. 477.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 11/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2019 को प्राप्त हुए थे।

[सं. एल-22011/02/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th March, 2019

S.O. 477.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the management of M/s. Food Corporation of India and their workmen received by the Central Government on 14.03.2019.

[No. L-22011/02/2010-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No.11/2010

Registered on 19.05.2010

Sh. Jasbir Singh, S/o Sh. Iqbal Singh, R/o House No.1361,

Dogar Basti, Right Side, Faridkot.

... Workman

Versus

The Area Manager, Food Corporation of India,

District Office, Faridkot.

...Management

AWARD

Passed on:-07.03.2019

Central Government vide Notification No. L-22011/2/2010-IR(CM-II) Dated 10.05.2010, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Food Corporation of India in allegedly terminating the services of Shri Jasbir Singh w.e.f. 22.04.2004 is legal and justified? To what relief is the claimant entitled for?”

1. The facts, in brief, are that the workman was initially engaged by the management of FCI as typist w.e.f. 01.01.1996 at District Office, Faridkot and worked up to December 2006 when he was not allowed to work as Steno but was assigned the work of Driver. It is also alleged that he worked as driver since January 2007 to 31.05.2007. When workman requested management for assigning work of Typist, management instead of redressing his genuine grievances chose to terminate his services without complying with the law and after 31.05.2007, the services of the workman as Steno was orally terminated. The workman has worked with the respondent-management under the direct supervision from 01.01.1996 to 31.05.2007 regarding which certificates have been issued by the officers of the respondent-management, which are attached as Annexure W1, W2 and W3 with the claim petition. The workman was not given any notice nor any retrenchment compensation for his services despite the fact that he completed 240 days in each calendar year. Juniors to the workman have been retained by the respondent-management while terminating his services against the violation of the provisions of the Industrial Disputes Act, 1947. The claim of the workman is also covered by the Industrial Tribunal-cum-Labour Court filed by Smt. Rajwant Kaur, who had been awarded reinstatement by the Tribunal in similar circumstances which had also been upheld by the Hon'ble High Court. Similarly, Rajwant Kaur had preferred a writ petition before the Hon'ble Punjab & Haryana High Court regarding regularisation in view of Food Corporation of India policy dated 05.05.1987 and consequently, she had been granted relief from the Hon'ble High Court. The workman has remained unemployed after his termination. It is prayed that respondent-management may kindly be directed to reinstate him with full back wages and other consequential benefits including regularisation without any further loss.

2. Respondent-management has filed its written statement, denying the workman's employment with the management of Food Corporation of India. In fact, he was employed through Grover Commercial College, Faridkot. Hence, there was no relationship of master and servant between the parties as such, the claimant was not a workman employed by the respondent-management and showing of management Food Corporation of India within the meaning of Clause S of Section 2 of the Industrial Disputes Act, therefore, the dispute does not fall within the ambit of Industrial Disputes Act. The present reference is bad in law and is not maintainable as the claimant was never employed by the respondent-management. The service of the workman was availed by the respondent-management through Grover Commercial College and all the payments were made by the respondent-management directly to M/s Grover Commercial College, Faridkot. No appointment letter or termination letter was issued to the workman by the respondent-management. The workman has not made the party to M/s Grover Commercial College, Faridkot, as such, present reference deserves to be dismissed on the ground of non-joinder of necessary party. It is also alleged that answering respondent had no administrative, economic and disciplinary control over the workman. It is worth mentioning that workman after his termination from service started plying his own independent vehicle as a Taxi and used for the respondent-management for the officers and hire basis and has paid the Taxi charges. The workman was not the employee of Food Corporation of India while plying taxi and received payment as a private taxi car driver. Copies of payment and vouchers are enclosed as Ex.M with the written statement. The fact, that the deployment of workman by M/s Grover Commercial College, Faridkot, has been admitted by the workman vide his letter dated 01.07.2007 and copy is enclosed as Annexure M and contention raised by the workman is false, frivolous and vexatious. The alleged certificate issued by the official of the respondent-management in connivance of the workman for which notices are issued by the management to the officials, who had issued these certificates and they were taken to task. It is pertinent to mention that M/s Grover Commercial College, Faridkot, has also issued the certificate to the workman and he was being paid for the work done from 01.01.1996 to 12/2006 by M/s Grover Commercial College, Faridkot. No industrial dispute was existed between the workman and respondent-management so, question of violation of Industrial Disputes Act does not arise. It is requested that reference has no force in the eye of law and is liable to be answered accordingly.

3. Petitioner/workman has submitted its replication to the written statement filed by the management with all those averments made in the claim petition hence, it will not be reasonable to repeat the same.

4. To prove the facts in the claim petition, workman has examined himself as WW1, Balbir Kaur as WW2, Raghbir Singh as WW3 and Sanjay Kumar as WW4. Workman Jasbir Singh has submitted his affidavit as evidence in a cryptic manner, alleging therein that he was posted at Typist in the Admn. Section of Food Corporation of India and worked as Typist w.e.f 01.01.1996 to 31.12.2006. Thus, the fact, alleged in his affidavit is regarding the tenure of work with the respondent-management but there is nothing stated in his affidavit as when and how he had been engaged by the management, what was the role of M/s Grover Commercial College, Faridkot, in his appointment. Witness Balbir Kaur has asserted in her affidavit that she knew personally Jasbir Singh, who was posted as Typist in Food Corporation of India, Faridkot, Admn. Section since 1996 till her retirement in the year 2005. Similarly, Raghbir Singh has alleged in his affidavit that he had worked with the claimant/workman up to 18.07.2005 and has seen Jasbir Singh working as Typist in Admn. Section. Witness Sanjay Kumar, WW4 is a Typewriter Machanic, who has stated that while repairing typewriters of the management, he has seen workman Jasbir Singh, working as Typist in the Office of Food Corporation of India, Faridkot, since 1996 to 31.12.2006. Thus, the averments made by WW2 Balbir Kaur, WW3 Raghbir Singh and

WW4 Sanjay Kumar are confined only his services rendered to the respondent-management from 01.01.1996 to 31.12.2006, which is not disputed by the management itself in his written statement. Thus, this is the admitted fact between the parties that workman rendered his services as Typist in the establishment of respondent-management from 01.01.1996 to 31.12.2006.

5. The respondent-management has examined Ankush Singla as R-1, who has admitted that workman worked as Typist from 01.01.1996 to December 2006 in his establishment, who was engaged through Grover Commercial College, Faridkot. He has also admitted that workman owned a private taxi, which was hired by the department officials as per their requirements. He has specifically denied the termination by the management on 31.05.2007 and admitted that Ex.W1 to W3 were issued by the management-officials in connivance to the workman. Management has examined another witness Ramesh Kumar Grover, proprietor of M/s Grover Commercial College, Faridkot, who has submitted his affidavit Ex.R-2 and asserted that workman Jasbir Singh was engaged in Food Corporation of India through him and there was agreement with the college and Food Corporation of India for supply of the workmen. According to him, workman Jasbir Singh worked with him for 8 years and Ex.R3 has been issued by him as per demand of workman. Ex.R-3 is a certificate issued by this witness that workman(Jasbir Singh) had been working with him as casual Typist on contract basis. He was paid for the work done by him from 01.01.1996 to 31.12.2006.

6. I have heard Sh. S.S. Maini, Ld. Counsel for the workman and Sh. Anil Shukla, Ld. Counsel for the management and perused the file carefully.

7. The issue as to whether the workman was engaged by the employer/management directly or through contractor is the bone of contention between the parties. There is no dispute about preposition of law that onus to prove that claimant/workman was in the employment of management is always on the claimant/workman and it is for the workman to adduce evidence to prove factum of his employment with the management.

8. Question remains to be seen whether the workman was directly engaged under the respondent-management. This fact has to be proved by the documentary evidence as well as oral evidence. At the very outset, it may be mentioned that there is not a single document to prove that the workman was directly employed by the respondent-management. The workman Jasbir Sing has clearly accepted during cross-examination that his name was not sponsored by the employment exchange and he was neither issued any appointment letter by the management nor any termination letter was issued by the management. He has accepted that he rendered his services in Food Corporation of India on behalf of M/s Grover Commercial College, Faridkot, who provided salary for typing work in different departments to the persons including Food Corporation of India. He has clearly admitted that he has rendered his service as Typist in Food Corporation of India on behalf of the said institute. The workman has clearly stated that M/s Grover Commercial College, Faridkot, raised the bill which was being paid by the Food Corporation of India. Thus, the workman has clearly accepted during his cross-examination that he had rendered his services to the Food Corporation of India on behalf of Grover Commercial College, Faridkot, from beginning to end. He has also accepted the letter Mark A, which is an application signed by the workman himself in which he has accepted that he was appointed through Grover Commercial College, Faridkot. Similarly, witness Balbir Kaur WW2 has also accepted the facts regarding the mode of payment to M/s Grover Commercial College, Faridkot, for the services regarding typing work done by workmen. She has also accepted that before engaging Jasbir Singh, post had neither been advertised nor his name was sponsored by employment exchange. She has also accepted that after termination of contract of M/s Grover Commercial College, Faridkot, workman has started profession of taxi, which were used by the officials of the Food Corporation of India and payment was accordingly made to the workman.

9. The Hon'ble Supreme Court after analyzing the catena of cases has laid down in Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014, two well recognised tests to find out whether the labours are the contract employees of the principal employer are:-

- 1) Whether the principal employer pays the salary instead of contractor and
- 2) Whether the principal employer controls and supervise the work of the employees?

The facts regarding the payment of salary to the workman by M/s Grover Commercial College, Faridkot, is not a matter of dispute in the light of the cross-examination of the witness WW1 Jasbir Singh and WW2 Balbir Kaur. Ld. Counsel for the workman contended that in fact it is the management of Food Corporation of India, who exercised actually control and supervise the work of workman. In this connection, he has drawn my attention towards the certificate Ex.W1, W2 and W3, which were letters issued by the Assistant Manager(Admin) for District Manager of Food Corporation of India in favour of Jasbir Singh regarding his work and conduct. This fact is not denied by the respondent-management MW1 Ankush Singla in his cross-examination.

10. The apex court in the case of International Airport Authority of India vs. International Air Cargo Workers Union [209 (13) SCC374] has held as follows:-

"If the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor.

The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the

contractor, the ultimate supervision and control lies with the contractor as he decides whether the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

11. Thus, the principal enunciated by the Hon'ble Supreme Court clearly establishes that mere supervision of work is not sufficient to prove the relationship of employer and employee till it is proved that there was a control and supervision of it. The management control includes the authority of dismissal, taking of disciplinary action and continuity of service etc. Claim petition filed by the claimants is mum on this score and witnesses examined by the workman have not mentioned any specific averments in his affidavit regarding the appointment, authority of dismissal or taking of disciplinary action by the management. Per contra, it is admitted by the workman Jasbir Singh WW1 and witness Balbir Kaur WW2 during cross-examination by the management-counsel that Food Corporation of India used to pay the bill for typing of the workman, who was deployed in the management of Food Corporation of India. The statement of these witnesses are very much clear that actual control rested with M/s Grover Commercial College, Faridkot and after the termination of the contract between the Food Corporation of India and M/s. Grover Commercial College, Faridkot, the services of workman came to an end.

12. Ld. Counsel for the workman has contended that the alleged contractor Ramesh Kumar Grover has no valid licence to supply contract labours to the management of Food Corporation of India and respondent-management has not got any licence also. It is true that there is no such record placed by either of the parties in file but in my considered view, if it is proved that workman has been initially employed by M/s Grover Commercial College, Faridkot, and who was deputed to rendered his services as Typist in the respondent-management of Food Corporation of India then question of licence loses its relevance and argument advanced by the learned counsel for the workman has no force at all.

13. So far as employment of workman Jasbir Singh as driver of management is concerned. Learned counsel for the workman further argued that management/respondent had taken service of workman as driver of its vehicle has alleged in claim petition but, this fact is not even proved by the workman through his affidavit, which is very cryptic and runs as follow:-

"I was posted as a Typist in the Admn. Section of Food Corporation of India, Faridkot and I worked as a typist w.e.f. 01.01.1996 to 31.12.2006."

Thus, workman has nothing stated in his affidavit about his service as driver of vehicle of management. Contrary to the argument of the learned counsel for the workman, witness Balbir Kaur has accepted that workman was plying taxi after termination of contract between M/s Grover Commercial College, Faridkot and FCI of which FCI and official of the management of Food Corporation of India also hired taxi of workman against its payment. The evidence adduced by Balbir Kaur during cross-examination fortified the plea taken by the management that it is workman who had started business of plying taxi and service of taxi was hired by the officials of the management against its payment. Thus, the arguments advanced by the learned counsel for the workman has no force in the eye of law.

14. In last limb of the argument of learned counsel for the workman placing reliance in the judgment of Hon'ble High Court in Rajwant Kaur Vs. Food Corporation of India and others, dated 08.07.2003 contended that in a similar situation and facts, Hon'ble Tribunal as well as Hon'ble High Court of Punjab & Haryana was pleased to reinstate the workwoman Rajwant Kaur and ordered for regularization of her services. I have gone through the judgments of the Hon'ble Punjab & Haryana High Court. It is clear that facts of that case are altogether different from the case of workman in question. In that case on requisition of the management, petitioner Rajwant Kaur was selected and appointed as Typist by the management of Food Corporation of India itself on daily wages basis and in that capacity she rendered her service from 31.07.1985 to March 1986 and later on from 01.05.1986 to June 1988 the latter period of service were shown through a private security agency namely Industrial Security and Allied Services, Kapurthala. The Tribunal as well as Hon'ble High Court dealing with the case of Smt. Rajwant Kaur had given finding with the name of the Industrial Security Agency was shame and camouflage in order to defeat the provisions of Industrial Disputes Act and order was passed accordingly by the Tribunal and subsequently by the Hon'ble High Court. In the present case, there is nothing on record to prove that initially workman Jasbir Singh had been appointed by the management of Food Corporation of India and he had rendered his services under the direct employment of respondent-management from 01.01.1996 to 31.12.2006. It transpired from the record that he was deputed for the work of Food Corporation of India by Grover Commercial College, Faridkot, as typist from 01.01.1996 to 31.12.2006 and management of Food Corporation of India used to pay the bill to M/s Grover Commercial College, Faridkot for the services rendered by their employees including workman.

15. On the basis of the above analysis of facts and law, Tribunal is of the considered opinion that workman has miserably failed to prove that management of Food Corporation of India had terminated his services and he has not liable for any relief. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

A. K. SINGH, Presiding Officer

नई दिल्ली, 19 मार्च, 2019

का. आ. 478.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 2 चंडीगढ़ के पंचाट (संदर्भ संख्या 19/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.03.2019 को प्राप्त हुए थे।

[सं. एल-22011/11/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 19th March, 2019

S.O. 478.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2017) of the Central Government Industrial Tribunal-cum-Labour Court No. 2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the management of M/s. Food Corporation of India and their workmen received by the Central Government on 12.03.2019.

[No. L-22011/11/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****Present:** Sh. A.K. Singh, Presiding Officer**ID No.19/2017****Registered on:-21.03.2018**

Dr. Laxman Singh, General Secretary, Food Corporation of India

Handling Workers Union 8651, Arakashanb Road, Pahargunj, New Delhi-110055.

... Workmen-union

Versus

1. The Area Manager, Food Corporation of India, District Officer, Amritsar 86, Rani Ka Bagh, Amritsar (Punjab)-143001.
2. The Area Manager, Food Corporation of India, District Officer, Bhatinda (Punjab)-151002.
3. The Area Manager, Food Corporation of India, District Officer, Ferozepur, Malwal Road, Near New Bus Stand, Ferozepur (Punjab)-152001.
4. The Area Manager, Food Corporation of India, District Officer, Jalandhar, SCO-48, Ladowali Road, Jalandhar City-144001 (Punjab).
5. The Area Manager, Food Corporation of India, District Officer, Gurdaspur, SCO-6-7, Improvement Trust Complex, Gurdaspur-143521 (Punjab).
6. The Area Manager, Food Corporation of India, District Officer, Hoshiarpur Railway Station Road, Hoshiarpur-144205 (Punjab).
7. The Area Manager, Food Corporation of India, District Officer, Faridkot, Near Jain School, Faridkot-151203 (Punjab).
8. The Area Manager, Food Corporation of India, District Officer, Ludhiana, 804, Gurdev Nagar, Ludhiana-141001 (Punjab).
9. The Area Manager, Food Corporation of India, District Officer, Patiala, New Grain Market, Sirhind Road, Patiala (Punjab)-147001.

10. The Area Manager, Food Corporation of India, District Officer, Sangrur, Near Ghati, Near Ramveer Clud, Sangrur-148001 (Punjab).
11. The Area Manager, Food Corporation of India, District Officer, Chandigarh, Quite Office No.12, Chandigarh-160036 (Punjab).
12. The Area Manager, Food Corporation of India, District Officer, Kapurthala, Near Railway Station, Kapurthala-144601 (Punjab).
13. The Area Manager, Food Corporation of India, District Officer, Moga, FCI Road, Opp. IDBI Bank Ltd., Near Bhag Cinema, G.T. Road, Moga-142001 (Punjab).
14. The General Manager, Food Corporation of India, Regional Office, Sector 31-A, Bay No.34-38, Chandigarh-160017. ...Respondents

AWARD

Passed on:-28.02.2019

Central Government vide Notification No. L-22011/11/2017-IR(CM-II) Dated 28.02.2018, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the Action of Management of Food Corporation of India, Punjab region of Deploying contract Labour in Place of Direct payment system(DPS) Workers at 51 Railheads is just, fair and legal? If not, what relief the union and workmen are entitled to and from which date?”

1. It is clear from the record that notice was sent to the parties when the reference was received by this Tribunal. However, workers-union has appeared through counsel Sh. R.P. Rana, who moved an application, alleging therein that workers-union does not want to pursue the reference in question because during the pendency of proceedings before the Labour Commissioner, workers-union has filed writ petition before the Hon'ble High Court of Punjab & Haryana on the same issue, which is dismissed by the Hon'ble High Court. Hence, workers-union does not want to pursue the aforesaid reference and the reference be decided accordingly.

2. Resultantly, no claim award/no dispute award is passed against the workers-union. It is also clarified that passing of the no claim award would not bar the worker-union from approaching the Appropriate Government/this Tribunal for adjudication of this case on merits or filing any fresh claim. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

A. K. SINGH, Presiding Officer