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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010954722014**

\+ W.P.(C) 4100/2014

MADHUKAR KUMAR CHOWDHARY .....Petitioner

Through: Ms. Archana Sharma and Mr. Divakar Upadhyaya, Advocates.

versus

M/S BHARTI AIRTEL SERVICE LTD. .....Respondent

Through: Mr. Sidhant Kumar and Ms. Lahar Jain, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

O R D E R

% 19.11.2026

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Article 226 of the Constitution of India, 1950, seeking the following prayers:-

> "1. To set aside the award passed on dated 28/06/2013 by CGIT court no-1 karkardooma court Delhi. And also direct CGIT to decide the case of petitioner as per provision of law.
>
> 2. And the Management to reinstatement the petitioner with consequential relief and pay all dues/ back wages.
>
> 3. Any other or further relief which Hon'ble court deems fit and proper in the facts and circumstances of the case may also be passed in favor of the petitioner and against the respondents in the interest of justice as well as in the peculiar facts and circumstances of the case."

3. By way of the present petition, the petitioner (***workman***) assails the award dated 28.06.2013 passed by the learned Presiding Officer, Central

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Government Industrial Tribunal No. 1 (***CGIT***), Karkardooma Courts, Delhi, and seeks reinstatement with consequential reliefs.

4. The impugned award came to be passed *ex-parte* against the petitioner, since the latter had failed to appear before the learned CGIT and file his statement of claim, despite notices having been issued to him through the address of All India General Mazdoor Trade Union. The learned CGIT, upon consideration of the response filed by the respondent (***management***), held that the petitioner had voluntarily tendered his resignation on 17.02.2011, which was duly accepted by the management on the same date. It was further observed that the petitioner had received his wages for the month of February, 2011, along with other amounts towards allowances, notice pay and leave encashment. Accordingly, the learned CGIT concluded that the petitioner had failed to establish that his services had been terminated illegally or unjustifiably by the respondent.

5. Learned counsel for the petitioner submitted that the impugned award is liable to be set aside as the same had been passed without affording the petitioner an opportunity of hearing. It was further contended that the learned CGIT proceeded *ex-parte* against the petitioner, without ensuring that notice of the proceedings had been duly served upon him.

6. It was further submitted by the learned counsel for the petitioner that as recorded in paragraphs 3, 4 and 6 of the impugned award, notices were issued to the petitioner through All India General Mazdoor Trade Union, calling upon him to file his statement of claim; however, the petitioner had already withdrawn his membership of the said Trade Union, as well as the authorisation granted in its favour.

7. Learned counsel for the petitioner had drawn attention of this Court to

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the written statement filed on behalf of the respondent, wherein reference had been made to the representation submitted by the petitioner, stating that he had no dispute with the management and had withdrawn the authorisation given to the Trade Union. It was, thus, contended that once the petitioner was no longer represented by the said Trade Union, the learned CGIT ought to have issued notice to him at his personal address, instead of proceeding on the presumption of service through the Trade Union.

8. Learned counsel for the petitioner further submitted that the respondent itself had questioned the representation of the petitioner by the said Trade Union, describing it as an unrecognised Union. It was, therefore, contended that the learned CGIT failed to appreciate the circumstances in which the notices were issued and proceeded to pass the impugned award without the petitioner having been afforded an effective opportunity to contest the reference.

9. It was further argued by the learned counsel for the petitioner that the said act of the respondent was against the provisions of Sections 33 and 25N of the Industrial Disputes Act, 1947. It was further submitted that the learned CGIT ought to have examined whether the action taken by the management during the pendency of the industrial dispute was in compliance with the statutory requirements under the aforesaid provisions. It was further contended that the CGIT was required to examine the legality and justification of the action of the respondent on merits, and the learned CGIT could not have disposed of the reference without undertaking such examination.

10. In support of the aforesaid submissions, learned counsel for the petitioner had relied upon the judgment passed by the Hon'ble Supreme Court in **Creative Garments Ltd. vs. Kashiram Verma**, **2023 SCC OnLine SC**

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277, and particularly on the following portion: -

> "23. In future all the cases to be filed and in all the pending cases, the parties shall be required to furnish their permanent address(es). Even if the representative of the workman is appearing, he shall furnish permanent address of the workman as well. Even in proceedings subsequent to first stage, it shall be mandatory to provide permanent address of the party for his service. Merely mentioning through Labour Union or authorised representatives, who are sometimes union leaders or legal practitioners, will not be sufficient. Service of notice of workman will have to be effected on the permanent address of the workman."

In view of the above, it was submitted that the Hon'ble Supreme Court has categorically held that service of notice upon a workman is required to be effected at his permanent address, and merely issuing notice through a Labour Union or an authorised representative would not be sufficient.

11. Learned counsel for the petitioner had further relied upon Rule 6(3)(a) of the Industrial Disputes (Central) Rules, 1957, and the same reads as under: -

> **"6. Notice to parties to nominate representatives.—**
> …
> (3) The notice to the workmen shall be sent— (a) in the case of workmen who are members of a trade union, to the President or Secretary of the trade union; and …"

In view of the above, learned counsel for the petitioner submitted that the notice could not be treated as duly served, as the same was sent to the Trade Union despite the petitioner not being a member of the same. It was therefore contended that service of notice upon the Trade Union was not valid service upon the petitioner.

12. *Per contra*, learned counsel appearing on behalf of the respondent

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submitted that, since the inception of the dispute between the parties, the petitioner had been represented by the Trade Union and had never communicated any other address to the appropriate Government. It was further submitted that the contention of the petitioner that he had ceased to be a member of the Trade Union was misplaced, as he had not produced even a single document to establish the same.

13. Learned counsel for the respondent had drawn the attention of this Court to the following documents to demonstrate that the petitioner was represented by the Trade Union throughout the proceedings. The said documents are as under: -

i. Demand Letter (Authorisation Letter) dated 21.09.2010 sent to the respondent, wherein it was recorded that the petitioner was a member of the Trade Union;

Note:

I Madhukar Chawdhary is the member of All India general Majdoor Trade Union Regst. Address: 170, Balmukund Khand, Giri Nagar,Kalkaji, New Delhi-19 and give the all rights to take decisions to the employee of the union in my dispute.

ii. Complaint dated 22.09.2010 made before the Assistant Labour Commissioner on the letterhead of the Trade Union;

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ALL INDIA GENERAL MAZDOOR TRADE UNION (REGD)

Reg. Office: 170, Bal Mukund Khand,Giri Nagar,Kalkaji,N.D-19.

Reg No. 1435/10 Dated 22/09/2010

To,

Asst. Labour Commissioner,

Delhi Government,

Central,

Fourth Floor, Jeevan Deep Building,

Parliament Street, New Delhi.

Management/Director

M/S Bharti Airtel Services Ltd.

Address: Corporate Center, Neelgagan Mandi, Sultanpur, Mahrauli, New Delhi-30.

Head Office: Bharti Airtel Ltd.

Address: 224, Okhla Industrial Estate Phase-3, N. D-20.

In reference to reinstatement of employee Madhukar Chawdhary S/O Sudhir Kumar Chaudhary along with the remaining salary.

iii. Statement of claim filed by the petitioner before the Assistant Labour Commissioner, duly signed by the petitioner, nominating the Trade Union and

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its office bearers as his representatives;

Area Labour Commissioner, Central Labour Officer,
Labour Ministry Government, 4th Floor, Jeewan Deep
Building, Parliament Street, New Delhi

IN THE MATTER OF :

Sh. Madhukar Kumar Chowdhary
S/o Shri Sudhir Kumar Chowdhary,
Through All Indian General Trade Union (Regd.),
R/o 170, Bal Mukund, Khand Giri Nagar,
Kalkaji, New Delhi.
Employee Address : A-243/14, Ali Bihar, New Delhi -44

Versus

M/s Bharti Airtel Services Ltd.
Through its Management
R/o Corporate Centre,
Neel Gagan, Mandi Road,
Sultanpur, Mehrauli, New Delhi-110030
Main Office : Bharti Airtel Ltd.,
R/o 224, Okhla Industrial Estate, Phase-III,
New Delhi -110020.

iv. Letter dated 21.02.2011 written by the petitioner through the Trade Union, seeking reinstatement;

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ALL INDIA GENERAL MAZDOOR TRADE UNION (REGD)

Reg. Office: 170, Bal Mukund Khand,Giri Nagar,Kalkaji,N.D-19.

Reg No. 1435/10 Dated 21/02/2011

To,

Asst. Labour Commissioner,

Delhi Government,

Central,

Fourth Floor, Jeevan Deep Building,

Parliament Street, New Delhi.

Subject: In reference to reinstatement of Madhukar Chawdhary, S/o Sudhir Kumar Chawdhary along with wages of M/S Bharti Airtel Services Ltd. Address: 224, Okhla Industrial Estate Phase-3, New Delhi-20.

v. Replication filed by the petitioner before the Assistant Labour Commissioner through the Trade Union, mentioning the address of the said Union, wherein the stand taken by the respondent in its written statement that the petitioner was not a part of the Trade Union was rejected by him;

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To,

Shri Regional Asst. Labour Commissioner,

Labour Department, Labour Office,

Central(Indian Government)

Forth Floor, Jeevan Deep Building

Parliament Street, New Delhi.

Workman [redacted] Parhak S/O Gopal Pathak

Through: All India General Mazdoor Trade Union (Regt)

Address: 170,Balmukund Khand,Giri Nagar,Kalkaji,N. D-19.

Versus

M/S Bharti Airtel Services Ltd.

Address: Corporate Center, Neelgagan Mandi, Mahrauli, New Delhi-30.

Head Office: Bharti Airtel Limited.

Address: 224,Okhla Industrial Estate, Phase-3, N.D-20.

Subject: Replication to the reply of the Management.

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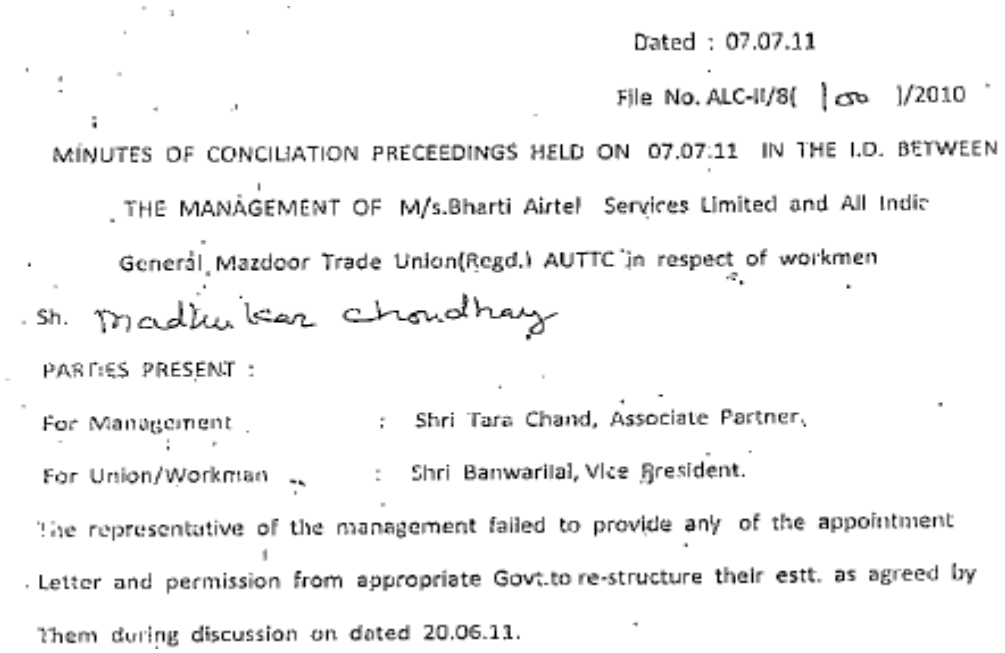
4. That all the objections raised by management in para no.1 to3 of their reply are rejected by the workman. Therefore the same are liable to be dismissed and complaint of the workman be considered as true.

vi. Minutes of the conciliation proceedings dated 07.07.2011, wherein it was recorded that the petitioner was represented by the Vice President of the Trade Union;



Dated : 07.07.11

File No. ALC-II/8(100)/2010

MINUTES OF CONCILIATION PRECEEDINGS HELD ON 07.07.11 IN THE I.D. BETWEEN

THE MANAGEMENT OF M/s.Bharti Airtel Services Limited and All India General Mazdoor Trade Union(Regd.) AUTTC in respect of workmen

Sh. Madhukar Choudhary

PARTIES PRESENT :

For Management : Shri Tara Chand, Associate Partner.

For Union/Workman : Shri Banwarilal, Vice President.

The representative of the management failed to provide any of the appointment Letter and permission from appropriate Govt.to re-structure their estt. as agreed by Them during discussion on dated 20.06.11.

vii. Reference Order dated 10.02.2012 issued by the appropriate Government, which was served upon the petitioner through the Trade Union; and

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GOVERNMENT OF INDIA,
MINISTRY OF LABOUR & EMPLOYMENT,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT - II, ROOM NO.33, BLOCK-A, GROUND FLOOR,
KARKARDOOMA COURT COMPLEX,
KARKARDOOMA, DELHI -110 032

I.D. No. 74/2012 **Dated: 05/03/2012**

In the matter between

Sh. Madhur Kumar Chaudhary (Ex. Sr. Technician),
C/o All India General Mazdoor Trade Sangh,
170, Bal Mukund Khand Giri,
Kalkaji,
New Delhi-110010

VERSUS

1. The Managing Director,
M/s Bharti Airtel Services Ltd.
Plot No: 16, Udyog Vihar, Phase- 4,
Gurgaon-122016

2. M/s Alcatel- Lucent Network
Management Services India Ltd
15th Floor, Tower-C, DLF Cyber Green
City, Phase- 3,
Gurgaon-122002

3. M/s Bharti Airtel,
224, Okhla Industrial Estate, Phase- 3,
New Delhi-110020

viii. Notices issued by the learned CGIT by registered post to the petitioner at the address of the Trade Union.

14. In view of the above, learned counsel for the respondent submitted that the Authorisation Letter dated 21.09.2010 as well as the complaint made by the petitioner before the Assistant Labour Commissioner dated 22.09.2010 specifically mentioned the Trade Union as the representative of the petitioner and also furnished the address of the Trade Union for all purposes, including service of notices. It was further submitted that even in the subsequent proceedings, the petitioner continued to be represented through the Trade Union.

15. Learned counsel for the respondent further submitted that service of

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notice upon the Trade Union was valid in law, as Section 36 of the Industrial Disputes Act, 1947, contemplates representation of a workman through a Trade Union. It was further submitted that Rule 6(3)(a) of the Industrial Disputes (Central) Rules, 1957, provides that, in the case of workmen who are members of a Trade Union, notice is required to be issued to the President or Secretary of the Trade Union. Learned counsel further submitted that Rule 10B(1) of the aforesaid Rules required the petitioner to file his claim within 15 days of the reference, and Rules 10B(9) and 22 entitled the learned CGIT to proceed *ex-parte* once sufficient notice had been given.

16. Learned counsel for the respondent further submitted that the record does not contain even a single document to demonstrate that the petitioner had ceased to be a member of the Trade Union or had revoked the authorisation granted in its favour. It was further submitted that the petitioner had never furnished his personal address during the proceedings and had continued to act through the Trade Union, including by filing a replication dated 11.03.2011 and participating in the proceedings dated 07.07.2011.

17. Learned counsel for the respondent further sought to distinguish the judgment relied upon by the petitioner, *i.e.*, **Creative Garments** (***supra***), by submitting that, in the said case, the address of the workman was merely mentioned as "care of" the Union and the workman could not be traced; however, in the present case, the Trade Union had been pursuing the cause of the petitioner from the very inception of the dispute. It was further submitted that the Hon'ble Supreme Court had placed the obligation to furnish a permanent address upon the party seeking relief and had also directed that the permanent address of the workman be furnished in the pleadings. Lastly, it was submitted that the said judgment was delivered on 16.03.2023, nearly ten

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years after the passing of the impugned award, and therefore, the same could not be relied upon to unsettle an adjudication which had already attained finality.

18. Heard the learned counsel for the parties, and perused the record.

19. A perusal of the record reflects that the petitioner was being represented through the Trade Union since the inception of the dispute. The documents relied upon by the respondent, particularly the Authorisation Letter dated 21.09.2010, the complaint dated 22.09.2010 and the statement of claim filed before the Assistant Labour Commissioner, reflect that the petitioner had approached the authorities through the said Trade Union. Furthermore, the minutes of the conciliation proceedings dated 07.07.2011 also record the appearance of the Vice President of the Trade Union on behalf of the petitioner.

20. The record further reflects that the petitioner, in his replication to the written statement filed on behalf of the respondent, had categorically rejected the stand of the respondent that the Trade Union did not have any authorisation to file and pursue the claim on his behalf. It is also relevant to note that the petitioner has not placed on record any material to demonstrate that the withdrawal of authorisation had been brought to the notice of the appropriate Government or the learned CGIT. In the absence of any such material, it cannot be held that the learned CGIT had erred while issuing notices at the address of the Trade Union, through which the petitioner had been represented.

21. So far as the judgment relied upon by the petitioner, *i.e.*, **Creative Garments** (***supra***) is concerned, the same would not render the service effected in the present case invalid, as the directions contained in paragraph

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23 of the said judgment were prospective in nature. It was further rightly argued by the learned counsel for the respondent that the Hon'ble Supreme Court had placed the obligation to furnish a permanent address upon the party seeking relief and had also directed that the permanent address of the workman be furnished in the pleadings

22. It is settled law that this Court, in writ jurisdiction, does not sit in appeal over the findings returned by the learned CGIT. Unless the findings returned in the impugned award suffer from perversity, illegality or any jurisdictional error, interference by this Court is not warranted. The Hon'ble Supreme Court in **International Airport Authority of India v. International Air Cargo Workers Union, (2009) 13 SCC 374,** has observed and held as under: -

> "47. It is true that in exercising the writ jurisdiction, the High Court cannot sit in appeal over the findings and award of the Industrial Tribunal and therefore, cannot reappreciate evidence. The findings of fact recorded by a fact-finding authority should ordinarily be considered as final. The findings of the Tribunal should not be interfered with in writ jurisdiction merely on the ground that the material on which the Tribunal had acted was insufficient or not credible.
>
> 48. It is also true that as long as the findings of fact are based on some materials which are relevant, findings may not be interfered with merely because another view is also possible. But where the Tribunal records findings on no evidence or irrelevant evidence, it is certainly open to the High Court to interfere with the award of the Industrial Tribunal."

23. In the facts and circumstances of the present case, this Court finds no ground to interfere with the impugned award dated 28.06.2013, and the same is accordingly upheld.

24. In view of the above, the present petition stands dismissed and disposed

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of, accordingly.

25. Pending application(s), if any, also stands disposed of.

26. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

NOVEMBER 19, 2026*/db*

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