



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-17112025-267708
CG-DL-W-17112025-267708

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 44] नई दिल्ली, नवम्बर 9—नवम्बर 15, 2025, शनिवार/कार्तिक 18—कार्तिक 24, 1947
No. 44] NEW DELHI, NOVEMBER 9—NOVEMBER 15, 2025, SATURDAY/KARTIKA 18—KARTIKA 24, 1947

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

(राजस्व विभाग)

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1967.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में राजस्व विभाग के केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड के अधीन आयुक्त, सीमा शुल्क (आयात), मुंबई जोन-III के कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों एवं कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/3/2017- हिन्दी-2-अधिसूचना]

प्रीति सेलारे, उप निदेशक (रा.भा.)

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 7th November, 2025

S.O. 1967.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies, **Office of The Commissioner of Customs (Import), Mumbai, Zone-III** under Central Board of Indirect Taxes and Customs, Department of Revenue where more than 80% staff has acquired the working knowledge of Hindi.

[F. No. E-11017/3/2017- Hindi-2-Notification]

PREETI SELLARE, Dy. Director (OL)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 30 अक्टूबर, 2025

का.आ. 1968.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स महालक्ष्मी मिलेनियम एजेंसीज प्राइवेट लिमिटेड मेसर्स चिराग सैंडिटेक्स प्राइवेट लिमिटेड के प्रबंधन के संबंध में नियोजकों और श्री कुमार सदाशिव नेनहे एंड 52 अन्य के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई, पंचाट (रिफरेन्स नं.- 64/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.10.2025 को प्राप्त हुआ था।

[सं. एल-29012/21/2018-आईआर(एम)]

सलोनी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th October, 2025

S.O. 1968.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 64/2018**) of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Mahalaxmi Millennium Agencies Pvt Ltd M/s Chirag Sanditext Private Limited and Shri Kumar Sadashiv Nenahe and 52 others** which was received along with soft copy of the award by the Central Government on 30.10.2025.

[No. L-29012/21/2018-IR(M)]

SALONI, Dy. Director

ANNEXURE

BEFORE JUSTICE RETIRED SHIV SHANKER PRASAD

PRESIDING OFFICER/LINK OFFICER

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

JUSTICE RETIRED SHIV SHANKER PRASAD

Presiding Officer/Link Officer

REFERENCE NO. CGIT-2/64 of 2018

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

Party No.1 1. M/s. Mahalaxmi Millennium Agencies Pvt. Ltd.,

Mr. Mahendra P. Shah, Director,

M/s. Mahalaxmi Millennium Agencies Pvt. Ltd.,

408, Parshwa Chambers, 17/21, Issaji street,

Vadadgadi, Mumbai, Maharashtra- 400003.

2. M/s. Chirag Sanditext Pvt. Ltd.,

The Mine Manager,
M/s. Chirag Sanditext Pvt. Ltd.,
Bakol Patlewadi, At. Post- Phondaghat,
Tal. – Kankavli, District- Sindhudurg- 416601.

AND**THEIR WORKMEN.****Party No.2 (Mr. Kumar Sadashiv Nenehe & Ors.,)**

At. Post- Phondaghat, Pimpalwadi,
Tal. – Kankavli,
District- Sindhudurg, Maharashtra- 416601.

APPEARANCES:

Management No.1	:	Mr. Ketan P. Sheth Representative
Management No.2	:	Ms. Pavitra Manesh Advocate & Mr. Kiran Maruti Mohite Representative
Workmen	:	Mr. Sanjay Anant Teli Representative

AWARD

(Delivered on 08-10-2025)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-29012/21/2018 (IR(M) dated 26.11.2018. The terms of reference given in the schedule are as follows:

- i. *“Whether the applicant workmen have worked with M/s. Chirag Sanditext Pvt. Ltd., since March 1997 till date? If so, what should be the liabilities of the company towards applicant workmen?”*
- ii. *“Whether M/s. Mahalaxmi Millennium Agencies Pvt. Ltd., has operated the Mines at any point of time? If so, the duration and its liabilities to the applicant workmen?”*
- iii. *“Whether there existed any legal arrangement between M/s. Mahalaxmi Millennium Agencies Pvt. Ltd., and M/s. Chirag Sanditext Pvt. Ltd., to run the mines? If yes, whether Maharashtra State Mineral Corporation was aware of the above arrangement?”*
- iv. *“What would be the legal terminal dues payable to the applicant workmen on account of termination/closure of Mines by both M/s. Chirag Sanditext Pvt. Ltd., and M/s. Mahalaxmi Millennium Agencies Pvt. Ltd., till March 2010?”*

2. The case is listed on 13.11.2025, but, today the parties have jointly moved an application before the Tribunal for taking the matter on today's Board. In the interest of justice, application for taking the matter on today's Board is hereby allowed.

3. The First Party No. 1 & 2 and the Second Party jointly states that, the dispute raised in the present Reference has been settled between the parties and accordingly the Memorandum of Settlement has been signed between the parties. Both the parties pray that, the present Reference be disposed in terms of the Memorandum of Settlement signed between the parties. The Second Party employees, who have signed hereby Authorise Mr. Sanjay Anant Teli to represent the Second Party before the Court. The First Party No. 1 has appointed Mr. Ketan P. Sheth to represent the present case on behalf of the First Party No.1. The First Party No.2 has appointed Ms. Pavitra Manesh & Mr. Kiran Maruti Mohite to attend the Hon'ble Tribunal on behalf of the First Party No.2 for completing the formalities for disposal of the Reference.

4. The Ministry, time to time encourages settling the cases, pending before the Court by means of mediation or by presenting the cases before the Lok Adalat. In the present case, both the parties have settled their dispute amicably out of the Court, in terms and conditions mentioned in the memo of compromise, signed by both the parties on 07.01.2024. Both parties therefore pray to dispose off the matter as settled.

5. In view of this, the matter is disposed off as settled.

In the result, I proceed to pass the following order-

ORDER

i. The Reference is disposed off as settled.

ii. The parties to bear their own cost.

iii. The Award be sent to the Central Government.

Date: 08-10-2025

Justice SHIV SHANKER PRASAD, Presiding Officer/Link Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1969.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रक्षा मंत्रालय का एकीकृत मुख्यालय (नौसेना) के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (2/2016) प्रकाशित करती है।

[सं. एल-12025/01/2025-आईआर(बी-1)-137]

सलोनी, उप निदेशक

New Delhi, the 7th November, 2025

S.O. 1969.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of The Integrated Headquarter of MOD (Navy) and their workmen.

[No. L-12025/01/2025- IR (B-I)-137]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 29th day of September, 2025

INDUSTRIAL DISPUTE L.C.No. 2/2016

Between:

Sri Allam Tulasidas,

R/o D.No.12-224/1, Lakshminagar,

Gopalapatnam,

Visakhapatnam- 530 027.

.....Petitioner

AND

1. Industrial Tribunal cum Labour Court,

Visakhapatnam.

2. The Integrated Headquarter of MOD(Navy),

Directorate of Civilian Personnel Services,

D-II Wing, Sena Bhavan,

New Delhi – 110 011.

3. Officer in charge- Command
Non Public Transport Fund,
INS Satavahana, Visakhapatnam-14. Respondents

Appearances:

- For the Petitioner : M/s. R. Sreeramulu & R. Praveena, Advocate
For the Respondent: Sri Ch. Guruvu Setty, Advocate

AWARD

Sri A. Tulasidas who worked as un-skilled labour (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Command Non-Public Fund Transport, I.N.S. Satavahana, Visakhapatnam seeking to continue his casual services or regularize into service duly granting all the service benefits.

2. The checkered history of this case revealed from the record is as hereunder:-

Initially Petitioner had filed petition under section 2A(2) of the I.D. Act, 1947 before the Industrial Tribunal cum Labour Court at Visakhapatnam challenging termination of his service passed by Respondent with effect from 1.11.1997. The case was numbered as ITID(C) No.31/1997. Thereafter, Respondent appeared and filed the reply statement and after hearing both the parties that ITID(C) case came to be decided by the Presiding Officer, Industrial Tribunal cum Labour Court Visakhapatnam vide award dated 5.4.1999. That award was challenged by the Respondent in writ petition No.23995/1999 came to be decided on 13.9.2012, wherein Hon'ble High Court setting aside award dated 5.4.1999 vide its order dated 13.9.2012 and the matter was remanded back to the Industrial Tribunal cum Labour Court, Visakhapatnam and industrial dispute was restored to file and Tribunal was directed to pass an award afresh after putting both the parties on notice and give them an opportunity of being heard and thereafter pass the award in accordance with law. Thereafter, this Industrial Dispute case was transferred to CGIT, Hyderabad vide order No.L-14025/07/1999-IR(DU) dated 7.5.2015 of the Government of India for disposal according to law.

3. **In brief facts culled out from the claim petition filed by the Petitioner are that:-**

It is submitted that the Petitioner was working as unskilled labour in Non-Public Fund Transport of Eastern Naval Command, Visakhapatnam. The applicant was drawing wage of Rs.1359/- per month at the time of termination of his services as consolidated pay. The Non-Public Fund Transport is under the overall administrative control of Flag Officer, Commanding in Chief and immediate operational control of the Commanding Officer, INS Satavahana through his Subordinate Officer in Charge, Non-Public Fund Transport, INS Satavahana. It is submitted that he was detailed to do clerical duties as stated in his application at page number 10. While so the Petitioner was intimated orally on 5.10.1997 that his services will be terminated any time after 15.10.1997. It is submitted that the applicant was initially appointed as USL in the office of the Command Transport Pool with effect from 18.1.1982 against sanction accorded by HQtrs., Eastern Naval Command letter dated 30.12.1981. He served in that capacity till 30.11.1983 against sanction renewed from time to time for a total period of 590 days. During this period, he was paid from defence service estimates and treated as a casual central government employee (as a civilian in defence service). It is submitted that he was given a break from 1.12.1983 to 25.12.1983 presumably for want of vacancies in government department. It is further submitted that he was reappointed as a casual U.S.L., in Command Non-Public Fund Transport under INS Circular's with effect from 26.12.1983 C.O., INS Circular's letter dated 10.12.1993. It is submitted that the Command Non-Public Fund Transport comprises of motor vehicles which have been purchased out of regimental funds and command amenities fund maintained by the H.Q., ENC. The operation of the fund and the vehicles is entrusted by the Command to one of the Naval units in Visakhapatnam. Further it is submitted that earlier the transport was operated by ions sircar's but now it is operated by INS Satavahana presumably as per order of H.Q., E.N.C. The C.O., Satavahana controls and operates the N.P.F. Transport through one of the officers designated as Officer in Charge NPF Transport. It is submitted that besides the central government contributions by way of regimental funds and command amenities fund through which the motor vehicles were purchased the fund is further supported by transport charges realised through school bus passes come home to duty transport office half officers and staff both service and civilian and also through hiring charges on transport hired out for amenity purpose. Therefore, it is clear that the Non-Public Fund Transport is an industry within the meaning of section 2(j) of the I.D. Act, 1947. It is submitted that during April 1991 Government of India issued O.M.No.49014/4/90-Estt. (C) Ministry of Personnel, Public Grievances and Pension Department (D/o Personnel and Training) dated 8.4.1991 stating that casual industrial employee who were recruited prior to 7.6.1988 and wherein position in service as on the date of issue of the letter can be considered for regularisation against government sanction even if they were not sponsored initially through the employment exchange. Further, it is submitted that the applicant satisfied the requirements of this letter, he was initially recruited on 18.1.1982 and was in casual service as on 8.1.1991. The applicant's claim was overlooked and the services of 2 others namely S/Sri B Appanna and M Srihari were regularised even though they

were juniors to the applicant and were not in service as an 8.4.1991. It is submitted that the applicant filed OA No.739 of 1994 in the Hon'ble Central Administrative Tribunal, Hyderabad against the Respondents for ignoring the seniority and regularising the services of his juniors mentioned above, even when they did not satisfy the requirement of Government of India letter dated 8.4.1991 referred. The Tribunal while not admitting the applicant's claim for regularisation observed as under:-

"having stated this, I also consider it necessary to add that the applicant had indeed been rendering continuous service in various units of the Navy no matter in which capacity of status. The very fact that he had been asked to perform clerical duty and which he continues to do even at present indicates that his services were apparently found useful and efficient. Considering this background the Respondents are to extend the benefit of any provision which might enable him to improve his service prospects under any scheme which may be evolved by the government in future."

In pursuance of the above observation of the Hon'ble Central Administrative Tribunal, Hyderabad the applicant submitted an application dated 17.9.1997 which was forwarded to Flag Officer Commanding in Chief & Chief of Naval Staff, NHQ, New Delhi. It is submitted that as this was not palatable to them the applicant has been worldly informed that his services would be terminated anytime after 15.10.1997 which is clearly a vindictive action. The application was followed by a telegram dated 7.10.1997 and a letter dated 10.10.1997. The management did not consider Petitioner's application and decided to terminate his services vide Hqrs.ENC letter TP/3062 dated 9.10.97. Further, it is submitted that Petitioner was terminated with effect from 1.11.1997 while a junior Sri K Suresh Kumar has been retained in service. Hence it is prayed to direct the Respondents to regularise the services of the applicant against any existing regular vacancy or continue his casual services until he can be absorbed in a regular vacancy with all service benefits.

4. **Respondent filed counter denying the averments of the Petitioner as under:-**

Respondent filed reply statement wherein Respondent has denied the material averments made in the petition and save those that are expressly admitted therein. Further, Respondent contended that this Tribunal does not have any jurisdiction to entertain the application since the establishment under which the applicant has worked is not an industry as defined under section 2(j) of the I.D.Act, 1947 and as such I.D.Act is not applicable to him. Further, it is contended that in the defence establishments there are vehicles provided from government funds. These are as per government sanctions. As such I.D.Act, 1947 is not applicable and filing of the application by the applicant is incorrect and it is liable to be dismissed on this ground alone. At the outset, Hon'ble Court does not have any jurisdiction to entertain the application since the establishment under which the applicant had worked is not an 'Industry' as defined under Section 2(j) of ID Act and as such the Industrial Disputes Act is not applicable to him. The definition of Industry that was given under section 2(j) of ID Act is as follows:-

"Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen."

In the defence establishments as in any other government establishments there are vehicles provided from government funds (Public Funds). These are as per the government sanctions. However, there is invariably a short-fall of such vehicles. This, in many cases, is made up from the regimental funds or unit funds which are funds raised from local sources such as contribution from officers, grants from amenity funds, canteen and mess funds etc. which are known as Non-Public Funds or private funds of the Command. Command Non-Public Fund Transport (CNPFT) in which the applicant had worked is one such Non-Public Fund (Regimental Fund). As such ID Act is not applicable and filing of application by the applicant in this Tribunal is incorrect and it is liable to be dismissed on this ground alone. Shri A Tulsidas had worked as casual labourer during the period between 18.1.82 to 30.11.83 with intermittent breaks at INS Circars. This employment as casual labourer was as on required basis on daily wages. Payment of wages for this employment was made through government funds which were utilized only when there was an urgent and/or operational requirement. The applicant was not re-employed beyond 30.11.83. Thereafter, he was employed by the Officer in Charge, Command Non-Public Fund Transport as a Non-Public Fund employee w.e.f. 26 Dec 83. Payment of wages on a honorarium basis to the applicant was also made from this Fund only. Except for the period from 18 Jan 82 to 30 Nov 83, the applicant was not under the employment of any Ministry under the Government of India and as such he is not entitled to regularisation against the schemes prescribed by the government. In this connection the Apex Court judgement (1996 SCC (L&S) 691) in relation to the Management of Reserve Bank of India Vs. Workmen is relevant. In the aforesaid judgement, the Hon'ble Supreme Court held that in the case of Reserve Bank of India Canteen in the absence of any statutory or other legal obligation and in the absence of any right in the Bank to supervise and control the work or the details thereof in any manner regarding the canteen workers employed in the three types of canteen cannot be said that the relationship of master and servant existed between the Bank and the various persons employed in three types of canteens. They are not workmen of the Reserve Bank of India and they are not comparable employees employed in the officers lounge. Therefore, the demand for regularisation is unsustainable and they are not entitled to any relief. Shri A. Tulasidas filed OA 739/94 in the Hon'ble Central Administrative Tribunal, Hyderabad and the Hon'ble Tribunal dismissed the OA on 25.7.97. While dismissing the OA filed by the applicant, the Hon'ble Tribunal held that:

(a) *Although it is a fact that the applicant has been continuing in some capacity to work for the Respondents, and even if he has been asked to perform some of the clerical duties, it cannot be said that he had been on regular nerrick-rated casual service after 1983. To that extent he cannot possibly claim any relief under the provisions of a scheme for which he is not eligible.*

(b) *As regards, the two officials(viz., Shri B Appanna and M Srihari Rao with whom the applicant compared his case), they were regularized wholly in accordance with their status and eligibility as per the instructions and provisions of the Scheme. In any case, any right or wrong done in their case cannot by itself result in the creation of any right for the applicant who has to demonstrate his entitlement on the strength of his own eligibility in terms of the same scheme and this he has not succeeded in doing."*

Shri A Tulasidas thereafter submitted applications dated 01 Aug and 17 Sep 97 to this Headquarters which were duly examined by the Competent Authority and it was informed to him that he is neither entitled to any employment as unskilled labourer on regular basis nor casual basis. It is also submitted that the Non-public Fund Transport pool which was under the control of the Officer--in--Charge, Command Transport Pool, Visakhapatnam is presently placed under the control of the Commanding Officer, INS Satavahana. It is submitted that the non-Public Fund Transport Pool was wound up with effect from 15 Oct 97 due to paucity of funds-and-it is now functioning with 2 vehicles for very limited purpose. With the winding up of the above, the Services of Some of the employees employed in CNPFT including that of the present, applicant could not be continued due to lack of Work. Since the Non-public Fund Transport is only a local fund, no service rules are applicable and it has a right to appoint/terminate the services of any individual at any time and continue the services of a junior person considering the competency of the individual. It is submitted that the applicant had worked during the period from 13 Jan 92 to 30 Noy 93 with intermittent breaks as casual labourer and it is true that during his employment as casual labourer he was paid from the Government Funds. Thereafter he was not employed as casual labourer. However, the applicant got employment under i.e., Command Nonpublic public Fund Transport w.e.f. 26 Dec 83. Payment of wages during his employment in Non-public Transport pool was made out of Non-Public Fund only. The contention of the applicant that he was reappointed as casual USL in Command Non-Public Fund Transport is incorrect. There is no nexus between the appointment as casual labourer against Government Funds and appointment as USL in Non-Public Fund Transport since for the former appointment he was paid pay and allowances against government funds while for the latter it was paid from the Nonpublic Funds. It is submitted that the contention of the applicant that Non-Public Funds Transport is an Industry within the meaning of Section 2(j) of the I.D. Act is not accepted. The Command or Satavahana Non-Public Fund cannot be termed as a Industry within the meaning of Sec.2(j) of the Act since, it is not having any business, trade, undertaking, manufacturing etc.. Further, it is submitted that even for Industrial Establishments in defence Installation, only Sec. 3 of I.D.Act dealing with works committee are contained from rules 38 to 57 under Industrial Tribunal (Central) Rules 1957. It is submitted that the applicant has already raised these points vide OA 739/93 filed by him in the Hon'ble Central Administrative Tribunal and as stated by him the contentions of the applicant were not accepted by the tribunal. Even the tribunal held that although it is a fact that the applicant has been continuing in some capacity to work for the Respondents and even if he has been asked to perform some clerical duties it cannot be said that he had been on regular nerrick-rated casual service after 1983. It is submitted that with regard to the regularization regarding S/Sri B Appanna and M Srihari Rao, the Tribunal of Hyderabad held that the explanation given by the Respondents was satisfactory in as much as they were regularised wholly in accordance with their status and eligibility as per instructions and provisions of the scheme the Hon'ble Central Administrative Tribunal dismissed the OA filed by the present applicant. As such he cannot again contest all these points once again. It is submitted that the applicant has submitted two representations dated 1st August 97 and 17th September 97 which were considered by the competent authority and it was informed to him vide letter dated 18th November 97 that he was not entitled to any employment as USL either on regular or casual basis. Further, it is submitted that due to winding up of the Command Non Public Funds Transport it was intimated to all the staff that their services may be terminated at any time after 15th October 97. This was intimated to help the individuals to get some other employment and it is not a vindictive action as claimed by the applicant. The services of Sri K Suresh Kumar were retained as he was considered to be more competent and efficient in his job than the applicant. Further it is submitted that since it is only a non public fund the Respondents reserves the right to appoint or terminate the services of any individual get any time as these appointments being purely and casual and on "as required basis". Therefore, prayed to dismiss the claim petition.

5. In support of the averments of the claim statement Petitioner in his oral evidence has produced the witness WW1 whereas in the documentary evidence

he has produced documents Ex.W1 to Ex.W6. Whereas Respondent has examined witness MW1 in oral evidence and has not produced any documentary evidence.

6. Heard the argument of Learned Counsels for both the parties.

7. **On the basis of rival pleadings of both the parties following issues emerge for determination:-**

- I. Whether this tribunal has got jurisdiction to decide the dispute?
- II. Whether the action of Respondent management in terminating the services of the Petitioner vide letter dated 9th October 1997 with effect from 1st November 1997 is legal and justified?

- III. Whether the Petitioner is entitled for regularization in the service of the Respondent on the basis of averments made in the claim statement?
- IV. To what relief if any the Petitioner is entitled for?

Findings:-

8. **Issue No.I:-** In this context, the Learned Counsel for Respondent has submitted that this Tribunal does not have any jurisdiction to entertain the petition filed by the Petitioner against the termination order since the Respondent management establishment under which Petitioner had worked is not an industry as defined under section 2(j) of the I.D.Act, 1947. Thus, Industrial Disputes Act is not applicable to this case.

9. Further, it is contended that the Command Satavahana Non-Public Fund Transport cannot be termed as industry within the meaning of Section 2(j) of I.D.Act, 1947 since it does not have any business, trade, undertaking, manufacturing, etc.. Moreover, even for industrial establishments in defence installation, only Section 3 of I.D.Act, dealing with works committee is applicable and rules regarding works committee are contained from rules 38 to 57 under Industrial Tribunal (Central) Rules, 1957. Therefore, the petition filed by the Petitioner is not maintainable in the Tribunal.

10. On the other hand, Learned Counsel for Petitioner has submitted that Respondent cannot and should not raise the issue of jurisdiction again vide para 7 of his affidavit which has already been adjudicated by a competent court as above through its award dated 5.4.1999, the Respondent should have gone through the order dated 7.5.2015 of Government of India, Ministry of Labour, vide which the reference has been made to this Hon'ble Court according to which the Central Government Industrial Tribunal cum Labour Court shall proceed from the stage at which it was transferred to it and dispose of the same in accordance with law. The Respondent is not entitled to open an issue which has already been adjudicated by the Hon'ble Industrial Tribunal cum Labour Court, Visakhapatnam.

11. In view of the submissions made by the Learned Counsels for both the parties, perused the record. As per record the Command Non-Public Fund Transport comprises of motor vehicles which have been purchased out of regimental fund and command amenity fund maintained by the Headquarters Eastern Naval Command. The operation of the fund and the vehicles is entrusted by the command to one of the naval units in Visakhapatnam. Earlier the transport was operated by Indian Naval ship Circars but now it is operated by Indian Naval Ship Satavahana presumably as per order of Headquarters Eastern Naval Command. Control Center operates the Non-Public Fund Transport through one of the officers designated as Officer-in-Charge Non-Public Fund Transport. Besides central government contributions by way of regimental funds and command amenities funds realised through school bus passes, Home to duty transport of officers and staff, both service and civilian and also through hiring charges on transport are hired out for amenity purpose. The description of the activities as admitted by the Respondent management, clearly makes out that the transport system of the management is an industry by itself. The definition of industry as provided under section 2(j) of the ID act as amended by the Act 46/82 reads as under:-

“2(j):- “industry "means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft or industrial occupation or avocation of workmen.”

In the case of Management of Horticulture Department vs. Trilok Chand & Anr., dated 4.12.1999, 82(1999)DLT747, the Hon'ble Delhi High Court have held:-

9. Seven Judges bench of the Supreme Court in the case of [Bangalore Water Supply and Sewage Board Vs. Rajappa](#) laid down triple test for determining whether a particular establishment is "industry" or not. The triple test is where: (a) systematic activity; (b) organized by cooperation between employer and employee (the direct and substantial element is commercial); (c) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not merely spiritual or religious blunt inclusive of material things or services geared to celestial bliss i.e. making on a large scale of (prasad or food) prima facie, there is an industry in that enterprise.

10. The Apex Court further held that absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector. It also held that the true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. It further held that if the organisation is a trade or business, it does not cease to be one because of philanthropy animating the undertaking.

11. Consequently, the Court held that professions, clubs, educational institutions, cooperatives, research institutions, charitable projects and other kindred adventures, if they fulfill the triple test stated above, would fall within [Section 2](#) of the Act. Ofcourse, a restricted category of professions, clubs, cooperatives and even gurukulas and research labs, may qualify for exemption if in simple ventures substantially and going by the dominant nature criterion substantively, no employees are entertained but in minimal matters, marginal employees are hired without destroying the non-employee character of the unit. If in a pious or altruist mission many employ themselves, free or for small honorarium, such a lawyers volunteer- ing to run a free legal service clinic or doctors serving in their spare hours in a free medical center or aphanites working at the bidding of the

holiness, divinity or like personality and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship then the institution is not an industry, even if stray servants, manual or technical, are hired. Of course, following this principle, in many cases it has been held that particular establishments are not "industry". However, it depends on the facts and circumstances of each case and as far as present case is concerned no material is produced by the Petitioner before the Labour Court.

Thus, in view of the definition of industry as provided under Section 2(j) of I.D. Act, 1947 the Respondent management in the present case is plying the vehicles for the staff of the Respondent management. There is systematic activity organised by the cooperation employer, between employer, the Respondent management and employees, the workman who has been engaged for the production and distribution of services to calculate and satisfy the human wants and wishes. Therefore, the activity carried on by the Respondent management in which the Petitioner has been engaged as an employee satisfies the triple test laid down by the Constitutional Bench of Supreme Court India, in the case of [Bangalore Water Supply and Sewage Board Vs. Rajappa](#). However, Respondent has failed to put on record sufficient material as to how it was not an industry. Therefore, in view of law laid down by the Hon'ble Apex Court in [Bangalore Water Supply case \(supra\)](#), Respondent management is covered under the definition of industry as provided u/s 2(j) of ID Act, 1947. Thus, present petition filed by the Petitioner against his termination order from employment passed by Respondent is maintainable under the I.D. Act, 1947 and Tribunal has jurisdiction to adjudicate the matter under the Industrial Disputes Act, 1947.

This, Issue is decided against the Respondent and in favour of Petitioner.

12. **Issue No.II:-** Petitioner in his claim statement has alleged that he was initially appointed as USL in the office of Command Non-Public Fund Transport of Eastern Naval Command on 18.1.1982 against the sanction accorded by the Hqtrs. Eastern Naval Command letter dated 30.12.1981. He served in that capacity till 30.11.1983 against sanction renewed from time to time for a total period of 590 days as detailed in the enclosure one to this annexure. Further, Petitioner submitted that during this period, he was paid from defence services estimates and was treated as a central government employee as a civilian in defence service. He was given a break from 1.12.1983 to 25.12.1983 presumably for want of vacancies in government department. Further, Petitioner submits that he was reappointed as casual USL in Command Non-Public Transport under INS circars with effect from 26.12.1983 vide order dated 10.12.1993. Further, Petitioner alleges that he filed OA before Hon'ble Central Administrative Tribunal for seeking relief against ignoring his seniority and regularization into services but same was dismissed by the Tribunal with the observation as hereunder:-

"considering this background the Respondents ought to extend the benefit of any provision which might enable him to improve his service prospects under any scheme which may be evolved by the government in future."

13. In pursuance of the observation of Hon'ble Central Administrative Tribunal, the applicant submitted an application dated 17.9.1997, bringing out the injustice done to him and praying for his regularization. However, the Respondent informed him that his services would be terminated anytime after 15.10.97 which is clearly a vindictive action. Respondent management did not consider his application and terminated the Petitioner's services with effect from 1.11.97 while a junior Sri K Suresh Kumar was retained in service.

14. Petitioner in his rejoinder contended that the authorities were annoyed with him that he had filed a case against Respondent before Hon'ble CAT. So instead of implementing the Hon'ble Central Administrative Tribunal, Hyderabad recommendation for regularisation of services, Respondent terminated services of Petitioner with effect from 1.9.1997.

15. It is further submitted by the Petitioner that the transport pool of Respondent was not wound up as stated in para 8 of the reply statement, since, Respondent has retained the services of 9 persons as against a total of 18, that amounts not winding up of establishment but retrenchment in which case seniority should be given due weight as per the section 25F of the ID Act. It has also been alleged that instead of retaining the services of the applicant who was initially recruited on 18.1.1982 the Respondents retained the services of one Sri K Suresh Kumar who was recruited only in the year 1993 and was junior to the applicant by 11 years. It can not be justified to say that the junior was retained in service by Respondent on grounds of competency cannot be justified. Petitioner who had been rendering competent and satisfactory services for over 15 years could not have become incompetent overnight by any stretch of imagination. The act of the Respondent in retaining services of the junior superseding, is, act of favouritism. Further, it is submitted that in all the muster rolls as per instance, in the payroll for the month of January 97 the applicant was described as senior clerk and the said K Suresh Kumar was described as a clerk. Therefore, Petitioner being senior clerk should have been retained in preference of junior one.

16. On the other hand, Respondent has contended that Shri A Tulsidas had worked as casual labourer during the period between 18.1.82 to 30.11.83 with intermittent breaks at INS Circars. This employment as casual labourer was, as on required basis on daily wages. Payment of wages for this employment was made through government funds which were utilized only when there was an urgent and/or operational requirement. The applicant was not re-employed beyond 30.11.83. Thereafter, he was employed by the Officer-in-Charge, Command Non-Public Fund

Transport as a Non-Public Fund employee w.e.f. 26.12.83. Payment of wages on a honorarium basis to the applicant was also made from this Fund only. Except for the period from 18.1.82 to 30.11.83, the applicant was not under the employment of any Ministry under the Government of India and as such he is not entitled to regularisation against the schemes prescribed by the government.

In this connection the **Apex Court judgement (1996 SCC (L&S) 691) in relation to the Management of Reserve Bank of India Vs. Workmen** is relevant. In the aforesaid judgement, the Hon'ble Supreme Court held that in the case of Reserve Bank of India Canteen in the absence of any statutory or other legal obligation and in the absence of any right in the Bank to supervise and control the work or the details thereof in any manner regarding the canteen workers employed in the three types of canteen cannot be said that the relationship of master and servant existed between the Bank and the various persons employed in three types of canteens. They are not workmen of the Reserve Bank of India and they are not comparable employees employed in the officers lounge. Therefore, the demand for regularisation is unsustainable and they are not entitled to any relief.

17. Further, Respondent contended that the Non-public Fund Transport pool which was under the control of the Officer--in--Charge, Command Transport Pool, Visakhapatnam is presently placed under the control of the Commanding Officer, INS Satavahana. It is submitted that the non-Public Fund Transport Pool was wound up with effect from 15th October, 1997 due to paucity of funds, and it is now functioning with 2 vehicles for very limited purpose. With the winding up of the above, the services of some of the employees employed in CNPFT including that of the present, applicant could not be continued due to lack of Work. Since the Non-public Fund Transport is only a local fund, no service rules are applicable and it has the right to appoint/terminate the services of any individual at any time and continue the services of a junior person considering the competency of the individual. It is submitted that the applicant had worked during the period from 13.1.92 to 30.11.93 with intermittent breaks as casual labourer and it is true that during his employment as casual labourer he was paid from the Government Funds. Thereafter, he was not employed as casual labourer. However, the applicant got employment under i.e., Command Non- Public Fund Transport w.e.f. 26.12.83. Payment of wages during his employment in Non-public Transport pool was made out of Non-Public Fund only. The contention of the applicant that he was reappointed as casual USL in Command Non-Public Fund Transport is incorrect. There is no nexus between the appointment as casual labourer against Government Funds and appointment as USL in Non-Public Fund Transport since for the former appointment he was paid the wages and allowances against government funds while for the latter it was paid from the Non-public Funds.

18. Before delving into the claim of the Petitioner it would be apposite to go through the relevant provision contained under section under ID Act as well as the law laid down by the Hon'ble Apex Court:-

Section 25F in The Industrial Disputes Act, 1947

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25-FFF of the Act relates to closure of undertaking which envisages as hereunder:-

"25-FFF. Compensation to workman in case of closing down of undertaking (1) where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the workman had been retrenched;

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the compensation to be paid to the workman under clause (b) of Section 25-F shall not exceed his average pay for three months."

Section 25 – H: *"Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity [to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons."*

Thus, provision contained u/s. 25FFF provides for compensation to the Workman in case of closing down of the undertaking.

19. Petitioner witness WW1 in his chief examination statement has stated that he had worked as daily wage workman in INS Circar Command Transport Pool from 18.1.82 to 30.11.83. Later there was a break of 25 days. Thereafter, he was again appointed as M.T. cleaner with effect from 26.12.1983 in the same pool where he worked till 30.10.97 continuously and till 1983 he was paid wages from defence service estimates. Further, WW1 states that and from December, 1983 onwards he used to be paid wages from Command Non Public Transport Fund and his services used to be extracted in the transport pool office for cleaning buses in the morning, opening the doors of the CTO, dusting the furniture there, checking the oil in the vehicles, pouring water in radiators and also attending to clerical duties. The Commanding Transport Officer used to be in-charge of the entire transport working from 8:30 AM to 5:00 PM. Further, WW1 states that in the year 1995 the entire transport system manned by employees paid wages from Non Public Fund was transferred to INS Satavahana and it was given the name non-Public Fund Transport. There he used to work for attending the transport needs of the officers etc., and he was removed from service with effect from 1.11.97. WW1 states that management did not issue any prior notice of one month nor paid wages of one month in lieu of such notice. Moreover, they did not pay him any retrenchment compensation also. While terminating his services the management retained the services of his juniors namely Mr. K Suresh Kumar, and thus, his retrenchment is illegal. WW1 has exhibited the documents Ex.W1 which is the service particulars of the Workman, Ex.W2 is the charge list, Ex.W3 is the letter pertaining to winding up Command Non-Public Transport and as per Ex.W4 Sri K Suresh Kumar, Clerk was retained in service and he is junior to the Petitioner by 10 years. Ex.W5 is the letter for recommendation of regularization of services of Petitioner and Ex.W6 is the letter dated 15.11.93 moved by Petitioner seeking regularization of his services. WW1 in his cross examination states that he has not worked in any non-public fund transport organization and that his averment made in para one of the claim application to the effect that he had worked as unskilled in non-public fund transport section in INS Satavahana is not correct. Thus, in his cross examination the witness has given contradictory statements to his claim statement. Further, witness states that he worked up to 31.10.1997. In reply to a suggestion WW1 states that it is not correct to say that non-public transport pool was wound up with effect from 15.10.1997.

20. Petitioner in support of his claim has also filed documents. Ex.W3 is a copy of order of Commander, Command Logistics Officer for Flag Afsar Kaman-in-Chief dated 9.10.97. Whereby direction was issued for winding up of Command Non-Public Transport. Ex.W3 delineates that flag officer commanding-in-chief Eastern Naval Command, Naval Base, Visakhapatnam accorded approval for winding up of Command Non-Public Transport Fund as on 31.10.1997 and certain directions were issued in this respect mentioned at para (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), and (m) of letter regarding transportation.

Para (g), (h) and (j) reads out as follows:-

- (g) Four drivers and one fitter cum driver be retained out of CNPT staff for running the vehicles at para (f) above.
- (h) Selection of five personnel as in (g) above is to be carried out impartially by a Board of Officers nominated to CO, INS Satavahana
- (j) Services of remaining staff will be terminated with effect from 1st November 97. Those who are retrenched like this will be paid one month pay over and above their pay till 31st October 97.

21. Further, Ex.W4 goes to show that name of the staff are mentioned at Sl.Nos.1 to 14 and name of employees mentioned at serial Nos. 1,4, 6,7,8,9, 11,12 and 16 has been retained in service by the Respondent management and rest of the employees has been retrenched, including Petitioner.

22. In this context, Respondent witness MW1 in his chief affidavit has stated that Petitioner worked as casual labour during the period between 18.1.1982 to 30.11.1983 with intermittent breaks at INS Circar. The engagement as casual labourer was on, as required basis, on daily wages. The payment of wages for these casual labourers was made through government funds which were utilised only when there was an urgent and/or operational requirement. Further MW1 states that the applicant's engagement as casual labourer was terminated in November, 1983 as there was no more requirement. The applicant was not reengaged beyond 30.11.1983. Thereafter, the applicant was engaged by the Officer-in-charge, Command Non-Public Transport Fund as a non-public employee with effect from 26.12.1983. However, payment of wages on a honorarium basis to the applicant was also made from this fund only. Thus, except for the period from 18.1.1982 to 30.11.1983 the applicant was not under the employment of any Ministry under the Government of India and as such he is not entitled to regularisation against the schemes prescribed by the government. Petitioner has never challenged his termination order dated 30.11.1983 and later he joined the service as casual labour willingly in non-public transport. Thus, now he can not claim that he was in employment of Respondent regularly from 10.1.1982. As per letter dated 6.5.1994, Petitioner has given his willingness to work as USL on casual basis. Contents of letter are reproduced as hereunder:-

"3. If it is not feasible to offer him regular appointment, by counting service rendered, the individual is willing to serve as USL on continuous Casual basis. A declaration to this effect is enclosed herewith.

4. In view of the position explained it is requested that suitable action may be taken at the earliest in order to absorb the individual as USL on continuous casual basis."

"Willingness Certificate

I am willing to serve even as USL on continuous casual basis in any units of Headquarters, Eastern Naval Command, Visakhapatnam if the post is offered to me."

23. Further, MW1 states that the non-public fund transport pool which was under the control of the Officer-in-charge, Command Transport Pool Visakhapatnam is presently placed under the control of the Commanding Officer, INS Satavahana. The non-public fund transport pool was wound up with effect from 15th October 1997 due to paucity of funds. With the winding up of the above service, some of the employees employed in CNPFT including that of the present applicant could not be continued due to lack of work. Since the non-public fund transport is only a local fund, no service rules are applicable and it has a right to appoint/terminate the service of any individual at any time and continue the service of a junior person considering the competency of the individual. MW1 was cross examined by the counsel for Petitioner and in cross examination MW1 states that the workman Sri A. Tulsidas was working as a daily labour on daily wages. Further, MW1 states that it is false to say that as per Ex.W11 the Workman A Tulsidas was a government servant and it is false to say that due to gap of 25 days, Petitioner was not regularised. Further, MW1 states that it is true that Petitioner was working under the Respondent management from 18.1.1982 to 31.10.1997 as a casual labour. MW1 adds that he was working as a casual labour and partly as a cleaner in non-public transport fund. Further, MW1 states that it is false to say that at the time of termination of the Workman from service Respondent has not followed the provisions of Sec.25 F of I.D.Act, 1947. MW1 states that it is false to say that at the time of termination of Workman, even though Mr Suresh Kumar 10 years junior to Sri A. Tulsidas working on same footing as per Ex.W4 was working as clerk and Petitioner was terminated from service and Sri Suresh Kumar was retained in the service. Thus, from the statement of MW1 it manifest that the Petitioner had worked with the Respondent management as a daily wage labour in the non-public fund transport since 18.1.1982 to 31.10.1997 and services of the Petitioner has been retrenched by the Respondent for the want of work due to winding up of the undertaking non public fund transport as it manifest from document Ex.W3. Respondent has nowhere stated that before retrenchment of the Petitioner from service he was paid one month wages/compensation in accordance with the provision contained under section 25F of the ID Act.

Hon'ble Supreme Court in the case of **The Managing Director Haryana Seeds vs. Presiding Officer and another AIR 1997 Supreme Court 3086** has held:-

"The admitted position is that the Haryana Seeds Development Corporation Ltd. has been carrying on the business of distribution of the certified varieties of the crop seeds to the farmers during Rabi and Kharif sowing seasons. As a consequence, a number of employees including the salesman like the Respondents came to be appointed. It is also on record that due to heavy flood etc., a number of units including the seeds sales counter were closed. As a consequence, the services of the employees have been dispensed with. The Respondent have sought a reference under [Section 10\(1\)\(c\)](#) of the Industrial Disputes Act, 1947 [for short, the "Act"]. The Labour Court held that the dispensation of the services of the Respondents amounts to retrenchment within the meaning of [Section 25-F](#) of the Act. As a result without giving one month's notice or salary in lieu thereof, the retrenchment is bad in law. Accordingly, it passed the award which was affirmed by the High Court. Thus, appeals by special leave.

[Section 25-FFF](#) of the Act regulates the closure of the industry which envisages as under :-

"25-FFF. Compensation to workman is case of closing down of undertaking (1) where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of [Section 25-F](#), as if the workman had been retrenched;

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the compensation to be paid to the workman under clause (b) of [Section 25-F](#) shall not exceed his average pay for three months."

As a consequence of the closure of the industry, [Section 25-F](#) of the Act is not attracted and the rigour imposed thereunder stands excluded. That was the view taken by this Court. In other cases, that was also followed by another learned Single Judge of the High Court. In that view of the matter, the learned Single has committed grievous error of law in not admitting the writ petition."

Further, in the case of **Management of Hindustan Steel Limited vs. The Workmen and others dated 12th January 1973 in 1973 AIR 878** Hon'ble Supreme Court has held:-

"Both of these sections occur in Ch. V-A of the Act dealing with "Lay-off and Retrenchment" inserted in 1953. In enacting s. 25F the Legislature standardised the payment of compensation to workmen retrenched in the normal or ordinary sense in an existing or continuous industry by adopting a simple yard-stick of the length of service of the retrenched workmen doing away with the perplexing variety of factors for determining the appropriate relief in each case. In Hari Prasad Shiv Shankar Shukla v. A. D. Divekar(1) it was held that this section was not intended by the Legislature to be applicable to bona fide closure of business. This decision led to amendment of the Act by the Parliament. In 1957 S. 25FFF was inserted in order to give benefit of s. 25F to the retrenched workmen where an undertaking is closed down "for any reason whatsoever". We need not refer to the amendment of S. 25FF because that section does not directly concern us. According to sub-s.(2) of s. 25FFF it is quite clear that in case of closure of the categories of undertakings as mentioned therein, no workman employed in those undertakings can claim compensation under cl. (b) of s. 25F. The language of s. 25FFF(2) is plain and unambiguous. Indeed, the learned counsel for the Respondent also did not dispute that if it were to be held in this case that the undertaking had been closed down then cl. (b) of s. 25F would not be attracted and Shri Naidu would not be entitled to claim relief under that clause. According to Shri Madan Mohan, however, the present was not a case of closure of the undertaking. His submission was that only the work of the Housing Project at Ranchi had been completed. It was argued that unless the entire undertaking of the appellant was closed down not acceptable. The word undertaking as used in S. 25FFF seems to us to have been used in its ordinary sense connoting thereby any work, enterprise, project or business undertaking. It is not intended to cover the entire industry or business of the employer 'as was suggested on behalf of the Respondent. Even closure or stoppage of a part of the business or activities of the employer would seem in law to be covered by this sub-section. The question has indeed to, be decided on the facts of each case",...

In Workmen of the Indian Leaf Tobacco Development Co. Ltd. v. Management(1) closure of eight out of 21 depots of the company though not amounting to, closure of its entire business was considered, to amount to a closure within the contemplation of s. 25FFF. In Parry & Co. Ltd. v. P. C. Lal(2) it was observed that it was within the managerial discretion of an employer to organise and arrange his business in the manner he considered best and that if a bona fide scheme for such re-organisation results in surplusage of employees, no employer is expected to carry on the burden of such economic deadweight and retrenchment has to be accepted as inevitable, however unfortunate. The reasoning and ratio of these decisions support the appellant's argument."

In view of the law laid down by the Hon'ble Apex Court as discussed above, in the case of closing down of undertaking workman is entitled to notice and compensation as per provision of section 25F, as if the Workman has been retrenched. But Respondent has not adduced evidence to the effect that before termination of Petitioner one month wages or compensation was paid to him in accordance with the provision contained under section 25F. Therefore, for the want of compliance of provision contained under section 25 F, the retrenchment of the Petitioner, from service by Respondent is illegal.

24. Witness WW1 in his chief statement of affidavit has stated that management did not issue any prior notice of one month nor paid wages for one month in lieu of such notice. Above statement of WW1 in respect of prior notice and non-payment of one month wage has not been contradicted in cross examination. Now, it is undisputed that Respondent Management has not paid one month wages or compensation while terminating services of Petitioner.

25. Hence, through on going oral and documentary evidence on record, it is established that the Respondent undertaking was wound up with effect from 31.10.1997 vide Ex.W3 and retrenchment of the Petitioner Workman from service was done due to closure of the undertaking of the Respondent management and in this case provision of section 25 FFF of the ID Act would be applicable.

Hon'ble Supreme Court in the case of **Avon Services (Production Agencies) vs. Industrial Tribunal, Haryana dated 6th October 1978, 1979 AIR SC 170**, has explained the distinction between the provision contained regarding retrenchment under section 25 F and 25 FFF of the ID Act. Hon'ble Supreme Court has held:-

"A comparison of the language employed in s. 25F and s. 25F (1) would bring about in bold relief the difference between the phraseology employed by the Legislature and its impact on the resultant rights of the workmen. Under s. 25F a workman employed in an industrial undertaking cannot be retrenched by the employer until the payment is made as provided in clauses (a) and (b). Section 25FFF (1) provides that the workman shall be entitled to notice and compensation in accordance with the provisions of s. 25F if the undertaking is closed for any reason, as if the workman has been retrenched. Taking note of this difference in language, this Court in State of Bombay & Ors. v. The Hospital Mazdoor Sabha & Ors.,(1) held that the failure to comply with the provision prescribing conditions precedent for valid retrenchment in c. 25F renders the order of retrenchment invalid and inoperative. Expounding this position, a Constitution Bench of this Court in M/s. Hatisingh Mfg. Co. Ltd. & Anr. v. Union of India & Ors.,(2) held that the Legislature has not sought to place closure of an undertaking on the same footing as retrenchment under s. 25F. By s. 25F a prohibition against retrenchment until the conditions prescribed by that section are fulfilled, is imposed; by s. 25FFF (1)

termination of employment on closure of the undertaking without payment of compensation and without either serving notice or paying wages in lieu of notice is not prohibited. Payment of compensation and payment of wages for the period of notice are not, therefore, conditions precedent to closure.

As against this, reference was made to Management of Hindustan Steel Ltd. v. The Workmen & Ors., (2) wherein the management contended that it is a case of closure and the workmen contended that the termination was on account of retrenchment. The entire decision turns on the facts of the case. Hindustan Steel Ltd. had set up what was described as Ranchi Housing Project and this Project was completed in 1966. After completion of the residuary work, the services of certain employees were terminated. This termination was questioned alleging that it was a case of retrenchment and as the condition precedent was not complied with, the retrenchment was invalid. The employer contended that it is a case of closure and payment of compensation was not a condition precedent and did not invalidate the termination of service. This Court held that the word 'undertaking' as used in s. 25FFF appears to have been used in its ordinary sense connoting thereby any work, enterprise, project or business undertaking. It is not intended to cover the entire industry or business of the employer. Even closure or stoppage of a part of the business or activities of the employer would seem in law to be covered by this sub-section. This question has to be decided on the facts of each case. Examining the facts of the case, this Court came to the conclusion that it was a case of closure."

Thus, in view of the decision of Hon'ble Apex Court as discussed above, the condition precedent for retrenchment as mentioned above under section 25 F of the I.D. Act, 1947 is not applicable to the case covered under section 25 FFF of the I.D. Act, 1947. In the matter at hand, services of Petitioner has been retrenched under section 25 FFF. Therefore, condition of prior notice and notice pay or compensation prior to retrenchment is not applicable.

26. Further, the Petitioner witness WW1 has stated that while terminating his services the management has retained the services of his junior Sri K Suresh Kumar which is illegal in view of the provision contained under section 25 G of the I.D. Act, 1947.

Section 25 G reads out as here under:-

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

In this context, decision of Hon'ble Supreme Court in the case of **M/s. Om Oil & Oil Seeds Exchange Ltd., vs. Their Workmen**, decision dated 28.3.1966, 1966 AIR 1657, is relevant wherein a three Judge Bench of Hon'ble Supreme Court has held:-

"The question then is whether in departing from the rule, the management had acted mala fide, or that its action amounted to an unfair labour practice. The Tribunal has to determine in each case whether the management has in ordering retrenchment acted fairly and properly and not with any ulterior motive: it cannot assume from mere departure from the rule that the management was actuated by improper motives or that the management had acted in a manner amounting to an unfair labour practice. Nor has the Tribunal authority to sit in appeal over the decision of the management if for valid and justifiable reasons the management has departed from the rule that the senior employees may be retrenched before his junior in employment.

The rule of "first come, last go" is intended to secure an equitable treatment to the employees when, having regard to the exigencies of the business, it is necessary to retrench some employees. But in the application of the rule the interests of the business cannot be overlooked. The rule has to be applied where other things are equal. The management of the business must act fairly to the employees, where however the management bona fide retains staff possessing special aptitude in the interests of the business, it cannot be assumed to have acted unfairly merely because the rule "first come, last go" is not observed. If retention of a clerical employee is regarded as necessary by the management in the interests of the business, that opinion cannot be discarded merely on the ground that the clerk concerned is not the seniormost. There is nothing on the record to show that there was, among the senior employees, a clerk possessing the aptitude which Jagdish Pershad possessed. Kidar Nath Thakural was doing "typing work" and he was retained because he was the only typist with the Company. Our attention has not been invited to any evidence that there were other typists who were senior to him and they had been retrenched. A typist is undoubtedly a clerk in a business concern but that does not mean that every clerk, unless specially trained, can become a competent typist. Om Prakash Juneja was retained because he was looking after the records of the Company and was "fully conversant as to where different type of records" were "lying", and that this employee was doing the work satisfactorily. A record-keeper's work in a business cannot be performed efficiently without special training or long experience. It would be difficult to hold that in retrenching employees, if the management retains an efficient record-keeper in preference to a senior clerk who has no training or experience in record-keeping, the management acts mala fide or improperly, or perpetrates an unfair labour practice.

In the present case the four clerks retained had, beside ex-perience, special skill and aptitude in the particular branch of the business of the appellant they were attending to, and the management had retained them because of that skill or aptitude. The Labour Court inferred mala fides merely because the management departed from the rule "first come, last go". Whether the management in departing from the rule has acted mala fide, must depend upon the circumstances of the case : it cannot be inferred merely from departure from the rule."

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the employer can depart from provision contained u/s.25G of I.D.Act, 1947 and may retain the services of junior employee assigning the reason for doing so. Now, we proceed to examine whether the action of Respondent of retrenchment of the Petitioner Workman while retaining the services of junior clerk Sri K Suresh Kumar is justified.

27. In this context, Ex.W3 goes to show that vide order dated 9.10.1997 the undertaking of the Respondent management was closed. At para (j) of Ex.W3 it is specifically mentioned that services of remaining staff will be terminated with effect from 1.11.1997. Those who are retrenched like this will be paid one month pay over and above their pay till 31.10.1997. Further, at para (h) of Ex.W3 it is mentioned that selection of five personnel as in (g) above is to be carried out impartially by Board of Officers nominated by CO, INS Satavahana and at para (g) it is mentioned that four drivers and one fitter cum driver be retained out of CNPT staff for running the vehicles at para (f) above. Ex.W3 pertains to orders of winding up of Respondent undertaking of non-public transport and there is no mention of retaining any staff of clerical cadre. However, Ex.W4/1 order dated 28.10.1996 containing proposal for revision of salary of Command NPT Fund Staff. Ex.W4/2 is the enclosure to INS Satavahana letter dated 28.10.1996. This document contains list of number of workmen engaged. Petitioner submits that services of the workmen mentioned at serial No.2, 3, 5, 10, 13, 14, 15, 17 and 18, total 8 workmen has been retrenched. Whereas workmen named at serial No.1-R. Shankar Rao -fitter, No.4. B. Reddy- driver, No.6 G. Krishna Rao-driver, No.7 T Suribabu-driver, No.8 - K Suresh Kumar-clerk, No.9- Sri T. Viswesara Rao- Driver, No.11 Ch. Suryanarayana-driver, No.12 M. Sampath Rao-driver and No.16- A Viswanatham-cleaner have been retained by Respondent in service. Undisputedly Sri K Suresh Kumar, clerk who has been retained by the Respondent for the work is junior to the Petitioner Sri A Tulsidas in terms of date of appointment and length of the service. However, the Respondent in his counter has furnished explanation and reasons for winding up of undertaking and retaining Sri K Suresh Kumar as clerk in employment on closure of the undertaking. As per Ex.W3 non-public fund transport was closed with effect from 15th October 1997 due to paucity of funds and it is now functioning with two vehicles for very limited purpose. With the closure of said undertaking some of the employees including Petitioner could not be continued due to lack of work. Since the non-public fund transport is only a local fund, no service rules are applicable and Respondent has a right to appoint /terminate the services of any individual at anytime and continue the services of a junior person considering the competency of the individual. Thus, the Respondent has assigned reasons for retaining Sri K. Suresh Kumar a junior in the cadre of clerk and Petitioner along with the other Workmen has been retrenched due to lack of work. Sri K Suresh Kumar has been retained by the Respondent management for doing the work in preference to Petitioner in view of competency in work. However, MW1 was not cross examined by Petitioner on the point of competency of Sri K. Suresh Kumar, hence, this fact remained uncontraverted. Therefore, in view of fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, the plea of the Petitioner that he has been retrenched in contravention of the provision of section 25G of the I.D. Act, 1947 is not tenable.

In the case of **Regional Manager, SBI vs Rakesh Kumar Tewari** dated 3.1.2006, AIR 2006 Supreme Court 839, Hon'ble Supreme Court has held:-

"Section 25G provides for the procedure for retrenchment of a workman. The Respondents have correctly submitted that the provisions of Sections 25G and 25H of the Act do not require that the workman should have been in continuous employment within the meaning of Section 25B before he could said to have been retrenched. The decision in Central Bank of India v. S. Satyam (1996) 5 SCC 419 is clear authority on the issue. We see no reason to take a contrary view. Section 25G requires the employer to "ordinarily retrench the workman who was the last person to be employed in a particular category of workman unless for reasons to be recorded the employer retrenches any other workman". This "last come first go", rule predicates. 1) that the workman retrenched belongs to a particular category; 2) that there was no agreement to the contrary; 3) that the employer had not recorded any reasons for not following the principle. These are all questions of fact in respect of which evidence would have to be led, the onus to prove the first requirement being on the workman and the second and third requirements on the employer. Necessarily a fair opportunity of leading such evidence must be available to both parties. This would in turn entail laying of a foundation for the case in the pleadings. If the plea is not put forward such an opportunity is denied, quite apart from the principle that no amount of evidence can be looked into unless such a plea is raised. [See Siddik Mahomed Shah vs. Mt. Saran AIR 1930 PC 57 (1); Bondar Singh & Or. Vs. Nihal Singh and Ors. (2003) 4 SCC 161].

In *J.K.Iron and Steel Company Ltd. vs. The Iron and Steel Mazdoor Union Kanpur* (1955) 2 SCR 1315, the court noted that even though industrial tribunals are not bound by all technicalities of civil courts:

"they must nevertheless follow the same general pattern. Now the only point of requiring pleadings and issues is to ascertain the real dispute between the parties, to narrow the area of conflict and to see just where the two sides differ. It is not open to the Tribunals to fly off at a tangent and disregarding the pleadings, to reach any conclusions that they think are just and proper".

In the first appeal, the Respondent had raised no allegation of violation of Section 25G in his statement of claim before the Industrial Tribunal. His only case was that Section 25H of the Act had been violated. Section 25H unlike Section 25G deals with a situation where the retrenchment is assumed to have been validly made. In the circumstances, if the employer wishes to re employ any employee, he must offer to employ retrenched workman first and give them preference over others. The two sections viz 25G and 25H therefore operate in different fields and deal with two contradictory fact situations. The Tribunal ignored the fact that there was no pleading by the Respondent in support of an alleged violation of Section 25G. Indeed the order of reference by the Central Government did not also refer to Section 25G but only to Section 25H. In the circumstances it was not open to the Tribunal to "go off on a tangent"

and conclude that the termination of service of the Respondent was invalid because of any violation of Section 25G by the appellant."

On going the evidence on record, I am constrained to conclude that the Petitioner has failed to plead and prove that while terminating the services of Petitioner management is departing from rule enumerated under section 25G has acted malafide or that its action amounts to unfair labour practice. Respondent management has departed from principle contained under section 25G for a justifiable and valid reason of competency of junior clerk Sri K Suresh Kumar. However, as regard plea of non-payment of compensation and payment of one month wages in view of principle laid down by Hon'ble Apex Court it is not condition precedent to case of retrenchment in case of closure in view of law laid down by Hon'ble Apex Court in case of **Avon Services (Production Agencies) vs. Industrial Tribunal, Haryana**.

Therefore, issue is decided accordingly against the Petitioner and in favour of Respondent.

28. **Issue No. III:** In this context, Respondent has contended that claim of Petitioner for regularization in the service of Respondent, is not maintainable because Petitioner Sri A. Tulsidas had filed OA No. 739/94 in the Hon'ble Central Administrative Tribunal, Hyderabad and Hon'ble Tribunal dismissed the OA filed by Petitioner by order dated 25.7.1997. Hon'ble Central Administrative Tribunal, Hyderabad in that OA No.739 /94 has decided the matter on merit that Petitioner applicant is not eligible for regularization. Therefore, Petitioner raising the same plea of his regularization again before the Hon'ble Industrial Tribunal in his petition is barred by principle of res judi cata. Hon'ble Central Administrative Tribunal, Hyderabad vide order dated 25.7.1997 in the OA No.739 of 94 has already rejected the claim of Petitioner for regularization as he was not eligible for regularization in the employment. Therefore, the claim of Petitioner for regularization is barred by res judi cata.

29. Perused the record. Petitioner in his claim petition has averred that he filled OA No.739 of 94 in the Hon'ble Central Administrative Tribunal, Hyderabad against the Respondent for ignoring his seniority and claiming regularisation in services. Hon'ble Central Administrative Tribunal in para of 5 and 6 of its order has observed is being reproduced verbatim as hereunder:-

"having stated this, I also consider it necessary to add that the applicant had indeed been rendering continuous service in various units of the Navy no matter in which capacity of status. The very fact that he had been asked to perform clerical duty and which he continues to do even at present indicates that his services were apparently found useful and efficient. Considering this background the Respondents are to extend the benefit of any provision which might enable him to improve his service prospects under any scheme which may be evolved by the government in future."

30. Perusal of the order of Hon'ble Central Administrative Tribunal, Hyderabad goes to reveal that the Petitioner had filed OA 739 of 94 for claiming regularization in the services of the Respondent against the existing vacancies and Hon'ble Tribunal vide its order dated 25.7.1997 has observed as hereunder:-

"6. It is evident that the applicant as well as the two private Respondents named in the OA were alike recruited and deployed in a manner similar to one another in vacancies of unskilled labourers and were later utilised similarly in non public fund activity. However, the difference between applicant and the other two is that whereas the former worked for certain period between January 1982 to November 1983 only, the other two officials worked as casual labourers from 1982 through 1986. The Board of officers which scrutinised the cases and claims of all casual labourers in August 1991, was guided solely by the basic eligibility conditions, like number of days of engagement and the precise period of such engagement. The position was that the applicant, not being in service in 1985-by then he had been working in non-public fund activities for the preceding 2 years-was not eligible to be considered. Indeed his name never went before the board of officers for scrutiny while this was so in the case of the applicant Mr Srihari Rao and Mr Appanna were duly considered on the ground that they were employed as nerrick- rated unskilled casual labourers in 1985, the year in which the

basic procedures for such regularisation were laid down by the Ministry and although the actual scrutiny of cases was done only in 1991, the scheme and instructions had their starting-point in 1983 onwards.

7. Thus, although it is a fact that the applicant has been continuing in some capacity to work for the Respondents and even if he has been asked to perform some of the clerical duties, he cannot be said that he had been on regular nerrick-rated casual service after 1983. To that extent he cannot possibly claim any relief under the provisions of a scheme for which he is not eligible. As regards the two officials referred to above, I find the explanation given by the Respondents satisfactory in as much as they were regularised wholly in accordance with their status and eligibility as per instructions and provisions of the scheme. In any case, any right or wrong done in their case cannot buy itself result in the creation of any right for the applicant who has to demonstrate his entitlement on the strength of his own eligibility in terms of the same scheme. And this he has not succeeded in doing.

Thus, from the above order of Hon'ble Central Administrative Tribunal it is clear that the Petitioner was found not eligible for regularization in the services of Respondent and his petition was dismissed. Thus, issue of regularization of the Petitioner in the services of the Respondent management has already been heard and decided by the competent Hon'ble Central Administrative Tribunal on merit after hearing both the parties and said order of Hon'ble Central Administrative Tribunal operates as res judi cata against the Petitioner as per provision contained under section 11 of Code of Civil Procedure.

Section 11 of the Code of Civil Procedure provides enumerate principle of Res judi cata as reproduced hereunder:-

No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I .-The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II .-For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III .-The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.-Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.-Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI .-Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Explanation VII .-The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII .-An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised."

Thus, in view of provision contained under Sec.11 of Code of Civil Procedure, no Court shall try any suit or issue in which the matter directly and substantially in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court. In the present case the issue of regularization of the Petitioner has already been heard and decided on merit by the Hon'ble Central Government Administrative Tribunal in the OA No.739 of 94 vide its order dated 25.7.1997 therein same parties were litigants under same title. Therefore, claim of Petitioner, reagitating the same issue of regularization in the present petition which has been decided by competent court in O.A. No.739 of 1994 vide order dated 25.7.1997 is barred by principle of res judi cata, hence, not maintainable.

Hon'ble Supreme Court in the case of **Workmen of the Strawboard vs. M/s.Straw Board Manufacturing Co. Ltd., AIR 1974 SC 1132** has held:-

"25. It is now well established that, although the entire Civil Procedure Code is not applicable to industrial adjudication, the principles of res judicata laid down under section 11 of the Code of Civil Procedure, however, are applicable, wherever possible, for very good reasons. This is so since multiplicity of litigation and agitation and re-agitation of the same dispute at issue between the same employer and his employees will not be

conducive to industrial peace which is the principal object of all labour legislation bearing on industrial adjudication. But whether a matter in dispute in a subsequent case had earlier been directly and substantially in issue between the same parties and the same had been heard and finally decided by the Tribunal will be of pertinent consideration and will have to be determined before holding in a particular case that the principles of res judicata are attracted."

Thus, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above claim of Petitioner for regularization in the services of Respondent raised the present petition is barred by principle of res judicata.

This, Issue is decided against the Petitioner and in favour of the Respondent.

31. **Issue No.IV:-** In view of the finding given at Issue Nos. I, II and III the Petitioner Sri A. Tulsidas has been terminated from service by the Respondent for the closure of undertaking, hence the petitioner's case is covered under section 25FFF of the I.D. Act, 1947. Therefore, as per provision contained under Section 25FFF, Petitioner is entitled for compensation in accordance with the provision of section 25 F(b) as if the Workman has been retrenched from service.

Therefore this issue is decided accordingly.

AWARD

In view of the fore gone discussion and finding given at Issues No.I, II & IV, I am of the considered view that the action of the Respondent Command Non-Public Fund Transport, INS Satavahana, Visakhapatnam in terminating the services of the Petitioner Sri Allam Tulsidas is held legal and justified. However, Petitioner is entitled for compensation in view of the provision contained u/s.25FFF of I.D. Act, 1947 as per contained Section 25F(b) of I.D. Act, 1947.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 29th day of September, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

WW1: Sri A. Tulasidas

Witnesses examined for the
Respondent

MW1: Sri Lt Cdr TK Sahoo

Documents marked for the Petitioner

Ex.W1: Photostat copy of service particulars of workman

Ex.W2: Photostat copy of charge list

Ex.W3: Photostat copy of Ir. reg. winding up of command non-public transport dt.9.10.97

Ex.W4/1: Photostat copy of Ir. dt.28.10.96 reg. proposal for revision of salary of command NPT staff

Ex.W4/2: Photostat copy of Encl. to INS Satavahana Ir.No.436/66/14 dt.28.10.96

Ex.W5: Photostat copy of Ir. for regularization of Petitioner's services dt.17.9.97

Ex.W6: Photostat copy of Ir. for regularization of Petitioner's services dt.15.11.93

Ex.W7: Photostat copy of Ir. dt.18.10.94 reg. transfer of CNPFT to INS Satavahana

Ex.W8: Photostat copy of hiring of transports-files list 1982-94

Ex.W9: Photostat copy of Ir. forwarding muster roll of Petitioner dt.30/31.12.94 to INS Satavahana

Ex.W10: Photostat copy of Ir. forwarding of hiring of transport bills for the m/o Nov'94 dt.23.12.94

Ex.W11: Photostat copy of reg. sanctions of Respondent dt.26.12.83

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 41/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी-एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No. 41/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025.

[No. L-22013/01/2025– IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 41/2017

Present: SUSHIL KUMAR-II, PRESIDING OFFICER

Date: 29-10-2025

Smt. A. Karpagam,

W/o Anandakumar,

No.11/4, Kothandaraman Street,

Old Washermenpet,

Chennai – 600 021

:

1st Party/Petitioner

AND

The Management of the Food Corporation of India

(South Zone) Employees Co-operative Society Ltd,

New No.40, Old No.133, 2nd Floor,

Vepery High Road, Periamet,

Chennai-600 003.

:

2nd Party / Respondent

Award

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 41/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.41/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1971.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 36/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी-एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No. 36/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025.

[No. L-22013/01/2025 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT
CHENNAI
ID No. 36/2017**

Present: SUSHIL KUMAR-II, PRESIDING OFFICER

Date: 29-10-2025

Smt. M. Reena,

W/o S. Janakiraman,

No.84-B, Kalayanapudam Main Road,

Vyasarpadi,

Chennai-600 039.

:

1st Party/Petitioner

AND

The Management of the Food Corporation of India

(South Zone) Employees Co-operative Society Ltd,

New No.40, Old No.133, 2nd Floor,

Vepery High Road, Periamet,

Chennai-600 003.

:

2nd Party / Respondent

AWARD

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 36/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.36/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 37/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No. 37/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025

[No. L-22013/01/2025 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT****CHENNAI****ID No. 37/2017****Present: SUSHIL KUMAR-II, PRESIDING OFFICER****Date: 29-10-2025**

Smt. K. Vijayachandrika,
W/o V.Anandha Amirtharaj,
No.48/36, First Street, Thiruvalluvar Nagar,
Korrukkupet, Chennai – 600 021. : 1st Party/Petitioner

AND

The Management of the Food Corporation of India
(South Zone) Employees Co-operative Society Ltd,
New No.40, Old No.133, 2nd Floor,
Vepery High Road, Periamet,
Chennai-600 003. : 2nd Party / Respondent

AWARD

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 37/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.37/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn. An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 38/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No. 38/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025

[No. L-22013/01/2025 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 38/2017

Present: SUSHIL KUMAR-II, PRESIDING OFFICER

Date: 29-10-2025

Smt. N.S. Subbulakshmi,

W/o Pathmanaban,

No.121/93, Perambur High Road,

Perambur, Chennai – 600 011 : 1st Party/Petitioner

AND

The Management of the Food Corporation of India

(South Zone) Employees Co-operative Society Ltd,

New No.40, Old No.133, 2nd Floor,

Vepery High Road, Periamet,

Chennai-600 003. : 2nd Party / Respondent

AWARD

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 38/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.38/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 39/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आई आर .(सी.एम- II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No. 39/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025.

[No. L-22013/01/2025 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT****CHENNAI****ID No. 39/2017****Present: SUSHIL KUMAR-II, PRESIDING OFFICER****Date: 29-10-2025**

Smt. R. Premalatha,

W/o Sivakumar,

No.13, Vijayalakshmi Avenue,

Poonamallee,

Chennai – 600 056

: 1st Party/Petitioner**AND**

The Management of the Food Corporation of India

(South Zone) Employees Co-operative Society Ltd,

New No.40, Old No.133, 2nd Floor,

Vepery High Road, Periamet,

Chennai-600 003.

: 2nd Party / Respondent**AWARD**

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 39/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.39/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn. An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 40/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/11/2025 को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No.40/2017) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen, received by the Central Government on 04/11/2025.

[No. L-22013/01/2025 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 40/2017

Present: SUSHIL KUMAR-II, PRESIDING OFFICER

Date: 29-10-2025

Smt. V. Ponni,

W/o Viswapathy,

No.146, Bajanai Koil Street,

Thennai Big Village, Thirumalpur Post,

Arokonam, Vellore District

:

1st Party/Petitioner

AND

The Management of the Food Corporation of India

(South Zone) Employees Co-operative Society Ltd,

New No.40, Old No.133, 2nd Floor,

Vepey High Road, Periamet,

Chennai-600 003.

:

2nd Party / Respondent

Award

Whereas an Industrial Dispute between the workman and the management has been filed before this Tribunal by the First Party directly under Section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 for adjudication, and the same has been taken on the file of this Tribunal as ID 40/2017, due notices were issued to both parties for their appearance.

2. The ID case is called out. The Respondent is not present. When the matter was taken up for hearing, the Learned Counsel for the Petitioner filed a memo stating that the Petitioner has decided to withdraw the case since she has settled the case directly with the Respondent by entering into a settlement under Section 18(1) of the Industrial Dispute Act, 1947 on 17.04.2025. The Counsel, therefore, prays that this Hon'ble Tribunal may be pleased to dismiss the above Industrial Dispute being I.D. No.40/2017 as settled and withdrawn.

3. In view of the above reasons, Industrial Dispute filed by the Petitioner is dismissed as withdrawn.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबद्ध नियोजको। और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल केपंचाट(एलसी/आर-16/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/11/2025 को प्राप्त हुआ था।

[सं. एल-22012/133/2008-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/R/16/2009**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen, received by the Central Government on **03/11/2025**

[No. L-22012/133/2008 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

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

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

REFERENCE CASE NO. 16 OF 2009

PARTIES: Bistu Das and 11 Others
Vs.
Management of Bhojudih Coal Washery, BCCL

REPRESENTATIVES:

For the Union/Workmen: None.
For the Management of BCCL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal
STATE: West Bengal.
Dated: 24.09.2025

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/133/2008-IR(CM-II)** dated 31.03.2009 has been pleased to refer the following dispute between the employer, that is the Management of Bhojudih Coal Washery of Bharat Coking Coal Limited and their workmen for adjudication by this Tribunal.

SCHEDULE

“ Whether the demand of Rashtriya Colliery Mazdoor Sangh for regularization of Shri Bistu Das and 11 other contract labour w.e.f. July 1993 with the management of Bhojudih Coal Washery of M/s. B.C.C.Ltd. is legal and justified? To what relief the claimants are entitled for? ”

1. On receiving Order **No. L-22012/133/2008-IR(CM-II)** dated 31.03.2009 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 13.04.2009 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. President, Rashtriya Colliery Mazdoor Sangh, Dhanbad filed written statement on behalf of the 12 aggrieved workmen on 20.05.2009. Fact of the case in brief as disclosed in the written statement is that Bistu Das and eleven others namely, Karmu Mahato, Nitai Mahato, Balaram Mahato, Durga Charan Mahato, Gandhari Mahato, Nitai Mahato, Mohan Mahato, Bhiswa Mahato, Muruli Mahato, Kalipada Mahato and Adhir Gorain are working at Bhojudih Coal Washery under Bharat Coking Coal Limited (hereinafter referred to as BCCL) since July, 1993 and were engaged in the work for cleaning and maintenance of the Marshalling Yard of Bhojudih Coal Washery which was previously performed by the Railways. The management of the Washery bore the expenditure incurred for cleaning and maintenance of Marshalling Yard since inception of Bhojudih Coal Washery. After the Railways discontinued the cleaning and maintenance work, management took up the job of cleaning and maintenance of Marshalling Yard through the aforementioned workmen under its direct supervision and control since July, 1993. The workmen were engaged in the cleaning and maintenance work, performed their work on regular basis and continuously as the job is of permanent nature. Further case of the union is that the concerned workmen are rendering service for several years in uninterrupted manner and their job is an integral part of Coal Washery's operation which is engaged with the production and dispatch of washery products. Though the workmen are employees of the management, the management of Bhojudih Coal Washery have been paying wages to the workmen through contractors, far below the permissible rate provided under National Coal Wage Agreement (hereinafter referred to as NCWA) and Coal Mines Provident Fund (hereinafter referred to as CMPF) contributions are deducted from the wages of the employees and they have CMPF Account Numbers. According to the union the engagement of workmen through contractors are merely for the purpose of paper arrangement which is done by preparing work-orders in the name of contractors, Attendance Register, Payment Sheets, etc. The apparent engagement of the workmen through contractors is actually sham and with the object to camouflage the fact that the workmen are actually under the supervision and control of the principal employer i.e., the management of Bhojudih Coal Washery. In the instant case under reference the union has prayed for regularization of the workmen under the management of Bhojudih Coal Washery w.e.f. July, 1993 and for payment of all pecuniary benefits / entitlement and back wages.

3. Management filed their written statement on 14.08.2012 denying the material assertions and claims made by the union. The facts disclosed in the written statement is that there is no employer - employee relationship between the management and the concerned workmen and the claim of the union that the concerned workmen are entitled to be regularized as permanent employees is not legally tenable. According to the management the persons named in the Order of Reference were never engaged by the management and they were engaged by the contractors to execute the work-orders issued by the management. The concerned workmen received their wages and all benefits from the contractors and their attendance used to be maintained by the contractors. The management denied having any obligation towards the contractual workmen and urged that the management is justified in not regularizing the concerned workmen and they are not entitled to any relief.

4. Union filed a rejoinder on 01.01.2013. It is claimed by the union that the workmen at Bhojudih Coal Washery are under direct control and supervision of the management of BCCL and that they are performing their job for several years which would indicate that the work performed by the workmen is permanent in nature and only to avoid regularization of the workmen as employees of BCCL the management has engaged contractors to camouflage the relationship.

5. In the present case Mr. Dipak Kumar Majee, Secretary of Rashtriya Colliery Mazdoor Sangh, Bhojudih Unit has adduced evidence on behalf of the workmen. He filed an affidavit-in-chief in support of the claim of the union. In his affidavit-in-chief the witness stated that the referred workers namely, Bistu Das and eleven others are performing the job at Bhojudih Coal Washery since 1993 and their work is of permanent and perennial nature. The workmen performed their work under the supervision and control of management of Bhojudih Coal Washery on regular basis and sometimes even on Sundays and holidays on the instruction of management. The witness further stated that their job is of permanent nature and their contribution towards CMPF is deducted from their wages. The witness prayed for regularization of the workmen for their long and continuous service rendered for cleaning and maintenance of Marshalling Yard and Railway Tracks of Bhojudih Coal Washery.

6. On cross-examination it transpires that the concerned workmen are members of union namely, Rashtriya Colliery Mazdoor Sangh, Bhojudih Unit. During his cross-examination on 24.08.2016 the witness stated that Karmu Mahato has expired and other workmen are alive. From the copy of Death Certificate in the record it appears that Bishwa Mahato, another employee has expired on 13.02.2014. It may be presumed that the rest of the employees are alive and still working. No evidence has been adduced by the management to the contrary. Initially, the case was being conducted by Mr. N. Ganguly, learned advocate, who appeared for the union. Subsequently, the union went unrepresented from 26.08.2024. Management adduced no evidence in this case, though Mr. P. K. Das, learned advocate for the management participated on all dates.

7. Advancing his argument, learned advocate for the management of Bhojudih Coal Washery submitted that the workmen did not adduce any evidence to establish their relationship with the management of Bhojudih Coal Washery, as their employer. Therefore, by no stretch of imagination it can be held that there was an employer-employee relationship between the respondent company and the 12 workmen. It is further argued that the union has failed to prove their case and did not produce any document to prove the period for which the workmen rendered continuous

service at Bhojudih Coal Washery. Mr. P. K. Das argued that the workmen have participated periodically for cleaning and maintenance of Marshalling Yard and Railway Tracks and they had worked under the contractor firms to whom the maintenance work was assigned. It is argued that there was no supervision or control of the management of BCCL over the 12 workmen, as such the prayer of the union for regularization of the workmen is not tenable and they are not entitled to any relief.

8. No argument has been advanced on behalf of the union after the case was fixed up on 05.03.2025 and thereafter 11.03.2025 for hearing of argument.

9. Having considered the pleadings of the parties, evidence on record and argument advanced by Mr. Das, learned advocate for the management of BCCL, I find that the management of Bhojudih Coal Washery has admitted that the enlisted workmen performed work at Bhojudih Coal Washery and were engaged through the contractor. In respect of the claim in the written statement that all the 12 workmen performed cleaning and maintenance of the Marshalling Yard and Railway Tracks at Bhojudih Coal Washery since July, 1993 has not been denied by the management. The management being the custodian of all records did not suggest any alternative case that the workmen engaged during any other period or that their identities could not be verified. It is therefore clear that the 12 workmen named in the Reference were engaged for performing cleaning and maintenance of Marshalling Yard and Railway Tracks at Bhojudih Coal Washery. The work performed was invariably permanent and perennial in nature which transpires from the fact that all these workmen have served the management of Bhojudih Coal Washery uninterrupted and continuously since 1993 and Coal Mines Provident Fund accounts were maintained in their names. Cleaning and maintenance of Marshalling Yard and Railway Tracks are integral part of activity of a Coal Washery as functional Railway Tracks are essential for importing raw materials and dispatch of Washery products. I, therefore, hold that the concerned workmen are in continuous employment for a long period and in regular manner at Bhojudih Coal Washery. For the purpose of deciding the question as to regularization, the twin test which needs to be satisfied are as follows :

Firstly, it is to be ascertained as to who was making the payment of monthly wages to the workman and

Secondly, under whose supervision they were working.

10. Under the Bharatiya Sakshya Adhiniyam, 2023, the burden of proving the facts specially within the knowledge of the management of BCCL lies upon the employer management. It has been claimed by the principal employer that the 12 workmen were engaged through contractors but the management has not produced any document to prove the terms of engagement of the petitioners through contractor firms and the duration for which it had assigned the work of cleaning and maintenance to the different firms. The management failed to produce any license of the contractor firms engage for the work which is essential under the Contract Labour (Regulation & Abolition) Act, 1970. The fact and circumstances clearly indicate that the engagement of the 12 workmen under contractors was a mere adjustment in paper to coverup the fact that 12 workmen actually under the supervision and control of the management of Bharat Coking Coal Limited, rendering long and uninterrupted service. The concerned workmen have been performing their assigned duties without any break and there is no case of the management that they have been inducted in their work in any illegal manner. They also received their wages through their Bank accounts. The workman enjoyed the Health Benefits from BCCL which is evident from the Health Cards issued in the name of the workmen by the Assistant Manager (P), Bhojudih Coal Washery, Santaldih, Purulia.

11. It appears to me that the role of the employees is essential for proper maintenance of the Coal Washery and their sustained contributions in the service of the employer establishment extending for a long period goes to prove that the nature of job performed by them is indispensable for the employer establishment and their work is perennial in nature. There is no adverse record against any of the said workmen. Therefore, the workmen who are alive are entitled to equitable treatment of regularization in their service. Denial of such benefit would amount to injustice and must be redressed.

12. It is imperative for the management of Bharat Coking Coal Limited, a public undertaking, to provide fair and stable employment to a person who is rendering utility service for a long period. Workmen engaged on a temporary basis but for extended period are integral to the organization's functioning amounts to contravention of labour standards and unfair labour practice.

13. In the case of **Jaggo Vs. Union of India [2024 SCC OnLine SC 3826]**, the Hon'ble Supreme Court of India referring to the judgment in the case of **Secretary, State of Karnataka Vs. Uma Devi [(2006) 4 SCC 1]** observed as follows :

“ 26. While the judgment in *Uma Devi (supra)* sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when

institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. *In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."*

14. Drawing wisdom from the decision of the Hon'ble Supreme Court of India and in view of the settled position of law discussed above, I hold that this is a fit case where the enlisted employees who are still alive be regularized in the service of Bhojudih Coal Washery, BCCL forthwith. They shall be entitled to their pecuniary benefits at par with the permanent employees of the company and would be entitled to continuity of service for the period they are in service and the same would be counted for their post-retired benefits.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest. The management of Bhojudih Coal Washery of Bharat Coking Coal Limited is directed to regularize the enlisted workmen in their employment forthwith who are still alive and serving, maintaining their continuity of service from the period they are serving the company. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट(एलसी/आर-57/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/11/2025 को प्राप्त हुआ था।

[सं. एल-22012/409/2003-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/R/57/2004**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen, received by the Central Government on 03/11/2025.

[No. L-22012/409/2003 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

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

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

REFERENCE CASE NO. 57 OF 2004

PARTIES:

P. N. Adhikari

Vs

Management of Dalurband Colliery, Pandaveswar Area, ECL

REPRESENTATIVES:

For the Union/Workman: P. N. Adhikari (in person)

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

INDUSTRY: Coal.**STATE:** West Bengal.**Dated:** 22/09/2025**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/409/2003-IR(CM-II)** dated 04/10/2004 has been pleased to refer the following dispute between the employer, that is the Management of Dalurband Colliery, Pandaveswar Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Dalurband Colliery under Pandaveswar Area of M/s. ECL in denying stepping-up of basic pay with retrospective effect and consequential benefits to Sri P.N. Adhikari, Accountant is legal and justified? If not, to what relief the workman is entitled?”

1. On receiving Order **No. L-22012/409/2003-IR(CM-II)** dated **04/10/2004** from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 57 of 2004** was registered on 14/10/2004 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Colliery Mazdoor Sabha of India filed written statement on behalf of the aggrieved workman on 14/02/2005. Mr. P. K. Das, learned advocate for Management of ECL filed written statement on 04/06/2009. In gist, fact leading to the initiation of this Industrial Dispute is that Mr. P. N. Adhikari was posted as Clerk, Grade I in the Accounts Department of Dalurband Colliery, ECL. He was promoted to the special grade, the next higher grade on and from 11/04/1991 along with thirteen other employees. Mr. P. N. Adhikari was thereafter promoted to Technical Grade ‘A’ w.e.f. 05/02/1996 and his Basic pay was fixed at Rs. 3,680 per month. It is contended that Sh. Jaladhi Chatterjee who was also promoted along with P. N. Adhikari on 11/04/1991 remained in special grade till he was promoted to the next higher grade on and from 15/04/1998. Further contention of the union is that when P. N. Adhikari and Jaladhi Chatterjee were in the special grade and until their promotion, Basic pay of both the workmen was Rs. 3,528. On implementation of NCWA-VI w.e.f. 01/07/1996 which was signed on 23/12/2000, pay structure of workmen were revised under Implementation Instruction No. 18 to clear doubt and ambiguity. It is the specific case of the workman that prior to implementation of NCWA-VI, Basic pay of P. N. Adhikari was Rs. 3,680 whereas Basic pay of Jaladhi Chatterjee was Rs. 3,658, but after fixation of pay as per NCWA-VI, Basic pay of Mr. P. N. Adhikari was fixed at Rs. Rs. 6,020 and after granting three increments his Basic pay was fixed at Rs. 6,542, whereas Basic pay of Jaladhi Chatterjee and others was fixed at Rs. 6,067 and after adding three increments their Basic pay was fixed at Rs. 6,577 which is higher than the pay of P. N. Adhikari. Rest of the workmen including Jaladhi Chatterjee who are junior to Mr. Adhikari are receiving Rs. 400 more per month. It is contended that a junior workman cannot get higher pay than the senior workman. It is submitted that Mr. P. N. Adhikari was promoted to Technical Grade ‘A’ in the year 1996 and Jaladhi Chatterjee was promoted to Technical Grade ‘A’ in the year 1998, as such Mr. Adhikari cannot get lower Basic pay than Mr. Chatterjee when the Basic pay of Mr. Chatterjee in June, 1996 was less than Mr. Adhikari. It is urged that fixation of pay of aggrieved workman is absolutely illegal and Basic pay of P. N. Adhikari is required to be fixed w.e.f. 01/07/1996 and arrear along with consequential benefits may be allowed in favour of the workman by passing an appropriate Award.

3. Management in the written statement denied the allegation made in written statement of the union. According to the management as per job nomenclature and cadre scheme of the company Accounts Cadre and Cash Cadre are altogether different. Mr. P. N. Adhikari belongs to Accounts Cadre and his designation was Accountant in Tech. & Supv. Grade ‘A’ in the year 1991. His Basic pay was correctly fixed as per his entitlement in the cadre scheme. It is further stated that Jaladhi Chatterjee compared by the union belonged to a different cadre and according to the pay structure and guidelines of the cadre scheme, Basic pay was correctly fixed by the management and there has been no violation of NCWA-VI while fixation of their respective Basic pay. Management asserted that the concerned workman is not entitled to any relief as prayed and the Industrial Dispute is liable to be set aside.

4. Mr. P. N. Adhikari filed his affidavit-in-chief reiterating the case disclosed in the written statement filed by the union. It is derived from the affidavit-in-chief that initially P. N. Adhikari was posted as Clerk, Grade I from 13/04/1991 and he was promoted to the next higher grade, in Technical Grade 'A' on and from 05/02/1996. While serving as special grade clerk in the Accounts department his Basic pay was Rs. 3,680 as per NCWA-V and Basic pay of Jaladhi Chatterjee who was promoted to Technical Grade 'A' in the year 1998 was Rs. 3,658. After implementation of NCWA-VI Basic pay of P. N. Adhikari was fixed at Rs. 6,542 and that of Mr. Jaladhi Chatterjee was fixed at Rs. 6,577. In cross-examination witness denied the suggestion that his claim was incorrect and unjustified. Workman produced a copy of office order dated 11/04/1991 (marked as Exhibit W-1) whereby fourteen employees including P. N. Adhikari and Jaladhi Chatterjee were promoted from their clerical grade I to special grade as per the approval of the General Manager, Pandaveswar Area. The order reveals that on 11/04/1991 both the workmen were in the same grade i.e. special grade. Workman has also produced pay fixation statement in two pages which is collectively marked as Exhibit W-2.

5. Mr. Anuj Lakra (Management Witness) has been examined by ECL as Management Witness-I. He filed his affidavit-in-chief. In course of evidence, management witness produced the following documents:-

- (i) copy of Comparative Chart in two pages is collectively produced as Exhibit M-1 after objection.
- (ii) copy of pay structure as per NCWA-VI in two pages is collectively produced as Exhibit M-2.
- (iii) copy of cadre scheme for Ministerial Staff (Cash Personnel Cadre) of ECL in three pages is collectively marked as Exhibit M-3.
- (iv) copy of revised wage structure as per NCWA-VI is collectively marked as Exhibit M-4.
- (v) copy of comparison chart of Basic pay under NCWA-V and NCWA-VI is produced as Exhibit M-5.
- (vi) copy of fixation chart of Jaladhi Chatterjee, P. N. Adhikari and others as per NCWA-VI is produced as Exhibit M-6.
- (vii) copy of comparison chart relating to fixation of pay of P. N. Adhikari viz-a-viz Jaladhi Chatterjee is produced as Exhibit M-7.
- (viii) copy of Implementation Instruction No. 18 of NCWA-VI for removal of anomaly in the matter of fixation of pay where junior gets higher pay than senior in the same pay scale and are covered by the same seniority list in a cadre is produced as Exhibit M-8.

It appears from evidence of M.W.-I that till February, 1996 NCWA-V was in force. Mr. P. N. Adhikari and Jaladhi Chatterjee were both in the same grade at Dalurband Colliery from the year 1991 to 04/02/1996. On 05/02/1996 P. N. Adhikari was promoted to the post of Accountant in T & S Grade 'A' from the post of Assistant. He remained in the same post and in the same cadre till his retirement in the year 2010. Mr. Jaladhi Chatterjee, Co-worker received annual increment in April, 1996 in the same grade and he was promoted to T & S Grade 'A' in August, 1999. The provisions of NCWA-VI became applicable from July, 1996 and Basic pay of Mr. Adhikari was initially fixed at Rs. 3,680 in the month of February, 1996. On implementation of NCWA-VI in July, 1996 his pay was fixed as Rs. 6,468.26. According to the wage structure, Basic pay of Mr. P. N. Adhikari was raised to Rs. 6,542. Thereafter he received annual increment every year in February till his retirement. Witness deposed that Jaladhi Chatterjee was promoted in August, 1999 as Cashier, T & S Grade 'A' and his pay was fixed as per the provision of NCWA-V as NCWA-VI was not finalized then. On his promotion his pay was initially fixed at Rs. 4,100 w.e.f. 15/04/1998 and the pay was revised as per NCWA-VI and was fixed at Rs. 6,432.28. On fitment of pay, his Basic pay was fixed at Rs. 6,577 as per the chart provided in NCWA-VI. Witness produced a comparative chart of Basic pay of NCWA-V and NCWA-VI (Exhibit M-5). Management Witness deposed that according to Implementation Instruction No. 18 of NCWA-VI it was decided that anomaly arising as a result of revision of pay scale may be checked up carefully and after satisfying that anomaly has arisen in the case of senior employee in the same seniority list and same cadre, the pay of senior employee will be stepped up to the level of the pay of junior employee concerned from the date the anomaly has arisen i.e. from the date the junior employee started getting higher Basic pay than the senior employee. Reference is made to Point. No. 2 of Exhibit M-8 which lays down that senior employee in the same pay scale and covered by the same seniority list in a cadre and who has secured fixation at the same stage as his junior, but due to different dates of increment the junior starts getting higher pay than his senior, the removal of such anomalies

will be subject to the following conditions:

- (a) both the junior and senior employee should belong to the same cadre and the post in which they have been promoted and should be covered by the same seniority list and same cadre.

Mr. P. N. Adhikari who appeared in person declined to cross-examine the management witness.

6. Mr. P. K. Das, learned advocate argued that though initially P. N. Adhikari and Jaladhi Chatterjee were posted in the same cadre from the year 1991 to February, 1996 as special grade clerk in Accounts department, Mr. Adhikari was promoted in the month of February, 1996 and he received his annual increment in the month of February. According to NCWA-VI which came into force from 01/07/1996, Basic pay of P. N. Adhikari in the post of Accountant T & S Grade 'A' was fixed at Rs. 6,542 after fitment as per the chart provided. It is argued that Jaladhi Chatterjee was in the post of Sr. Cashier in T & S Grade 'B'. Under NCWA-V his Basic pay was Rs. 3,658 on 30/06/1996 and Basic pay was fixed at Rs. 6,432.28 with implementation of NCWA-VI w.e.f. 01/07/1996. On fitment according to the chart provided his Basic pay rose to Rs. 6,577. Thereafter he moved to the next higher grade of Cashier on promotion on 15/04/1998. It is argued that Basic pay of P. N. Adhikari has been properly and correctly fixed and there is no anomaly in the matter of fixation. It is argued that as per Implementation Instruction No. 18 (Exhibit M-8) difference of Basic pay of Mr. Adhikari and Mr. Chatterjee cannot be removed as employees do not belong to the same cadre and same post and after promotion, they are not covered by the same seniority list. Only point raised by Mr. Adhikari in support of his case is that he being a senior employee and having been promoted two years earlier to Mr. Chatterjee cannot have less Basic pay. It is urged that anomaly arising out of such fixation of pay may be removed by increasing his Basic pay. Mr. Adhikari prayed for payment of difference of pay on account of such wrong fixation for the period from 01/07/1996 till his superannuation in the year 2010.

7. Central point for consideration before the Tribunal is whether pay of Mr. P. N. Adhikari has been correctly fixed as per the provision of NCWA-VI and is he entitled to any benefit arising out of any incorrect fixation of pay?

8. I have considered the argument advanced by both parties and materials on record. Admitted position in this case is that Mr. Adhikari and Mr. Jaladhi Chatterjee were both posted as Clerk Grade -I in the Accounts Department of Dalurband Colliery from 11/04/1991. Mr. Adhikari was promoted to the next higher grade of Accountant in T & S Grade 'A' on 05/02/1996 where his Basic pay was fixed at Rs. 3,680 per month. As per NCWA-VI Basic pay of Mr. Adhikari was revised and fixed at Rs. 6,542. Mr. Jaladhi Chatterjee, a co-worker was promoted to the post of Sr. Cashier in T & S Grade 'B' w.e.f. 15/04/1998. Basic pay of Jaladhi Chatterjee as on 30/06/1996 was Rs. 3,658 and under NCWA-VI his pay was fixed at Rs. 6,432.28. On fitment of such pay, according to the pay structure as per NCWA-VI, Basic pay of Mr. Jaladhi Chatterjee would have been Rs. 6,407 but as his total pay exceeded the amount, his Basic was fixed at Rs. 6,577. Total pay of Mr. Adhikari was Rs. 6,468.26 and as per pay structure of NCWA-VI his pay was correctly fixed as Rs. 6,542. Although Basic pay of Mr. Jaladhi Chatterjee, a junior member getting promotion at a later point of time is more than that of Mr. Adhikari, fitment of their respective pay appears to have been done in a correct manner as per the chart provided. Mr. Adhikari after availing opportunity was unable to point out any incorrect approach or discrepancy in the matter of fixation of his pay. At this juncture it would be pertinent to take recourse to the provision of Implementation Instruction No. 18 dated 17/04/2001 which was issued under NCWA-VI for the purpose of removal of anomaly in pay of senior employees in the same pay scales covered by the same seniority list and same designation in a cadre getting lower pay than their juniors due to implementation of NCWA-VI from 01/07/1996. It is provided in Paragraph two (2) of Exhibit M-8 that senior employee in the same pay scale and covered by the same seniority list in a cadre and who has secured fixation at the same stage as his junior, but due to different dates of increment the junior starts getting higher pay than his senior. The removal of such anomalies will be subject to the following conditions:

(a) both the junior and senior employee should belong to the same cadre and the post in which they have been promoted and should be covered by the same seniority list and same cadre.

In the instant case I find that junior and senior employees do not belong to the same cadre and they were promoted on different dates. While Mr. Adhikari was in Accounts Cadre and belongs to T & S Grade 'A', Mr. Jaladhi Chatterjee was promoted to T & S Grade 'B' in the cash personnel cadre. Under such circumstance applying the conditions of Implementation Instruction No. 18 I find that there is no error or illegality in fixing the pay of P. N. Adhikari and the claim raised by him through the union is not sustainable. Therefore, he is not entitled to any relief in this case.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest against the workman. Let an Award be drawn up in the light of my above discussion. Let copies of Award be communicated to the Ministry for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1978.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरणक – सह – श्रम न्यायालय, आसनसोल कंपंचाट(एलसी/आर-31/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/11/2025 को प्राप्त हुआ था।

[सं. एल-22012/104/2004-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/R/31/2005**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen, received by the Central Government on **03/11/2025**.

[No. L-22012/104/2004 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

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

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

REFERENCE CASE NO. 31 OF 2005

PARTIES: Hareram Paswan
Vs
Management of Kuardih Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Smt. Debarati Konar, learned Advocate

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

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 23/09/2025

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/104/2004-IR(CM-II)** dated 11/05/2005 has been pleased to refer the following dispute between the employer, that is the Management of Kuardih Colliery, Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Kuardih Colliery of M/s Eastern Coalfields Limited in dismissing of Sh. Hareram Paswan from service vide letter No.SAT/GM/PER/LAB-C/2002/542(E) dated 28.9.2002 is legal and justified? If not, to what relief he is entitled?”

1. On receiving Order **No. L-22012/104/2004-IR(CM-II)** dated 11/05/2005 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 31 of 2005** was registered on 31/05/2005 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Management of ECL filed their written statement on 18/11/2005 and the dismissed workman after his appearance before the Tribunal filed his written statement on 02/02/2010. In gist, fact of the workman's case is that Hareram Paswan was appointed in service of ECL on 01/06/1995 bearing U.M. Number 118812. He was charge sheeted on 01/02/2001 for his unauthorized absence from duty for more than ten days from 03/07/2001 and for his habitual absence on earlier occasions. He was posted at Kuardih colliery at the time of issuance of charge sheet. Charge sheet under clauses 26.23 and 26.29 of Certified Standing Order of the company was served upon him. Workman submitted reply to the charge sheet and stated that the absence was beyond his control due to his illness and during the period of absence he was under medical treatment at Sub-Divisional Hospital, Asansol. After recovery from illness, he went to join duty but he was not allowed to join and no subsistence allowance was paid to him. It is contended that Sr. Personnel Officer, Kuardih Colliery declared himself to be the Enquiry Officer and initiated a departmental enquiry without authority. Workman never received Notice of Enquiry at any point of time. He was not informed about the appointment of Enquiry Officer and Management Representative. Subsequently, signature of the workman was obtained on some documents before the Enquiry Officer. It is contended that the Enquiry Report was manufactured and workman was not allowed to take any assistance of co-workers. Workman produced medical documents in support of his absence from duty but without challenging the genuinity of medical certificates, the Enquiry Officer admitted the medical certificates in the enquiry and without supplying any copy of enquiry report, the General Manager, Satgram Area dismissed the workman from service on 25/11/2002. It is contended that the General Manager is not the Competent Authority to dismiss the workman from service and the order of dismissal dismissing the workman from service is illegal. Workman after dismissal prayed for allowing him to resume his duty but the management did not pay heed to the prayer of the workman. It is contended that management enhanced the charge by considering his past record which is totally unlawful and the same is liable to be set aside. Further case of the workman is that Disciplinary Authority issued order of dismissal without application of his mind in a rigid manner and action taken by the management was harsh and disproportionate to the alleged charge. Workman prayed for setting aside the Impugned Order and for his reinstatement in service along with back wages and consequential benefits.

3. Management in support of the enquiry proceeding and order of dismissal stated that the concerned workman was charge sheeted on 01/02/2001 for the act of his unauthorized absence as well as habitual absence. Charge sheet was issued under clauses 26(23) and 26(29) of the Certified Standing Order of the company. It is claimed that workman appeared before the Enquiry Officer and opportunities were granted to him to defend his case. Management admitted that the workman produced certificates from Sub-Divisional Hospital, Asansol but failed to explain the reasons for not informing the colliery authority about his absence. It is asserted that the Enquiry Officer after hearing the parties concluded the enquiry proceeding and held the workman guilty of the arraignments. Further case of the management is that the Competent Authority after perusing the enquiry report and the gravity of misconduct found no ground to show any leniency to the workman and punished him by way of dismissing him from service in accordance with provision of standing order effecting the dismissal from 25/11/2002. It is inter alia submitted that past performance of the workman was poor and he attended duty for only ninety three days in the year 1995, Nil in the

year 1996 and 1997, sixty three days in the year 1998, Nil in the year 1999 and sixteen days in the year 2000. It is further asserted that total attendance of the workman from the year 1995 to 2000 was only one hundred seventy two days. On earlier occasion punishment of stoppage of four annual increments was passed against him for his unauthorized absence from duty but he did not rectify his conduct. According to the management, the workman has been rightly dismissed from service and he is not entitled to any relief.

4. Point for consideration before this Tribunal is whether the action of the management in dismissing Hareram Paswan from service vide order dated 28/09/2002 is legal and justified and what relief he is entitled to.

5. In support of the case workman filed affidavit-in-chief wherein he stated that he did not receive Notice of Enquiry and no enquiry was at all held. It is contended that Enquiry Officer decided upon the charge on the basis of extraneous factors without proper enquiry. It is further asserted that he produced medical certificates which were accepted by the Enquiry Officer. The enquiry proceeding and enquiry report were not supplied to him and he has been illegally dismissed from service.

6. In cross-examination the witness stated that he will submit treatment papers and further stated that he had produced documents from government hospital. It transpires from his cross-examination that his residence is about one and a half to two kilometers away from the colliery where he was working and the hospital is about five kilometers away from his residence. Witness further stated that he went to the hospital three to four times for treatment. Suggestion was put to the workman that he never went to the hospital for treatment, which he denied. Witness could not disclose the name of the disease he was suffering from. He further stated that he was admitted in the hospital and was thereafter discharged. Workman subsequently did not produce any documents in support of his medical treatment nor did he produce any material to establish that he was admitted to the hospital on account for the purpose of any medical treatment during the period of his long absence.

7. Mr. Kalyan Roy, Management Representative has been examined as Management Witness-I. He filed an affidavit-in-chief wherein he disclosed that charge sheet was served upon Hareram Paswan under clauses 26.23 and 26.29 of the Certified Standing Order for habitual late attendance and absence from duty without reasons beyond ten days, respectively. Management Witness stated that the workman participated in the enquiry. In course of enquiry, the Enquiry Officer found the workman guilty of charge and submitted his report. During his evidence, MW-I produced the following documents in support of their case:-

- (i) Copy of charge sheet dated 01/02/2001 is produced as Exhibit M-1.
- (ii) Copy of certificate dated 16/03/2001 issued by the Superintendent, Sub-Divisional Hospital, Asansol certifying that Hareram Paswan of Kuardih Colliery was under treatment at their hospital as OPD patient on 02/07/2000 with a history of chest pain, occasional fever, cough and cold and on 16/03/2001 he was examined and found fit for duty is produced as Exhibit M-2.
- (iii) Copy of Notice of Enquiry issued to Hareram Paswan is produced as Exhibit M-3.
- (iv) Copy of enquiry proceeding along with findings is produced as Exhibit M-4.
- (v) Copy of second show cause Notice dated 09/10/2002 is produced as Exhibit M-5.
- (vi) Copy of letter dated 25/11/2002 dismissing the workman from service is produced as Exhibit M-6.

In course of cross-examination witness deposed that the workman absented from 03/07/2000 to 01/02/2001 without prior intimation. Witness denied the suggestion that dismissal of the workman was not legal and justified.

8. On the date fixed for hearing of argument neither the workman nor did the advocate appear before the Tribunal even though Notice was issued at his address. Mr. P. K. Das, learned advocate for the management argued that conduct of the workman was extremely bad and he had been a habitual absentee for several years, thereby disrupted the production process and work of the company. It is argued that charge sheet was issued to the workman on 01/02/2001 with a clear charge under clause 26.29 of the Certified Standing Order of the company that he was absent from duty without information from 03/07/2000. Workman tried to make misleading statements in his written statement and affidavit-in-chief by stating that he was absent from 03/07/2001. It is further contended that workman participated in the enquiry proceeding and admitted that he was unable to attend duty. Workman Witness deposed that Doctor of Sub-Divisional Hospital, Asansol declared him fit on 16/03/2001 and he reported for duty. Ld. Advocate referring to enquiry proceeding (Exhibit M-3) submitted that workman made false statement before the Tribunal by representing that no departmental enquiry was held though the workman has put signature on enquiry proceeding after his statement and cross-examination. Ld. Advocate for the management submitted that second show cause Notice

along with enquiry proceeding were served upon the workman for his response and the workman did not deny receipt of the second show cause Notice. It is argued that enquiry proceeding was held by the Enquiry Officer by following the principle of Natural Justice and the Disciplinary Authority after considering all materials, issued an order dated 28/09/2002, dismissing the workman with immediate effect. It is argued that the enquiry proceeding carried out is consistent with the principle of Natural Justice and the punishment imposed upon the workman is justified. Management urged that they had no option but to dismiss the workman due to his continuous indisciplined and absenting nature.

9. I have considered materials on record, evidence adduced by both parties and the argument advanced on behalf of the management. Charge sheet dated 01/02/2001 is clear of the fact that the workman was absent from duty from 03/07/2000 and not from 03/07/2001. There are two ingredients of charge levelled against him. Workman duly participated in the enquiry held on 16/03/2001. It appears from evidence of Management Representative that the workman did not inform the management about his illness and did not apply for any leave. Management Representative stated that on previous occasion there were stoppage of three SPRA from 30/04/1999 to 05/06/2000 and warning was given for his unauthorized absence from 10/03/1997 to 05/05/1997. It also appears that attendance of the workman in the year 1998 and 1999 was Nil and in the year 2000 he attended duty for sixteen days. The charged employee did not cross-examine the Management Representative during enquiry. Therefore, the allegation of habitual absence of workman was unrebutted and the same was clearly established against him. In his statement before the Enquiry Officer, charged employee stated that he was having severe chest pain on 02/07/2000 and he was taken to the Sub-Divisional Hospital, Asansol. Medical certificate was issued on 16/03/2001. No document relating to medical treatment was produced by the workman to establish that he actually received medical treatment at the hospital. On a perusal of Exhibit M-2, a certificate said to have been issued by the Superintendent, Sub-Divisional Hospital, Asansol, I find that signature of the patient has not been attested by the Doctor which is contrary to the medical jurisprudence. Certificate has not been issued on the letter head of Sub-Divisional Hospital, Asansol and it is only a typed document. It is stated in the certificate that the workman was treated as OPD patient. There was no certificate to the effect that patient was under treatment from 02/07/2000 to 16/03/2001, therefore, the statement made in the certificate is not found reliable and do not serve any extenuating purpose.

10. Workman in his cross-examination deposed that he would produce documents related to medical treatment issued by the hospital. He further stated that he was admitted in the hospital and thereafter was discharged. In Exhibit M-2, such relevant fact regarding admission and discharge of patient has not been mentioned. On the contrary, content of certificate clearly contradicted the statement of the workman in his cross-examination since the patient claimed that he was admitted in the hospital. It transpires from the cross-examination of workman witness that his place of work was within two kilometers from his residence. In a span of seven months of absence from duty, workman made no effort to inform the management of the employer company about his illness and inability to attend duty. In this context, it would be appropriate to refer to a decision of Hon'ble High Court of Punjab and Haryana in the case of **Nav Bharat Industries Vs. Presiding Officer and another [2018 LLR 439]**, wherein it was held that if a workman remained absent unauthorizedly for a long time, even due to his illness without informing the management about it, termination of his service by invoking conditions as stipulated in the Certified Standing Orders, is not illegal. It was further held that when the workman does not inform the management about his illness, remaining absent for a long time, presumption drawn by the management that workman has abandoned his job of his own is justified. From the settled position of law, it would emerge that unauthorized absence compounded with non-communication of the reason of absence to the management are unacceptable and workman cannot derive any benefit of doubt. In the instant case it appears to me that the workman habitually remained absent during the previous three years and the management after warning and stopping his annual increments had no option but to initiate a domestic enquiry for his subsequent unauthorized absence. The workman did not rectify his conduct. Reasonable opportunity was given to the

workman to represent the case properly and the management produced sufficient evidence to establish their case. Management also issued a second show cause Notice to the workman before taking the ultimate decision of dismissing him from service of the company. Employer company cannot be accepted to bear such mischievous activity of employee for an indefinite period. Therefore, punishment of dismissal of the workman appears to be proportionate to the nature of misconduct of the workman. In my view, the workman is neither entitled to reinstatement in service nor any benefit of back wages or consequential benefits.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest against the workman. Dismissed workman is not entitled to any relief of reinstatement in service. Management company is directed to disburse all dues to the workman on account of his past service, if any. Let copies of Award be communicated to the Ministry for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2025

का.आ. 1979.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट(एलसी/आर-03/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/11/2025 को प्राप्त हुआ था।

[सं. एल-22012/335/2007-आई आर .(सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 7th November, 2025

S.O. 1979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/R/03/2008**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen, received by the Central Government on **03/11/2025**.

[No. L-22012/335/2007 – IR (CM-II)]

SALONI, Dy. Director/Link officer

ANNEXURE

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

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

REFERENCE CASE NO. 03 OF 2008

PARTIES: Jayanta Gope.

Vs.

Management of Begunia Colliery, BCCL.

REPRESENTATIVES:

For the Union/Workman: Mr. Bipul Banerjee, Advocate.

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

INDUSTRY: Coal
STATE: West Bengal.
Dated: 25.09.2025

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/355/2007-IR(CM-II)** dated 07.01.2008 has been pleased to refer the following dispute between the employer, that is the Management of Begunia Colliery under Chanch Victoria Area of Bharat Coking Coal Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. BCCL in dismissing Sri Jayanta Gope from service w.e.f. 11.05.2006 is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/355/2007-IR(CM-II)** dated 07.01.2008 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 16.01.2008 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.
2. The Vice President of Colliery Mazdoor Union filed written statement for the dismissed workman on 18.08.2009. Management filed their written statement on 10.11.2009. Brief fact of the case as disclosed in the written statement of the union is that Jayanta Gope was a permanent employee at Begunia Project under Chanch Victoria Area of Bharat Coking Coal Limited (hereinafter referred to as BCCL) and was posted as an Underground Loader. The workman was unable to attend his duty from 08.09.2004 due to high fever and received medical treatment at Colliery Dispensary till 20.09.2004. After he was declared medically fit for duty on 21.09.2004 he was suffering from severe weakness and fell down in a drain as a result his left hand was fractured. Family members took him to the Sub-Divisional Hospital, Asansol instead of Colliery Dispensary for better treatment. The workman was unable to attend his duty and was advised to take rest for eight (8) weeks. After his recovery the Superintendent of Sub-Divisional Hospital, Asansol issued a Fit Certificate in favour of Jayanta Gope dated 24.11.2005 but the Colliery Doctor refused to issue any certificate to him to join his duty. When the workman went to resume duty after his treatment the Personnel Manager of the Colliery did not permit him to join and issued a Charge Sheet bearing No. 1859 dated 26.11.2004. The workman replied to the Charge Sheet, stating the cause of his absence but the same was not found satisfactory and he was dismissed from service on 11.05.2006 without holding any Domestic Enquiry. The order of dismissal was issued bearing No. BCCL/XII/BP/06/786 dated 11.05.2006. According to the workman the reason for his absence was beyond his control as he was suffering from illness and he was prevented from joining his duty. The workman submitted an appeal against the order of dismissal but the management did not consider the same.
3. The workman informed the matter to the Vice President of Colliery Mazdoor Union (INTUC) and an Industrial Dispute was raised before the Assistant Labour Commissioner (C), Asansol under Reference No. CMU/UP/2007 dated 16.06.2007. On failure of conciliation proceeding the Government of India, New Delhi made reference of an Industrial Dispute to the Central Government Industrial Tribunal -cum- Labour Court, Asansol for adjudication. Union contended that the action of the management in dismissing Jayanta Gope from his service is highly illegal, discriminatory, whimsical, resulting unfair labour practice. It is further contended that dismissal from service for absents from duty from 21.09.2004 to 26.11.2004 is without justification due to the fact that the workman could not attend duty on account of fracture of his bone and the charge of habitual absence without sufficient cause is unexplained. It is inter-alia contended that the workman has been dismissed without any opportunity of being heard and the order has been passed without following principles of natural justice. The union claimed that the order of termination from service issued by the management of BCCL is mala fide, baseless and grossly illegal. It is prayed that the order of dismissal of Jayanta Gope from his service w.e.f. 11.05.2006 be set aside and the workman be reinstated in service along with payment of back wages and other incidental benefits.
4. Management refuted the allegations made by the union that the dismissal of the workman was made without holding enquiry. According to the management Jayanta Gope was absents from his duty in unauthorized manner from 21.09.2004 without prior permission or sanctioned leave and a Charge Sheet was issued against him on 26.11.2004 under Clause 26.1.1 of the Certified Standing Orders of the company for his willful and habitual absence from duty without sufficient cause. The chargesheeted employee failed to submit any satisfactory reply and a domestic enquiry was held into the charge. The Enquiry Officer was appointed in accordance with the provisions of the Certified Standing Orders of the company. Notice of enquiry was issued to the chargesheeted employee for attending the enquiry. Jayanta Gope participated in the enquiry proceeding and reasonable opportunity was provided to him to defend his case. The Enquiry Officer after holding the enquiry found the workman guilty of charge levelled against him for misconduct. It is stated that the workman is a habitual absentee and in the previous three (3) years he attended duty on only two (2) days in the year 2002, eighteen (18) days in the year 2003 and forty-four (44) days in

the year 2004. On previous occasion the workman was chargesheeted and he was allowed to join his duty after awarding lighter punishment of stoppage of two SPRA for his misconduct. The workman failed to rectify his conduct and his habitual absence continued unabated.

5. Management denied that the workman was suffering from acute fever from 08.09.2004 or that he was unable to perform his duty due to illness of that he fell down in a drain on 20.09.2004 and sustained injury. According to the management the workman never intimated the colliery authority the reasons for his absence. It is asserted that the workman has been dismissed from service without any discrimination and the enquiry proceeding was held observing the principles of natural justice. According to the management the workman is not entitled to any relief and the Industrial Dispute is liable to be dismissed.

6. The dismissed workman filed an affidavit-in-chief in support of his case and has been examined as Workman Witness No. 1. In his affidavit-in-chief the workman stated that he fell down in a drain on 21.09.2004 and was under the treatment at Sub-Divisional Hospital, Asansol from 21.09.2004 to 24.11.2004 and thereafter he was declared fit for duty w.e.f. 25.11.2004. It transpires from his statement that he was unable to attend duty from 21.09.2004 to 24.11.2004. The workman however failed to produce any document in support of his medical treatment either at the Colliery Dispensary or of the Sub-Divisional Hospital, Asansol. According to the workman he went to join his duty on 25.11.2004 but he was not allowed to join his duty. In his affidavit-in-chief the workman stated that he replied to the Charge Sheet. No copy of enquiry proceeding nor any second Show Cause Notice was issued to him by the management before his dismissal.

7. In course of cross-examination by the management the workman witness stated that he submitted all his medical papers before the colliery management. However, not a single document has been produced by the workman to establish that he was actually receiving medical treatment at the hospital during the period of his absence.

8. It may be noted that in Paragraph No. (4) of the written statement filed by the union it is claimed that the workman was dismissed from the service from 11.05.2006 without holding any domestic enquiry. This statement does not find any support from the affidavit-in-chief and there is no assertion by the workman witness that he did not participate in the enquiry proceeding. The only case of the workman is that no second Show Cause Notice was issued to him before dismissal.

9. Mr. Brajanath Banerjee, Assistant Manager (Personnel), Begunia Colliery has been examined as Management Witness No. 1. He has filed his affidavit-in-chief where he has stated that Jayanta Gope was absent from duty in an unauthorized manner from 21.09.2004 without prior permission or sanctioned leave and a Charge Sheet was issued under Clause 26.1.1 of the Certified Standing Orders for his habitual absence from duty without sufficient cause. The management witness has produced the following documents :

- (i) Copy of the Charge Sheet dated 25/26.11.2004 has been produced as Exhibit M-1.
- (ii) Copy of the reply to the Charge Sheet, as Exhibit M-2.
- (iii) Copy of the appointment letter of the Enquiry Officer, as Exhibit M-3.
- (iv) Copy of the Notice of enquiry dated 15.08.2005, as Exhibit M-4.
- (v) Copy of the Notice of enquiry dated 03.01.2006, as Exhibit M-4/1.
- (vi) Copy of the Enquiry Proceeding, as Exhibit M-5.
- (vii) Copy of the Findings of the Enquiry Officer, as Exhibit M-6.
- (viii) Copy of the Note-Sheet of the Project Officer, Begunia Colliery, dated 14/15.04.2006, proposing dismissal of Jayanta Gope from service, Exhibit M-7.
- (ix) Copy of the letter of dismissal dated 11.05.2006, as Exhibit M-8.

It is clearly admitted by the management witness in his evidence-in-chief that no second Show Cause Notice was issued. The management witness claimed that the order of dismissal is proper and the workman is not entitled to any relief. It appears from the record that on the date of examination of management witness on 03.03.2025 no one appeared for the union to cross-examine the witness and the witness was discharged without cross-examination. On a simple reading of evidence adduced by the management witness it is evident that the statement made by the Management Witness No. 1 remained uncontroverted.

10. Mr. P. K. Das, learned advocate for the management of ECL advancing his argument submitted that admittedly the workman was absent for more than two months without any information to the management of the employer company resulting in dislocation and disruption of work. It is argued that on previous occasion the workman habitually remained absent and opportunity was given to him to resume duty and lighter punishment of stoppage of increments were imposed. The workman did not rectify his conduct and continued to remain absent on various pretext. In the instant case it is argued that the workman failed to produce any document in support of his illness. Therefore, it cannot be presumed that he was prevented from attending his duty due to illness. Learned

advocate submitted that a fair enquiry proceeding was held in which the workman has participated. The charge levelled against him has been established and the Disciplinary Authority has passed the order of dismissal for proper reason, therefore, the workman is not entitled to any relief.

11. Perused the order of reference, pleadings of union as well as management, evidence of both parties and documents. Initially, the workman tried to project a case that he was arbitrarily terminated from service on the pretext of unauthorized absence without holding any enquiry against him. In course of evidence, it unfolded that a fair and proper enquiry proceeding was held by the Enquiry Officer by issuing Notice of enquiry. The workman participated in the enquiry proceeding and put his signature on the Enquiry Proceeding (Exhibit M-5). The Enquiry Officer in his Findings dated 14.03.2006 (Exhibit M-6) held the workman guilty of the charge beyond reasonable doubt. A Note-Sheet was prepared by the management which recommended his dismissal from the company. The General Manager who is the Disciplinary Authority approved the proposal for dismissal and a letter of dismissal of Jayanta Gope dated 11.05.2006 was issued (Exhibit M-8). I find that the charge of habitual absence and unauthorized absence from duty has been clearly established against the workman which caused dislocation of company's work and inconvenience to the fellow workmen. The workman was dismissed from service with immediate effect and he was advised to collect his dues, if any. The evidence of Management Witness No. 1 is explicit regarding non-issuance of second Show Cause Notice. In the instant case the charge against the workman has been proved beyond doubt and the union has failed to dislodge the evidence adduced by the management witness. If for argument's sake the workman produced document regarding his medical treatment before the Enquiry Officer and the same were not considered in the enquiry proceeding, then he was at liberty to place such document before this Tribunal to establish that his claim is justified and the absence from duty for such a long period was beyond his control. The union has failed to adduce any trustworthy evidence to prove that the workman had actually received any medical treatment from Sub-Divisional Hospital, Asansol. According to the rules a public hospital maintains a record of medical treatment specially in case of injury. Non-production of such evidence gives rise to adverse presumption against the workman.

12. It is true that the management was required to issue a second Show Cause Notice to the workman preceding the order of dismissal, especially when the Enquiry Officer and Disciplinary Authority, issuing the order of dismissal are two different persons. A Circular bearing No. CIL C-5A(vi)/50774/28 dated 12.05.1994 issued by the Coal India Limited also provides that the charged employee had to be supplied with Enquiry Proceeding and Enquiry Report and a Second Show Cause Notice had to be issued to him before taking any final decision of removing him from service. I find that in this case the evidence adduced against the workman is sufficient to hold him guilty of charge. Opportunity was provided to him to represent his case. Therefore, the workman was not prevented from understanding the charge levelled against him and he was not prejudiced in the procured observed. Consequently, the punishment imposed is justified. In my view non-issuance of second Show Cause Notice does not demolish the charge substantiated against the workman nor any prejudice is caused to the charged employee for interfering with the order of dismissal passed against him.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Jayanta Gope, the dismissed workman is not entitled to any relief of reinstatement or back wages. The dismissed workman is however entitled to the legal dues, if any, for his past service. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2025

का.आ. 1980.—औद्योगिक विवाद अधिनियम, 1974 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अधीक्षण पुरातत्वविद्, भारतीय पुरातत्व सर्वेक्षण, भुवनेश्वर (उड़ीसा) के प्रबंधतंत्र के संबद्ध नियोजकों और अध्यक्ष, भारतीय पुरातत्व सर्वेक्षण श्रमिक संघ, भुवनेश्वर (उड़ीसा) के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या- 29/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42011/235/2022-आई आर .(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 11th November, 2025

S.O. 1980.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2022) of the **Central Government Industrial Tribunal cum Labour-Bhubaneswar**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The**

Superintending Archaeologist, Archaeological Survey of India, Bhubaneswar (Orissa) and The President, Archaeological Survey of India Workers Union, Bhubaneswar (Orissa), workman.

[No. L-42011/235/2022-IR (DU)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 29/2022

Date of Passing Award – 18th August, 2025

Between :-

The Superintending Archaeologist,
Archaeological Survey of India,
Samantarapur, Bhubaneswar (Orissa) – 751 002,

... 1st Party-Management.

(And)

The President,
Archaeological Survey of India Workers Union,
32, Ashok Nagar, Bhubaneswar (Orissa) – 751 009.

... 2nd Party-Union.

Appearances:

Sri M.M. Mishra, Sr. Secretariat Asst.

...

For the 1st Party-Management.

Sri Naba Mohanty, President.

...

For the 2nd Party-Union.

AWARD

In the present case, a reference was received from the Under Secretary to the Government of India, Ministry of Labour & Employment, New Delhi vide order No. L-42011/235/2022 – IR(DU), dated 18.07.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the claim of Archaeological Survey of India Workers Union vide letter dated 14.12.2021, to the management of Archaeological Survey of India (ASI), Bhubaneswar Circle that the management is resorting to unfair labour practice in not allowing 110 workers engaged previously by the management to do the job of ASI at different site and recruiting fresh workers directly and/or through contractor, is proper, legal and justified? If yes, to what relief the disputants are entitled and what directions if any, are necessary in the matter?”

2. The case of the 2nd party-Union, President Archaeological Survey of India Workers Union in brief is as follows:-

That, the 1st Party-Management, Superintending Archaeologist, Archaeological Survey of India (in short ASI) is an organization established in the year 1966 under the Ministry of Culture, Government of India and about 450 (Four Hundred Fifty) casual workmen had been working under the 1st Party-Management for maintenance of 92 (Ninety Two) number of historical places in Odisha for last fifteen to twenty years who were directly engaged by the 1st Party-Management. As per the DoPT guidelines and tripartite agreement with the 2nd party-Union by the Management of ASI about 350 numbers of casual/daily worker/labourers were brought to the regular and permanent category under the 1st Party-Management and rest of the 110 number of workmen had been refused employment without following any provisions of law since 2018 which amounts to termination of their services. After that the

2nd party-Union raised a dispute before the Deputy Chief Labour Commissioner, Bhubaneswar and the matter was heard. In the mean-time all the 110 number of workmen sat on peaceful dharana since the date of their disengagement with effect from September, 2018 till date demanding their engagement in their previous jobs as they have no source of income, but the 1st Party-Management had engaged fresh hands forcibly, taking the help of police personnel. The 1st Party-Management had violated the sub-clause (a) of clause-5 of Fifth schedule of the Industrial Disputes Act by victimizing the workmen due to their trade union activities and had also violated sub clause (b) of Clause 5 of Fifth Schedule of the Industrial Disputes Act by adopting unlawful activities as because of colourable exercise of the management right. The 1st Party-Management also violated the principles of natural justice by not allowing the 2nd party-workmen to work and has also violated Clause 12 of Fifty Schedule by allowing other workmen to do the said work. The 1st Party-Management had terminated the services of the 2nd party-workmen without serving any notice or paying gratuity, compensation, leave payment etc. by violating Section 25-F of the I.D. Act. The act of the 1st Party-Management is quite illegal and unfair which amounts to unfair labour practice by engaging fresh workmen instead of 2nd party-workmen and the same is not legal and proper in the eye of law, so they are entitled to be reinstated in service with full back wages.

A prayer has been made to pass an award in favour of the workmen of the 2nd party-Union.

3. The 1st party-Management has appeared and filed its written statement.

The case of the 1st Party-Management as per its written statement is as follows:-

That the ASI has been established in the year 1861 having a vital cultural institution with definitive scientific inputs and multi-disciplinary set up including conservation, preservation, excavation and exploration of the Centrally Protected Monuments/sites having national importance with the Central Government in the Ministry of Culture through the ASI.

The Director General of ASI, New Delhi has delegated powers to the Superintending Archaeologist, ASI, Bhubaneswar Circle which is following the instruction/guidelines relating to the establishment and maintenance as well as conservation of monuments/sites on the direction of the Director General, ASI, New Delhi. The ASI does not constitute industry for the purpose of I.D Act, 1947 as the primary objective of the ASI is to implement Ancient Monuments and Archaeological Sites and Remains Act 1958 and Rules, 1959 and Antiquities and Art Treasure Act, 1972. The primary activities of the ASI are implementation of the above statutory law for maintenance, conservation and preservation of Centrally Protected Monuments/Sites and conducting archaeological exploration and excavation setting up and requisition of man-powers and horticultural operation in and around monuments, so the activities of ASI do not come under the definition of “Industry” for the purpose of Industrial Disputes Act, 1947. The 2nd party workmen were casual labourers and were working seasonal in nature under the specific estimate. After completion of the work, according to the estimate under specific Monuments/Sites, casual labourers were disengaged on need basis subject to the availability of funds/work. The Management is not competent authority for considering the regularization of casual labourers as per demand of the Union since it is a policy matter. The Union has not filed any document/circulars in terms of regularization of services of casual labourers as per the claim statement. The Ministry of Finance, Government of India has issued General Financial Rules, 2017 wherein under Rule 197 there is a provision of “Outsourcing Services”. The Director General, ASI has issued instruction to all Regional Directors and Superintending Archaeologists vide letter dated 10.08.2017 that man power shall be engaged through outsourcing following the GFR provisions, so the Management is duty bound to follow the instructions/guidelines issued by the Ministry of Finance. The 2nd party-workmen were not engaged for the last ten to fifteen years continuously and they were not doing the same and similar nature of work at par with regular employees. The 2nd party-workmen were engaged on seasonal basis based on approved estimate against specific works of the Centrally Protected Monuments/Sites. After completion of the work the casual labourers were disengaged based on availability of funds and works. A meeting of the 2nd party-workmen was held on 18.05.2023 in which the 2nd Party-Union has agreed to submit a list of labourers along with circular and guidelines.

A prayer has been made to pass an award in favour of the 1st Party-Management.

4. The 2nd Party-Union has filed rejoinder denying all the averments made in the written statement of the 1st Party-Management.

5. On the basis of the pleadings of both the parties following issues are framed.

ISSUES

i) Whether the reference is maintainable?

ii) Whether the claim of the Archaeological Survey of India Workers' Union vide letter dated 14.12.2021 to the management of Archaeological Survey of India (ASI), Bhubaneswar Circle that the management is resorting to unfair labour practice in not allowing (a) workers engaged previously by the management to do the job of ASI at different site and recruiting fresh workers directly and/or through contractor is proper legal and justified?

iii) If yes, to what relief the disputants are entitled and what directions, if any, are necessary in the matter?

6. In course of the proceedings, the 2nd party-Union has examined one witnesses namely Sri Dilip Kumar Pradhan as W.W.-1.

7. The 2nd party-Union proved and exhibited the following documents which are marked as exhibits:-

Ext.-1 :- The letter of Archaeological Survey of India Workers Union addressed to the Deputy Chief Labour Commissioner, Nayapalli, Bhubaneswar on dated 14.12.2021.

Ext.-2 :- The photocopy of the letter dated 22.09.2020 of the Management of ASI, Bhubaneswar to Joint Director General, Conservation, ASI, New Delhi.

8. The 1st Party-Management has examined only one witness as M.W.-1. He is Sri Madan Mohan Mishra.

9. The 1st Party-Management has proved and exhibited the following documents.

Ext.-A :- The photocopy of the letter dated 22.01.2020 of Superintending, Archaeologist, ASI, Bhubaneswar Circle addressed to D.G. ASI, New Delhi relating to sitting Dharana in front of the Bhubaneswar circle of the ASI.

Ext.-B :- The copy of the Office Memorandum dated 15.09.2013 of the Under Secretary to the Government of India, relating to ASI and their workmen.

Ext.-C :- The photocopy of the letter dated 10.08.2017 of Addl. Director General (Admn.) ASI, New Delhi addressed to all RDs and all Superintending Archaeologist/Dy. Supdt. Archaeologists relating to E-procurement and engagement of manpower.

FINDINGS

10. For the sake of convenience, the Tribunal thinks it proper to discuss first of all the Issue No. II.

ISSUE NO. II

11. At the outset of discussions it is required to mention here that it is the case of the 2nd Party-Union that all the 110 workmen who were directly engaged by the 1st Party-Management of ASI, Bhubaneswar were working under the Management of ASI, Bhubaneswar for the last fifteen to twenty years as casual workers, but the 1st Party-Management had terminated their services in the month of September, 2018 by resorting unfair labour practice. However, it is the case of the 1st Party-Management that the concerned workmen were working under the Management as casual worker and were engaged against specific work of Centrally Protected Monument through Muster Roll and after completion of work the casual workmen were disengaged.

12. At this stage it is proper to discuss the oral and documentary evidence of both the parties.

The workman witness No. 1 Sri Dilip Kumar Pradhan who is one of the disputant workmen in this case has categorically deposed that he had joined at ASI, Bhubaneswar Circle as casual worker along with 120 number of workmen in the year 2001 and he discharged his work continuously till 27.09.2018. He has also adduced that other 119 number of workmen had also continuously worked for fifteen to twenty years and the nature of work they were discharging were of permanent and perennial in nature, but in the meantime the Management of ASI refused their employment in the month of Sept. 2018 without serving any notice or paying arrear legal dues, such as pay, gratuity, compensation leave salary etc. He has also deposed that the 1st Party-Management had engaged more than 450 number of out-sourcing workmen through different contractors and they had been working continuously till date, but the Management had illegally terminated the services of the 120 casual workmen. He has proved a letter of the ASI Workers Union addressed to the Deputy Chief Labour Commissioner (Central), Bhubaneswar dated 14.12.2021 which is marked as Ext.-1 and photocopy of a letter dated 22.09.2020 of the Management of ASI, Bhubaneswar addressed to Joint Director Conservation, ASI New Delhi which is marked as Ext.-2.

In the cross examination he has deposed that he was engaged under the management of ASI since 2001. He has also deposed that in this case 120 workmen had raised this dispute and all of them had worked under the muster roll of the Management but no termination letters were issued by the Management. He has further deposed that the Management had stopped their engagement without any prior notice and the Management had started engaging workmen on contract basis and on that occasion they were not called for by the Management.

13. The Management Witness No. 1 Sri Madan Mohan Mishra who is the Senior Secretariat Assistant under the Management of ASI, Bhubaneswar Circle has deposed that the management of ASI does not come under the purview of the Industrial Disputes Act as it does not constitute as an "industry" for the purpose of I.D. Act. He has also stated that the primary objective of the ASI is to implement the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and Rules, 1959 and Antiquities and Art Treasure Act, 1972 so that the activities of the ASI, do not come under the definition of "Industry" for the purpose of Industrial Disputes Act. He has further stated that the 1st Party-Management has not empowered to take any decision relating to any Policy matter and it is only to following the guidelines/instruction issued by the competent authority. He has also stated that the workmen were engaged against the specific estimate of concerned Centrally Protected Monuments/Site through Muster roll and after completion of the work the concerned workmen were disengaged. He has further deposed that the 1st party-Management on receipt of instruction from the office of Director General ASI New Delhi communicated by the Addl. Director General

(Administration), ASI New Delhi that the man-power should be engaged through different outsourcing agency following GFR provisions which should be followed strictly and the man-powers were engaged through out-sourcing by following GFR provisions of the maintenance/conservation/horticulture operations at the Centrally Protected Monuments. He has proved the copy of the letter dated 22.01.2020 of Superintendent, Archaeologist, ASI, Bhubaneswar as Ext.-A relating to sitting on dharana of workmen in front of Bhubaneswar circle of ASI, office memorandum dated 15.09.2003 of the Under Secretary Government of India relating to workmen as Ext.-B and copy of the letter dated 10.08.2017 of Addl. Director General, ASI New Delhi addressed to all RDs and to all Superintending Archaeologist/Dy. Archaeologists relating to E-procurement and engagement of man-power as Ext.-C.

In the cross examination he has deposed that he is not aware of the fact that the issue regarding applicability of the I.D. Act to the Management of ASI had been raised before the R.L.C.(C), Bhubaneswar and the R.L.C(C) had held that the I.D. Act would be applicable to the Management of ASI. He has also deposed that he is not aware that the Management of ASI R.L.C.(C) and Dy. Chief Labour Commissioner (Central) were the signatory of the Memorandum of Settlement arrived between the Union and the management of ASI.

14. Now coming to documentary evidence it appears that the Ext.-1 and Ext.-A are same. Both the Ext.-1 and Ext.-A show that the Superintendent, Archaeologist (I/c.) vide letter dated 22.01.2020 had written a letter to Joint Director General (Conservation) informing about the agitating previously engaged casual workers on muster roll enclosing a list of 110 workmen mentioning their engagement at different circles of ASI. The enclosed list shows that some of the workmen were working under the 1st Party-Management since 2005.

15. Now after analysing the oral and documentary evidence available on the record it is quite apparent that all the concerned 110 workmen were engaged as casual labourers under the Management of ASI, Bhubaneswar for past fifteen to twenty years before their disengagement in the year 2018. Further it is also apparent that at the time of disengagement of those concerned workmen they were not paid any compensation amount and gratuity or any termination benefits. Moreover, it is also apparent that the management of ASI had engaged/recruited fresh workers for discharging the work which were being discharged by these workmen while these workmen were not on illegal strike.

16. At this stage, it is relevant to mention Section 25-T of the Industrial Disputes Act which provides about unfair labour practice and it reads as follows:-

Section 25T – **Prohibition of unfair labour practice** – No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (16 of 1926), or not, shall commit any unfair labour practice

17. Further the Fifth Schedule provides a list of Unfair Labour Practice on the part of the Employers and Trade Unions of Employees. The sub-clause (a) and sub-clause (b) of Clause-5 of Fifth Schedule provide to discharge or dismiss the workmen by way of victimization and not in good faith, but in colourable exercise of the employers representative respectively. Moreover, the clause 12 of the Schedule mentions that to recruit workmen during a strike which is not an illegal strike.

18. Here in the instant case there is categorical evidence that the concerned workmen were disengaged/dismissed from their service without any notice or notice pay or compensation or any terminal benefits, so the concerned workmen were disengaged/discharged by way of victimization and not in good faith but in the colourable exercise of the Managements representative which is in violation of sub-clause (a) and (b) of Clause-5 of Fifth Schedule. Moreover, there is also evidence that the Management had recruited workmen on contract basis while the concerned workmen were on strike which is not an illegal strike which is in violation of Clause 12 of Fifth Schedule.

19. After considering all the facts and circumstances of the case the Tribunal finds that the 1st Party-Management of Archaeology Survey of India, Bhubaneswar has resorted to unfair labour practice by not allowing the workmen of the 2nd party-Union to do the job under A.S.I and recruiting fresh workers is not proper, legal and justified.

20. In view of the above discussion the Issue No. II is decided in favour of the 2nd party-Union.

ISSUE NO. I

21. It is important to mention here that the authorized representative of the Management has made submission before the Tribunal that the management of ASI is not covered under the provisions of the Industrial Disputes Act. Further authorized representative of the 2nd party-Union has strongly objected the contention of the authorized representative of the Management and has submitted that the management of ASI comes under the provisions of definition of Industry as denied under section 2(j) of the I.D. Act.

22. In view of such the Tribunal think it proper to quote the definition of industry as mentioned in 2(j) of the I.D. Act.

2(j) – “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.

23. It is relevant to mention here that the Hon’ble Supreme Court of India in the case Bangalore Water Supply & Sewerage -versus- R. Rajappa & Others reported in AIR 1978 SC 969 has been pleased to hold as follows:-

“Industry”, as defined in Section 2(j) of the I.D. Act has a wide import.

a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee, (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to, celestial bliss e.g. making, on a large scale, prasada or food), prima facie, there is an “industry” in that enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the Organization is a trade or business, it does not cease to, be one because of philanthropy animating the undertaking.

24. At this stage it is relevant to mention here that the 1st Party- Management in its written statement has categorically mentioned that the primary activities of ASI are implementation of the statutory laws i.e. the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and Rules, 1959 and Antiquities and Art Treasure Act, 1972 for maintenance, conservation and preservation of Centrally Protected Monuments/Sites and conducting archaeological exploration and excavation setting up and requisition of man-powers and horticultural operation and around monuments.

Moreover, it is also the case of the workmen that they had been working under the 1st Party-Management for maintenance of 92 number of historical places in Odisha.

25. In view of such there is a systematic activity organized by co-operation between the 1st Party-Management and the workmen for distribution of services for satisfaction of the human wants and wishes.

26. Hence, the facts and circumstances of the case fulfils all the tests provided by the Hon’ble Supreme Court in the case of Bangalore Water Supply & Sewerage -Versus- R. Rajappa & Others reported in AIR 1978 SC 969.

27. Hence, the 1st Party-Management is coming under the definition of an “Industry”.

28. Hence, the Issue No. I is decided in favour of the 2nd party-Union.

ISSUE NO. III

29. After analysing the oral and documentary evidence available in this case it is quite apparent that the 1st Party-Management had resorted to unfair labour practice by not allowing 110 workers engaged previously by the management to do the job of ASI at different site and recruiting fresh workers directly through contractor is not proper, legal and justified.

30. It is relevant to mention here that there is evidence of W.W.-1 that the workers of this case are not gainfully employed and his evidence has not been impeached in his cross examination.

31. After considering all the facts and circumstances of the case the Tribunal is of the opinion that all the 110 (One Hundred Ten) workmen are entitled for their reinstatement under the Management of ASI, Bhubaneswar with back wages. Hence, this issue is answered in favour of the 2nd Party- Union.

ORDER

32. The 1st Party-Management i.e. the Superintending Archaeologist, Archaeological Survey of India, Bhubaneswar is directed to reinstate all the 110 (one hundred ten) workmen on the same post with 50% back wages from the date of their termination within a period of one month from the date of publication of the award in the official gazette.

33. The Award is passed accordingly.

34. Office is directed to send the copy of the Award to the Ministry of Labour & Employment for necessary gazette notification.

35. Office is directed to consign the record.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer