

**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR  
COURT NO. II, NEW DELHI**

**ID No. 205/2019**

**Sh. Prabhakar Pokhriyal, S/o Sh. C.P. Pokhriyal,**  
R/o- House NO. 36-A, 3<sup>rd</sup> Floor, Cheema House, Begampur,  
Mahavir Nagar, New Delhi-110017.

...Applicant/Claimant

**Versus**

**1. MMTC,**

Scope Complex, Core-I, 7 Institutional Area,  
Lodhi Road, New Delhi-110003.

**2. Sh. Arjun D Rosary, CGM, MMTC,**

Scope Complex, Core-I, 7 Institutional Area,  
Lodhi Road, New Delhi- 110003.

**3. Sh. Girish Kumar Bhowal, Manager, MMTC,**

Scope Complex, Core-I, 7 Institutional Area,  
Lodhi Road, New Delhi-110003.

**4. Sh. Puroshattam Kumar Jha, Care Taker, MMTC,**

Scope Complex, Core-I, 7 Institutional Area,  
Lodhi Road, New Delhi-110003.

**5. Prominent House Keeping,**

F-67-68, 1<sup>st</sup> Floor, Manish Global Mall,  
Dwarka, New Delhi-110077.

...Management/Respondents

**Counsels:**

For Applicant/ Claimant:

*Sh. C.M. Thapliyal, Ld. AR.*

For Management/ Respondent:

*Sh. K.K Pandey, Ld. AR along with Sh. Shivram Aggarwal (MW) for  
management M-5 i.e. Prominent Housekeeping.*

**AWARD**

**07.11.2025**

1. This is an application **under section 2A of the I.D Act (hereinafter referred as an 'Act')** filed by the claimant stating that he was working as Supervisor and presently deployed at MMTC having its office at Scope Complex, Lodhi Colony, New Delhi. Respondent no. 5 is the outsourced agency. Outsourced employed have been paid less than the minimum wages. Respondent no. 2 & 3 are the employees of the Respondent no. 1 and they are involved in unfair labour practices. Respondent no. 2 & 3 were forcibly taking Rs. 4,000/- in cash from each deployed outsourced employees and further they are getting the sign on the receipt of Rs. 13,500/-. Claimant has raised his voice. However, instead of taking action, he was got transferred at MMTC go-down at Jhandewalan. It is further his case that he has been deployed as Supervisor at the MMTC office through the Prominent House Keeping agency i.e. Respondent no. 5 and he has been discharging his duties and responsibility with utmost honesty and sincerity. One Rahul remained absent and he was instructed to perform his duty as per the roaster, failing which conduct of him shall be reported to the owner of the Housekeeping Agency. According to him his transfer was a punishment order and was done under the influence of the Respondent no. 2 & 3. When the workman went for joining at Manesar, it is utter shock to workman when he was not allowed to enter the premises and not allow to join the services. He further submitted that he is still under the employment of the respondent management. They fail to make the payment of June 2018 to till date. He made prayer that award be passed of the amount of Rs. 2,72,000/- and direct the management to join his duty at MMTC at Lodhi Colony.

2. Management no. 1, 2, 3 & 4 have already been proceeded exparte vide order dated 27.04.2022. Management-5 has filed its written statement stating that application filed by the claimant is prima facie, misconceived, devoid of any justification and jurisdiction. He further submitted that claim is not maintainable as the claimant was working with the respondent in a capacity of Supervisor and he was deployed at one of the clients of the respondent. The duties of the claimant was to manage and regulate day-to-day affairs of the answering respondent with his team, preparing duty rosters allocating duties and shifts for subordinates and takes decision independently to satisfy the client of the respondent who were engaged by the answering respondent and performing their duty under supervision and control of the claimant. He was authorized to assign the duty to the employees who were working under him, he was also authorized to sanction leave to his subordinate. The duties performed

by the claimant being educative, creative administrative, managerial, supervisory, imaginative in nature thus the claimant do not fall within the prescribed categories laid down in section 2(s) of the Act. He also submitted that claim filed by the claimant is not maintainable as the claimant did not work for the respondent for a period of 240 days in a calendar year. He submitted that claim filed by the claimant is liable to be dismissed.

3. Claimant has filed the rejoinder denying the averment made by the management in his written statement and affirmed the facts made in his claim statement.

4. After completion of the pleadings vide order dated 13.04.2023, following issues have been framed:

- (I) Whether the proceeding is maintainable.
- (II) Whether the claimant is a workman as defined under section 2(s) of the I.D Act.
- (III) Whether the claimant had worked for 240 days in a calendar year preceeding to his alleged termination.
- (IV) Whether the service of the claimant was illegally terminated by the managements.
- (V) To what other relief the parties entitled to, and from whom and from which date?

5. In order to prove its claim, claimant had tendered his affidavit in evidence affirming the facts made in his claim statement stating that he was working as a Supervisor. He was cross-examined where he admitted that he was appointed by prominent housekeeping i.e. M-5 on 02.07.2018 and performed his duty till 31.03.2019. He admitted that he was working in the capacity of supervisor and there were 23 to 25 Safai Karamchhari staffs including one female workman were working under his supervision.

6. Examination in chief and cross-examination of the witness has also been recorded.

7. I have heard the argument at par. After going through the testimony of this witness, this tribunal has noticed that the claimant has nowhere mentioned that he was a workman either in his claim statement or in the

affidavit of evidence. The claimant who was present himself admitted that he was a Supervisor and his job was to supervise the workmen.

8. To invoke the jurisdiction of this tribunal, first the claimant has to assert that he was a workman within the definition of Section 2(s) of the Industrial Disputes Act, 1947. Section 2(s) is required to be reproduced herein:

***2 [(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—***

***(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or***

***(ii) who is employed in the police service or as an officer or other employee of a prison; or***

***(iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]***

9. Definition of the workman as provided U/s 2(s) is wide enough to include any person as workman in respect of his earning, however, section has itself carved out the exception as Clause-(i), (ii), (iii) and (iv). The 2<sup>nd</sup> exception stated that, the person who is employed in the police service or as an officer or other employee of a prison is excluded from the category

of the workman. The 4<sup>th</sup> exception stated that, person being employed in a supervisory capacity, drawing wages exceeding Rs. 10,000/- per month is excluded from the category of the workman.

10. Claimant has filed the claim under section 2-A of the I.D. Act stating that he was transferred to Manesar, Gurgaon and not allowing him to join the duty at Manesar amounts to termination. In the entire claim, claimant claims to be a supervisor and 23 to 25 Safari Karamchari staffs including one female were working under his supervision.

11. From the averment made in the claim as well as in his affidavit, it appears that the claimant is not a workman as defined in the Section 2(s) of the Industrial Disputes Act, 1947. Nowhere has he mentioned either in his affidavit or in his claim petition that he had been given designation of Supervisor only by namesake and he was working as a workman. He admitted that his job profile was to inspect the work of cleaning staff.

12. In view of the above discussion, Issue no. 1 & 2 are decided against the claimant and in favour of management.

13. In view of the findings in issue no. 1 & 2, there is no need to decide issue no. 3 & 4. Claim of the claimant stands dismissed. Award is accordingly passed. A copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. File is consigned to record room.

Date: 07.11.2025

ATUL KUMAR GARG  
Presiding Officer  
CGIT – cum – Labour Court – II