



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-18012021-224515
CG-DL-W-18012021-224515

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 01] नई दिल्ली, जनवरी 3—जनवरी 9, 2021 शनिवार/ पौष 13— पौष 19, 1942
No. 01] NEW DELHI, JANUARY 3 – JANUARY 9, 2021, SATURDAY/PAUSHA 13—PAUSHA 19, 1942

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
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 6 जनवरी, 2021

का. आ. 1.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1980 (1980 का 40) की धारा 3 की उप-धारा (2क) के दूसरे परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, पंजाब एंड सिंध बैंक की प्राधिकृत पूंजी को तीन हजार करोड़ रुपए से बढ़ाकर दस हजार करोड़ रुपए करती है।

[फा. सं. 11/8/2019—बीओए-1]

ज्ञानोतोष राय, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 6th January, 2021

S.O. 1.—In exercise of the powers conferred by the second proviso to sub-section (2A) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), the Central Government in consultation with the Reserve Bank of India, hereby increases the authorised capital of the Punjab and Sind Bank from three thousand crore rupees to ten thousand crore rupees.

[F. No. 11/8/2019-BOA-I]

JNANATOSH ROY, Under Secy.

विदेश मंत्रालय
(सी.पी.वी. प्रभाग)

नई दिल्ली, 14 दिसम्बर, 2020

का.आ. 2.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद् द्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, लंदन में निम्नलिखित सहायक अनुभाग अधिकारियों को दिनांक 14 दिसंबर, 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

1. श्री रमन गुप्ता
2. श्री कौशल किशोर राठौर
3. श्री विकास श्रीवास्तव

[सं. टी-4330/09/2020]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

MINISTRY OF EXTERNAL AFFAIRS
(CPV DIVISION)

New Delhi, the 14th December, 2020

S.O. 2.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes the following Assistant Section Officers in the High Commission of India, London as Assistant Consular Officers to perform the consular services with effect from 14th December, 2020.

1. Shri Raman Gupta
2. Shri Koshal Kishor Rathor
3. Shri Vikas Shri Vastava

[No. T-4330/09/2020]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 18 दिसम्बर, 2020

का.आ. 3.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, माले में श्री रामबीर सिंह, सहायक अनुभाग अधिकारी को दिनांक 17 दिसंबर, 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 18th December, 2020

S.O. 3.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Shri Rambir Singh, Assistant Section Officer in High Commission of India Male as Assistant Consular Officer to perform the consular services with effect from 17 December, 2020.

[No.T-4330/01/2015]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 31 दिसम्बर, 2020

का.आ. 4.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, खारतूम में श्री उमेश यादव, सहायक अनुभाग अधिकारी को दिनांक 31 दिसम्बर, 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

विष्णु कुमार शर्मा, निदेशक (सीपीवी)

New Delhi, the 31st December, 2020

S.O. 4.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Umesh Yadav, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Khartoum to perform the Consular services with effect from 30 December, 2020.

[No.T-4330/01/2016]

VISHNU KUMAR SHARMA, Director (CPV)

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 31 दिसम्बर, 2020

का.आ. 5.—केंद्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री कुलदीप शंकरराव पाटिल, अधिवक्ता और श्री हेतेन शामराव वेनेगवाकर,

अधिवक्ता को, मुंबई स्थित बाम्बे उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा अन्वेषित अभियोजन, अपील, पुनरीक्षण और उससे संबंधित अन्य मामलों के संचालन के लिए, नियुक्ति की तारीख से तीन वर्ष के लिए या अगले आदेश तक, इनमें से जो भी पूर्वतर हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/13/2019-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 31st December, 2020

S. O. 5.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Kuldeep Shankarrao Patil, Advocate and Shri Hiten Shamrao Venegvakar, Advocate as Special Public Prosecutors of the Delhi Special Police Establishment (Central Bureau of Investigation) in the High Court of Bombay at Mumbai for conducting the prosecution, appeal, revision and other matters arising out of the cases investigated by the Delhi Special Police Establishment (Central Bureau of Investigation) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/13/2019-AVD. II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 31 दिसम्बर, 2020

का.आ. 6.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तर प्रदेश राज्य सरकार, के उत्तर प्रदेश गृह (पुलिस) अनुभाग-11, लखनऊ के आदेश सं. 878(i)/6-पी-11-2018-301एम/2018, दिनांक 12 सितंबर, 2018 के माध्यम से जारी सहमति से, सिविल लाईन थाना, इलाहाबाद में भारतीय दण्ड संहिता (1860 का 45) की धाराएं 409, 418, 420, 421, 467, 471, 477, 201, 120-बी के तहत दर्ज मामला अपराध सं. 295/2017; और कैट थाना, इलाहाबाद में भारतीय दण्ड संहिता (1860 का 45) की धाराएं 419, 420, 409, 467, 468, 471, 120बी के तहत दर्ज मामला अपराध सं. 329/2017 से संबंधित अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त उत्तर प्रदेश राज्य में करती है।

[फा. सं. 228/50/2018-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 31st December, 2020

S.O. 6.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh, issued vide Order No. 878(i)/6-P-11-2018-301M/2018 dated 12th September, 2018 of Uttar Pradesh Shasan, Grih (Police) Anubhag - 11, Lucknow, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Uttar Pradesh for investigation into the offences(s) relating to Case Crime No. 295/2017, under sections 409, 418, 420, 421, 467, 471, 477, 201, 120-B of the Indian Penal Code (45 of 1860) registered at Police Station Civil

Line, Allahabad; and Case Crime No. 329/2017, under sections 419, 420, 409, 467, 468, 471, 120-B of the Indian Penal Code (45 of 1860) registered at Police Station Cantt., Allahabad and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/50/2018-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 31 दिसम्बर, 2020

का.आ. 7.—केंद्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्रीमति सोनिया माथुर, वरिष्ठ अधिवक्ता और श्री सुशील कुमार दुबे, अधिवक्ता, दिल्ली हाई कोर्ट, दिल्ली में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थित, आरसी 8(एस)/2006/सीबीआई/एससीबी-II/एससी-III (सीबीआई बनाम अजाज उल हक और अन्य) से उत्पन्न होने वाली अपील या अन्य संबंधित मामले और उससे संबंधित अन्य मामलों या आनुषांगिक मामलों में केंद्रीय अन्वेषण ब्यूरो की ओर से उपस्थित होने और अभिकथन करने के लिए नियुक्ति की तारीख से तीन वर्ष की अवधि के लिए या अपील या मामले के निपटान होने तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/19/2019-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

New Delhi, the 31st December, 2020

S.O. 7.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Smt. Sonia Mathur, Senior Advocate and Shri Sushil Kumar Dubey, Advocate as Special Public Prosecutor to appear and plead on behalf of Central Bureau of Investigation, in the appeal and other related matters arising out of RC 8 (S)/2006/CBI /SCB-II/SC-III (CBI Vs Azaz ul Haq and others) instituted by the Delhi Special Police Establishment (CBI) in the Delhi High Court at Delhi and any other matter connected therewith or incidental thereto for a period of three years from the date of appointment or disposal of the appeal or case, whichever is earlier.

[F. No. 225/19/2019-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 6 जनवरी, 2021

का.आ. 8.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा सरकार, गृह विभाग, चंडीगढ़ के आदेश सं. 20/8/2020-3 एचजीआई, दिनांक 17.10.2020 के माध्यम से जारी हरियाणा राज्य सरकार की सहमति से भारतीय दण्ड संहिता (1860 का 45) की धाराएं 346, 365 तथा 302 के अन्तर्गत थाना सेक्टर 50, गुरुग्राम, हरियाणा में दर्ज श्री धीरज अहलावत के कथित अपहरण और हत्या से संबंधित मामला एफआईआर सं. 249/2020 के संबंध में किए गए अपराध(धों) का अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा एवं/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त हरियाणा राज्य में करती है।

[फा. सं. 228/32/2020-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 6th January, 2021

S.O. 8.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Haryana, issued vide Order No. 20/8/2020-3HGI dated 17.10.2020 of Haryana Government, Home Department, Chandigarh, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Haryana for investigation into the offence(s) relating to Case FIR No. 249/2020 registered at Police Station Sector-50, Gurugram, Haryana, under sections 346, 365 and 302 of the Indian Penal Code (45 of 1860) pertaining to alleged kidnapping and murder of one Shri Dheeraj Ahalawat and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No.228/32/2020-AVD-II]

S. P.R TRIPATHI, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 जनवरी, 2021

का.आ. 9.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि हाईड्रोकार्बन के परिवहन के लिए मुंद्रा - भटींडा विस्तृतिकरण पाईपलाईन्स - त्रगडी से गुंदाला तक के मार्ग अच.पी.सी.एल.- मित्तल पाईपलाईन्स लिमिटेड, मुंद्रा, जिल्ला. कच्छ, राज्य गुजरात द्वारा पाईपलाईन्स बिछाई जानी चाहिए.

और केन्द्रीय सरकार को ऐसी पाईपलाईन्स बिछाने के लिए आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इससे उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाईपलाईन्स बिछाई जानी है उसका रक्षण हेतु उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाईन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, १९६२ (१९६२ का ५०) की धारा ३ की उपधारा (१) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है :

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री सक्षम प्राधिकारी, अच.पी.सी.एल. - मित्तल पाईपलाईन्स लिमिटेड, मुंद्रा, जिल्ला कच्छ, गुजरात (प्रान्त अधिकारी / सहायक कलेक्टर, गुजरात सरकार, प्रान्त न्यायालय, मुंद्रा, जिल्ला कच्छ) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : कच्छ				राज्य : गुजरात			
Sr. No.	Village	Tehsil	Survey Number	Sub.Div. No.	Area		
					Ha.	Are	Sq.Mt.
1	2	3	4	5	6		
1	त्रगडी	मांडवी	Govt.260	-	01	28	43
			270	-	00	02	30
			Govt.260	-	00	19	05
			Govt.260	-	00	11	89
			220	-	00	35	50
		मांडवी	Govt.226	-	00	60	81
			Govt.226	-	00	67	19
			Govt.226	-	00	26	85
2	नाना भाडीया	मांडवी	Govt.553 P		00	53	72
			303		01	06	54
			Govt.553 P		10	65	25
			122		00	60	52

1	2	3	4	5	6		
	नाना भाडीया	मांडवी	121		00	75	52
3	कांडागरा मोटा	मुद्रा	385		00	50	00
			388		00	10	89
			390	2	00	55	80
			396		00	52	72
			398	2	00	00	20
			394		00	64	18
			402	1	00	10	21
			393	3	00	53	97
			489	3	00	06	22
			489	2	00	00	20
			Road		00	11	46
			517P Govt.	-	00	09	17
			506		00	49	19
			507		00	38	11
			484	4	00	07	55
			484	3	00	00	20
			508	1	00	27	56
			508	2	00	02	93
			483	4	00	02	00
			483	3	00	15	51
			483	1	00	00	20
			483	2	00	02	82
			509		00	00	20
			482	3	00	13	69
			482	4	00	03	34
			482	2	00	00	20
			482	1	00	23	00
			27		00	11	92
			29	3	00	18	31
			26		00	01	06
			29	1	00	01	36
			29	2	00	11	53
			29	1	00	34	40
			30	2	00	12	52
			45		00	10	82
			32		00	51	22
			33 Govt.	3	00	56	29

1	2	3	4	5	6		
	कांडागरा मोटा	मुंद्रा	33	1	00	37	16
			33	2	00	12	65
			517 P - River		00	38	63
			122	2	00	41	46
			121		00	47	47
			120		00	95	33
			150	1	00	09	63
			150	2	00	31	31
			149		00	62	80
			Road		00	08	29
			148		00	65	09
			146		00	06	38
			147		00	85	69
			517P Govt.		03	13	28
			159		00	37	92
4	खाखर मोटी	मुंद्रा	213		00	35	04
			228		00	97	51
			227		00	61	12
			226		00	21	36
			233 Canal		00	20	50
			234		00	09	42
			235		00	13	37
			224		00	31	44
			223		00	35	73
			239		00	00	29
			Cart Track		00	08	73
			222		00	52	45
			221		00	15	61
			241		00	39	93
			528-Cart Track		00	15	36
			105		01	39	38
			107		00	58	56
			106		00	32	34
			99 Gram Panchayat		00	01	81
			97 Gram Panchayat		00	70	22
			96		00	05	18
			98		00	19	98

1	2	3	4	5	6		
	खाखर मोटी	मुंद्रा	48-Gauchar		00	30	33
			88		00	24	70
			87		00	48	29
			86		00	45	49
			50		00	50	91
			54		00	00	20
			51		00	57	03
			526-Cart Track		00	05	06
			53		00	06	40
			52		00	60	81
			41		00	41	35
			44		00	00	20
			43		00	16	95
			42		00	38	97
			32		00	59	08
			35		00	02	74
			34		00	49	02
			520 - NH Road		00	20	38
			33		00	49	62
			460		00	63	19
			461		00	08	58
			459		00	39	50
			458		00	57	32
			463		00	00	20
			456		00	55	37
			455 Govt.		00	54	39
5	देशलपर	मुंद्रा	405		00	60	33
			Govt. 570 P		00	08	03
			430	1	01	09	97
			430	2	01	00	80
			423		00	68	40
			424		00	31	68
			429		00	54	44
			428		00	44	93
			Govt. 570 P		02	02	06
			13		00	69	52
			Cart Track		00	04	55
			18		00	00	20

1	2	3	4	5	6		
	देशलपर	मुद्रा	14		00	51	95
			15	1	00	49	28
			15	2	00	33	91
			Govt. 570 P		02	37	93
			51	2	00	00	20
			52	2	00	00	20
			55		00	03	90
			Govt. 570 P		00	02	99
			Govt. 97		01	08	99
			99		00	41	92
			Govt. 570 P		00	25	57
			100		00	89	50
			Cart Track		00	06	88
			132		00	41	93
			131		00	52	81
			121		00	54	49
			122		00	34	19
			123		00	28	57
			124		00	68	26
			Cart Track		00	05	18
			River		01	44	29
6	गेलडा	मुद्रा	382		00	53	94
			Govt.383		00	10	90
			Govt.384		00	26	69
			412-Cart Track		00	04	44
			Govt.387		00	08	51
			389		00	28	45
			388		00	19	69
			378-Gauchar		01	61	01
			379		00	00	20
			376 Govt.		00	18	62
			375		00	42	63
			410-Road		00	08	78
			309		00	03	29
			350		00	66	85
			349		01	10	43
			311		00	55	75
			312		00	42	76

1	2	3	4	5	6		
	गेलडा	मुंद्रा	347		00	02	76
			313		00	77	05
			314 Govt.		00	69	38
			317		00	21	34
			316		00	97	53
			315		00	28	25
			321 Govt.		00	59	60
			414-Nala		00	16	26
			322		01	05	08
			323		00	86	92
			242		00	07	58
7	भुजपुर मोटी – २	मुंद्रा	423		01	01	97
			424		00	20	37
			713	47	00	77	04
			713	18	00	47	26
			713	16	00	09	32
8	प्रतापपुर – २	मुंद्रा	1 – P Govt.		03	43	02
			1	6	00	82	37
			1	8	00	79	76
			1 – P Govt.		00	21	74
9	प्रागपर – २	मुंद्रा	65	2	00	38	25
			Nala		00	11	05
			65	1	00	19	30
			Nala		00	23	45
			Govt. 65P		01	67	46
			32		01	43	02
			Govt. 65 P		02	28	92
10	बराया	मुंद्रा	24		00	42	62
			23		00	42	95
			22 Govt.		01	52	68
			17		00	17	29
			506-Road		00	12	33
			14		00	37	74
			13		00	11	36
			504-Road		00	12	46
			141 Govt.		00	42	91
			156		00	03	10
			160-Gauchar		01	46	17

1	2	3	4	5	6		
	बराया	मुंद्रा	231 -Road		00	07	41
			238		00	37	54
			237		00	49	21
			489-Road		00	07	05
			244		00	78	30
			246		00	43	32
			247		00	27	96
			248		00	00	61
			330		00	00	44
			328		00	05	09
			491-Road		00	11	90
			327		00	09	03
			326		00	11	01
			325		00	30	66
			324		00	21	48
			323		00	21	42
			322		00	21	54
			317		00	00	76
			321		00	04	01
			320		00	01	46
			318 Govt.		00	46	87
			319		00	33	76
			277 Govt.		00	00	27
			276		00	34	12
			278		00	16	44
			280		00	40	79
			281 Govt.		00	63	49
			284		00	78	41
			285		00	60	24
			286		00	38	55
			287		00	56	36
			288		00	04	20
			289		00	01	31
11	प्रागपर - १	मुंद्रा	219		00	54	50
			229		00	46	66
			231		01	04	57
12	विरानीया	मुंद्रा	351-Gauchar		00	67	44
			345		00	01	27

1	2	3	4	5	6		
	विरानीया	मुंद्रा	344		00	26	23
			343		00	22	00
13	भोरारा	मुंद्रा	293		00	00	26
			317-Cart Track		00	11	68
			282		00	00	20
			283		00	11	08
			286		00	03	99
			319		00	32	83
			320		00	38	94
			356		00	93	25
			357		00	00	20
			353		00	52	90
			352		00	46	73
			349		00	45	95
			346		00	00	20
			347		01	22	09
			344		00	09	30
14	गुंदाला	मुंद्रा	529	1	00	56	68
			530		00	59	07
			531		00	26	71
			542		00	03	29
			543	2	00	46	66
			Cart Track		00	14	40
			550	2	00	19	73
			551		00	25	25
			550 NH.Road	1	00	25	11
			552 NH.Road		00	15	57
			549		01	03	45
			Canal		00	07	44
			562 - Canal		00	01	52
			561 - Canal		00	17	67
			561		00	35	53
			Cart Track		00	04	09
			555	1	00	71	52
			555 - Road	1	00	07	89
			551	1	00	20	04
			555	2	00	04	18
			Cart Track		00	06	43

1	2	3	4	5	6		
	गुंदाला	मुंद्रा	4	1	00	35	15
			4	2	00	14	96
			5		00	47	25
			7		00	44	05
			7 - Road		00	12	86
			585P Govt.		00	63	36
			97		00	28	01
			Cart Track		00	08	67
			132		00	78	17
			585P Govt.		00	12	18
			134		00	26	03
			134 - Road		00	13	71
			135		00	23	72
			136		00	20	41
			137		00	29	14
			585P Govt.		00	30	18
			200		01	18	69
			199		00	58	23
			198	1	00	18	27
			198	2	00	15	96
			585P Govt.		00	63	51
			198	3	00	03	26
			194		00	30	22
			193		00	15	21
			210	2	00	43	53
			210	1	00	17	08
			585P Govt.		00	88	11
			214		00	07	28

[फा. सं. आर-12031/2/2018-ओआर-I/ई-26406]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th January, 2021

S.O. 9.—Where as it appears to the Central Government that it is necessary in the public interest and safety that for the Transportation of Hydrocarbon through Mundra – Bathinda Extension Pipeline from Tragadi to Gundala route, pipeline should be laid by HPCL-Mittal Pipelines Limited, Mundra, Dist. Kutch, Gujarat.

And, whereas, it appears to the Central Government that for the purpose of protection of the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is 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 the Competent Authority, HPCL-Mittal Pipelines Limited, Mundra, Dist. Kutch, Gujarat (Prant Officer / Assistant Collector, Government of Gujarat, Prant court, Mundra, Dist. Kutch) within twenty one days from the date on which the copies of this notification issued under sub-section (1) of Section 3 of the said Act, is published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : KUTCH

STATE : GUJARAT

Sr. No.	Village	Tehsil	Survey Number	Sub.Div. No.	Area		
					Ha.	Are	Sq.Mt.
1	2	3	4	5	6		
1	Tragadi	Mandavi	Govt.260	-	01	28	43
			270	-	00	02	30
			Govt.260	-	00	19	05
			Govt.260	-	00	11	89
			220	-	00	35	50
			Govt.226	-	00	60	81
			Govt.226	-	00	67	19
			Govt.226	-	00	26	85
2	Nana Bhadiya	Mandavi	Govt.553 P		00	53	72
			303		01	06	54
			Govt.553 P		10	65	25
			122		00	60	52
			121		00	75	52
3	Kandagara Mota	Mundra	385		00	50	00
			388		00	10	89
			390	2	00	55	80
			396		00	52	72
			398	2	00	00	20
			394		00	64	18
			402	1	00	10	21
			393	3	00	53	97
			489	3	00	06	22
			489	2	00	00	20
			Road		00	11	46
			517P Govt.	-	00	09	17
			506		00	49	19
			507		00	38	11

1	2	3	4	5	6		
	Kandagara Mota	Mundra	484	4	00	07	55
			484	3	00	00	20
			508	1	00	27	56
			508	2	00	02	93
			483	4	00	02	00
			483	3	00	15	51
			483	1	00	00	20
			483	2	00	02	82
			509		00	00	20
			482	3	00	13	69
			482	4	00	03	34
			482	2	00	00	20
			482	1	00	23	00
			27		00	11	92
			29	3	00	18	31
			26		00	01	06
			29	1	00	01	36
			29	2	00	11	53
			29	1	00	34	40
			30	2	00	12	52
			45		00	10	82
			32		00	51	22
			33 Govt.	3	00	56	29
			33	1	00	37	16
			33	2	00	12	65
			517 P - River		00	38	63
			122	2	00	41	46
			121		00	47	47
			120		00	95	33
			150	1	00	09	63
			150	2	00	31	31
			149		00	62	80
			Road		00	08	29
			148		00	65	09
			146		00	06	38
			147		00	85	69
			517P Govt.		03	13	28
			159		00	37	92

1	2	3	4	5	6		
4	Khakhar Moti	Mundra	213		00	35	04
			228		00	97	51
			227		00	61	12
			226		00	21	36
			233 Canal		00	20	50
			234		00	09	42
			235		00	13	37
			224		00	31	44
			223		00	35	73
			239		00	00	29
			Cart Track		00	08	73
			222		00	52	45
			221		00	15	61
			241		00	39	93
			528-Cart Track		00	15	36
			105		01	39	38
			107		00	58	56
			106		00	32	34
			99 Gram Panchayat		00	01	81
			97 Gram Panchayat		00	70	22
			96		00	05	18
			98		00	19	98
			48-Gauchar		00	30	33
			88		00	24	70
			87		00	48	29
			86		00	45	49
			50		00	50	91
			54		00	00	20
			51		00	57	03
			526-Cart Track		00	05	06
			53		00	06	40
			52		00	60	81
			41		00	41	35
			44		00	00	20
			43		00	16	95
			42		00	38	97
			32		00	59	08
			35		00	02	74

1	2	3	4	5	6		
	Khakhar Moti	Mundra	34		00	49	02
			520 - NH Road		00	20	38
			33		00	49	62
			460		00	63	19
			461		00	08	58
			459		00	39	50
			458		00	57	32
			463		00	00	20
			456		00	55	37
			455 Govt.		00	54	39
5	Deshalpar	Mundra	405		00	60	33
			Govt. 570 P		00	08	03
			430	1	01	09	97
			430	2	01	00	80
			423		00	68	40
			424		00	31	68
			429		00	54	44
			428		00	44	93
			Govt. 570 P		02	02	06
			13		00	69	52
			Cart Track		00	04	55
			18		00	00	20
			14		00	51	95
			15	1	00	49	28
			15	2	00	33	91
			Govt. 570 P		02	37	93
			51	2	00	00	20
			52	2	00	00	20
			55		00	03	90
			Govt. 570 P		00	02	99
			Govt. 97		01	08	99
			99		00	41	92
			Govt. 570 P		00	25	57
			100		00	89	50
			Cart Track		00	06	88
			132		00	41	93
			131		00	52	81
			121		00	54	49

1	2	3	4	5	6		
	Deshalpar	Mundra	122		00	34	19
			123		00	28	57
			124		00	68	26
			Cart Track		00	05	18
			River		01	44	29
6	Gelda	Mundra	382		00	53	94
			Govt.383		00	10	90
			Govt.384		00	26	69
			412-Cart Track		00	04	44
			Govt.387		00	08	51
			389		00	28	45
			388		00	19	69
			378-Gauchar		01	61	01
			379		00	00	20
			376 Govt.		00	18	62
			375		00	42	63
			410-Road		00	08	78
			309		00	03	29
			350		00	66	85
			349		01	10	43
			311		00	55	75
			312		00	42	76
			347		00	02	76
			313		00	77	05
			314 Govt.		00	69	38
			317		00	21	34
			316		00	97	53
			315		00	28	25
			321 Govt.		00	59	60
			414-Nala		00	16	26
			322		01	05	08
			323		00	86	92
			242		00	07	58
7	Bhujpar Moti-II	Mundra	423		01	01	97
			424		00	20	37
			713	47	00	77	04
			713	18	00	47	26
			713	16	00	09	32

1	2	3	4	5	6		
8	Pratappar– II	Mundra	1 – P Govt.		03	43	02
			1	6	00	82	37
			1	8	00	79	76
			1 – P Govt.		00	21	74
9	Pragpar– II	Mundra	65	2	00	38	25
			Nala		00	11	05
			65	1	00	19	30
			Nala		00	23	45
			Govt. 65P		01	67	46
			32		01	43	02
			Govt. 65 P		02	28	92
10	Baraya	Mundra	24		00	42	62
			23		00	42	95
			22 Govt.		01	52	68
			17		00	17	29
			506-Road		00	12	33
			14		00	37	74
			13		00	11	36
			504-Road		00	12	46
			141 Govt.		00	42	91
			156		00	03	10
			160-Gauchar		01	46	17
			231 -Road		00	07	41
			238		00	37	54
			237		00	49	21
			489-Road		00	07	05
			244		00	78	30
			246		00	43	32
			247		00	27	96
			248		00	00	61
			330		00	00	44
			328		00	05	09
			491-Road		00	11	90
			327		00	09	03
			326		00	11	01
			325		00	30	66
			324		00	21	48
			323		00	21	42

1	2	3	4	5	6		
	Baraya	Mundra	322		00	21	54
			317		00	00	76
			321		00	04	01
			320		00	01	46
			318 Govt.		00	46	87
			319		00	33	76
			277 Govt.		00	00	27
			276		00	34	12
			278		00	16	44
			280		00	40	79
			281 Govt.		00	63	49
			284		00	78	41
			285		00	60	24
			286		00	38	55
			287		00	56	36
			288		00	04	20
			289		00	01	31
11	Pragpar- I	Mundra	219		00	54	50
			229		00	46	66
			231		01	04	57
12	Viraniya	Mundra	351-Gauchar		00	67	44
			345		00	01	27
			344		00	26	23
			343		00	22	00
13	Bhorara	Mundra	293		00	00	26
			317-Cart Track		00	11	68
			282		00	00	20
			283		00	11	08
			286		00	03	99
			319		00	32	83
			320		00	38	94
			356		00	93	25
			357		00	00	20
			353		00	52	90
			352		00	46	73
			349		00	45	95
			346		00	00	20
			347		01	22	09

1	2	3	4	5	6		
	Bhorara	Mundra	344		00	09	30
14	Gundala	Mundra	529	1	00	56	68
			530		00	59	07
			531		00	26	71
			542		00	03	29
			543	2	00	46	66
			Cart Track		00	14	40
			550	2	00	19	73
			551		00	25	25
			550 NH.Road	1	00	25	11
			552 NH.Road		00	15	57
			549		01	03	45
			Canal		00	07	44
			562 - Canal		00	01	52
			561 - Canal		00	17	67
			561		00	35	53
			Cart Track		00	04	09
			555	1	00	71	52
			555 – Road	1	00	07	89
			551	1	00	20	04
			555	2	00	04	18
			Cart Track		00	06	43
			4	1	00	35	15
			4	2	00	14	96
			5		00	47	25
			7		00	44	05
			7 - Road		00	12	86
			585P Govt.		00	63	36
			97		00	28	01
			Cart Track		00	08	67
			132		00	78	17
			585P Govt.		00	12	18
			134		00	26	03
			134 - Road		00	13	71
			135		00	23	72
			136		00	20	41
			137		00	29	14
			585P Govt.		00	30	18

1	2	3	4	5	6		
	Gundala	Mundra	200		01	18	69
			199		00	58	23
			198	1	00	18	27
			198	2	00	15	96
			585P Govt.		00	63	51
			198	3	00	03	26
			194		00	30	22
			193		00	15	21
			210	2	00	43	53
			210	1	00	17	08
			585P Govt.		00	88	11
			214		00	07	28

[F. No. R-12031/2/2018-OR-I/E-26406]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 5 जनवरी, 2021

का. आ. 10.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में और पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार के का. आ. 2967(अ). दिनांक 12 सितम्बर, 2016 एवं का. आ. 2891(अ). दिनांक 30 अगस्त, 2017, की अधिसूचना के संशोधन में उक्त अधिनियम के अधीन गुजरात राज्य के राज्यक्षेत्र के भीतर हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मुन्द्रा दिल्ली पाईपलाईन और पालनपुर वडोदरा पाईपलाईन के लिए सक्षम अधिकारी के कार्यों का निर्वहन करने के लिए प्रांत अधिकारी, पालनपुर, जिला बनासकांठा को प्राधिकृत करती है। यह अधिसूचना की तारीख से लागू होता है।

[फा. सं. आर-11025(15)/5/2019-ओआर-I/ई-30377]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 5th January, 2021

S. O. 10.—In pursuance of clause (a) of section 2 of the Petroleum Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in modification of Notification of the Government of India in Ministry of Petroleum and Natural Gas S.O. No. 2967(E) dated the 12th September 2016 and S.O. No. 2891(E) dated the 30th August 2017, the Central Government hereby authorizes Prant Officer, Palanpur, Dist. Banaskantha to perform the functions of Competent Authority for HPCL's Mundra Delhi Pipeline and Palanpur Vadodara Pipeline under the said Act, within the territory of Gujarat State. This is applicable from the date of notification.

[F. No. R-11025(15)/5/2019-OR-I/E-30377]

P. SOMAKUMAR, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय
(वाणिज्य विभाग)

नई दिल्ली, 5 जनवरी, 2021

का.आ. 11.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एसजीएस इंडिया प्राइवेट लिमिटेड, पारादीप पोर्ट ट्रस्ट एम्प्लॉईस को-ओपरेटिव, एट सहयोग बिल्डिंग, प्लॉट नंबर 474, जयदेव मार्ग – पारादीप पोर्ट 75412 (जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूचियों में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पारादीप पत्तन, गोपालपुर पत्तन और धामरा पत्तन, में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात्:

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आवद्ध होंगी।

[फा. सं. के-16014/16/2020- निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 5th January, 2021

S. O. 11.— In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognizes M/s SGS India Private Limited, Paradip Port Trust Employees Co-operative, AT Sahayog Building, Plot No. 474, Jaydev Marg, Paradip Port-754142, as an agency (hereinafter referred to as the said agency), for a period of three years from the date of publication of this notification, for the inspection of Minerals and Ores (Group-I), namely, Iron Ore specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O. 3975, dated the 20th December, 1965, prior to export of the said Minerals and Ores at Paradip Port, Gopalpur Port and Dhamra Port subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965;
- (ii) the said agency in performance of its function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. K-16014/16/2020- Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 12.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 01/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 29.12.2020 को प्राप्त हुआ था।

[सं. एल-12012/2/2009-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 29th December, 2020

S.O. 12.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2009) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank, and their workmen, received by the Central Government on 29.12.2020.

[No. L-12012/2/2009-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 01/2009**Date of Passing Award- 17th November, 2020****Between:**

Shri B.B. Anand,
S/o Shri Bhagwan Dass,
R/o -50/10, Ashok Nagar,
New Delhi-110018.

... Claimant

Versus

The General Manager,
Punjab & Sind Bank,
21, Rajindra Place,
New Delhi-110008.

... Management

Appearances:-

Shri D.M. Sharma (A/R) : For the claimant

Smt. Kittu Bajaj (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Punjab & Sind Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/2/2009 IR (B-II) dated 21st January, 2009 to this tribunal for adjudication to the following effect.

“Whether the action of the management of Punjab & Sind Bank, New Delhi in imposing the punishment of compulsory retirement on Shri B.B. Anand is legal and justified. What relief the concerned union/workmen are entitled to?”

As stated in the claim statement, the claimant B.B. Anand was serving with the management Bank as a clerk cum cashier since 1980. During his posting as such in the Branch of the Bank at Narayana, on 22.1.2005, after closure of cash, a shortage of cash of Rs1,45,750/- was detected in 109 packets of GC Notes. The claimant being the cashier and custodian of the cash in his official capacity, was primarily held responsible for the shortage. On the same day he deposited 1,10,000/- and on 24.1.2005, deposited the balance 35,750/- thereby making up the shortage. However on 8.2.2005, show cause notice was served on him contemplating initiation of departmental proceeding. After consideration of his reply, charge was framed and one departmental inquiry alleging misconduct was held in which the claimant participated and took a stand of innocence and false implication. The inquiry ended on 5.11.2005 with a finding that the charge against the delinquent/claimant stands proved. The disciplinary Authority thereafter served the copy of the inquiry report on the claimant calling him to show cause as to why punishment shall not be imposed on him for the misconduct proved. The claimant submitted his reply and after taking the same into consideration, the Disciplinary Authority passed the order of compulsory retirement, which was communicated to him on 22.5.2006. Being aggrieved the claimant first preferred a writ application before the Hon'ble High Court and then raised a dispute before the appropriate Govt., which referred the same for adjudication by this Tribunal on the legality of the punishment imposed on the claimant.

On completion of pleadings by both the parties i.e the claimant and management of the bank, issues were framed and the issue relating to the fairness and legality in conduct of the domestic inquiry was taken up for consideration at the first instance as the preliminary issue. Considering the evidence adduced and documents placed on record by both the parties, an order dated 17.10.2019 was passed by this tribunal in this proceeding that the domestic inquiry was conducted following the rules and procedure and proper opportunity was given to the delinquent/claimant to set up his defence. It was also held that principles of natural justice were followed and the finding of the Disciplinary Authority holding the claimant guilty of misconduct does not suffer from any infirmity or illegality. Thus order was passed giving opportunity to the claimant as well as the respondent bank to adduce evidence on the proportionality of the punishment imposed on the claimant. But none of the parties opted to adduce evidence and argument was heard on 11.2.2020 and matter was reserved for passing of the Award.

The learned AR for the claimant during course of argument submitted that the claimant in this matter has been falsely implicated as no cash was directly received by him from the customer. It is one Ajit Singh who had received the same. But no inquiry was held against him nor he was examined as a witness. On the contrary the claimant apprehending danger to his service and carrier made deposit of the short amount on two installments, for which no loss was caused to the Bank. But the management did not consider these aspects and imposed the harshest and major punishment of compulsory retirement on him, which is disproportionate to the charge proved. He thereby pleaded for modification of the same.

The learned A R for the Bank on the contrary submitted that the alleged incident is an instance of loss of faith of the employer on the employee. Moreover the Bank deals with public money on the basis of faith reposed on it by the customers. Though no loss was incurred by the Bank for the alleged incident, the admission of guilt by the claimant has consequence of loss of faith and the management has rightly and appropriately passed the order of compulsory retirement as a mode of punishment against the claimant which needs no interference.

This tribunal in view of the arguments advanced has to give a finding on the proportionality of the punishment imposed on the claimant. In the case of **Muriadih Colliery VS Bihar Coalliery Kamgar Union (2005) 3 SCC331**, the Hon'ble SC have held

“it is well-established principle in law that in a given circumstance, it is open for the Industrial Tribunal acting u/s 11-A of the I D Act 1947 to interfere with the punishment awarded in the domestic inquiry for good and valid reasons. If the tribunal decides to interfere with such punishment awarded in domestic inquiry, it should bear in mind the principle of proportionality between the gravity of the offence and stringency of the punishment.”

In this matter the claimant soon after the detection of the shortfall of cash made deposit of the amount which amounts to his admission of the guilt. More over while deciding the preliminary issue it has already been held that the inquiry was conducted in a fair manner following the principles of natural justice and the charge against the delinquent has been properly proved. Now it is left to be examined if the punishment imposed commensurate the gravity of the charge proved. For doing so it is necessary for this tribunal to advert to all the points raised during the hearing of this proceeding. The learned A R for the management while supporting the order of the Disciplinary Authority, submitted that the admission of guilt by the claimant leading to deposit of short fall has left no room for interference by the Tribunal. In his counter reply the learned A R for the claimant

while citing the case of P.V.K. Distilary Ltd V. Mahendra Ram (2009)5 SCC 705, argued that the Tribunal has wide discretion in the matters of awarding punishment or modifying the same.

Whether a misconduct is severe or otherwise depends on the facts of each particular case. In a case where the charge is about misappropriation of public money, no doubt the same is serious in nature. More over the finding in this case is based upon the documentary evidence placed on record.

In the case of **Regional Manager U.P.S R TC, Etawah & others VS Hotilal and another, 2003 (3) SCC 605, referred in the later case of U.P.SRTC VS Nanhelal Kushwaha (2009) 8 SCC, 772**, the Hon'ble Apex Court have held that "The court or Tribunal while dealing with the quantum of punishment has to record reason as to why it is felt that the punishment inflicted was not commensurate with the proved charge. A mere statement that the punishment is not proportionate would not suffice. It is not only the amount involved, but the mental set up, the type of the duty performed and similar relevant circumstances, which go into the decision making process are to be considered while deciding the proportionality of the punishment awarded. If the charged employee holds a position of trust where Honesty and Integrity are in built requirements of functioning, it would not be proper to deal with the matter leniently."

Where a person deals with public money or engaged in financial transaction, or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is required. But in this matter the claimant, a banker by profession, for his own action could not stand the test of trustworthiness. Thus judged in that background, the claimant of this proceeding while working in the capacity of clerk cum cashier lost the trust of his employer and the later aptly imposed the punishment of compulsory retirement on him which is proportionate to the misconduct committed by him.

The reference is accordingly answered. Hence, ordered.

ORDER

The reference be and the same is accordingly decided against the claimant and it is held that the punishment of compulsory Retirement imposed on the claimant by the Management is legal, just and proper. The claimant is not entitled to any relief. Send a copy of this award to the Appropriate Government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

17th November, 2020

Smt. PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 13.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 119/2013) प्रकाशित करती है जो केन्द्रीय सरकार को 29.12.2020 को प्राप्त हुआ था।

[सं. एल-12012/67/2013-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 29th December, 2020

S.O. 13.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Union Bank of India, and their workmen, received by the Central Government on 29.12.2020.

[No. L-12012/67/2013-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 119/2013

Date of Passing Award- 19th November, 2020

Between:

Shri Usman,
S/o Shri Matiullah,
Moh.. Khalil Sharki,
Tehsil Sadar,
Distt. Shahjahanpur (U.P.)

... Claimant

Versus

Branch Manager,
Union Bank of India,
Sadar,
Shahjahanpur (U.P.)

...Management

Appearances:-

Shri Arvind Kumar (A/R) : For the claimant

Shri Rajat Arora (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Union Bank of India, Sadar, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/67/2013 IR (B-II) dated 09.10.2013 to this tribunal for adjudication to the following effect.

“Whether the action of the management of Union Bank of India, Sadar, Shahjahanpur branch in terminating the services of workman Shri Usman without complying with section F,G,H of the ID Act, 1947 is justified? What relief workman is entitled to?”

As per the claim statement the claimant/workman was working as a peon in the Union Bank of India in its Branch at Tehsil Sadar Shahajahanpur U.P Since 19.06.2005 the duty assigned to him was cleaning the bank premises served water Tea etc to the staff and carry the vouchers from one place to the others and attained any other work as per the instruction of the bank staff. He was discharging his duty with hard labour to the utmost satisfaction of the employer and at no point of time any complained was made against him. But the management was not maintaining attendance register pay register, in respect of his employment and not providing PF, ESI, Minimum wages, Leave salary, bonus, overtime etc. not only that the workman was being compelled to work from 7.a.m to 7.P.M without overtime dues being paid to him. When he demanded his legitimated dues the management develops enmity towards him and even delayed to pay his earned wages amounting to Rs. 52,094/- for the period 01.01.2008 to 30.04.2010. On 19.06.2010 when he renewed his demand for the said money the management on that day abused misbehaved and terminated his service after obtaining his signature forcefully on various papers. The termination was illegal since no notice for termination or termination compensation etc was paid to him nor any notice to showcause was served. No disciplinary action was ever taken against him on 23.07.2010 the workman served a demand notice for his illegal and arbitrary termination by the management. Since, no action was taken on the same, 9on 12.10.2012 the workman gave a representation to the ministry of labour and employment and the matter came up for conciliation. The bank officials appeared and joint discussions were held but no fruitful result came out. Thus, the appropriate government referred the matter for adjudication as referred above.

The management being served with the notice appeared and filed written statement refuting the stand taken by the workman. It has been specifically stated that there existed no employer and employee relationship between the claimant and the management. The management Bank is a public sector Bank having its own rules and regulations for employment. The claimant was never appointed/recruited by the Bank through the

sponsorship of the employment exchange or by any other mode of recruitment mandated by the government. His name never appeared in the muster roll of the Bank nor he was ever paid salary out of the salary account of the Bank, from where all regular employees of the Bank are paid salaries. It has been clarified that the workman not being an employee of the Bank, the allegation made by him about illegal termination is false and vague. It has also been stated that during the relevant period there was acute shortage of supply of electricity in the state of UP as well as at Shahajahanpur where the branch office of the bank is located. Thus, the Branch manager of Shahajahanpur had hired the Generator from one Ragib Ali Khan to supplement an electric supply. The Generator so hired on rent was to be operated by a man and the service provider Ragib Ali by his letter dated 10.04.2010 had informed the Branch manager that one Shri Usman (claimant) previously engaged by him to operate the generator on a monthly remuneration of Rs. 2000/- has been removed from service for his illness and frequent absent w.e.f March 2010. Thus, the claim of the claimant that he was illegally removed from service is baseless and false.

On these rival pleading following issues were framed for adjudication.

ISSUES

1. Whether the action of the management of Union Bank of India Sadar Shahajahanpur Branch in terminating the service of Usman without complying with section 25-F,G,H of the Id Act is justified?
2. To what relief the workman is entitled to and from which date.

The claimant has examined himself as WW1/1. Similarly the management examined one of the retired managers as MW1 who proved the documents MW1/1 to MW1/2. Both the witnesses were cross examined by the adversary.

ISSUE NO. 1

It is a decided principle of law that the person claiming employer employee relationship carries the burden of proving the same. Thus, in this case the claimant/workman is under the obligation of proving the said relationship. Except his oral evidence no other evidence has placed on record to prove the same. He has filed photocopy of one salary register wherein his name appears showing payment of sum amount for month of July 2009 to April 2010. But this photocopy doesn't contain the signature of the DDO with his official seal to attach authenticity to the same. The witness who has all along pleaded to be an employee of the Bank during cross examination has stated that he was called by the Branch Manager and his interview was taken. No one else had appeared in the interview except him. Being asked about the salary slip he also stated that except some vouchers no other paper is with him to prove that he was getting salary from the bank. Again being asked about his employment registration no. he denied to have the same. On the other hand the ex-manager of the Bank examined as MW1 has stated that he was working as the management of that bank from September 2009 to June 2012. During that period the claimant was never working as an employee of the Bank. But he was working as the operator of the Generator set supply on rent by an outsider Ragib Ali Khan and the claimant was being engaged as the operator. He had further added that in January 2011 Ragib Ali Khan removed his generator from the Bank and the new person was given the contract for the purpose. Thus, the service of the claimant came to an end with the end of the contract between the bank and Ragib Ali Khan. He has thereby denied the claim of the workman and his relationship with the bank as ex-employee. Thus, from the oral and documentary evidence placed on record that one and only conclusion is that the claimant was never the employee of the management Bank and his service was never terminated illegally by the Bank. This issue is accordingly answered against the claimant.

Issue NO. 2

In view of the finding in respect of issue No. 1, the issue no.2 is decided against the claimant and it is held that he is not entitled to any relief. Hence, ordered

ORDER

The reference be and the same is answered against the claimant and he is held not entitled to the relief sought for. Send a copy of this award to the Appropriate Government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

19th November, 2020.

Smt. PRANITA MOHANTY Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 14.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष और प्रबंध निदेशक, सोमा एंटरप्राइजेज लिमिटेड, हैदराबाद -, 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, एर्नाकुलम, के पंचाट (संदर्भ संख्या 22/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.12.20 को प्राप्त हुए थे।

[सं. एल-42025/07/2020-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 29th December, 2020

S.O. 14.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2017) of the Central Government Industrial-Tribunal-cum Labour Court Ernakulam, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman & Managing Director, Soma Enterprises Ltd, Hyderabad. & Others, and their workmen which were received by the Central Government on 22.12.20.

[No. L-42025/07/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

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

Present: Shri. V. Vijaya Kumar, B. Sc, LLM, Presiding Officer

(Wednesday the 9th day of December 2020, 18 Agrahayana 1941)

ID No. 22/2017

- | | | |
|------------|---|---|
| Workman | : | Tapas Ghosh
Hijal Pukuria (near ESSO Pump)
Habra, 24 Parganas (N)
West Bengal – 743271
Now residing at
C/o Atul Shaji
Thachery, PRS 101
Fathima Church Road north end
(Kumaranasan Road east end)
Kochi – 682020

By M/s.Mathews K.Philip |
| Management | : | 1. The Chairman & Managing Director
M/s. Soma Enterprises Ltd
2, Avenue, 4, Banjara Hills
Hyderabad – 500034

2. The Project Manager
M/s. Soma Enterprises Ltd
Near St.Anns School, Eloor
Udyogamandal
Kalamassery – 683501

By Adv. Mathews K.Uthuppachan |

This case coming up for final hearing on 09.12.2020 and the same day this Tribunal-cum-Labour Court passed the following:

AWARD

1. Present industrial dispute is filed U/s 2(A)(2) of Industrial Disputes Act, 1947.
2. According to the workman he worked with the management 1 and 2 for the period from 19.12.2014-21.01.2017. His services were terminated w.e.f. 21.01.2017 by a letter dt.21.01.2017. No notice or notice pay was given to him under the Industrial Disputes Act and therefore his termination is illegal. He is entitled to receive Rs.13,71,932/- under various heads. He approached the Regional Labour Commissioner (Central) and due to the non co-operation of the management, the conciliation efforts failed. The management filed written statement denying the above allegations. The workman also filed rejoinder to the counter filed by the management.
3. When the matter was posted for evidence of the workman, the workman filed an affidavit dt. 28.07.2020 informing that the dispute between himself and the management are amicably settled between the parties on the condition that management shall give Rs.5 lac in full and final settlement of the dispute. Since the dispute is settled out of Court, there is nothing to be adjudicated in the present dispute before this Tribunal.
4. Hence a 'no dispute award' is passed and the dispute is answered accordingly.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 9th day of December, 2020.

V. VIJAYA KUMAR, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 15.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, अशोक होटल, 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, नई दिल्ली-2 के पंचाट (संदर्भ संख्या 13/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को हार्ड और सॉफ्ट कॉपी 28.12.2020 को प्राप्त हुए थे।

[सं. एल-42011/31/2012-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 29th December, 2020

S.O. 15.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2013) of the Central Government Industrial-Tribunal-cum Labour Court New Delhi -2 as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Ashok Hotel, New Delhi & Others, and their workmen which were received by the Central Government With Hard and soft Copy on 28.12.2020.

[No. L-42011/31/2012-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer,
C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 13/2013

Date of Passing Award- 19th November, 2020

Between:

Shri Dilip Singh,
L/R substituted Smt. Sushila
Through the President,
Ashok Hotel Staff Qrtr, C-48-49, 50-B,
Chanakyapuri,
New Delhi.

... Claimant

Versus

The General Manager,
Ashok Hotel,
50-B, Chanakyapuri,
New Delhi.

... Management

Appearances:-

Shri S.S. Upadhaya (A/R) : For the claimant

None for the Management (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Ashoka Hotel, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/31/2012 IR (DU) dated 06/07/2012 to this tribunal for adjudication to the following effect.

“Whether the action of the management of Ashok Hotel New Delhi in regard to stoppage of two annual increment with cumulative effect, imposed by General Manager (Ashok Hotel) vide order dated 14.01.2008 to workman Shri Dilip Singh, Ex-technical Grade-III is justified or not. If not, to what relief the workman Shri Dilip Singh S/o Shri Jatin Singh, Ex-technical grade-III, token No.4539 is entitled to and from which date?”

As per the claim statement the workman Dilip Singh was working with the management of Ashok Hotel as a regular employee as tech-III. On 21.05.2006 he was placed under suspension and on 17.07.2006 charge sheet alleging misconduct was served on him. The workman by writing letters dated 17.07.2006, 22.07.2006 and 18.08.2006 requested for withdrawal of the charge sheet. The management of Ashok hotel instead of withdrawing of charge sheet issued the order of inquiry on 04.09.2006 which continued upto 16.01.2007. At the end of the inquiry the workman was found guilty and the charges proved against him. The said inquiry was never conducted in a fair manner giving proper opportunity to the workman for defence. The inquiry officer submitted his report to the disciplinary authority who served a notice on the workman and imposed the penalty by stopping two of his annual increments with cumulative effect.

Being aggrieved the workman raised a dispute before the labour commissioner where effort for conciliation failed and the appropriate government referred the matter for adjudication as above.

Being noticed the management of Ashok Hotel appeared and filed the written statement. In the written statement the management has admitted the claimant to be its ex-employee. It has been stated that the claimant was charged for grave and serious act of misconduct of drunkenness and indiscipline behavior while in duty and abusing the seniors. During the departmental inquiry all the procedure of the certified standing order where followed and proper opportunity for defence was allowed to the claimant. He had also taken the help of the defence assistant. Thus, basing on the evidence collected the disciplinary authority rightly imposed the punishment which entails no interference by this tribunal. It has also been stated that the claim petition is not maintainable for want of espousal.

On this rival contention the following issues were framed.

ISSUES

1. Whether the action of the management of Ashok Hotel with regard to the stoppage of two annual increments with cumulative effect by order dated 14.01.2008 of the workman is justified or not?
2. If not to what relief the workman is entitled to and from which date/

Both parties were called upon to adduce oral and documentary evidence. On behalf of the claimant Shri S.S Upadhyay the president of Ashok Hotel Mazdur Janta Union testified as WW1 and prove the documents relating to espousal. The claimant examined himself as WW2 and prove the documents marked in a series of WW2/1 to WW2/14. These documents include the show cause notice charge sheet, suspension order, and the letters written by the claimant for withdrawal of the charge, the inquiry order and the demand notice etc one more document has been filed which is in the nature of appeal made by the claimant to the appellate authority. Both the witnesses were cross examined by the management at length by the respondent. During the pendency of the proceeding the claimant Dilip Singh died and his wife has been substituted by order dated 04.03.2020. Several opportunities were given to the management for adducing evidence on two occasion cost was imposed too. But management failed to adduce oral and documentary evidence.

Issue No. 1

The claimant examined as WW2 has stated that on 31.05.2006 he was placed under suspension by the management without assigning any reason the order of suspension has been marked as WW2/1. He then wrote letters requesting withdrawal of the suspension order and those letters have been marked as WW2/2 to WW2/04. But the management did not take any action and on 17.07.2006 served the charge sheet which has been marked as WW2/05. In the charge sheet false allegation was leveled about his indecent behavior while on duty. He again wrote letter for withdrawal of the charge sheet but the management did not pay any heed and proceeded with the domestic inquiry conducted by the inquiry officer P.C Swarnakar in the most illegal and unlawful manner. No fair opportunity was given to the workman for setting of the defence. The said inquiry officer submitted his report on 28.11.2007 after one year which is violative of the provision of the certified standing order of Ashok Hotel which mandates completion of the inquiry within 6 months and service of the charge within 30 days from the date of the suspension. But in the case of the claimant all these procedure were blatantly violative. The inquiry officer appreciated the matter in a bias manner though no independent witnesses were produced by the presenting officer. The appeal made by the claimant was also rejected in a mechanical manner without considering the defects pointed out by the claimant. He has thereby stated that the report of the inquiry officer and the decision taken by the disciplinary authority and the appellate authority is illegal and not sustainable in the eye of law. Both WW1 and 2 were cross examined at length but nothing substantial has been elicited to negative their stand. WW1 has filed certain documents to prove that after proper espousal demand notice were served on the management and no relief since allowed by the management a dispute was raised before the labour commissioner.

As stated in the preceding paragraph no evidence has been adduced by the management.

The allegation relates back to the year 2006 and as seen from the record from the very beginning the workman is disputing the fairness of the inquiry. In such a situation it was incumbent upon the management to adduce evidence to nullify the allegation. The first and foremost action which could have been taken by the management before this tribunal was to produce the inquiry proceeding and examined the inquiry officer Mr. Swarnakar. Neither the documents were produced nor the witnesses were examined to prove the fairness in the conduct of the inquiry. While dealing with the management contention made in the written statement that no prejudice has been caused to the workman during the inquiry this tribunal has no other option then taking a view that the management has tried to withheld the oral and documentary evidence relating to the inquiry. This is a fatal flaw in the disciplinary proceeding and per-se prejudice was caused to the claimant for non production of document and non examination of witnesses for the inaction of the management in countering the allegation made by the claimant it is held that the views and finding of the disciplinary authority are not based on any evidence available on record of the inquiry proceeding inasmuch as infact the complaint which forms the basis of the charge sheet against the workman was not at all proved before the inquiry officer. Had that been so done the management would not have omitted to produce the records of the disciplinary proceeding and would not have omitted examining the material witnesses despite repeated opportunity granted. In this circumstances the tribunal is constrained to conclude that the action of the disciplinary authority in substituting his own findings in respect of the charges appears to be simply based on assumptions and presumptions and are not based on

evidence adduced in the inquiry proceeding and are, therefore not sustainable. That being the position the action of the management imposing punishment of stopping two annual increments with cumulative effect is held to be illegal. This issue is accordingly answered in the favour of the workman/claimant.

Issue NO. 2

The claimant in view of the findings of the issue no.1 is held entitled to refixation of his pay after allowing the increments stopped by the management. He is entitled to the arrear of the same without interest if would be paid within the time stipulated in this order. This issue is accordingly answered. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the claimant. The finding of the disciplinary authority and imposition of the punishment on the claimant pursuant to the disciplinary authority is held to be illegal. The claimant is held entitled to the two annual increments which have been illegally withheld. The management/ respondent is directed to refix the pay of the claimant after applying the increments when due and pay the arrear of the differential pay to the claimant within 3 months from the date when the award would become executable. The said amount shall not carry any interest and be paid to the legal heir of the claimant within the time stipulated failing which the said arrear amount shall carry interest @9% per annum from the date when it was illegally stopped and till the final payment would be made. Send a copy of this award to the Appropriate Government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

19th November, 2020

Smt. PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2020

का.आ. 16.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सचिव, रक्षा मंत्रालय, 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, नई दिल्ली -2 के पंचाट (संदर्भ संख्या 69/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को हार्ड और सॉफ्ट कॉपी 28.12.2020 को प्राप्त हुए थे।

[सं. एल-42025/07/2020-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 29th December, 2020

S.O. 16.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2019) of the Central Government Industrial-Tribunal-cum Labour Court New Delhi -2 as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Ministry of Defence, New Delhi & Others, and their workmen which were received by the Central Government With Hard and soft Copy on 28.12.2020.

[No. L-42025/07/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 69/2019

Date of Passing Award- 20th December, 2019

Between:

Shri Titu Ram and 39 others,
Through- Hindustan Engineering and General Mazdoor Union,
Head Office:- D-2/24, Sultanpuri, Delhi- 110086.

... Workmen

AND

Hindustan Engineering and General Mazdoor Union,
Branch Office:- A-193, Karampura,
New Delhi- 110015.

Versus

1. The Secretary, Union of India, Ministry of Defence,
South Block, New Delhi- 110011.
2. Director General, Army Supply Corps. (A.S.C),
Sena Bhawan, P.O. Delhi Headquarter, New Delhi-110011.
3. Shri Rajshekhar Sharma, Lieutenant Colonel,
210, FOL Depot, ASC Delhi Cantt.,
New Delhi- 110010.

...Managements

Appearances:-

Shri Kailash (A/R) : For the Workmen.

Ms. Pragya Srivastava (A/R) : For the Managements

AWARD

This Award shall dispose of a complaint/application filed by the workman Titu Ram and 36 others (list appended) u/s 33A of the ID Act 1947 (herein after referred to as the Act).

The averments in the complaint, in short is that the workmen have been working in the office of Commandant, 2010 FOL Department, Delhi Cant New Delhi since long as casual workers to the utmost satisfaction of the employer. Their demand for regularization in service of the management was not considered despite repeated request and representation. Having no other efficacious remedy, the workmen had approached the Labour Commissioner, where a conciliation proceeding was taken up. The conciliation since failed, the appropriate Government referred the dispute to this tribunal for adjudication. The dispute has been registered as Id NO. 71/2013. The management after entering appearance in that proceeding being aggrieved by the same, terminated the services of the workmen w.e.f 1st April 2019, in gross violation of the provisions of section 33 of the ID Act. Hence, the petition.

Being noticed, management appeared and filed reply pleading inter alia on the maintainability of the petition filed by the workmen. The contentions raised are that the management being in discharge of sovereign function of the state is not an industry. Moreover the business of the management is governed as per the policy decision of the government in the Ministry of Defence. On 13th April 2012 the ministry issued a standard operating procedure on outsourcing of services and according to the same outsourcing of goods and services was to be done through valid contracts. Again on 7th Feb 2018, direction was issued from IFA Head Quarter Delhi for undertaking outsourcing as per the direction of Ministry of Defence vide letter No. 10(4)/2007/D(MOV) dated 13.04.2012. Not only that, as per the letter no. 58840/HCL/ST-17(B) dated 25th Jan 2019 of Head Quarter Western Command, a direction was received to undertake contract for outsourcing/hiring of casual labours for financial year 2019-2020 as per policy of Government of India. In view of the said

direction, it was necessary to undertake outsourcing of service of casual labours through contractor for all routine task of FOL Depot. The respondent no. 3 never acted in his personal capacity or with any kind of vindication in disengaging the service of the workman w.e.f. 1st April 2019.

It has also been pleaded that as per the policy the FOL depot is to undertake “Casual daily rated personnel” i.e for work load of ad hoc nature. Labours will be employed on day to day basis and paid on daily rates on contingent bills. They will be treated as casual employees. There is no continuity in hiring and hiring of a particular persons does not exceed 240 days. While admitting disengagement of the applicants w.e.f 1st April 2019, it has been stated by the management that the Competent Authority in the meantime has granted sanction for hiring casual labours and procedure for such hiring on daily basis has already started w.e.f. 1st May 2019.

With regard to the status quo order passed by this tribunal directing not to change the service conditions, pending disposal of Id No. 73/2013, it has been stated that the said order came to the knowledge of the management after 1st April 2019.

In their replication, workmen have stated that the stand taken by the management are not based on fact. While admitting that they have been taken on work w.e.f. 1st May, 2019, advanced their grievance for non release of their remuneration for the period between 1st April to 30 April 2019.

Neither party opted to adduce oral or documentary evidence. During course of argument, the Ld. A/R for the workmen submitted that in view of the facts of disengagement and re-engagement of the workmen as admitted by the management, the tribunal should pass an award for appropriate relief to the workmen on account of change of service condition by the management during the pendency of the Industrial Dispute before this tribunal. In his counter reply, the Ld. A/R for the management submitted that the alleged disengagement never amounts to change of service condition since the claimants were /are working as casual workers on daily wage and their engagement is purely on need basis.

As observed in the preceding paragraph no evidence has been adduced by the management to prove that the workmen are engaged on need basis and are daily wagers.

It is not disputed that the claimant/applicants of this petition are working for the management for a pretty long period and their engagement period varies from 1982 to 2010. It is not disputed that they were/are working continuously and the duties discharged by them are perennial in nature, though the competent authority at one point of time had decided to outsource the said services and later on decided to engage daily wagers directly. The Industrial and Labour law while defining workmen have not drawn any distinction between regular and casual employees, or temporary employees. In the case of **Delhi Cantonment Board vs. CGIT and others decided by the Hon’ble High Court of Delhi and reported in 129 (2006) DLT 610**, it has been held that

“There is no distinction in Industrial Law between a permanent employee and a temporary employee. As long as the person is employed to do any manual, skilled, unskilled, technical, operational, clerical or supervisory work for hire or reward, he is a workman and the Industrial dispute Act, and will get the benefits of the Act.

Provision of Law laid u/s 33 of the Act clearly provides that during pendency of the proceedings either before the conciliation officer or Labour Court or Industrial tribunal, no employer shall alter or change the conditions of service of the workman without written permission/approval from the authority before which such proceedings are pending. In case of contravention of the provisions of section 33 by any employer, aggrieved employee has been given a right to make a complaint in writing under section 33A of the Act before the Authority before whom such proceedings were pending at the time of retrenchment/discharge etc. of the workman.

Section 33A of the Act enjoins upon the Industrial Adjudicator a twin duty- the first is to find out as to whether the employer has contravened the provisions of section 33 and to answer the question as to whether the dismissal or such other punishment as may have been imposed upon the workman is justified in law.

It is manifest from the pleadings of the parties and the documents filed and marked as WW1/1 to WW1/6 and MW1/1 to MW1/5 that the claimants were engaged as casual workers by the management whether or not, there exists any relationship between them as employer and employee and if the claimants are entitled to the relief of regularization of service is the subject matter of dispute in Id No. 73/2013 pending before this tribunal. But the management without any express permission from this tribunal terminated their services w.e.f. 1st April 2019. Needless to mention that the disengagement of the claimants was without complying with the

provisions of section 33(2)(b) of the Act and thereby amounts altering the terms and conditions of their employment in contravention of the provisions of law laid u/s 33 of the Act.

The law is well settled that conditions contained in the proviso to section 33(2)(b) of the act are mandatory in nature and non compliance of the same would render the order of discharge or dismissal etc. void or inoperative. To this view, I am fortified by the decision as reported in **2003 LLR 68 Indian Telephone Industries Ltd. vs. Prabhakar H. Manyare**. The management has terminated the services of the workman, without any approval from the Competent Authority and without payment of wages for one month, as provided under section 33(2)(b) of the Act. On the contrary, the plea of the workman/claimant that they were not allowed to perform duty without sufficient cause, is acceptable. Consequently, this tribunal has no hesitation to hold that action of the management in dismissing/terminating the services of the claimants is illegal and void. Not the residual question is whether the claimant/work is entitled to any incidental relief of payment of back wages and/or reinstatement of service with full back wages. It is proved on record that claimant was continuously in the employment of the management for a long period. There is no show cause notice or charge-sheet issued to the claimant/workman by the management. Moreover, the job of the workman is of perennial and regular nature. Provisions of section 33(2)(b) of the Act are almost akin to the provisions of section 25-F of the Act as both these provisions lay down certain conditions precedent to the retrenchment/discharge of workmen and also required the employer to give one month's wages in lieu of notice.

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

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

- (1) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- (2) 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.

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 no nest. 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 months 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**.

A bench of three judges of the Hon'ble Supreme Court in the case of **Hindustan Tin Works Private Limited vs. 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 services 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 act of employer is found to be totally illegal and arbitrary, in that eventually 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.

Yet in another latest case of **Bholanath Lal and others vs. Shree Om Enterprises (P) Ltd., Manu/DE/1922/2018** decided on 10.05.2018 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 wrong doings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.”

Having regard to the legal position as discussed above and the fact that the claimant was performing duty to a post of regular and perennial nature, this tribunal is of the firm view that the claimant herein is entitled for reinstatement into service on the same post, with 50 percent back wages, in as much as termination of the claimant/workman is per-se illegal and the claimant/workman is not gainfully employed anywhere since after his termination by the management. Award is passed accordingly against management.

Let copy of this Award be sent for publication as required under section 17 of the Act.

Dictated & Corrected by me.

20th December, 2019

Smt. PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 1 जनवरी, 2021

का. आ. 17.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 03/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-20012/85/2009-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 17.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No.03 of 2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2020.

[No. L-20012/85/2009-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 03/2010**

Employer in relation to the management of Barora Area of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 29.10.2020

AWARD

By Order No.L-20012/85/2009-(IR(CM-1)) dated 15/12/2009 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of Regional Hospital, Baghmara under Barora Area of M/s BCCL in superannuating Smt. Esther Singh, Staff Nurse from the services of the company w.e.f. 31.08.2004 is justified and legal? ii) To what relief is the workman concerned entitled?”

2. After receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently both of them left appearing before this Tribunal. Thereafter again regd. notices were issued to both the parties and the notice issued to the sponsoring union returned with endorsement- “Addressee left”. Now the Case is pending since 05/01/2010 and workman/union is not appearing before Tribunal. So, it is felt that workman/union has lost its interest in this matter. Hence No Dispute Award is passed. Communicate

D. K. SINGH, Presiding Officer

नई दिल्ली, 1 जनवरी, 2021

का. आ. 18.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.—1, धनबाद के पंचाट (संदर्भ संख्या 04/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-20012/267/2003-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 18.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No.04 of 2006) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2020

[No. L-20012/267/2003-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 04/2006**

Employer in relation to the management of Sijua Area of M/s. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 29.10.2020

AWARD

By Order No.L-20012/267/2003-IR(C-1) dated 06/12/2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Rashtriya Colliery Mazdoor Sangh from the management of BCCL, Sijua Area that Sh. Vijay Paswan, General Mazdoor Cat-I may be promoted to Cat-II w.e.f. 1993, to Cat-IV w.e.f. 1996, to Cat-VI w.e.f. 1999 and in Grade-I w.e.f. 2001 justified? If so, to what relief is the workman entitled?”

2. After receipt of the reference, both parties were noticed but the workman/union didn't appear before the Tribunal. However the management has appeared in this case on 05/08/2019 & 27/09/2019, but subsequently left appearing before the Tribunal. Now the Case is pending since 02/01/2006 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence No Dispute Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 1 जनवरी, 2021

का. आ. 19.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा के अनुसरण में, केन्द्रीय सरकार मैसर्स एयर इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ संख्या सी आर 14/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-11012/31/2003-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 19 .—In pursuance of Section Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore (Ref. No. CR 14 of 2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India Ltd., and their workmen, which was received by the Central Government on 28.12.2020.

[No. L-11012/31/2003-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 19TH MARCH, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 14/2008**I Party**

1. Sh. K.S. Narayana,
No. 72, II Cross Kaika Layout, Vijaynagar,
Bangalore – 560040.
2. Sh. Mahadeva,
S/o Sh. Mariswamy Gowda,
No. 34, 6th Cross,
Dwarakanagar, Hoskerekhalli,
BSK 3rd Stage,
Bangalore – 560085.

II Party

The Commercial Manager,
Air India Ltd.,
Unity Building, JC Road,
Bangalore – 560002.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Smt. K. Subha Ananthi

AWARD

The Central Government vide Order No. L-11012/31/2003-IR(CM-I) dated 18.02.2008 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 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the Management of Air India in stoppage of work / terminating the services of S/Shri K.S. Narayana and Mahadeva w.e.f. 14.06.2002 is justified and legal? If not, to what reliefs are the concerned workmen entitled?”

1. The 1st Party workmen are aggrieved by the action of their Ex-Employer / Air India Limited in refusing employment to them without any justifiable reason, it is their grievance that, they had requisite qualification to be regularised in service but to deprive their right of regularisation; the 2nd Party regularised the service of workmen who are Junior to them and terminated them from service; even thereafter also they have appointed some casual employees into service; they are unemployed and may be reinstated into service without continuity of service and consequential benefits.

After the 2nd Party filed their counter statement by way of rejoinder, 1st Party further claim that the service particulars given by the 2nd Party in their Counter Statement is incorrect. Sh. K.S. Narayan was not working with M/s G.D.S. Enterprises engaged by Air India; he was directly employed by the 2nd Party as Helper since December 1994 and his service was terminated w.e.f. 14.06.2002; Sh. Mahadeva was appointed directly as Helper by 2nd Party since September 1997; they have worked continuously without break from the date of joining the service. They were not given wage slips; they are the employees of the 2nd Party.

2. The 2nd Party countered the claim on following lines that, Air India Limited and Indian Airlines Limited amalgamated with National Aviation Company and stood dissolved without being wound up vide order of the Ministry of Corporate Affairs, Government of India dated 27.08.2007; the National Aviation Company of India undertook to deal with the legal / legal proceedings which were initiated against the Transferor Companies in respect of the period upto the effective date to the exclusion of the transferor Companies; it has undertaken to pay all amounts including interest, penalties and damages etc., which the transferor companies may be called upon to pay or secure in respect of liabilities or obligations relating to the transferor company for the period upto the effective date, 27.08.2007; the name of the National Aviation Company of India limited is now changed to Air India Limited from 24.11.2010. Sh. K S Narayan worked for M/s. G.D.S. Enterprises who was engaged by Air India Limited in and around the year 1995 for carrying the job of cleaning and sweeping of Air India premises at Airport. In and around 1997, the services of M/s G.D.S. Enterprises was dispensed with; the workmen were engaged purely on casual need basis from time to time 2 days in a week for attending the casual work. Casual employment of unskilled workmen on daily wages is without any issuance of Appointment order

or termination order. In and around 2002 Government of India mandated rationalization of the work procedure at Air India wherein Air India, Indian Airlines and HAL constituted a joint working group. Thereupon, flight handling activities were handled under the supervision of Contractor of the joint working group. Recruitment to the 2nd Party is strictly mandated under the rules and policies by Government of India; recruitment is banned by the Government since May 1997 as the 2nd Party was found to be over staffed, since then no fresh vacancy is notified / filled in the unskilled categories. The 1st Party workmen filed Writ Petition No. 289-291/2000 for a direction to the 2nd Party for absorption and regularisation of their services; Writ Petition was disposed with the observation that if the petitioners are entitled for absorption by regularising their services the same may be considered by the Respondent in accordance with Law. Since, there was no direct recruitment in the Company they were not considered for regularisation; the workmen filed Review Petition No. 128/2001 in W.P No. 289-291/2000 and the same was rejected. Aggrieved workmen filed a Contempt Petition before the Hon'ble High Court in No. 2796-98/2001 to initiate contempt proceedings against the Company and its Officers for disobeying the order dated 07.07.2000 (in the W.P No. 289-291/2000) said petition came to be dismissed. The Assistant Labour Commissioner, Bangalore submitted his failure of Conciliation Report to the Central Government on 16.04.2003. The Government vide order dated 28.11.2003 declined to refer the dispute for adjudication with the observation that, the issue raised by the workmen has already been decided by the Hon'ble High Court of Karnataka vide Writ Petition No. 25311-313/2002 and the Petition has been dismissed and hence no Industrial Dispute subsists. Said Order was impugned before the Hon'ble High Court and the Writ Petition was allowed directing the Central Government to pass appropriate Orders in accordance with the Law keeping in view the observations made by the Hon'ble High Court. The claim of the 1st Party workmen is refuted. There is no merit in their claim and they are not entitled for any relief.

3. Both parties have adduced evidence with their documentary proof to substantiate their respective stands. The concerned workmen are examined as WW-1 and WW-2; the Assistant General Manager (HRD) retired is examined for the 2nd Party.

4. During the cross examination of MW-1, he did not dispute the suggestion that the workmen were working under the direct control and supervision of Officers of Air India Limited; they were provided identity card to enter the Airport premises, they were paid wages by way of voucher by Accounts Department based on the number of days of their work. He has categorically admitted that, no retrenchment compensation was paid to the workmen at the time of their termination.

5. The documentary proof of the 1st Party are - Ex W-1 Photostat copies of daily permits pertaining to Sh. Mahadeva for the period 15.09.1997 to 15.12.1997; Ex W-2 the temporary pass of Sh. K S Narayana; Ex W-3 Photostat copy of the fax message addressed to Senior Manager in respect of the casual workmen including 1st Party seeking authority to make ex-gratia payment; Ex W-4 the Photostat copy of the daily permits for the period 01.06.1996 to 30.06.2001; Ex W-5 the letter addressed by the Airport Manager to the Airport Director seeking renewal of temporary pass of the 1st Party workman; Ex W-6 the Photostat copy of the letter of the Cargo Service Manager dated 18.06.2002 addressed to General Manager reporting engagement of a new worker in the place of 1st Party Sh. K.S. Narayana and Manjunath(?); Ex W-7 the Photostat copy of the payment slip in respect of November 1998 pertaining to Sh. K.S. Narayana for 28 days; Ex W-8 the Photostat copy of the attendance for the month of August 1999 to June 2002; Ex W-9 the Photostat copy of the covering letter of Airport Manager while forwarding the attendance (fax) of Narayan and Manjunatha (?) for the month of August 1999; Ex W-10 the Photostat copy of the petty cash voucher of Sh. K S Narayana dated 02.07.2002; Ex W-11 the Photostat copy of the letter of District Cargo Manager confirming that Narayan worked for 20 days in the month of June 1999; Ex W-12 and Ex W-13 the Photostat copy of the letter dated 20.12.1997 and 15.09.1997 by Airport Manager requesting to renew the daily permit in respect of Sh. Mahadeva; Ex W-14 the Photostat copy of the fax message which is illegible for reading with naked eye; Ex W-15 the Photostat copy of Ex W-1; Ex W-16 and Ex W-17 are the Photostat copy of the attendance card of Mahadeva for July 2001, August 2001, October 2001, January to April 2002 and June 2002; Ex W-18 the Photostat copy of the petty cash voucher for the period 12.09.1997.

6. Sh. MD for the 1st Party submits that the workmen are illegally retrenched without following the procedure contemplated by Sec 25-F of the Act, said fact is admitted by MW1. The 1st Party had filed an application dated 03.10.2013 calling upon the Management to produce wage paid vouchers and the attendance register for the period 01.01.1998 to 14.06.2002 which was objected by the 2nd Party as not relevant and also that those documents are not now traceable. In that view of the matter, adverse inference needs to be drawn

against the 2nd Party for suppressing the material documents pertaining to the continuous service rendered by the workmen for the period 01.01.1998 to 14.06.2002. The 1st Party workmen who are at the receiving end were able to produce the Photostat copies of the documents which are in their custody.

Sh. MD adds, MW-1 since admitted that the workmen have served directly under the supervision of the 2nd Party and their termination as admitted by the 2nd Party was without following the mandate of Sec 25-F of the Act, they may be reinstated into their original post. They had litigated before the Hon'ble High Court for regularization of their service, in the present reference, their claim is for reinstatement. Hence, the principle of Res-judicata is not a bar to award relief in their favour.

In the written argument 2nd Party has referred to the judgment of the Apex Court in the matter of Secretary State of Karnataka vs Uma Devi (2006) 4 SCC 1.

7. The question of regularisation having been logically concluded by the orders of the Hon'ble High Court, the endeavour in the present petition is only about the legality of the stoppage of work / termination of the services of Sh. K.S. Narayan and Mahadeva w.e.f. 14.06.2002. The identity of the workmen is not disputed. The very fact that they dragged the employer to the Court until their review petition was rejected vide order dated 07.02.2001 is sufficient to infer that they were refused employment w.e.f. 14.06.2002. No valid reason is shown by the 2nd Party for dispensing with their services, they are the casual workers appointed without appointment order and terminated without termination letter. Since, the documents / Photostat copies produced by the 1st Party is insufficient to establish their contention that they served continuously as temporary employees till the last date of their service, I have no other go except to draw adverse inference on the basis of the submission made by them in respect of the application filed by the 1st Party on 03.10.2013; in the said application, the 1st Party had sought for wage paid vouchers and the attendance register for the period 01.01.1998 to 14.06.2002 and those documents are not produced under the pretext that they are misplaced. That drives me to infer that they had worked continuously for the period 01.01.1998 to 14.06.2002. The service since qualified by Sec 25-B of 'the Act' they could not have been refused employment without following the mandate of Sec 25-F of 'the Act', that makes their removal w.e.f. 14.06.2002 an illegal retrenchment. Then the question would arise about moulding of relief, both the workmen during the cross examination have admitted that they are engaged in business and are eking out their livelihood.

In that view of the matter, ordering reinstatement as daily wagers at this point of time is not the appropriate relief for them. Instead awarding a monetary compensation of Rs. 25,000/- to each of the workmen in the place of notice pay of 3 months (Sec 25-F(B)) towards retrenchment compensation would serve the ends of justice being met.

AWARD

The reference is accepted.

The action of the Management of Air India Limited in stoppage of work / terminating the services of Sh. K.S. Narayana and Mahadeva w.e.f. 14.06.2002 is not legal and not justified.

The 2nd Party is directed to pay monetary compensation at Rs. 25,000/- to each of the workmen within 60 days of publication of the Award in the Official Gazette failing which the amount shall carry future interest of 6% per annum.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 19th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 1 जनवरी, 2021

का. आ. 20 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 07/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-20012/73/2018-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 20.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No.07 of 2019) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2020.

[No. L-20012/73/2018-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 07/2019

Employer in relation to the management of M/s. R.K. Transport of Gajlitand OCP..

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Sri D. K. Verma, Advocate

For the workman : Sri Pintu Mondal. Representative

For the Contractor (R.K. Transport) : Sri Ravi Agrawal

State : Jharkhand.

Industry:- Coal

Dated 29.10.2020

AWARD

By Order No.L-20012/73/2018-IR(CM-1)) dated 14/12/2018 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of M/s. R.K. Transport in retrenchment of Sri Md. Sikandar Ansari and 10 other workmen engaged in Gajlitand Open Cast Project under Katras Area IV of M/s Bharat Coking Coal Limited without following the conditions as prescribed under Section 25 F of the Act and not paying bonus, wages and other dues to these workmen, are justified? If not, to what relief the workmen are entitled to.”

2. After receipt of the reference, all three parties were noticed and all three parties appeared for certain dates but subsequently workman left taking step in this case. Further in course of hearing of the case, the Secretary JJMU of Sponsoring Union Sri Pintu Mondal has informed that union is not interested in contesting the case and Sri Agrawal Project Incharge of the R.K. Transport Company has informed that all dues including bonus has already been paid. It is felt that the workman has lost its interest in this matter. Hence “No dispute” award is passed. communicate.

D. K. SINGH, Presiding Office

नई दिल्ली, 1 जनवरी, 2021

का. आ. 21.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 24/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-20012/255/2004-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 21.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No.24 of 2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2020

[No. L-20012/255/2004-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 24/2005

Employer in relation to the management of C.V. Area of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For Employer : Sri S.N. Ghosh, Advocate

For workman : Sri Lala Sahdeo Pd., Representative

State : Jharkhand.

Industry:- Coal

Dated 29.10.2020

AWARD

By Order No.L-20012/255/2004-IR(C-I) dated 31.03.2005, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of BCCL, C.V. Area to dismiss Shri. Ajeet Bouri, Under Ground Loader with effect from 17.08.2001, during the period when the workman was terminally ill and had been referred by company hospital to Cancer Hospital is hasty, ill intentioned and malafide? If so, whether the demand of Janta Mazdoor Congress that the workman may be treated on rolls of the company till the date of his death and his dependent son may be given employment under the provision NCWA is justified?

And, to what other relief the workman or his legal heirs are entitled?”

2. After receipt of the reference, both the parties were noticed. The sponsoring Union Janta Colliery Mazdoor Congress has filed its written statement of claim on 18/08/2005 and the management C.V. Area of M/s. BCCL has filed its written statement on 09/05/2006.

The Sponsoring Union has filed rejoinder to the written statement of the management on 16/07/2007.

3. The claim of the concerned workman as per written statement filed by Janta Colliery Mazdoor Congress is as follows:-

That concerned workman namely Ajeet Bouri was a permanent workman was employed at Dahibari Colliery under C/V Area of M/s. BCCL and he was designated as Underground Loader with Sl. No. 4029 in the ‘B’ Form register of the aforesaid colliery. The concerned workman had been suffering from some ailment for last few years prior to the year 2001 and he was under treatment at various places including the Colliery Hospital and Company’s Hospital at Saraidhela, Dhanbad. The concerned workman was absent during the period of his indisposition and he had submitted sick certificate for his illness for the period prior to the year 2001 and all these certificates are in the custody of the management of Dahibari Colliery. The concerned workman again fell sick in the year 2001, so he failed to attend his duty at Dahibari Colliery from 12/02/2001

and at that time his family members were also suffering from illness. The concerned workman reported for his duty on 17/04/2001 at Dahibari Colliery and submitted application regarding his illness as well as medical certificate but the management of Dahibari Colliery asked him to report to management of Basantimata Colliery for duty without issuing transfer order or release order. The concerned workman had reported to the office of Dy. Personnel Manager, Basantimata Colliery but the Dy. Personnel Manager did not allow him to join duty and subsequently the management of Basantimata Colliery had issued a charge-sheet No. BCCL/B.M/Agent/01/913 dated 3rd May 2001 with a copy to Agent Dahibari Colliery and Sr. P.O., Dahibari Colliery stating therein that workman was absent from 12/02/2001 to 21/04/2001 at Dahibari Colliery without any information. The aforesaid charge-sheet was issued to the concerned workman when he was sick and was under the treatment of N.L.O.C.P. Colliery Dispensary under C/V Area for vomiting and fever since 04/05/2001 to 31/05/2001 and Medical Superintendent declared him fit from 01/06/2001. Subsequently the concerned workman was under treatment of local registered doctor where he was treated for jaundice from 01/06/2001 to 19/06/2001 and was declared fit for work from 20/06/2001. After that the concerned workman reported for his duty with the medical certificates but he was not allowed to resume duty. The charge-sheet was issued to the concerned workman without issuance of any show cause notice to him and without holding any preliminary enquiry as well as without any report from the Section In-charge of the Colliery. Subsequently Enquiry Officer was appointed vide letter dated 11/12.07.2001 to conduct enquiry and he started the proceeding of enquiry. The entire enquiry proceeding was biased and perfunctory and both the witnesses of management were arranged and tutored. In the meantime the management of Basantimata Colliery had issued a letter no. BM/Agent/01/1713 dated 10/08/2001 to the concerned workman and he had submitted a representation in reply to the aforesaid letter showing mitigating stand that he was already under treatment. The concerned workman who was already under treatment of Colliery Medical Hospital and later on he was referred to Central Hospital of BCCL, Saraidhela, Dhanbad where he died on 15/02/2002 after diagnosis that he was suffering from cancer. In the meantime, a show cause was issued on 10/08/2001 to the concerned workman who had submitted the representation dated 11/08/2001 but he was dismissed on 14/08/2001 without obtaining approval of General Manager which is required as per Certified Standing Orders.

A prayer has been made by the sponsoring union that the workman may be treated as on roll of the Colliery till the date of his death and his dependent son should be given employment under the provision of NCWA along with all other benefits such as payment of Life Cover Scheme and Special Leave Wages for sickness due to cancer.

In course of hearing of the case a petition has been filed by the wife of the deceased workman for substituting the name of her deceased husband by her son namely Jaidev Bouri and the same has been allowed vide order dated 07/05/2012.

4. The case of the management as per written statement cum rejoinder filed by C.V. Area, BCCL, Dhanbad is as follows:-

That there is no valid Industrial Dispute in the present case in the eye of law or within the meaning of Section 2(K) of the I.D. Act. The reference order is vague and suffers from the vice of total non-application of mind and the reference is abuse of the process of law. The concerned workman namely Ajeet Bouri was absent from his duty since 12/02/2001 for which a charge-sheet was issued and served to him under clause 26.1.1 of the certified standing order vide charge-sheet no. 931 dated 03/05/2001. Subsequently the concerned workman Ajeet Bouri submitted his reply to the said charge-sheet which was found not satisfactory and an enquiry was ordered by the management by appointing an impartial Enquiry Officer. The concerned workman appeared himself before the Enquiry Officer and he was given full opportunity to defend his case in the enquiry proceeding. The Enquiry Officer after completion of enquiry had found the charges of willful absence of Ajeet Bouri proved beyond doubt which is the misconduct. The concerned workman Ajeet Bouri was a habitual absentee and on previous occasion, he was warned several times but he did not change his attitude, so after considering his records the Agent of Basantimata Colliery dismissed him from the services of the Company. The concerned workman had been dismissed from the service, so he was not entitled for his treatment in Company's dispensary/hospital and his dependent is not entitled for employment against his death. A prayer has been made to pass an award holding that the concerned workman is not entitled to any relief.

5. The management has further mentioned in its written statement cum rejoinder that the statement of sponsoring union in Para no. 1 and 2 are matter of records, statement made in Para nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 24 and 29 are incorrect, the statement made in Para nos. 16 & 17 regarding enquiry cannot be said as perfunctory, the statement made in Para no. 20 has already been replied, statement made in Para no. 21, 22 and 23 regarding second show cause was not found satisfactory, statement made in Para nos. 25 and 28 and 30 are repetition and statement made in Para no 26 and 27 is fiction of mind. A prayer has been made to pass an Award in favour of the management.

6. The concerned workman has submitted his rejoinder to the written statement of the management in which he denied almost all the averments made in the written statement of the management.

7. The sponsoring union has filed an affidavit of examination in chief of Lala Sahdeo Prasad as WW-1 but the aforesaid witness subsequently did not appear before the Tribunal for cross-examination.

Now, the WW-1 Lala Shadeo Prasad has not been tested on the cross-examination, so his evidence in examination in chief is not trustworthy and reliable, so it has got no value in the eyes of law.

8. The concerned workman has proved the following documents which are marked as:-

Exhibit W-1- Photo Copy of application of Ajeet Bouri regarding his request to allow him to join his duty.

Exhibit W-2- Photo Copy of forwarding letter to Central Hospital, Dhanbad for treatment of Ajeet Bouri.

Exhibit W-3 series- Photo Copy of Discharge Certificate dated 08/12/2001 of Ajeet Bouri from Central Hospital, Dhanbad and was referred to Chittaranjan Cancer Institute Calcutta with others medical certificates.

Exhibit W-4- Photo Copy of Circular regarding procedure for dealing the cases of misconduct.

Exhibit W-5- Death Certificate of Ajeet Bouri issued by Dr. A.K. Bhowmik, Medical Suptd., N.L.O.C.P., C.V. Area of BCCL.

9. The Management has not examined any witness in support of its case.

10. The Management has proved the following documents which are marked as:-

Exhibit M-1- Carbon Copy of Dismissal Order dated 14/09/2001 of workman Ajeet Bouri.

Exhibit M-2- Original Enquiry Proceedings and Original Enquiry report.

Exhibit M-3- Carbon Copy of letter dated 11/07/2001 regarding appointment of Enquiry Officer.

Exhibit M-4- Carbon Copy of notice dated 11/07/2001 regarding enquiry.

Exhibit M-5- Carbon Copy of Letter dated 10/08/2001 regarding reply on enquiry report.

11. The representative of the sponsoring union representing the concerned workman has submitted before the Tribunal that the concerned workman Ajeet Bouri was suffering from illness and he had taken leave for two days 10/02/2001 to 11/02/2001, he could not report his duty on 12/02/2001 as he was sick and he had submitted an application for extension of his leave. He has also argued that on 17/04/2001 the concerned workman had gone to join his duty with fitness certificate but he was asked to report at Basantimata Colliery as he was transferred. He has also argued that the concerned workman was not allowed to join at Basantimata Colliery and a charge-sheet was issued against him for his unauthorised absence from the period 12/02/2001 to 21/04/2001. He has also argued that the concerned workman was absent from duty for the aforesaid period when he was sick along with his family member, so he could not join his duty. He has also submitted that the concerned workman again fell sick and he was admitted to Central Hospital, Saraidhela on 07/10/2001 and in course of treatment he died from cancer on 15/02/2002 but the management had dismissed the concerned workman on 14/08/2001. He has also argued that the concerned workman was illegally dismissed from service while he was under medical treatment, so the action of the management in dismissing him from service is not legal and justified. He has also argued that the punishment awarded to the concerned workman is disproportionate to his guilt. He has further submitted that the concerned workman may be reinstated and the legal heirs of the concerned workman are entitled to all benefits granted to dependent of this case in case of death of the workman.

12. On the other hand the learned lawyer of the management has submitted before the Tribunal that the concerned workman was charge-sheeted on 03/05/2001 for his unauthorised absence from duty from 12/02/2001 to 21/04/2001 and he was a habitual absentee. He has further argued that a domestic enquiry was held against the concerned workman and in course of enquiry proceeding the concerned workman had participated and he was given full opportunity to defend himself but he had not produced any paper to show that he was suffering from cancer. He has also argued that the concerned workman was dismissed from service w.e.f. 14/08/2001 and subsequently he died on 15/02/2002. He has also argued that after death of concerned workman, this Industrial Dispute was raised. He has further submitted that the concerned workman died on 15/02/2002 and dispute was raised in the year 2004, so there is no question of substitution in this case. He has also submitted that the concerned workman was not entitled for any relief under the Industrial Dispute Act.

13. Now the only point of determination in this case is whether the action of the management of BCCL, C.V. Area to dismiss Shri Ajeet Bouri, Underground Loader w.e.f. 17/08/2001 is hasty, ill-intentioned and malafide and to what relief he is entitled to.

FINDINGS

14. At the outset of discussion it is required to mention here that neither the sponsoring union nor the management has adduced any oral evidence in this case, so the entire case is based on documentary evidence.

15. It is an admitted fact that the concerned workman namely Ajeet Bouri was absent from his duty since 12/02/2001 to 21/02/2001 and he had given an application for his joining duty but he was not allowed to join and subsequently the charge-sheet was issued to him for his absence from duty by the management of Basantimata Colliery. It is also an admitted fact that the enquiry was conducted by Enquiry Officer namely Shri A. Prasanna, Dy. P.M., Basantimata Colliery in which the concerned workman was found guilty and subsequently a second show cause was issued to him on 10/08/2001 to which he had submitted his reply on 11/08/2001 but vide order dated 14/08/2001 he was dismissed from service. It is also an admitted fact that the concerned workman died on 15/02/2002 as he was suffering from carcinoma.

16. It is relevant to mention here that in this case the concerned workman had participated in the enquiry proceeding and he had been given an opportunity to cross-examine the witness as well as to adduce it is witness. Further a second show cause was issued to him at he had submitted his reply, so the Enquiry Officer had conducted the enquiry in fair and proper manner.

17. Now, the question arises whether the punishment of dismissal from service vide order dated 14/08/2001 awarded to the concerned workman is proportional to his guilt or not?

18. At this stage, it is relevant to mention Section 11A of I.D. Act. The Section 11A of I.D. Act reads as follows:-

Section 11A- “Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen- Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

19. The Hon’ble Supreme Court has been pleased to observe in a case as reported in **1973 AIR 1227 (Workmen of Messrs Firestone Tyre...Vs Management & others)** that:-

“The Act is beneficial piece of legislation enacted in the interest of employees. It is well settled that in construing the provisions of a welfare legislation, courts should adopt, what is described as a beneficent rule of construction. If two constructions are reasonably possible to be placed on the section, it follows that the construction which furthers the policy and object of the Act and is more beneficial to the employees has to be preferred. The interpretation must be liberal enough to achieve the legislative purpose”.

20. However the Hon’ble in a another case as reported in **2005 (2) SCALE 302 (Mahindra and Mahindra Ltd. Vs. N.B. Narawade)** has been pleased to hold that:-

“ It is no doubt true that after introduction of Section 11A in the Industrial Disputes Act, certain amount of discretion is vested with the Labour Court/Industrial Tribunal in interfering with the quantum of punishment awarded by the Management where the concerned workman is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion which can be exercised under Section 11A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the Court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11A of the Act and reduce the punishment.”

21. In the present case the concerned workman had been dismissed from the service vide order dated 14/08/2001 only because he was absent from duty from 12/02/2001 to 21/04/2001.

At this stage it is relevant to mention that the concerned workman Ajeet Bouri was initially employed in Dahibari Colliery under C/V Area of M/s. BCCL but during his period of absence he was transferred to Basantimata Colliery from there charge-sheet was issued to him for his absence on 3rd May 2001.

22. It is required to mention here that the Exhibit W-1, which is the photo copy of application of concerned workman namely Ajeet Bouri shows that on his application there is an endorsement that the last date of work of concerned workman was on 09/02/2001, C.L was granted to him on 10/02/2001 and he was absent from 12/02/2001 to 21/04/2001.

It is necessary to mention here that the Exhibit W-3 series show that Ajeet Bouri was under treatment from 05/05/2001 to 31/05/2001 and subsequently from 01/06/2001 to 19/06/2001 as he was suffering from Jaundice. Further there is a discharge certificate of Central Hospital BCCL, Dhanbad showing therein admission of the concerned workman on 07/11/2001 and discharge on 08/12/2001 with endorsement that the patient was referred to Chitranjan Cancer Institute Calcutta with one attended. Further the Exhibit W-5 which is death certificate of the concerned workman shows that the concerned workman died on 15/02/2002 as he was suffering from carcinoma.

23. Now in the instant case there is ample evidence showing that the concerned workman was granted casual leave on 10/02/2001 and when he had reported for his joining at Dahibari Colliery, he was asked to report at Basantimata Colliery where he was charge-sheeted for his absence from duty on 12/02/2001 to 21/04/2001. More over there is also evidence that the concerned workman was under medical treatment from 05/05/2001 to till his death on 15/02/2002 and in the meantime he was dismissed from the service vide order dated 14/08/2001.

24. It is relevant to mention here that the wife of the deceased workman has filed a petition before the Tribunal that neither she nor any legal heirs would claim service in future in place of her deceased husband but the petition is not in accordance with the schedule of reference made by the Ministry of Labour & Employment so the petition is not being considered.

25. In view of above discussion the Tribunal finds that the punishment awarded to the concerned workman for his absence from duty for about two months only whereas he was suffering from ailments and he died in course of treatment of Carcinoma on 15/02/2002, so the punishment awarded to him is disproportionate to the gravity of the misconduct and there is existence of mitigating circumstances which requires reduction of punishment.

26. Hence the Tribunal comes to the conclusion that the order of dismissal of concerned workman is not justified, so the order of dismissal dated 14/08/2001 is set aside.

27. Now the Tribunal renders the following Award:-

“The action of the management of BCCL, C.V. Area to dismiss Shri. Ajeet Bouri, Under Ground Loader with effect from 17/08/2001 during the period when the workman was terminally ill and had been referred by company hospital to Cancer Hospital is hasty, ill intentioned and malafide. Hence the demand of Janta Mazdoor Congress that the workman be treated on the rolls of the company till the date of his death and his dependent son be given employment under provisions of NCWA is justified.”

28. Hence the concerned workman/legal heir is entitled for relief which is as under:-

The management of BCCL, C.V. Area is directed to treat the concerned workman namely Ajeet Bouri on rolls of the company till the date of his death and his dependent son namely Jaidev Bouri be given all back wages as well as all the death benefits along with employment and other consequential benefits under the provisions of NCWA as the concerned workman died in course of service on 14/03/2006.

29. The management of C.V. Area of M/s. BCCL is directed to implement the award within one month after publication of the Award in Official Gazette.

This is the Award of the Tribunal.

D. K. SINGH, Presiding Officer

नई दिल्ली, 1 जनवरी, 2021

का. आ. 22.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा के अनुसरण में, केन्द्रीय सरकार मैसर्स भारतीय एयरलाइंस लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ संख्या सी आर 21/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2020 को प्राप्त हुआ था।

[सं. एल-11012/2/2008-आईआर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 1st January, 2021

S.O. 22.—In pursuance of Section Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore (Ref. No. CR 21 of 2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Airlines Ltd., and their workmen, which was received by the Central Government on 28.12.2020.

[No. L-11012/2/2008-IR(CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

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

DATED : 27TH MAY, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 21/2008

I Party

Sh. J Ramdas,
S/o Late Sh. J Vittal,
R/o Trupti, Shivabhag,
1st Cross,
Mangalore - 575002.

II Party

The General Manager,
Indian Airlines Limited,
New Engineering Complex,
Sahar, Vile Parle (East),
Mumbai - 400099.

Appearance

Advocate for I Party : Mr. Ramesh Upadhyaya

Advocate for II Party : Ms. K. Subha Ananthi

AWARD

The Central Government vide Order No. L-11012/2/2008-IR(CM-I) dated 24.03.2008 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 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of M/s Indian Airlines Ltd. in dismissing the services of Sh. J Ramdas, Sr. Accounts Assistant w.e.f. 14.03.2000 is justified and legal? If not, to what relief is the concerned workman entitled?”

1. The 1st Party workman is the former employee of the 2nd Party / M/s Indian Airlines who is dismissed from service on the charge of misconduct having been proved against him in a Departmental Enquiry; he has raised the dispute challenging the fairness of the Domestic Enquiry conducted against him which calumniated in his dismissal so also the legality of the punishment order imposed.

He claims that he has not committed misconduct as alleged and the order of punishment is illegal and unjust. In view of the punishment order his livelihood is taken away and his family is put to financial hardship.

2. The 2nd Party in their statement have justified the action taken against him.

3. On the basis of the rival pleading pertaining to the validity of the Domestic Enquiry a Preliminary Issue was raised, tried and adjudicated vide order dated 25.06.2019, it is observed that 'despite opportunity was provided it was the 1st Party who did not avail the same to defend himself against the charges, thus the issue was answered affirmatively in favour of the management'.

4. The 1st Party was charged on 3 counts, the Charge Sheet runs into 11 pages to edify the same, Firstly, while working as Cashier at Mangalore during 1996-97 he was assigned the duty of Collection, Remittance and Accounting of sales remittances from Agents; on 09.05.1996 M/s Ashish International Travels remitted cash of Rs. 2,32,670/-. The CE prepared RF-7/3795651 and issued the original copy to the agent for the said amount but accounted only Rs. 2,12,670/- in the other copies of the said RF-7/3795651, thereby misappropriated Rs. 20,000/- for his personal gain. Subsequently after a lapse of 40 days he accounted the said amount of Rs. 20,000/- and upon a debit note No. 63747 dated 03.12.1996 raised on the agent for Rs. 547/- towards penal interest, he paid the said amount without the knowledge of the Agent. The CE had confirmed the transaction,

admitted his handwriting in the documents and gave statements dated 04.04.1997 and 05.04.1997 admitting the fraudulent and wilful act. Thereby committed misconduct under Standing Order 1 and 16 and Clause 4, 8, 12 to 14.

Secondly, M/s Suraj Tours and Travels, Belman withdrawn Rs. 36,005/- from the Account No. 51 of the Corporation Bank and remitted the amount to the CE on 05.11.1996 but the CE without issuing proper receipt in RF-7, issued a receipt for Rs. 36,005/- in a sheet of paper; he did not account the remittance of the amount but prepared RF-7/4179392 on 11.11.1996 for an amount of Rs. 12,033/- only. Thus, misappropriated Rs. 36,005/- from 05.11.1996 to 11.11.1996 and Rs. 23,972/- from 11.11.1996 for his personal gain. He wilfully did not forward AGT-2/109243 dated 01.11.1996 and AGT-4/252742 dated 01.11.1996 submitted by the Agent to the Area Revenue Division at Mumbai but prepared AGT-4 and AGT-2 from the stationary held by him and thus pasted Sl. No. 252742 and 109243 respectively on the forged documents. He reflected Rs. 12,033/- on AGT-4 as against Rs. 36,005/- and indicated Rs. 14,325/- as against Rs. 38,297/- on AGT-2.

He omitted the sales effected on 28th, 29th and 31st of October; correspondingly forged AGT-1/138088 dated 28.10.1996, AGT-1/138089 dated 29.10.1996 and AGT-1/138091 dated 31.10.1996 by pasting the serial numbers of the original documents on the forged documents. M/s Suraj Tours and Travels withdrew a sum of Rs. 26,573/- from Account No. 51 of the Corporation Bank on 20.11.1996 and remitted the said amount to the CE on 20.11.1996. Without issuing proper receipt for the payment received CE did not account the remittance till 16.02.1997.

He tampered AGT-2 and AGT-4 submitted by the agent.

He wilfully reflected a sum of Rs. 50,544/- on AGT-4 and AGT-2 against Rs. 26,573/- and accounted for remittance of Rs. 50,544/- vide RF-7/4277164 dated 16.02.1997; he fraudulently altered the sales effected on 01.11.1996 and 02.11.1996 as Rs. 11,600/- and Rs. 22,056/- instead of Rs. 2,900/- and Rs. 5,800/- and correspondingly forged the documents and pasted the serial numbers of the original documents on the forged documents, and included the sales effected which were wilfully deleted....

He altered the date of issue from 28.10.1996 to 02.11.1996 in respect of Tickets.....

Without the knowledge of the Agent he remitted Rs. 2,941/- towards penal interest for delayed remittance pertaining to the sales of first fortnight of November, 1996 vide RF-7/4277165 dated 16.02.1997. He was collecting remittances from the Agents in cash in contravention of the subsisting instructions....He misappropriated remittances made by M/s Suraj Tours and Travels in respect of the sales pertaining to second fortnight of February, 1996 and first fortnight of March, 1996 and without the knowledge of the Agent paid penal interest of Rs. 166/- vide RF-7/3795461 dated 24.03.1996 and Rs. 138/- vide RF-7/3795489 dated 09.04.1996 relating to the payments for the second fortnight of February, 1996 and first fortnight of March, 1996.

The above act amounts to misconduct under Standing Order 1 and 16 and Clause 4, 8, 12 to 14.

Thirdly, the Area Revenue Division, Mumbai had issued a Credit Note No. 2851 dated 31.03.1996 for Rs. 18,502/- in favour of M/s Suraj Tours and Travels which he did not pass on to the agent.

The Travel agent submitted AGT-4/252732 dated 01.06.1996 and remitted Rs. 62,102/- in respect of sales effected during second fortnight of May, 1996, but the CE tampered with AGT-4 and accounted only Rs. 43,600/- vide RF-7/3795696 dated 10.06.1996 and misappropriated Rs. 18,502/-. The above act amounts to misconduct under Standing Order 1 and 16 and Clause 4, 8, 12 and 13.

5. During the enquiry on behalf of the prosecution four witnesses were examined and as many as 39 documents were marked. The evidence of the management witnesses remained intact without cross examination and without defence evidence.

6. The first witness was Sh. A Ram Babu, Station Manager. Among other things he had stated that during the investigation the CE admitted having misappropriated the payments made by agents and pleaded guilty. He rendered confessional statements to the Vigilance without any coercion; the Vigilance also recorded the statements of the agents and other concerned Indian Airlines Staff at Mangalore. He identified the signature of the CE on the relevant documents so also the statement given by the CE pleading guilty of falsification of revenue records and defalcation of revenue not only in respect of M/s Ashish International Travels but also M/s Surja Tours and Travels dated 04.04.1997 consisting of 12 pages ME-12/A and another statement of the CE admitting falsification of document and misappropriation of revenue collection in respect of M/s Suraj Tours and Travels dated 04.04.1997 of 8 pages ME-12/B; his further statement consisting of 6 pages dated 05.04.1997 ME-12/C, the witness stated that all the above 3 statements were recorded in his presence and signed by himself and CE, Sh. Ramdas gave his statement out of his will and without coercion; Sh. Ramdas, Sh. Mokal, Vigilance Supdt., Sh. Rajgopalan, Manager (Vigilance) and witness had signed the document.

7. The second witness was the Proprietor of M/s Suraj Tours and Travels, Belman and authorised Passenger Sales Agent of Indian Airlines since 1995 selling Indian Airlines Tickets.

The third witness was the Senior Manager (Vigilance) of the 2nd Party who conducted the investigation. He had recorded the statements of the CE in the presence of witnesses, whereby the CE had admitted the charges. The witness also further stated that he had recorded the statement of Sh. S K Shetty on 24.04.1997 in the presence of Sh. Ram Babu and CE, wherein Sh. Shetty had given detailed account of his transaction with Indian Airlines pertaining to the period in question; his statement was followed up by the Statement of CE in the presence of Sh. Rama Babu wherein CE pleaded guilty of misappropriation of funds, forgery of documents and alterations effected in the Agent's documents besides the tickets issued by the Agent.

The fourth witness was the Accounts Assistant, who had worked during 1996-97 under CE / Senior Accounts Assistant.

8. On the basis of the undisputed oral and documentary evidence, the Enquiry Officer has recorded the finding of guilt in respect of all the 3 charges. The Disciplinary Authority marked the Enquiry Report along with proposal of punishment i.e. 'Removal from Service'; his past records of suffering minor punishments on 3 occasions were also cited in the said letter. CE submitted his explanation, sought for reopening of the enquiry proceedings, and to give him proper opportunity for defending himself against the charges; he did not dispute his past records. The Disciplinary Authority did not appreciate his prayer for reopening the enquiry and observed "... you had been afforded ample opportunity and of your own accord chosen to stay away from the enquiry..." and thus proceeded to pass the punishment order of 'Removal from Service with immediate effect'.

9. The 2nd Party have not produced the records marked during the enquiry. However, these are all the admitted documents never disputed by the 1st Party. Ongoing through the enquiry records I am convinced that Enquiry Officer has founded his finding on the genuine documents coupled by the statement given by the 1st Party before the Vigilance Officer admitting his misconduct. The misconduct proved during the enquiry is of misappropriation, tampering the documents etc. He has failed to maintain integrity in performance of his duties and the punishment of Removal from Service is the appropriate punishment.

AWARD

The Reference is rejected.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 27th May, 2020)

Justice Smt. RATNAKALA, Presiding Officer