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Separate Paging is given to this Part in order that it may be filed as a separate compilation

PART II—Section 3—Subsection (ii)

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 7th May, 2022

S.O. 453.—Central Government in pursuance of Sub-Rule (4) of Rule 10 of official languages [Use for official purpose of union] Rules, 1976 (as amended in 1987, 2007 and 2011) hereby notifies the following offices under the Central Bureau of Investigation, a subordinate office of Department of Personnel and Training whose more than 80 percent staff has acquired working knowledge of Hindi language: -

1. Anti Corruption Branch, Kolkata
2. Special Crime Branch, Kolkata
3. Economic Offences Branch, Kolkata
4. Anti Corruption Branch, Guwahati
5. Anti Corruption Branch, Goa

[F. No. E-15023/1/2020-Hindi]

RASHMI CHOWDHARY, Addl. Secy.

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 13th May, 2022

S.O. 454—Whereas section 12 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (16 of 2017) provides that the Central Government shall notify model Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome policy for establishments, in such manner as may be prescribed;

And whereas, Chapter-II after Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention And Control) Rules, 2018 provides for the manner of notifying HIV and AIDS policy for establishments;

Now, therefore in exercise of the powers conferred by section 12 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (16 of 2017), read with rule 3 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Rules, 2018, the Central Government hereby notifies the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome Policy for Establishments, 2022 as per the Schedule annexed to this notification.

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APPENDIX A

Abbreviations

| | |
|-------|-------------------------------------|
| AIDS | Acquired Immuno-Deficiency Syndrome |
| ART | Anti-Retroviral Therapy |
| CSR | Corporate Social Responsibility |
| DALSA | District Legal Services Authority |

| | |
|-------|--|
| DAPCU | District AIDS Prevention and Control Unit |
| DMC | Data Management Committee |
| HIV | Human Immunodeficiency Virus |
| ICTC | Integrated Counselling and Testing Centers |
| IEC | Information, Education and Communication |
| LFA | Legislative Forum on AIDS |
| NACO | National AIDS Control Organisation |
| NACP | National AIDS and STD Control Programme |
| PEP | Post Exposure Prophylaxis |
| PLHIV | People Living with HIV |
| SACS | State AIDS Control Society |
| SCA | State Council on AIDS |
| SDG | Sustainable Development Goals |
| SOP | Standard Operating Procedures |
| STI | Sexually Transmitted Infections |

CHAPTER I

Background and Indian Situation

1. **(1) Background.**— Health is one of the priorities for assuring perceptible economic and social development in today's fast-growing world. Health and economy have been hands in gloves with one another, countries who have aimed at ensuring universal access to health, equity and raising quality of care have excelled. Strong and able workforce contributes to national prosperity by increasing overall productivity and helping the government and the country to thrive via positive economic outcomes.

HIV and AIDS is a threat to productive workforce. It has affected many lives where people face discrimination due to either their known or perceived HIV positive status. They lose their jobs, thus, are forced to live in abject poverty with immediate ripple effect on their close family members and children in terms of poor expenditure on education and health. Thus, HIV affected person is compelled to face double jeopardy of losing income and livelihood on one hand and facing discrimination on the other.

People living with HIV are greatly impacted by multifarious discrimination (societal, workplace, healthcare setting, educational institutions), loss of livelihood, inequality and infringement of rights. Since HIV infection is lifelong, People Living with HIV have to live with it for the rest of the life.

The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 is a landmark legislation to provide a conducive environment to people infected with and affected by HIV and AIDS. The Act aims to address stigma and discrimination so that people infected with and affected by HIV and AIDS are not discriminated in household settings, establishment settings and healthcare settings. Their right to insurance, movement, holding public and private office, residence etc. should be maintained as per the prevailing laws and policies. The Act also reinstates constitutional, statutory and human rights of people infected with and affected by HIV and AIDS. It also provides for a robust grievance redressal mechanism in form of Complaints Officer at establishments and Ombudsman at state level.

2. **Situation in India.**— According to India HIV Estimates 2019 Report¹, there are an estimated 23.49 lakh people living with HIV, with an adult (15 to 49 years) HIV prevalence of 0.22 per cent. It is estimated that there were around 69,220 new HIV infections in the country during 2019, indicating a 37.4 per cent decline in new HIV infections during 2010 to 2019. During the same period, HIV and AIDS related deaths also declined by 66.1 per cent.

CHAPTER II

Rationale, Aim and Scope of the Policy

The chapter outlines the rationale, aim and scope of the Policy along with basic facts about HIV and AIDS.

1. **Rationale.**— (1) Section 12 of the HIV and AIDS (Prevention and Control) Act, 2017 mandates the Central Government to draft 'HIV and AIDS Policy for Establishments'. Thus, the policy emanates from the HIV and AIDS (Prevention and Control) Act, 2017. The manner of notifying the policy is laid down under the Central Government Rules.

¹ Source : India HIV Estimates 2019 Report

(2) Under sustainable development goal 3 of ‘Good Health and Well Being’, target of 3.3 states ending the epidemic of AIDS by 2030. Furthermore, elimination of stigma and discrimination related to HIV is a prerogative to achieve this goal.

2. **Aim.**— The policy aims to,-

- (1) Generate awareness on HIV and AIDS in establishments.
- (2) Prevent transmission of HIV infection amongst workers.
- (3) Protect rights of those infected with and affected by HIV and AIDS.
- (4) Ensure safe, non-stigmatised and non-discriminatory environment assuring equity and dignity at establishments.
- (5) Standardise the obligation of every establishment in providing conducive working environment and maintaining the confidentiality of HIV-related data for protected persons.

3. **Scope.**— The policy applies to all establishments, an establishment is a body corporate or co-operative society or any organisation or institution or two or more persons jointly carrying out a systematic activity for a period of twelve months or more at one or more places for consideration or otherwise, for the production, supply or distribution of goods or services.

The employers’ and workers’ organisations, government ministries or departments at the national, state and district levels, public or private sector companies, multi-national companies operating in India, and other social partners are mandated to use this policy framework in implementing the HIV and AIDS policy at their respective works.

The Policy is based on following facts about HIV and AIDS,-

(1) The known routes of transmission of the Human Immunodeficiency Virus are through,-

- (a) Unprotected sexual contact with a HIV infected person;
- (b) Sharing of HIV infected needles or syringes;
- (c) From HIV infected mother-to-child during pregnancy, childbirth or breast feeding; and
- (d) Transfusion of HIV infected blood or blood products.

(2) With the advent of Anti- Retroviral Therapy, HIV is now a chronic manageable disease like many other non-communicable diseases, including diabetes, hypertension and asthma. There is no scientific or epidemiological evidence to suggest that HIV can be transmitted through ordinary workplace contact (talking to or touching the person, using the same office equipment, tools, utensils or bathroom as a person infected with HIV). In special situations where there may be a potential risk of exposure, for example healthcare workers who may be exposed to blood or blood products, there are specific and appropriate infection-control measures known as Universal Precautions that ought to be followed. Transmission is therefore not likely in the regular workplace setting.

(3) People with HIV who are regular on Anti- Retroviral Therapy remain healthy and fit to work for several years despite their infection.

(4) With the availability of Anti- Retroviral Therapy, the life of people living with HIV has prolonged substantially and they lead a normal productive life.

CHAPTER III

Guiding Principles for Establishments

The HIV and AIDS Policy for Establishments adopts three key principles mentioned in the HIV and AIDS (Prevention and Control) Act, 2017. These principles are to be adopted by all establishments in the spirit in which they are mentioned.

These principles include,-

- (1) Non-discrimination against people infected with and affected by HIV and AIDS.
- (2) Confidentiality related to one’s HIV status and HIV-related data.
- (3) Grievance redressal mechanism in the form of Complaints Officer at establishments and Ombudsman at State level. These tenets have been deduced from the Act and are pivotal to provisioning of an enabling environment to people infected with HIV.

CHAPTER IV

Non-Discrimination

1. **Non-discrimination.**— Non-discrimination is a fundamental principle of all international and human rights laws. There should be no discrimination at establishments on the basis of perceived or real HIV status. This protection is provided not only to an HIV positive person, but also extends to immediate family members and progeny who reside or have resided in the same house of HIV infected person too.

Here discrimination is prohibited not only against people infected with HIV and AIDS but also against people affected by HIV and AIDS. This may include other people living, cohabiting and residing with an HIV positive person. It also encompasses other people who have lived, resided or cohabited with an HIV positive person in the past.

A person cannot be discriminated on the basis of HIV status at any setting and the following tenets require compliance,—

(1) **Absence of discrimination at Employment and Occupation.**— A person should not be discriminated in the establishments on the basis of HIV status. Discrimination here includes the denial of, or termination from, employment or occupation and also unfair treatment at establishments. The employer may also provide a reasonable accommodation to people living with HIV if need be. Reasonable accommodation means minor adjustments to a job or work that enables an HIV positive person who is otherwise qualified to enjoy equal benefits or to perform the essential functions of the job or work, as the case may be.

Termination without reasonable accommodation should be an exception and should require furnishing of various documents by the healthcare provider as well as the employer. A qualified and independent healthcare provider who is competent should submit a copy of the written assessment stating that the person poses a significant risk of transmission of HIV to other person in the establishment or is unfit to perform the duties of the job. Employer should also submit a copy of a written statement stating the nature and extent of administrative or financial hardship for not providing the person reasonable accommodation.

(2) **Healthcare and educational settings.**— A person should not be discriminated at healthcare and educational setting on the basis of HIV status. Discrimination here includes unfair treatment, denial or discontinuation of services in educational settings and healthcare settings.

(3) **Public utilities and resources.**— A person should not be discriminated against using public utilities and sharing resources on the basis of HIV status. Discrimination here includes denial or discontinuation of access and usage of goods, accommodation, shops, public restaurants, hotels and places of public entertainment, wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and places of public resort, etc.

(4) **Holding public and private offices.**— Irrespective of HIV status, a person can hold public or private offices and cannot be discriminated. Discrimination here includes the denial, discontinuation or unfair treatment in the opportunity to stand for or hold public or private offices.

(5) **Under custody.**— A person should not be discriminated and treated unfairly in government/private organizations on the basis of HIV status. Denial of access to or unfair treatment in government or private establishment in whose care or custody a person may be is prohibited. People who are in care and custody of State have also been entitled to the right to HIV prevention, counselling, testing and treatment services in accordance with the guidelines issued by National AIDS Control Organisation from time to time.

(6) **Right to Movement.**— Right to movement is a fundamental right entrusted under article 19 of Fundamental Rights of Part- III of the Constitution. No person should be denied or subjected to discontinuation or unfair treatment with regard to the right to movement.

(7) **Segregation.**— A person should not be segregated on the basis of HIV status. Thus, she or he or others cannot be isolated and ostracized on the basis of HIV status.

(8) **HIV testing as pre-requisite for obtaining employment is prohibited.**— HIV testing as a pre-requisite for obtaining employment, or accessing healthcare services, education services or for the continuation of the same or for accessing or using any other service and facility is completely prohibited.

(9) **Right to residence.**— A person should not be denied or treated unfairly with regard to the right to reside, purchase, rent and occupation of property. Every person infected with and affected by HIV should have the right not to be excluded from the shared household and right to enjoy and use facilities of such shared household in a non-discriminatory manner.

Discrimination against people infected with and affected by HIV and AIDS is prohibited in all occupational, educational and health settings and in addition, HIV test cannot be pre-requisite for obtaining employment or accessing healthcare services or education. Discrimination at community places and for use of resources is also prohibited.

In case of contravention of the aforesaid rights, a robust grievance redressal mechanism should be provided in terms of Complaints Officer at establishments and Ombudsman in States. Aggrieved person has a choice to file a complaint either with Complaints Officer or the Ombudsman. There is no hierarchy with respect to filing of the complaint. Cognizance of offences under the Act will be taken by the court of Judicial Magistrate of the first class.

CHAPTER V

Confidentiality related to HIV status and HIV-related data

1. Confidentiality related to HIV status.- HIV positive person cannot be forced to disclose her or his or their status or any other HIV-related information. HIV-related information means any information relating to the HIV status of a person and includes: (a) information relating to the undertaking given for performing the HIV test or result of an HIV test; (b) information relating to the care, support or treatment of that person; (c) information which may identify that person; and (d) any other information concerning that person, which is collected, received, accessed or recorded in connection with an HIV test, HIV treatment or HIV-related research or the HIV status of that person.

No person should be compelled to disclose the HIV status except by an order of the court that the disclosure of such information is necessary in the interest of justice for the determination of issues in the matter before it.

There is a disclaimer in context with relationship of fiduciary nature. Here no person should disclose the HIV status or any other private information of the other person imparted in confidence or in a relationship of a fiduciary nature except by informed consent. The informed consent can be taken from the person themselves or through their representatives. There are exceptions where informed consent for disclosure of HIV-related information is not required,-

- (1) In case the disclosure is made by a healthcare provider to another healthcare provider who is involved in the care, treatment or counselling of such person.
 - (2) By an order of a court that the disclosure of such information is necessary.
 - (3) In suits or legal proceedings between persons, where the disclosure of such information is necessary and authorised legally.
 - (4) In relation to statistical information that could not be expected to lead to the identification of that person.
 - (5) For screening purposes in any licensed blood bank.
 - (6) Officers of the Central Government or the State Government or State AIDS Control Society of the concerned State Government for the purposes of monitoring, evaluation or supervision.
2. Disclosure of status to partner of HIV positive person.-In case of disclosure of status to partner of HIV positive person, no healthcare provider, except a physician or a counsellor, shall disclose the HIV positive status of a person to their partner. This kind of disclosure can be made if,-
- (1) The healthcare provider believes that the partner is at the significant risk of transmission of HIV from such a person.
 - (2) The HIV-positive person has been counselled to inform the partner.
 - (3) The healthcare provider is satisfied that the HIV positive person will not inform the partner.
 - (4) The healthcare provider has informed the HIV positive person of the intention to disclose the HIV-positive status to the partner.

One more very important pre-condition is that the disclosure has to be made in person and after proper counselling. The healthcare provider shall have no obligation to identify or locate the partner of an HIV-positive person.

In case of establishments, educational, occupational, prison settings, faith-based organisations, corporate-houses, etc., it is the responsibility of employers to ensure that all staff members are oriented on concepts of consent, disclosure and confidentiality related to HIV and AIDS and that they don't disclose HIV-related information. It is also the moral responsibility of co-workers and other staff members to not engage in activities which breach confidentiality.

3. Confidentiality of data related to HIV.- HIV-related information is sensitive in nature and every establishment keeping the records of HIV-related information should adopt data protection measures to ensure prevention of unintended or unwanted disclosure and breach of confidentiality of the data.

HIV-related information includes—

- (a) information relating to the undertaking performing the HIV test or result of an HIV test;
- (b) information relating to the care, support or treatment of that person;
- (c) information which may identify that person; and
- (d) any other information concerning that person, which is collected, received, accessed, or recorded in connection with an HIV test, HIV treatment or HIV-related research and the HIV status of that person.

It is mandatory for every establishment keeping the records of HIV-related information of protected persons to adopt data protection measures. Data protection measures include- protecting information from disclosure, procedures for accessing information, provision for security systems to protect the information stored in any form and mechanisms to ensure accountability and liability of persons in the establishment,-

- (1) Protecting information from disclosure of HIV-related information,- Confidentiality and privacy is to be maintained while collecting HIV-related information. For each establishment which has collected/ is desirous of collection of HIV-related information pertaining to protected persons, authorised persons or staff should sign an undertaking for confidentiality of the information.
- (2) Access to HIV-related information: Access should be granted only to authorized persons or staff. There should be provision of signing a formal undertaking for confidentiality of the information from the authorised person.
- (3) Provision for security systems for HIV-related information,- There should be secured almirahs or cabinet for physical records like registers, reports etc. and it should be carefully locked when left unattended. Personal Computers or mobiles or tablets or any other hardware should be password protected and should be logged off or locked when left unattended for protecting electronic records.
- (4) Data Management Committee,- Data Management Committee should be formed at each establishment to review and provide appropriate recommendation regarding the data security measures and the Data Management Committee should be responsible to ensure the same. Wherever establishment does not have the Data Management Committee, the head of the establishment should be entrusted with the responsibility and function of the Data Management Committee.
- (5) Disposal of HIV-related information: Establishment should have standard operating procedures in place regarding disposal of physical and electronic records or files containing HIV-related information of protected persons.
- (6) Accountability and liability of security of HIV-related information should be with Data Management Committees or the heads of concerned establishment.

For additional information, Ministry of Health and Family Welfare (National AIDS Control Organisation's) guidelines and official website may be referred to from time to time.

CHAPTER VI

Grievance Redressal Mechanism

Grievance redressal mechanism is vital in order to provide a holistic non-discriminatory environment to people infected with and affected by HIV and AIDS. The Act also proposes a robust mechanism in the form of Complaints Officer at establishments and Ombudsman at State level.

It is obligatory for the establishment, having one hundred or more persons to designate a person, as it deems fit, as the Complaints Officer who shall dispose of complaints of violations of the provisions of this Act in the establishment. Healthcare establishments shall designate a complaints officer in case of twenty or more persons. Here person could be an employee or officer or member or director or trustee or manager, as the case may be. Similarly at State level, one or more Ombudsman shall be appointed or designated as the State desires. Ombudsman shall inquire into complaints of violations of provisions of the Act related to discrimination and providing of healthcare services.

It must be noted that there is no hierarchy in terms of filing of complaint; if any establishment does not qualify to have a Complaints Officer, then the aggrieved person belonging to that establishment can file a complaint to the Ombudsman. Also, if the establishment has a Complaints Officer, it is at the discretion of the aggrieved person to file the complaint to the Complaints Officer or Ombudsman.

1. Complaints Officer: Duty, Power and Responsibility.- (1) Acceptance of complaints.- Complaints Officer has to register the complaint. The complaint has to be made within three months from the date that the person making the complaint became aware of the alleged violation of the Act in the establishment. If the complaints officer is satisfied of circumstances that prevented the complainant from making the complaint within the stipulated period, extension of another three months should be granted.

(2) **Assistance in filing complaint.**— Every complaint would be made to the Complaints Officer in writing in the Form annexed at Appendix A. Where a complaint cannot be made in writing the Complaints Officer shall render all reasonable assistance to the complainant to file the complaint in writing.

(3) **Acknowledgement and registration of complaints.**— The Complaints Officer on receipt of a complaint should provide an acknowledgment to the complainant and record the complaint in electronic form. The time of the complaint and the action taken on the complaint should also be recorded. Every complaint should be numbered sequentially. The Complaints Officer should act in an objective and independent manner while deciding complaints made under the Act.

(4) **Timeline for decision making.**— The Complaints Officer should arrive at a decision of the complaint promptly and in any case within seven working days. In case of emergency or in the case of healthcare establishments where the complaint relates to discrimination in the provision of, or access to health care services or provision of universal precautions, the Complaints Officer should decide the complaint on the same day on which he receives the complaint.

(5) **Decision making powers.**— The Complaints Officer, if satisfied that a violation of the Act has taken place as alleged in the complaint, should firstly, direct the establishment to take measures to rectify the violation; secondly, counsel the person who has committed the violation and require such person to undergo training in relation to HIV and AIDS, provisions of the Act, rules, guidelines and aspects of stigma and discrimination. Additionally, social service should be done for a fixed period, which should include working with a non-governmental organization working on HIV and AIDS. For this, assistance from respective District AIDS Prevention and Control Unit or State AIDS Control Society should be undertaken. Upon subsequent violation of the Act by the same person, the Complaints Officer may recommend the establishment to take disciplinary action in accordance with the law.

(6) **Informing the complainant.**— The Complaints Officer should inform the complainant of the action taken in relation to the complaint and of the complainant's right to approach the Ombudsman or to any other appropriate legal recourse in case the complainant is dissatisfied with the action taken.

(7) **Reporting Mechanism.**— The Complaints Officer shall ensure that the complaint, its nature and number and the action taken are reported to the appropriate authority under the Central Government (Deputy Director General, Information Education and Communication or Director Administration, National AIDS Control Organisation) every six months. In case there are no complaints in last six months, submission of a 'nil report' is not a compulsion.

(8) **Confidentiality.**— The Complaints Officer if requested by the complainant should ensure the protection of the identity of the protected person in the following manner, namely:-

- a. the complaints officer should file one copy of the document bearing the full name, identity and identifying details of such protected person which shall be kept in a sealed cover and in safe custody with the complaints officer.
- b. the complaints officer shall provide pseudonyms to protected person involved in complaints before them.
- c. the identity and identifying details of the complainant should not be revealed by any person or their representatives including assistants and staff.

(9) **Data Management.**— The Complaints Officer shall comply with the data protection measures in accordance with the section 11 of the HIV and AIDS (Prevention and Control) Act, 2017 and Guidelines on Confidentiality of Data of protected persons there under. Section 5.3 of the HIV and AIDS Policy for Establishments may also be referred to.

CHAPTER VII

Key Strategies and Responsibility of the Stakeholders, Employers Employees etc.

In order to assure effective implementation of the Policy, Ministries/Departments, Employer associations, establishments including employers, employees, administrative staff and also HIV positive people have a pivotal role to play.

1. **Key Strategies.**- (1) Prevention of HIV transmission and care and support to HIV infected workforce.
- (2) Awareness generation or training on basics of HIV, routes of transmission, undoing myths and misconceptions, behavior change, Universal Precaution, Post Exposure Prophylaxis.
- (3) Integration of HIV component at trainings of human resource department, welfare measures, corporate social responsibility etc.

- (4) Zero-discrimination policy on the basis of HIV status at every establishment. Adapt flexibility and provide reasonable accommodation for People Living with HIV.
- (5) Grievance redressal mechanism to look into cases of discrimination.
- (6) Widen scope of social security coverage to include HIV in assistance programmes, health insurance etc.
- (7) Strengthening of existing interventions and setting up of newer interventions for informal sector workers and migrant workers based on vulnerability studies and risk assessment.
- (8) Enhance access to condoms, treatment of sexually transmitted infections, Universal Precautions and Post Exposure Prophylaxis for HIV.
- (9) Undertake epidemiological surveillance at the establishment to gather data or information for taking informed policy and programmatic decisions.

2. Role of Employer Associations or Chamber or Industries.- (1) Employer associations or chambers or industries are encouraged to implement the guiding principles defined under the establishment policy.

- (2) Employer associations or chambers or industries to encourage large member companies to set up HIV counselling or testing or treatment facilities and also appropriate funds under Corporate Social Responsibility for provisioning of welfare measures like skill-development, livelihood generation etc.
- (3) Employer associations or chambers or industries should undertake advocacy efforts to mobilize their member companies in implementing the establishment policy.
- (4) Employer associations or chambers or industries to partner with National AIDS Control Organisation or State AIDS Control Society for enhancing coverage of the establishment policy and setting up public private partnerships for HIV prevention and care.
- (5) Employer organisations or chambers should strengthen their capacity, in partnership with National AIDS Control Society or State AIDS Control Society and relevant agencies, to be able to offer technical assistance to their members for starting HIV and AIDS workplace programmes. Also, information on HIV and AIDS could be integrated as part of their capacity building modules.

3. Role of Employers including the administrative staff.— (1) Implementation of guiding principles defined in the policy.— Employer will have to ensure that no employee is discriminated on the basis of HIV status and that all the five guiding principles are being implemented in spirit. Employer has to ensure access of the policy to wider public by uploading it on the website. Employer also has to ensure that no person is denied or terminated from employment because of HIV status. Any other form of discrimination like avoiding talking to that person, sharing of meals, travelling etc. is also fully prohibited. If need be, employer should ensure provisioning of reasonable accommodation where minor adjustments at work would enable HIV positive person to enjoy equal benefits at work. Here discrimination free behavior is not limited to person infected with HIV and AIDS but also includes the families affected by it. Establishments will also have to take appropriate steps for implementing other principles including confidentiality, Universal Precautions and grievance redressal mechanism. Every establishment engaged in healthcare services has to make sure that no HIV testing is done without informed consent, except for reasons mentioned under the HIV and AIDS (Prevention and Control) Act, 2017 (16 of 2017).

- (2) Regular capacity building of staff members on basics of the HIV and AIDS (Prevention and Control) Act, 2017.— Employer has to make provisions for training of staff members on the basics of HIV and AIDS, transmission of HIV, myths and misconceptions, three guiding principles with focus on non-discrimination and the HIV and AIDS (Prevention and Control) Act, 2017 (16 of 2017). Employers engaged in healthcare services have to take appropriate measure for informing and educating people on use of Universal Precautions and Post Exposure Prophylaxis to people who are at significant risk of occupational exposure to HIV. Employers can contact nearby District AIDS Prevention and Control Units or State AIDS Control Society for further necessary help.
- (3) Designation of Complaints Officer.— (a) any establishment having hundred or more persons, may designate a person of senior rank, as it deems fit, as the Complaints Officer;
- (b) healthcare establishments, having twenty or more persons may also designate a Complaints Officer. Complaints Officer shall dispose of the complaints with regard to violation of the provisions of the HIV and AIDS (Prevention and Control) Act, 2017 in the establishment;
- (c) while computing the total strength of an establishment, all employees, officers, members, directors, trustees or managers may be included.

- (4) Training of Complaints Officer.— (a) the establishment has to ensure that the designated Complaints Officer is trained for carrying out the responsibilities efficiently;
- (b) Employer may seek assistance from State AIDS Control Society for conducting training;
- (c) HIV and AIDS Module developed for Complaints Officer by Ministry Of Health And Family welfare shall be made available to the State AIDS Control Society.
- (5) Maintenance of confidentiality.— (a) the establishment is obligated to maintain confidentiality in terms of identity and identifying details of the protected person involved in a complaint before the Complaints Officer and any information shall not be revealed by any person or his representatives including staff;
- (b) the establishment has to ensure that no person shall print or publish any matter in relation to a complaint before a Complaint Officer unless the identity of the complainant in the complaint is protected;
- (c) The establishment and Complaints Officer shall comply with data protection measures in accordance with the provisions of section 11 of the HIV and AIDS (Prevention and Control) Act, 2017 (16 of 2017) and Guidelines on Confidentiality of Data of protected persons there under. Section 5.3 of the Model Policy may also be referred to.
- (6) Functioning of the office of Complaints Officer.— (a) there shall be Establishments to establish a method for receipt of complaints in electronic form either through dedicated website, webpage or by providing an official email address for the submission of complaints to the Complaints Officer for further clarity on development of website or link, establishment to contact respective State AIDS Control Societies;
- (b) in addition, the establishment shall also provide necessary facilities for the Complaints Officer for deciding the complaint; and also make available such information as the Complaints Officer may require addressing the complaint.
- (7) Awareness generation.- Every establishment which requires appointing a Complaints Officer shall on an annual basis, organise workshops and awareness programmes for sensitizing its employees with the provisions of the Act and Policy. Sensitization to also include functioning of grievance redressal mechanism including who can file a complaint, on what basis complaint can be filed, how the complaint can be filed etc. Contact details of the Complaints Officer to be made available to the people at the establishment.
4. Role of Employees or co-workers,- (1) As a co-worker it is the responsibility of the person to not discriminate against colleagues on the basis of HIV status.
- (2) Employees also have to ensure that the HIV status if known to them is not disclosed to anyone without informed consent of the HIV positive person.
- (3) If they are witness to any form of discrimination against person on the basis of HIV status, they should discourage such behavior and advise the person to file a complaint with Complaints Officer at the organisation level or Ombudsman at the State level.
- (4) Employees cannot disclose the personal details including name and address of the person living with HIV to anyone including the employer, family members, other employees or media agencies.
5. Role of person infected with HIV,- (1) Person infected with HIV, if discriminated, should file a complaint either with Complaints Officer at establishment where the person is working at or with the Ombudsman at State or District level.
- (2) Every complaint should be made in writing in the Form set provided on respective establishment or State website. Complaint can also be made via post, telephonically, or in electronic form, but at the end it has to be translated to the Complaint Form. Where a complaint cannot be made in writing, it is the responsibility of the Complaints Officer to render all reasonable assistance to the complainant to file the complaint in writing.
- The complaints should be made within three months from the date the complainant became aware of the alleged violation of the Act in the establishment. If the complaints officer is satisfied that circumstances prevented the complainant from making the complaint within the stipulated period, then the time limit to make the complaint may be extended by a further period of three months.
- (3) Person infected with HIV has a duty to prevent transmission of HIV. Every person, who is HIV positive and has been counselled in accordance with the guidelines issued or is aware of the nature of HIV and its transmission, shall take all reasonable precautions to prevent the transmission of HIV to other persons. The person should adopt strategies for the reduction of risk or informing in advance his HIV status before any sexual contact with any person or with whom needles are shared with.

6. Role of Ministry of Health and Family Welfare (National AIDS Control Organisation) and State AIDS Control Societies.- Ministry of Health and Family Welfare (National AIDS Control Organisation) to facilitate regular surveys and risks assessment studies to map the vulnerable populations, their work habits and preferences, working conditions, perceptions and other related issues. These studies undertaken will facilitate in effective implementation of the policy, ways of dissemination, identification of work areas requiring focus from Ministry of Health and Family Welfare (National AIDS Control Organisation) and also facilitate the monitoring of implementation of the policy and its impact on the HIV vulnerabilities of the work force.
- (1) All State Council on AIDS to ensure adequate representation of the state labour departments, employers' and workers' organisations.
 - (2) All States to hold meetings of Legislators Forum on HIV and AID Seach year and members of Legislators Forum on HIV and AIDS to ensure that the policy for establishments is implemented in their respective States.
 - (3) States to hold regular meetings with employer associations and State labour department to ensure setting up of grievance redressal mechanism in the form of Complaints Officer and effective implementation of the policy.
 - (4) Ministry of Health and Family Welfare (National AIDS Control Organisation) or State AIDS Control Society to ensure periodic reviewing and monitoring of the policy and provide necessary handholding for various adjustments and customisation required due to constantly changing internal and external situation.

APPENDIX A

Form for making Complaint to Complaints Officer

1. Date of Incident _____
2. Place of Incident _____
3. Description of incident _____
4. Person/ institution responsible for the incident _____

Signature/ Thumb Impression of Complainant*Name:

Date:

Mobile No./email/Fax/Address:

For Official Use only:

Complaint Number:

**Where the complaint is received orally or telephonically and reduced to writing by the Complaints Officer, the Complaints Officer shall sign and date the Form.*

[F. No. T-11020/50/1999/NACO (P&C)- Part VII (I)]

ALOK SAXENA, Addl. Secy.

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 11th May, 2022

S.O. 455—In exercise of the Powers conferred by Sub-Section (3)(a) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Shri S.C.L Das, DG, DGH as a member of the Oil Industry Development Board w.e.f 08.04.2022 to 07.04.2024 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I/ONG-I]

R. K. KUREEL Director

New Delhi, the 11th May, 2022

S.O. 456—In exercise of the Powers conferred by Sub-Section (3)(a) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Ms. Arti Ahuja Secretary, Department of Chemicals & Petrochemicals as a member of the Oil Industry Development Board w.e.f to 08.04.2022 to 07.04.2024 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I/ONG-I]

R. K. KUREL Director

New Delhi, the 11th May, 2022

S.O. 457—In exercise of the Powers conferred by Sub-Section (3)(c) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Shri Manoj Jain, CMD, GAIL, as a member of the Oil Industry Development Board w.e.f 08.04.2022 to 31.08.2022, until further orders.

[F. No. G-38011/41/2016-Fin.I/ONG-I]

R. K. KUREEL, Director

New Delhi, the 11th May, 2022

S.O. 458—In exercise of the Powers conferred by Sub-Section (3)(d) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Dr. SSV Ramakumar Director (R&D), IOCL as a member of the Oil Industry Development Board w.e.f to 08.04.2022 to 31.07.2023 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I/ONG-I]

R. K. KUREEL, Director

New Delhi, the 12th May, 2022

S.O. 459—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 denotifies the following office of the Public Sector undertaking under the administrative control of the Ministry of Petroleum & Natural Gas, as less than 80 percent of the staff have working Knowledge of Hindi.

OIL and Natural Gas Corporation
MBA Basin, Technopolis Building,
Salt lake City, Kolkata – 700091

[F. No. 11012/3/2021-OL]

SHOBHANA SRIVASTAVA, Dy. Director (OL)

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 27th April, 2022

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 27.04.2022.

[No. 20012/583/2000 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

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

Reference: No. 85/2001

Employer in relation to the management of Mugma Area of M/s. E.C.L.

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

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 28.03.2022

AWARD

By Order No.L-20012/583/2000 (C-I) dated 22/26.03.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

2. The reference is received on 16/04/2001 by this Tribunal in which the General Secretary, Koyla Mazdoor Congress, Asansol had been advised to submit statement of claim along with relevant document within fifteen days but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now Case is pending since 16/04/2001 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence No Dispute Award is passed. Communicate

D. K. SINGH, Presiding Officer

New Delhi the 5th May, 2022

S.O. 461.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04 of 2017) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Superintending Archeologist ,Archeological Survey of India, 22, Mall Road, Agra Circle, AGRA (U.P.);The Director General, Archeological Survey of India, 11,Janpath, New Delhi, and Shri Raju, worker which was received along with soft copy of the award by the Central Government on 04.05.2022.

[No. L- 42012/106/2016- IR (DU)]

D. K. HIMANSHU Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT KANPUR

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 04 of 2017

L-42012/106/2016R(DU) dated 19.01.2017

BETWEEN :

Shri Raju S/o Sh. Mahavir, Nai Aabadi,
Teen Ka Nagla, Tajganj,
AGRA(U.P.)-282001

AND

1. The Superintending Archeologist
Archeological Survey of India,
22, Mall Road, Agra Circle,
AGRA (U.P.)-
2. The Director General,
Archeological Survey of India, 11
Janpath, New Delhi-

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India in letter no. L-42012/106/2016-IR(DU) dated 19.01.2017

SCHEDULE

“Whether the action of the management of Superintending Archeologist ASI, Agra in terminating the service of workman named Raju w.e.f 01.06.2015 from the post of casual labour without complying the provision of Sec 25(F) of ID Act is legal and justified. If not, what relief the said workman is entitled to and from which date? ”

On receipt of notification notice was issued to the parties on 7th February, 2017. In response to the notice the AR of the worker filed the claim statement on 10.04.2017. Later on 31.10.2017 AR of the management moved an

objection application. On 14.03.2018 AR for the worker filed the objection reply. From thereon the case was fixed at the stage of disposal of the objection application. On perusal of the record it is found that the worker failed to make his presence before this Tribunal for a long time.

On 05.04.2022, during the pendency of the dispute A.R of the worker filed a memo declining his interest to pursue the dispute. The worker failed to communicate with the A.R despite his several attempts to intimate the worker regarding the proceeding of the dispute. This clearly manifests the reluctance and non interest of the workman to pursue the case. Pleadings of the workman are not to be read as substantive evidence.

Hence in the given circumstances the reference stands disposed of as of ‘NIL’ award.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 462—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/132/2012) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager,(Telecommunications), Bharat Sanchar Nigam Ltd., Bhopal through District Manager, Telecommunication, Guna (M.P.) and Shri Raghunath, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[No. L- 40012/31/2012-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

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

NO. CGIT/LC/R/132/2012

PresentP. K. Srivastava, H.J.S..(Retd)

Shri Raghunath,
S/o Shri Ramkrishan Mali,
R/o Behind Jila Sahkari Bank,
Talab Ki Badi, Chchod, District Guna.

...Workman

VERSUS

The Chief General Manager (Telecommunications)
Bharat Sanchar Nigam Ltd.,
Bhopal through District Manager,
Telecommunication, Guna (M.P.)

...Management

AWARD**(Passed on-6-2022)**

As per letter dated 22/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-40012/31/2012-IR(DU) The dispute under reference relates to:

“Whether the claim of Shri Raghunath that he had worked for more than 240 days in a year before alleged termination from 9/2/2009 is justified? if yes, whether the action of the management in terminating his services from 9/2/2019 is legal and just? if not, then what relief is he entitled to? .

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.
2. According to the workman, he was initially appointed as a casual labour with effect from March-1993 in the office of management in Guna and worked there continuously up to 1997 without break. He was paid on monthly basis by the management. His services were terminated by management without any notice or compensation, hence against law. He raised a dispute, after failure of conciliation, a reference was made. According to the workman, his disengagement is against Section 25F, Section 25G and Section 25H of the Industrial Disputes Act, 1947. Accordingly the workman has requested for his reinstatement with all back wages and consequential benefits, setting aside his disengagement.
3. According to the Management, the workman never worked as a daily wager during the period which he has claimed. Hence his dis-engagement is not against law. The Management has requested that the reference be answered against the workman.
4. In spite of the fact that several dates were given to the workman. He did not appear and neither did he file any evidence. The Management has also not filed any evidence.
5. The workman did not appear for arguments nor has he filed any written argument. I have heard learned counsel for the Management Shri R.S.Khare and have perused the record.
6. **The reference is the issue for determination, in the case in hand.**
7. It is necessary to reproduce Section 25F, Section 25G and Section 25H of the Industrial Disputes Act, 1947 as below:-

25F. Conditions precedent to retrenchment of workman. 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: 1[***] (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

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

25H. Re-employment of retrenched workmen. Where any workmen are retrenched by the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 2[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.

8. The initial burden to prove his claim is on the workman. Since he has not filed any evidence in support of his claim, he is held to have failed in discharging this burden. Hence, holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.
9. On the basis of the above discussion, following award is passed:-
 - A. **The claim of Shri Raghunath that he had worked for more than 240 days in a year before alleged termination from 9/2/2009 and the action of the management in terminating his services from 9/2/2009 is held to be just and proper.**
 - B. **The workman is held entitled to no relief.**
10. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

New Delhi, the 5th May, 2022

S.O. 463.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/16/2018) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Senior General Manager, Vehicle Factory, Jabalpur, and Shri Sandeep Kumar Soni, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[No. L-14012/01/2018- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/16-2018

Present: P.K. Srivastava H.J.S. (Retd)

Shri Sandeep Kumar Soni
Sarra Peepal, Nai Basti,
Near Govt. School
Ranjhi, Jabalpur-482011

.... Workman

Versus

The Senior General Manager,
Vehicle Factory, Jabalpur
Jabalpur-482009

... Management

AWARD
(Passed on this 4-2022)

As per letter dated 28/3/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-14012/01/2018-IR(DU). The dispute under reference relates to:

1. **“Whether the action of the management of Vehicle Factory, Jabalpur in imposing the punishment of dismissal from service on the workman Sri Sandeep Kumar soni, Machinist (worked from 2010) on 15-11-2013 is fair, just & legal? If not, to what relief the workman is entitled to?”**
2. After registering the case on the basis of reference, notices were sent to the parties.
3. The workman never appeared in spite of service of notice on him and nor has filed any written statement of claim.
4. The Management has filed its written statement of defence. The evidence filed by the Management is taken on record. Since no one appeared from the side of the workman on the dates fixed the reference proceeded ex-parte against the workman.
5. The Arguments of learned counsel for the Management Shri Saurabh Shukla were heard Ex-parte. I have gone through the record as well.
6. The initial burden to prove their claim lies on the workman. He has not filed any statement of claim nor has he filed any documents or evidence in his support. The workman has miserably failed to prove his case. Hence this tribunal is constrained to decide the reference against the workmen.
7. Accordingly an ex-parte award in favour of the Management is passed. The workman is held entitled to no relief.
8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 464.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/61/2007) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Joint Controller Defence Accounts, Pay & Accounts Office, Grenadiers Regimental Centre, Jabalpur, and Shri Shivraj Singh Sarotia, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[No. L- 14012/28/2003- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/61/2007

Present: P.K. Srivastava H.J.S..(Retd)

Shri Shivraj Singh Sarotia,
S/o Late Shri Gangadeen Sarotia,
Near Shaktimandir, Kothi Bazar,
Hoshangabad (M.P.)

...Workman

Versus

The Joint Controller Defence Accounts,
Pay & Accounts Office,
Grenadiers Regimental Centre, Jabalpur

...Management

AWARD**(Passed on-8-22)**

As per letter dated 6/7/2007 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/28/2003-IR(DU). The dispute under reference relates to:

“Whether the action of the Joint Controller of Defence Accounts is an industry, whether the action of the management of Joint controller of Defence Accounts, Jabalpur in imposing a punishment of compulsory retirement on Shri Shivraj Singh Sarotia-2109015 is legal and justified? If not, to what relief the workman is entitled to?” .

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that he was initially appointed as an Auditor on 24-6-1977 and was posted in PAO(ORS) signal, Jabalpur. He was issued a charge sheet . He denied the charges. The Disciplinary authority decided to conduct an inquiry against him. After Inquiry , the Inquiry Officer submitted his report holding the charges proved. According to the workman the inquiry held was not legal and proper. The Disciplinary Authority issued a notice on the basis of inquiry report and after taking his representation on the show cause, passed the order of compulsory retirement which according to the workman is not justified because the charges were also not proved from the inquiry and the punishment was disproportionate. Accordingly, the workman has requested for his reinstatement, setting aside the punishment order.

3. The case of the Management is mainly that firstly the reference is not maintainable before this Tribunal because the office of PAO(ORS) is not an industrial establishment, hence Industrial Disputes Act,1947 is not applicable. Further, it is the case of the management that the departmental inquiry was conducted against the workman for alleged mis-conduct of tampering official records and interpolating the financial documents by typewriting names against total shown in the individual Running Ledger Accounts (IRLA) sheets and changing the amounts shown in the payment authority issued by the then CDA(ORs) Central, Nagpur on account of DA for the journeys performed by the Indian Army soldiers on temporary duty to Bhutan and replaced the original IRLA sheets maintained by the task holder with the fresh copies of IRLA sheet prepared by him. The charges were inquired into. The Inquiry Officer submitted his representation holding the charges proved and after considering the representation of the workman on the show cause notice issued by the Disciplinary Authority with regard to Inquiry report, he was awarded punishment of compulsory retirement, taking a lenient view, thought the misconduct proved was of serious nature and called for major punishment of dismissal also.

4. The following issues were framed by my learned Predecessor vide order dated 3-9-2015 on the basis of pleadings of parties which are as follows:-

1.Whether the inquiry conducted against the workman is proper and legal

2.Whether the Second Party is an Industry under the ID Act?

3.Whether the punishment imposed against the workman of compulsory retirement is legal?

4.If so, to what relief?

5. **ISSUE NO.1**

Issue No.1 was taken as preliminary issue and was decided on the basis of evidence on record, holding the departmental inquiry legal and proper vide order dated 18-2-2020. The parties were required to produce their evidence on remaining issue. None of the parties produced any other evidence on remaining issues, hence final argument have been heard by me. Shri Sajid Akhtar, learned counsel for the workman appeared and Shri S.K.Mishra, learned counsel for the Management appeared and submitted arguments. The management has filed written submissions also. I have gone through the written submissions as well.

6. **ISSUE NO.2:-**

As it has been submitted by Management, Joint Controller of Defence Accounts, Pay & Accounts Office, Grenadiers Regimental Centre Jabalpur is not an industry. This argument has been opposed by learned counsel for the workman . He has referred to the Seven Judges Bench decision of the Hon'ble the Apex Court in the case of **Bangalore Water Supply & Sewerage Board, Etc. VS. R. Rajappa & Others** (2 SCC 213 on this point.

7. The word industry is defined under Section 2J of the Industrial Disputes Act, 1947 (hereinafter referred to as the word Act).

2(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or ~~in~~ occupation or avocation of workmen;

8. After considering the principle of law laid down in the case of *R. Rajappa & Others* (supra), it is established that the Joint Controller Defence Accounts is not directly involved in defence of the country, rather it works as a remote back office in discharging the duties of account works and is Industry as defined under Section 2(j) of the Act referred to above. Accordingly the Management is held to be an industry under Section 2(J) of the Act. **Issue No.2 is decided accordingly**

9. **ISSUE NO.3:-**

Before entering into any discussion regarding proportionality of punishment, it is necessary to discuss the following judgments passed by Hon'ble the Apex Court on this point:-

1. Hon'ble Apex Court in *B.C. Chayurvedi v. Union of India*, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty or impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

2. In *DG, RPF vs. Sai Babu* (2003) 4 SCC 331 Hon'ble Apex Court has observed that:

Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline to be maintained, and the department /establishment which the delinquent person concerned works."

3. In *United Commercial Bank vs. P.C. Kakkar* (2003) 4 SCC 364 Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

*The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision making process and not the decision.*

To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof.

4. In *Union of India vs. S.S. Ahluwalia* (2007) 7 SCC 1257 Hon'ble Supreme Court reiterated the legal position as follows:

"..... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

5. In *State of Meghalaya v. Mecken Singh N. Maibam* (2004) 7 SCC 580 Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.

7. Hon'ble Apex Court in *Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad* (2010) 2 SCC (L&S) 1011 has observed that :

“The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappreciation of facts.

8. Hon’ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

It is now well settled that the courts will not act as an appellate court and reassess the evidence led in a domestic enquiry, nor interfere on the ground that a new view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clear and perverse. The test to find perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

9. It is admitted proposition of law that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment; however, the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should not interfere with the order of punishment when it is disproportionate with respect to the misconduct committed or it is harsh.

10. The charges against the workman have been elaborated earlier. I have gone through the inquiry papers filed and proved by the Management at the time of hearing on Issue No.1. These papers show that the statement of oath of Shri R.C.Kapoor, Shri M.P.Lakhara and Shri V.B.Banerjee was recorded during the inquiry. I have gone through their statement on oath. Their statements coupled with the documents are proved and found that the inquiry papers establish the charges against the workman. I find no occasion to disagree with the finding of the Inquiry Officer in his inquiry report. Accordingly, the charges are held proved against the workman. Issue No.3 is dated accordingly

11. ISSUE NO.4:-

On the basis of the findings recorded in Issue No.3, the workman is held entitled to no relief. Accordingly Issue No.4 is answered.

12. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of Joint controller of Defence Accounts, Jabalpur in imposing a punishment of compulsory retirement on Shri Shivraj Singh Sarotia w2e1995 is held to be legal and proper.**
- B. **The workman is held entitled to no relief.**

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

P.K. SRIVASTAVA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 465.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/105/2018) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Regional Director, National Institute of Open Schooling, Regional Centre, Mansas Bhawan, Shyamla Hills, Bhopal (M.P.), and Shri Jitendra Singh Dhakad, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[No. L-42012/134/2018-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/105/2018

Present: P.K. Srivastava NH.J.S..(Retd)

The Jitendra Singh Dhakad
H.No.78, Preetpal Kaur,
Neelkanth Colony,
Idgah Hills,
Bhopal (M.P.)

... Workman

Versus

The Regional Director,
National Institute of Open Schooling,
Regional Centre, Mansas Bhawan
Shyamla Hills, Bhopal (M.P.)

... Management

AWARD

(Passed on-5-2022.)

As per letter dated 22/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No .L-42012/134/2018-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Regional Director, National Institute of Open Schooling, Regional Centre, Bhopal in terminating the services of workman Shri Jitendra Singh Dhakad w.e.f. 29/9/2017 who was working w.e.f. 19/9/2008 and entrusted the work of maintenance of register and biometric machine is just and proper? If not, what relief the workman concerned is entitled to?” .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman never appeared inspite of service of notice on him and nor has filed any written statement of claim.
3. None appeared from the side of the Management and nor have they filed any written statement of defence.
4. The initial burden to prove their claim lies on the workman. He has not filed any statement of claim nor has he filed any documents or evidence in his support. The workman has miserably failed to prove his case. Hence this tribunal is constrained to decide the reference against the workmen.
5. Accordingly the reference is decided against the workman.
6. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 466.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/101/2015) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General manager Telecon, Bharat Sanchar Nigam Limited Katju Nagar, Ratlam (MP), and Shri Ramesh, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[No. L- 40012/41/2015- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

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

NO. CGIT/LC/R/101/2015

Present: P.K. Srivastava H.J.S. (Retd)

Shri Ramesh
S/o Mohanlal,
R/o Haat Ki Chowki Subhash Nagar
Ratlam(MP)-457001

... Workman

Versus

The General manager Telecon
Bharat Sanchar Nigam Limited
Katju Nagar, Ratlam(MP)

... Management

AWARD

(Passed on 6-4-2022.)

As per letter dated 5/10/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-40012/41/2015-IR(DU). The dispute under reference relates to:

“Whether the action of the management of General manager Telecom, Bharat Sanchar Nigam Ltd. Ratlam in terminating the services of workman Shri Ramesh S/o Shri Mohanlal is justified? If not, what relief the workman is entitled to?”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defence.

2. According to the workman, he was engaged as a daily wager Safai Karmachari in the office of the Management on fix pay of Rs.600/- per month. He had been working since morning 6am to 10am and in the evening for 4 to 8 hours. His salary was enhanced to Rs.800/- per month in the month of March-2001 but later was re fixed at Rs.600/- per month. On the complaint made by the workman to the member of Parliament Satyanaran Jatia, the salary of the workman was enhanced to Rs.3900 per month. Another person Narendra Parmar was also appointed for sweeping purpose by management and Management thereafter started paying Rs.1950/- to the applicant workman and

Rs.1950 to Narendra Parmar. The last payment was made by cheque of the Krishna Security Services in favour of the claimant on 19-11-2014. His services were disengaged thereafter, without any notice or compensation, which is against law. The workman has requested for his reinstatement with back wages and benefits.

3. The case of the management is that the job of cleaning was entrusted to a contractor M/s Krishna Security Services. The workman was engaged by the contractor. There is no relation of employer and employee with the Management and the claimant workman. Payments were made by the contractor. The workman was never terminated by the Management because he was not engaged by the Management and accordingly the management has prayed that the reference be answered against the workman.

4. The workman has filed a bunch of photocopy papers which are denied by the Management. The burden to prove these documents was on workman. He did not prove these documents. The workman did not examine any witness in support of his claim. The management has also not examined any witness.

5. The workman was not present at the time of arguments, hence argument of Shri R.S.Khare, learned counsel for the Management were heard and record has been perused by me.

6. **The reference is the issue for determination, in the case in hand.**

7. It is necessary to reproduce Section 25B and Section 25G of the Industrial Disputes Act, 1947, which is as under:-

Section 25 B:

Definition of continuous service

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or more, he shall be deemed to be in continuous service under an employer for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (i) one hundred and ninety days, in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (i) thirty-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

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

8. The burden to prove the fact of his continuous engagement with the Management Bank is on the workman, which he has not discharged. Hence, holding the claim of the workman not proved, the reference deserves to be answered against the workman.

9. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of General Manager Telecom, Bharat Sanchar Nigam Ltd. Ratlam in terminating the services of workman Shri Ramesh S/o Shri Mohanlal w.e.f. 7 2014 is held to be just and proper.**
- B. **The workman is held entitled to no relief.**

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

P.K.SRIVASTAVA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 467.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/95/2011) of the Central Government Industrial Tribunal cum Labour Court – Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The District Telecom Engineer, Telecom, Damoh-(M.P.) and Shri Sunderlal Ahirwar, worker, which was received along with soft copy of the award by the Central Government on 05.05.2022.

[F. No. L- 40012/63/2004- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/95/2011

Present P.K.Srivastava H.J.S..(Retd)

Shri Sunderlal Ahirwar,
S/o Shri Nathulal ahirwar,
Post Chenpura,
District Damoh (MP)

...Workman

Versus

The District Telecom Engineer,
Telecom,
Damoh (M.P.)

...Management

AWARD
(Passed on-4-2022)

As per letter dated 10/10/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/63/2004-IR(DU). The dispute under reference relates to:

“Whether the action of the management of District Engineer, Telecom, Damoh(MP) in terminating the services of Shri Sunderlal Ahirwar S/o Shri Nathulal Ahirwar w.e.f. 20/10/1990 is legal and justified? What relief the workman is entitled to? .

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.

2. The case of the workman as stated in his statement of claim is that he was working as a casual labour in the office of Telecom District Engineering from 1-8-1983 till 20-7-1990. He received an order from the office of SDO Telecom on 20-7-1990 informing him that he will not be taken to muster roll till his case is pending before the District Court Damoh against him is decided in his favour. He again received a letter dated 11-11-1991 from the office of SDO phones, according him the temporary status on 11-11-91. The temporary status was accorded to him on the condition that if the criminal Court passed the judgment against him, the status shall be withdrawn. The Court of judicial Magistrate acquitted him from all the charges after trial of criminal case No.1011/99 vide judgment dated 6-10-1999. Thereafter he made a representation before the SDO Telecom and sent a letter to Assistant Director Recruitment on 17-1-2001 informing him that the workman has been acquitted from the criminal charge and has completed 240 days of service earlier, hence he may be taken back in service with TSM status. The office of the Assistant Director General Sanchar Bhawan, Delhi asked for certain information for reinstatement of workman vide letter dated 1-2-1999 which was sent to them vide letter dated 27-5-2002 sent by the Telecom District Engineer Damoh. But no order of his reinstatement was issued. Thereafter, he raised an industrial dispute. The Central Government refused to make reference of dispute vide its order dated 5-11-2004 which was challenged by the workman before Hon'ble High Court of M.P. in W.P.No.5160/2005. Further the High Court allowed the petition vide order dated 29-7-2001 and directed the Central Government to make reference to this Tribunal within 30 days from the date of communication of the order and thereafter this reference was made by the Central Government. According to the Workman, since he was acquitted from the charge, he is entitled for reinstatement also as he has completed 240 days of regular service in every year, thus his termination is bad in law and is unfair labour practice. The workman has prayed for his reinstatement with all back wages and benefits.

3. The case of management is mainly that the workman was engaged as a daily wage casual labour . He was not engaged for work on muster roll since July-1990 when it was found that a criminal case was pending against him. He was exonerated from the charge by the Criminal Court in the year 1999. Since he was a casual worker engaged on day to day basis subject to availability of work, he was not re-engaged as such. Also it has been pleaded that the communication referred to by the workman are internal communication and that the workman has not worked continuously for 240 days. Accordingly, the Management has prayed that the reference be answered against the workman.

4. The workman has filed his affidavit as his examination in chief. He has been cross-examined by management. He has proved the documents W-1 to W-6 to be referred to as and when required. The management has examined Shri Abhay Dubey, Divisional Engineer who has been cross-examined by workman.

5. I have heard arguments from both the sides. Shri Praveen Yadav, learned Counsel for the workman and Shri R.S.yadav, learned Counsel for the Management. The workman has filed written arguments also. I have gone through the written argument as well.

6. On perusal of record in the light of rival arguments , the following points come up for determination , in the case in hand:-

1. **“Whether the workman has successfully proved his continuous engagement for 240 days in every year?**
2. **Whether the termination of service of the workman is legal and justified.?**
3. **Relief to which the workman is entitled to?”**

7. **ISSUE NO.1:-**

Before entering into any discussion, it is important to discuss Section 25-B of the Industrial Disputes Act,1947 , which is being reproduced as below:-

Section 25 B:

Definition of continuous service

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (a) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

8. The case of the workman is that , he remained engaged as a casual labour from 1-8-1983 to 20-7-1990. He also alleges that he completed 240 days in continuous engagement of Management in every year . The Management has disputed this allegation. The workman has examined himself on oath. He has been cross-examined by management. He admits that no appointment letter was issued to him. He also admits that he has no documents to

show that he worked 240 days in every year but he has asserted that he has worked for 240 days continuously in every year.

9. The workman has proved some documents mainly Exhibit W-5 which is letter of District Telecom Engineer sent to Director regarding his reinstatement as a casual labour wherein he has admitted that the workman has worked for 240 days in every year and may be reinstated as he is eligible for reinstatement. The Management does not dispute this letter, rather, objects it that it is the internal communication. This letter cannot be discarded because it is internal communication. From this document the statement of the workman that he worked for 240 days in every year stands corroborated and on the other hand there is statement of the Management witness on oath wherein he states that the workman has not worked continuously for 240 days in every year. He further states that the muster roll is maintained only for five years and also that he was not posted when the workman was terminated. It is nowhere in his statement that the workman worked with him. The workman did work with the Management is not disputed. The only dispute is regarding continuous engagement for 240 days in a year. Comparing the evidence as referred to above adduced from both the sides, the case of workman which is corroborated by the internal document of Management itself. Exhibit W-5 appears more reliable, hence it is held that the workman has successfully proved his continuous engagement for 240 days in every year of his engagement .

Issue No.1 is answered accordingly.

10. **Issue No.2:**

Section 25G of the Industrial Dispute Act,1947 requires to be reproduced here, which is as follows:-

25G. Procedure for retrenchmentWhere 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.

11. It is not the case of any of the parties that any notice or compensation was given to the workman. Hence the termination of workman is held against Section 25G of the Act. **Issue No.2 is answered accordingly**

12. **.ISSUE NO.3:-**

In the light of the findings recorded above, the point arises as to which relief the workman is entitled to?. The workman has prayed for his reinstatement with back wages and benefits. It is undisputed that the workman is a daily wage casual labour. He was not appointed against any sanctioned regular vacancy or appointed following recruitment procedure. The Management has stated that the practice of engagement of casual workers on muster roll has been done away now though learned Counsel for workman has referred to cases **Captain M.Paul Anthony Vs. Bharat Coal Mines Ltd.& Another** Indian Kanoo.Org.doc/888207 and decision of Madras High Court in **National Institute of Technology Vs. The Presiding Officer** Indian Kanoo.org.doc.115600173 and **Mahesh Dhakad Vs. State of M.P.**, Indian Kanoo .ord.doc 198192033 these decisions can be easily distinguished on facts.

13. Learned Counsel for the management has referred to decision of case of **Assistant Engineer Rajasthan Development Corporation and another Vs., Gitam singh**(2013) 2SCC 369, **Secretary, State of Karnataka & Others Vs. Uma Devi and Others**(2006) 4 SCC 1 to further his argument that reinstatement with or without back wages is not justifiable relief in the case in hand.

14. Keeping in view the facts and aforesaid regarding reinstatement of the workman as mentioned above, the workman is held entitled to reinstatement with or without back wages in the back drop of all facts and circumstances of the case in hand, a lump sum compensation of Rs. 30,000/- in lieu of the claims of the workman will meet the ends of justice . **Issue No.3 is answered accordingly.**

15. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of District Engineer, Telecom, BSNL, Damoh(MP) in terminating the services of Shri Sunderlal Ahirwar S/o Shri Nathulal Ahirwar w.e.f. 20/10/1990 is held not just and proper.**
- B. **The workman is held entitled to lump sum compensation of Rs.30,000 (Thirty Thousand) in lieu of the claims of the workman and final settlement.**

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

P.K.SRIVASTAVA, Presiding Officer

New Delhi, the 5th May, 2022

S.O. 468.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33 of 2008) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Central Board of Secondary Education, 2-Samudaik Centre, Preet Vihar Delhi ; M/s Manpower Services & Security, 15, Lohia Marg, Allahabad ; Mr. Frank R. Manessee, 188/2, Sulem Sarai, Allahabad ; The Joint Secretary, Central Board of Secondary Education, Regional Office, 35-BMG Marg, Civil Lines, Allahabad., and Shri Raj Kumar Misra, worker which was received along with soft copy of the award by the Central Government on 05.04.2022.

[No. L- 12012/2/2008- IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM - LABOUR COURT KANPUR

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 33/2008

Ref. No. L-12012/2/2008R(DU) dated 11.03.2008

BETWEEN :

Shri Raj Kumar Misra S/o Shri K.K. Misra
R/o 474/26/10, Shiv Kuti
Allahabad

AND

1. The Secretary
Central Board of Secondary Education
2-Samudaik Centre, Preet Vihar
Delhi – 110092.
2. M/s Manpower Services & Security
15, Lohia Marg, Allahabad
3. Shri Frank R. Manessee
188/2, Sulem Sarai, Allahabad.
4. The Joint Secretary
Central Board of Secondary Education
Regional Office, 35-BMG Marg, Civil Lines
Allahabad.

AWARD

1. By order No. L-12012/2/2008-IR(DU) dated 11.03.2008 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute for adjudication to this CGIT-cum-Labour Court, Kanpur.

2. The reference under adjudication is:

“WHETHER THE CONTRACT BETWEEN THE MANAGEMENT OF CENTRAL BOARD OF SECONDARY EDUCATION AND THEIR CONTRACTOR M/S MANPOWER SERVICES AND SECURITY, WITH REGARD TO ENGAGEMENT OF SHRI RAJ KUMAR MISHRA IS SHAM AND ONLY SMOKE SCREEN? IF YES THEN WHETHER THE ACTION OF THE PRINCIPAL EMPLOYER, AND IF NOT, THEN WHETHER THE ACTION OF THE CONTRACTOR, IN TERMINATING THE SERVICES OF THE SAID WORKMAN W.E.F. 30.12.99 IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. The case of the workman, Raj Kumar Mishra, in brief, is that he was engaged by the management on 01.04.1996 as Junior Assistant at initial pay of Rs. 2500/- per month, which was enhanced from time to time and was getting @ Rs. 3000/- per month at the time of his oral termination w.e.f. 30.12.1999. The workman has submitted that the M/s Manpower Security Services never supplied man power to the Principal Employer i.e. CBSE Board; rather the M/s Manpower Security Services did not participate in the conciliation proceedings and the name of M/s Manpower Security Services has been brought to the array of opposite parties just to defeat the claim of the workman. The workman has submitted that he worked continuously since his engagement for more than 240 days; however, his services have been terminated on 30.12.1999 without any notice/notice pay, charge sheet/enquiry or any retrenchment compensation or assigning any reason in violation to the provisions contained in Sections 25 F of the Industrial Disputes Act; and accordingly, he has prayed that his termination be declared illegal and he be reinstated with consequential benefits including full back wages.

4. The management of CBSE Board has filed its written statement denying the claim of the workman. The management has pleaded that the opposite party is not an industry as defined under Section 2(j) of the I.D. Act. The management has referred to the pronouncement of Hon'ble Supreme Court in AIR 1963, SC 1873. The management has submitted that the appointments are being made in accordance with the appointment rules; however, in exigencies of work, a contract agreement of work for a specified period was entered into with M/s Man Power Services & Security, Allahabad for completion of certain work and the said contract came to an end on completion of contract period. The management has stated that the persons engaged by the contractor for completing work assigned to it, though working in the office of the Board, were supervised, controlled and paid their wages by the contractor. It is submitted by the management that the services of the workman had never been terminated by it at any point of time; rather the services of the workman who was an employee of the contractor had come to an end with the completion of the contract period, therefore, the alleged termination of the workman does not attract violation of any of the provisions of Industrial Disputes Act, 1947 at the part of the Board. Accordingly, the management of the Board has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed his rejoinder wherein apart from reiterating the averments already made in the statement of claim it has submitted that the management has inducted name of the contractor just to deprive the workman of his legitimate rights; whereas he worked with the opposite parties under their direct control and was being paid salary by the opposite party itself. It has also been submitted by the workman that the so called contractor did not have any license to supply labourers in capacity of Office Assistant cadre; however, the contractor may supply labourers for security only.

6. The parties filed documentary as well as oral evidence in support of their rival pleadings. The workman examined himself whereas the management examined Shri Vijay Singh, Section Officer (Legal) in support of their case. The parties availed opportunity to cross-examine witness of each other apart from submitting oral as well as written submissions.

7. Heard learned counsel of the parties at length and perused entire evidence available on record.

8. The learned counsel of the workman has argued that the workman had been engaged by the management on 01.04.1996 as Junior Assistant and he worked accordingly upto 30.12.1999 when his services had been terminated orally without assigning any rhyme or reason or serving any notice or notice party, in violation to the provisions contained in Section 25 F of the Act. It has also been contended by the learned counsel that the contractor viz. M/s Manpower Security Services never supplied man power to the Principal Employer i.e. CBSE Board; moreover, M/s Manpower Security Services did not participate in the conciliation proceedings and the name of M/s Manpower Security Services has been brought to the array of opposite parties just to deprive the workman of his legitimate rights. The authorized representative of the workman has also contended that the so called contractor did not have any license for labour supply as well and the contract/agreement, relied upon by the management is not in respect of

Junior Assistant; hence, the same is sham and bogus. He has vehemently contended that the agreement is not specific and does not match with the period of engagement of the workman, therefore, the same is not applicable in respect of the workman. He has relied upon:

- (i) *Bhuvnesh Kumar Dwivedi vs Hindalco Industries Ltd. 2014 STPL (Web) 337 SC*
- (ii) *Hon'ble Supreme Court in Secretary, H.S.E.B. vs Suresh & Ors Etc. decided on 30.03.1999.*
- (iii) *Bhilwara Dugdh Utpadak Sahakari S. Ltd. vs. Vinod Kumar Sharma AIR (SC) 2010-5288*
- (iv) *Hon'ble Supreme Court in G.B. Pant University of Agriculture & Technology, Pantnagar vs. State of Uttar Pradesh & ors. decided on 10.08.2000.*
- (v) *Hon'ble Supreme Court in Bharat Heavy Electrical Ltd vs State of U.P. and ors. decided on 21.07.2003.*
- (vi) *Bank of Baroda vs Ghemarbhai Harjibhai Rabari AIR (SC) 2005-1817.*

9. In rebuttal, the learned counsel of the management has argued that the opposite party is not an industry as defined under Section 2(j) of the I.D. Act. The learned counsel has also submitted that the appointments in the opposite party establishment are being made in accordance with the appointment rules and the workman had never been appointed in consonance with the recruitment rules. The learned counsel has submitted that in exigencies of work, a contract agreement of work for a specified period was entered into with M/s Man Power Services & Security, Allahabad for completion of certain work and the said contract came to an end on completion of contract period and the persons engaged by the contractor for completing work assigned to it, though working in the office of the Board, were supervised, controlled and paid their wages by the contractor and their engagement automatically came to an end with the end of contract entered between the management of the Board and the contractor viz. M/s Man Power Services & Security, Allahabad. The authorized representative of the management has vehemently argued that the management of the Board never terminated the services of the workman at any point of time; rather the services of the workman who was an employee of the contractor had come to an end with the completion of the contract period, therefore, the alleged termination of the workman does not attract violation of any of the provisions of Industrial Disputes Act, 1947 at the part of the Board.

10. I have given my thoughtful consideration to the rival contention of parties and scanned entire evidence available on record in light thereto.

11. The management has raised preliminary objection regarding maintainability of the case with submissions that the CBSE Board is discharging sovereign function and accordingly it is not an 'industry' within the purview of the Section 2 (j) of the Act. Hon'ble Apex Court in *AIR 1978 Supreme Court 548 Bangalore Water Supply and Sewerage Board vs. A. Rajappa and others*; wherein it has been observed that

"absence of profit motive on gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that

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

It is well known that the Education Boards across the country do the work of imparting education and they act as regulatory bodies to hold examination; and it charges the fee for the same. The opposite party was not discharging sovereign function at all; rather it is at par with other educational institutions and private universities. Also, it has indicated that the nature of work carried out by the CBSE Board well qualifies the triple test, formulated by Hon'ble Apex Court in *Bangalore Water Supply* case. Thus, in view of facts and circumstances of the case and above legal propositions, I am of considered opinion that CBSE Board, is an industry within the definition of 'industry' as provided u/s 2 (j) of the Act.

12. The management of the CBSE Board has also pleaded that the workman had been engaged through a contractor viz. M/s Man Power Services & Security, Allahabad and the payment was used to be made to the contractor who paid to the workman. However, the workman has pleaded that he has been paid by the management and the services for which agreement was entered into was not for office work rather it was for security purposes. The management has filed photocopy of agreement dated 01.01.1999 entered with the contractor in support of its contentions, Annexure – 2 to the written statement. A close scrutiny of the agreement dated 01.01.1999 reveals that the said agreement has been entered into between the CBSE Board and the contractor viz. M/s Man Power Services & Security, Allahabad for supply of specific services for specific period of time. The relevant para of the agreement dated 01.01.1999 is reproduced hereunder:

“Man Power Services & Security shall provide the number of security personnel as desired and required by the Board from time to time. Any reduction (with sufficient notice) and replacement in the staff provided by Man Power Services & Security can be done by the Board.

18. The validity of this contract will be for a period of one year from 1st January, 1999 or date of commencement of work whichever is earlier to 31st December, 1999. The Agreement can be terminated at any time on giving a written notice of one month from either side PROVIDED THAT THE BOARD shall have the option to renew or continue this agreement on the same terms and conditions for a further period of one year, at a time from the date of expiry thereof.

22.

The charges to be paid for security personnel for 8 hours shift duty per month be as under:

| | |
|---------------------|------------------|
| (a) Supervisor (1) | Rs. 2774.00 |
| (b) Security Guards | Rs. 2058.53 each |
| (c) Sweeper | Rs. 2058.53 |
| (d) Mali | Rs. 2058.53 |
| (e) Electrician | Rs. 2774.00” |

Thus, going through the above quoted portion of the agreement dated 01.01.1999, it is crystal clear that the agreement in question was for specific period i.e. from 01.01.1999 to 31.12.1999; whereas the alleged engagement of the workman was for their period 01.04.1996 to 30.12.1999. Likewise, the it is pleaded by the workman that he was engaged in clerical nature of work and working as Junior Assistant; but there is no such mention in the agreement under question. The management witness, Shri Vijay Singh during his cross-examination stated that “they did not obtain any license being principal employer”. The management has filed photocopy of attendance sheet for the month of May and June, 1998 which finds reference of workman at serial number 02, which indicates engagement of the workman with the opposite party Board. Also, there is no agreement on record for the period the attendance sheet has been filed by the management

13. Also, the workman has contended that the contractor did not had any license to supply labourers to the principal employer. There is no iota of evidence in this regard that either the Board had registration as principal employer or the contractor had any license to supply labourers to the principal employer. However, from pleadings and evidence relied upon by the parties, it is established that the workman was engaged through the contractor to carry out the work perennial in nature and that contract too was for limited period i.e. from 01.01.1999 to 31.12.1999 only; and in absence of any registration of the Board as principal employer or the contractor viz. M/s Man Power Services & Security, Allahabad had license for labour supply, making the so called contract between the Board and the so called contractor mere camouflage.

14. It may be correct that the Contract Labour (Regulation & Abolition) Act, 1970 was violated by the opposite party/CBSE. It may also be correct to assert that record preservation guidelines have not been duly followed by the CBSE authority before destruction of the records pertaining to the engagement of claimant, Raj Kumar Misra in the establishment of the opposite party/CBSE; but it cannot be concluded that for above stated lapses Raj Kumar Misra shall be accepted as employee of the CBSE as such conclusion will amount to back door entry into one Government Institution, which is also governed by Recruitment Rules a found from the record. Needless to say back door entry with regard to employment has been negated by the Judgement of the Hon’ble Supreme Court in the case of 2006 (4) SCC 1 Secretary, State of Karnataka & others vs Uma.Devi

15. It is sent that Shri Raj Kumar Misra, claimant had worked under CBSE from 01.04.1996 to 30.12.1999 under such scenario, in view of the case laws, 2021 LLR 1035 (SC) Ram Manohar Lohia Joint Hospital & ors. vs. Munna Prasad Saini & another and 2018 LLR 12 85 (SC) Management of Hindustan Machine Tools Limited vs. Ghanshyam Sharma, the claimant, Raj Kumar Misra is entitled to get compensation instead of reinstatement, regularization with back wages.

16. The disengagement occurred about twenty years back and at this distant point of time adequacy of compensation cannot be computed with mathematical exactitude. The compensation can be reasonably quantified by guess work.

17. Having regards to these facts that the workman has worked as casual worker for 03 years and 09 months i.e. from 01.04.1996 to 30.12.1999 and he was getting Rs. 4000/- per month at the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management of the C.B.S.E. is directed to pay lump sum amount of compensation only.

18. Accordingly, the management of the C.B.S.E. is directed to pay a sum of Rs. 1,00,000/- (Rupees One Lakh only) to the workman as compensation for termination of his services in violation of section 25 F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry simple interest @ 6% per annum.

19. The reference under adjudication is answered accordingly.

20. Award as above.

KANPUR.

27th April, 2022

SOMA SHEKHAR JENA, Presiding Officer

New Delhi, the 11th May, 2022

S.O. 469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 151/2017) of the *Cent.Govt.Indus.TribunatumLabour Court Aurangabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2022– IR(B-1)-06]

D.GUHA, Under Secy.

ANNEXURE

IN THE COURT OF JUDGE, 1st LABOUR COURT, AURANGABAD

(Presided Over by SMT. M.Y. AMRUTKAR)

Ref:IDA/151/2017

(MHLC200014972016)

Santosh S/o. Karam singh Bidla

Age: 39 Years, Occ: Nil,

R/o.Samarth Nagar

Tq Kannad

Dist Aurangabad

...Second Party

VERSUS

1. The Branch Manager,

State Bank of India,

Branch Kannad

Tq. Kannad

Dist Aurangabad

...First Party

As to issue no. 01:

6. The first party pleaded that the second party was not come under the definition of workman within the meaning of section 2 (s) of the Industrial Disputes Act, 1947. The first party further pleaded that second party was working with them on temporary workman from 01/08/2006 to 31/03/2017.

7. As per Industrial Employment (Standing Orders) Act 1946, the workman shall classified as (a) Permanent workman (b) Probationer (c) Badlies or substitutes (d) Temporary workman (e) Casual workman (f) Apprentices. Therefore, I have no hesitation to come to the conclusion that the second party was come under the definition within the meaning of section 2 (s) of the Industrial Disputes Act, 1947. Therefore, I answer Issue no. 01 in affirmative.

As to issues No. 02 & 03.

8. During the cross examination witness of the first party admitted that the second party work with first party as Safai kamgar from 1-8-2006 to 31-07-2017 on temporary basis for 1 hour. It means temporary employment of second party is not disputed. The length of service of second is also not disputed. The first party witness admitted that the second party was working with them on consolidated wages. It is also admitted fact that that the second party made correspondence to head office by letter dated 9th January 2009, 14th January 2009, 20 August 2009 and 29th September 2009 for appointment on 1/3rd scale wages. The witness of the first party also admitted that the letter dated 19th November 2012 sent by second party to first party for regularized him in service as a permanent employee. It is crystal clear that the second party worked with first party for more than 240 days in calendar year before the date of termination i.e. 31/03/2017 on temporary basis. However, it is admitted by second party that he has neither received any interview letter from first party nor interview taken by first party. He has not issued any appointment letter by first party.

9. I have considered the submissions made on behalf of both the sides and carefully perused the record. Before advertizing to discuss the rival contentions and the law laid down on the issue, it would be apposite to reproduce Section 25-F of I.D.Act, which reads thus:

"25-F. 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."

The term 'retrenchment' is defined under Section 2 (oo) of the I.D.Act, which reads thus :

"2(oo) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include -

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or (bb) termination of the service of the workman as a result of the non renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;"

10. It is not disputed that the second party was engaged as a daily wager and his appointment was not against any vacant post. It is thus clear that such a termination fits in the definition of retrenchment in terms of section 2(oo) of the Industrial Disputes Act and retrenchment was ordered without complying with conditions in terms of section 25-F of the Industrial Disputes Act, 1947 sub clause (a) and (b). The second party neither issued one month advance notice nor paid one month salary in lieu thereof. It is pertinent to note that no amount was paid to the second party as a compensation. Now question before this Court is whether his termination in absence of compliance of the mandatory conditions (a), and (b) of Section 25-F of the I.D.Act is illegal warranting his reinstatement? Considering the recent judicial pronouncement of Hon'ble Apex Court the answer to this question would be clear "No". The Hon'ble Apex Court in catena of decisions have clearly laid down that although, an order of retrenchment passed in violation of Section 25-F of the I.D. Act, may be set aside, the award of reinstatement should not be ordinarily passed especially in the case of a daily wager, who does not hold a post as a permanent employee.

11. In case of Bharat Sanchar Nigam Ltd., v. Man Singh (2012) 1 SCC 558 and Assistant Engineer, Rajasthan Development Corporation v. Gitam Singh [2013 (5) MHLJ 1].

It is held that the second party engaged as 'daily wagers' and they had merely worked for more than 240 days, hence the relief of reinstatement cannot be said to be justified and instead monetary compensation would meet the ends of justice.

12. It is clear that ordinarily principle of grant of reinstatement with full back wages, when termination is found to be illegal is not applied automatically in all cases while that may be a position where service of regular permanent workman are terminated illegally and by way of victimization unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatory requirement under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization as held in case, State of Karnataka vs. Uma Devi (2006) 4 SCC 115 thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself in as much as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

13. Now, with regard to quantum of compensation the second party was engaged as a daily wager from 01/08/2006 to 31/03/2017. He worked for 10 years with first party. The second party pleaded and deposed that he is not gainfully employed during pending of proceeding, hence, first party is liable to pay Rs. 1,00,000/- (Rupees One Lac only) to the second party as a retrenchment compensation would meet the ends of justice. Hence, I answered issue no. 2 in partly affirmative, issue no. 03 in negative and to answer issue no. 4 proceed to pass following Award.

AWARD

- 1) The Reference is answered partly affirmative.
- 2) The second party is entitled to get Rs. 1,00,000/- lump-sum from first party towards retrenchment compensation within period of two month from today failing which same shall carry interest @ 9% p.a. from the date of Judgment.
- 3) No order as to costs.
- 4) The copy of the Award be sent to the Appropriate Government for its publication.

M.Y.AMRUTKAR, Presiding Officer & Judge

New Delhi, the 13th May, 2022

S.O. 470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 124/2012) of the Central Government Industrial Tribunal-cum-Labour Court, JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06.05.2022.

[No. L-22012/141/2012—IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/124/2012****Present** P.K. Srivastava, H.J.S..(Retd)

The Secretary,
Koyla Shramik Sangh (CITU)
Branch-Bangwar Project,
P.O.-Bemhouri,
District Shahdol (M.P.)

...Workman

Versus

The General manager
Sohagpur Area of SECL
PO-Dhanpuri, District Shahdol
M.P.

The Sub-Area manager
Amlai Bnagwar-Damini sub Area
PO Bemhouri, District Shahdol(M.P.)

...Management

**AWARD
(Passed on-4-2022)**

As per letter dated 6/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.

L-22012/141/2012-IR(CM-II). The dispute under reference relates to:

“Whether the action of the General manager, Sohagpur Area of SECL in not promoting Shri Rakesh Tiwari to Electrician CAT IV is legal and justified? To what relief the claimant is entitled for, and from which date?”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.
2. During the proceedings, the parties filed the settlement reached at between the parties and requested the reference to be decided in terms of the settlement. The settlement is on record, hence the dispute does not survive now in the light of this settlement. .
3. The reference is decided accordingly.
4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer