

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, JABALPUR**

CGIT/LC/R/64/2023

Present: P.K.Srivastava

H.J.S..(Retd)

Vinod Chavariya (Dead)

Indira Ward 32,

Betul (M.P.) 460001

Represented through his Legal Representatives,

1/1. Mrs. Jyoti Chavariya,

W/o Late Shri Vinod Chavariya,

Aged about 56 years,

Indira Ward 32,

Betul (M.P.) 460001

1/2. Govinda Chavariya,

S/o Late Shri Vinod Chavariya,

Aged about 34 years,

Indira Ward 32,

Betul (M.P.) 460001

Workman

Vs

The Chief General Manager,

M.P. Telecom Circle BSNL,

Hoshngabad Road, Bhopal (M.P.)

Management

With

2.CGIT/LC/R/65/2023

Shekh Habeeb,

S/o Shri Shekh Moulana,

Aged about 52 years,

R/o Telephone Colony, Betul (M.P.) - 460001

Workman

Vs

The Chief General Manager,

M.P. Telecom Circle BSNL,

Hoshngabad Road, Bhopal (M.P.)

Management

3. CGIT/LC/R/24/2024

**Shri Bhimrao Padlak
S/o Late Tillu Padlak,
Aged about 56 years,
Malviya ward Khanjanpur Patel School
Ke pass, Betul (M.P.)**

Workman

Vs

**The Chief General Manager,
M.P. Telecom Circle BSNL,
Hoshngabad Road, Bhopal (M.P.)**

Management

4. CGIT/LC/R/25/2024

**Baba Pawar,
S/o Late Dasru Pawar,
Aged about 56 years,,
R/o Ward No.3 Bank Chowk Sasundra
Tehsil Amla, Betul (M.P.)**

Workman

Vs

**The Chief General Manager,
M.P. Telecom Circle BSNL,
Hoshngabad Road, Bhopal (M.P.)**

Management

5. CGIT/LC/R/60/2024

**Santosh Vishwakarma,
S/o Late Sahablal,
Aged about 60 years,
R/o Patel Mohalla at Post Office
Jongli, Tehsil & Distt. Betul (M.P.)**

Workman

Vs

**The Chief General Manager,
M.P. Telecom Circle BSNL,
Hoshngabad Road, Bhopal (M.P.)**

Management

JUDGMENT

(Passed on this 22nd day of July, 2026)

In R/64/22023

As per letter dated 17.03.2023 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. **RLC-8(97)2022** dt 17.03.2023. The dispute under reference relates to:

“Whether the action of Chief General Manager Bharat Sanchar Nigam Limited MP Telecom Circle BSNL Bhopal to terminate the services of Sh. Vinod Chavariya without any reason on dated 31.03.1988 is correct? If not, what relief his is entitled to?”

In R/65/2023

As per letter dated 17.03.2023 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. **RLC-8(96)2022** dt 17.03.2023. The dispute under reference relates to:

“Whether the action of Chief General Manager Bharat Sanchar Nigam Limited MP Telecom Circle BSNL Bhopal to terminate the services of Sh Shekh Habeeb without any reason on dated 31.03.1988 is correct? If not, what relief his is entitled to?”

In R/24/2024

As per letter dated 23.01.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. **RLC-8(95)2022** dt 23.01.2024. The dispute under reference relates to:

“Whether the action of Management of MP Telecom Circle BSNL to terminate the services of Sh. Bhimrao Padlak without any justified reason is correct? If not, what relief he is entitled to?”

In R/25/2024

As per letter dated 23.01.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. **RLC-8(98)2022** dt 23.01.2024. The dispute under reference relates to:

“Whether the action of Management of MP Telecom Circle BSNL to terminate the services of Sh. Baba Pawar without any justified reason is correct? If not, what relief he is entitled to?”

In R/60/2024

As per letter dated 18.04.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the ‘Act’) as per Notification No. **RLC-8(94)2022** dt 18.04.2024. The dispute under reference relates to:

“Whether the action of Management of MP Telecom Circle BSNL Hoshangabad Road Bhopal to terminate the services of Sh. Santosh Vishwakarma without complying the provision of the ID Act 1947 is correct? If not, what relief he is entitled to?”

Since the facts and disputes in all these five cases are identical, they are being decided by a common judgment and Award.

In case R/64/2023, the case of the Workman Vinod Chavariya has alleged that he has worked continuously from 1958 to 1988 till the date of his disengagement.

In R/65/2023, the case of the Workman Shekh Habeeb is that he worked from 1985 to 1988 continuously till the date of his disengagement.

In R/24/2024, the case of the Workman Shri Bhimrao Padlak is that he worked from 1982 to 1985 continuously till the date of his disengagement.

In the case R/25/2024, the case of the workman Baba Pawar is that he has worked from 1982 to 1989 till the date of his disengagement.

In the case R/60/2024, the case of the workman Santosh Vishwakarma is that he worked continuously from 1985 to 1988 till date of his disengagement.

It is further their case that they have acquired the status of regular employee, the management issued a scheme vide letter dated 18.11.1998, by which regular status was to be conferred to the casual labour who worked for more than 240 days in a year, they were entitled to be conferred regular status in light of the said letter, Similarly situated employees filed a case before the Central Administrative Tribunal, ***petition No. 411/1990*** which was decided after hearing. It was directed by the Central Administrative Tribunal that the employees, who had worked for more than 240 days with the management, would be reinstated in service and shall be deemed in continuous service. The workmen are also entitled to parity in light of the said order of Central Administrative Tribunal but, the management did not grant them any permanent and regular status. They were ill advised to file petition u/s 33(C)(2) of the Act, which they filed in 2001, through Union. It was registered as case ***No. C/15/2001***. This petition was d was decided by this Tribunal after hearing vide order dated 24.08.2021, with an observation that the petition u/s 33(C)(2) was not maintainable as such. Thereafter, they raised a dispute in this respect after failure of conciliation, reference was sent to this Tribunal for adjudication.

According to the workmen, they were not paid any retrenchment compensation or notice pay at the time of his disengagement, they were not conferred permanent and regular status though, they were entitled to, in light of the Circular of the department issued in 1998, as referred to above. The management has thus acted arbitrarily in not granting the reliefs claimed. They

have prayed for setting aside their retrenchment, they be held entitled to be reinstated in service with all back-wages and benefits, also be held entitled to permanent and regular status of employee.

The case of the Management is mainly that the workmen never worked for 240 days in any year, they were not engaged at any point of time. They are a public sector undertaking established in 2000. Before that, there was Department of Telecommunication. The workmen were not a petitioners in the said ***petition No. 411/1990*** filed before the Central Administrative Tribunal, Jabalpur which they have referred to. Hence, they are not entitled to benefit of any order passed by the Central Administrative Tribunal. Department has prayed that the reference be answered against the workman.

In evidence, the workmen have filed their affidavits as their Examination-in-chief, they have been cross-examined by the department, they have filed and proved Ex-W/1 which is the statements, with regard to the works they have done with the department. Management has filed affidavit of its witness S. K. Gupta, as his Examination-in-chief. He has been cross-examined by the workman side.

I have heard argument of Learned Counsel for workmen Mr. Harry Bamoriya and Mr. Manish Chourasiya, Learned Counsel for the Management. I have gone through the record as well.

On perusal of record in the light of rival arguments, the references are the issue for determination

The initial burden to prove their case that they were engaged with the department and worked for 240 days or more in the year preceding the date of his termination, is on the workmen.

Section 25-B of the Act, which defines ‘*continuous service*’, is being reproduced as follows:-

“25-B. Definition of continuous service.—For the purposes of this Chapter,—

- (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 lock-out 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 six months, he shall be deemed to be in continuous service under an employer—*
- (a) *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) *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.”*

Pleadings of the parties on this point have already been detailed earlier. The workmen have reiterated their allegations on

this point in his affidavit as his Examination-in-chief. They have filed and proved the statement issued by the Engineer of the Department, it goes to show that, they worked for more than 240 days.

In their cross-examination, they have stated that their work was to lay telephone lines, dig pits and erecting poles.

On the other hand, the management witness has denied the allegations in this respect and has stated in his affidavit that workmen never worked for 240 days in any year. In his cross-examination, this witness states that muster roll was maintained in the department. Regarding Ex-W/1, he states that it is not issued by the department.

When, the initial burden that the workmen worked for 240 days in a year has been discharged by them by way of his affidavit and documentary evidence, the onus shifts on the department to rebut it at least by production of muster rolls, which has not been produced. Hence, in light of above discussion, **the case and evidence of the workmen on the point of his regular employment of 240 days in the year preceding the date of his termination is held more reliable and is held proved accordingly.**

Section 25-F & 25-G of the Act, is being reproduced as follows:

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.*

25-G. 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.

It is further the case of workmen that they were not paid any notice or compensation. The management witness also pleads ignorance on this point. Hence holding that, no notice pay or retrenchment compensation was paid to the workmen, their **termination is held in violation of section 25-F & 25-G of the Act.**

As regards relief, it has been submitted from the side of workmen that delay is due to wrong advise and **secondly**, they are entitled to parity with petitioners who filed the case bearing case No. 411/1990 before the Central Administrative Tribunal. The said order of the Central Administrative Tribunal will be applicable to the petitioners only; the workmen were at liberty to claim this parity before the Central Administrative Tribunal itself. They cannot claim parity before this Tribunal.

Keeping in view, the facts and circumstances of the case in hand, a lump sum compensation quantified Rs. 4,00,000/- (Rupees Four Lacs Only) in lieu of all his claims will meet the ends of justice which the workman is held entitled to be paid by the department within 60 days from the date of publication of the Award, failing which interest @ 6% p.a. from the date of Award till payment.

In light of above discussion and findings, the reference is answered as follows -

AWARD

“Holding the action of the management in terminating the service of the workman Vinod Chavariya (case R/64/2023) w.e.f. 1988, Shekh Habeeb (case R/65/2023) w.e.f. 1988, Bhimrao Padlak (case R/24/2024) w.e.f. 1985, Baba Pawar (case R/25/2024) w.e.f. 1989 & Santosh Vishwakarma (R/60/2024) w.e.f. 1988 illegal and unjustified, they are held entitled to a lump sum amount of Rs. 4,00,000/- (Rupees Four Lacs Only) in lieu of all their claims, to be paid to them by the Department within 90 days from the date of Award, failing which interest @ 6% p.a. from the date of Award till payment, in lieu of all their claims.

No order as to cost.

DATE:- 22/07/2026



**(P.K.SRIVASTAVA)
PRESIDING OFFICER**