

सत्यमेव जयते

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 18]	नई दिल्ली, मई 6—मई 12, 2018, शनिवार/वैशाख 16—वैशाख 22, 1940
No. 18]	NEW DELHI, MAY 6—MAY 12, 2018, SATURDAY/VAISAKHA 16—VAISAKHA 22, 1940

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(हिंदी अनुभाग-2)

नई दिल्ली, 27 अप्रैल, 2018

का.आ. 718.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, राजस्व विभाग के अधीन प्रधान आयुक्तालय, केन्द्रीय माल एवं सेवा कर, उत्तरी दिल्ली को, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

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

डॉ. सतीश चन्द्र, संयुक्त निदेशक (राजभाषा)

MINISTRY OF FINANCE**(Department of Revenue)****(HINDI SECTION-2)**

New Delhi, the 27th April, 2018

S.O. 718.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies, Principal Commissionerate, Central Goods and Service Tax, North Delhi under the Department of Revenue, where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. E-11017/3/2017-Hindi-II DOR DOR]

Dr. SATISH CHANDRA, Jt. Director (OL)

नई दिल्ली, 27 अप्रैल, 2018

का.आ. 719.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, राजस्व विभाग के अधीन केन्द्रीय वस्तु एवं सेवा कर आयुक्तालय, देहरादून, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

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

डॉ. सतीश चन्द्र, संयुक्त निदेशक (राजभाषा)

New Delhi, the 27th April, 2018

S.O. 719.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies, Central Goods and Service Tax Commissionerate, Dehradun under the Department of Revenue, where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. E-11017/3/2017-Hindi-II DOR DOR]

Dr. SATISH CHANDRA, Jt. Director (OL)

नई दिल्ली, 27 अप्रैल, 2018

का.आ. 720.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, राजस्व विभाग के अधीन कार्यालय आयुक्त, केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण), जयपुर एवं इसके निम्नलिखित अधीनस्थ कार्यालयों, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :

1. केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण)-ए, जयपुर
2. केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण)-बी, जयपुर
3. केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण)-सी, अजमेर
4. केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण)-डी, अलवर
5. केन्द्रीय वस्तु एवं सेवा कर (अंकेक्षण)-ई, भिवाड़ी

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

डॉ. सतीश चन्द्र, संयुक्त निदेशक (राजभाषा)

New Delhi, the 27th April, 2018

S.O. 720.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies, Office of the Commissioner, Central Goods and Service Tax (Audit), Jaipur and its following Subordinate offices, under the Department of Revenue, where more than 80% of staff have acquired the working knowledge of Hindi :

1. Central Goods and Service Tax (Audit)-A, Jaipur

2. Central Goods and Service Tax (Audit)-B, Jaipur
3. Central Goods and Service Tax (Audit)-C, Ajmer
4. Central Goods and Service Tax (Audit)-D, Alwar
5. Central Goods and Service Tax (Audit)-E, Bhiwadi

[F. No. E-11017/3/2017-Hindi-II DOR DOR]

Dr. SATISH CHANDRA, Jt. Director (OL)

(व्यय विभाग)

नई दिल्ली, 1 मई, 2018

का.आ. 721.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, भारतीय लेखापरीक्षा और लेखा विभाग में भारत सरकार के निम्नलिखित कार्यालयों जिनके अस्सी प्रतिशत कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है, अर्थात्:-

1. प्रधान निदेशक, लेखापरीक्षा (केन्द्रीय), अहमदाबाद, गुजरात;
2. प्रधान निदेशक, लेखापरीक्षा (केन्द्रीय), अहमदाबाद, शाखा कार्यालय जयपुर, राजस्थान।

[सं. ए-12034/02/2014-ईजी]

ऐनी जॉर्ज मैथ्यू, संयुक्त सचिव

(Department of Expenditure)

New Delhi, the 1st May, 2018

S.O. 721.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Government of India in the Indian Audit and Accounts Department, in which eighty per cent of the staff have acquired the working knowledge of Hindi, namely:-

- (1) Principal Director of Audit (Central), Ahmedabad, Gujarat;
- (2) Principal Director of Audit (Central), Ahmedabad, Branch Office Jaipur, Rajasthan.

[No. A-12034/02/2014-EG]

ANNIE GEORGE MATHEW, Jt. Secy.

भारतीय रिजर्व बैंक

मुंबई, 27 अप्रैल, 2018

का.आ. 722.—राष्ट्रीय आवास बैंक अधिनियम, 1987 की धारा 6 की उप-धारा (1) के खंड (डी) के संशोधन के परिणामस्वरूप, भारतीय रिजर्व बैंक के उप गवर्नर श्री बी पी कानुनगो, राष्ट्रीय आवास बैंक (एनएचबी) के निदेशक मंडल में तत्काल प्रभाव से नामित निदेशक के रूप में शामिल नहीं रहेंगे, जबकि भारतीय रिजर्व बैंक के केंद्रीय बोर्ड के निदेशक, डॉ. प्रसन्ना कुमार मोहंती, एनएचबी के बोर्ड में बैंक के नामित निदेशक के रूप में बने रहेंगे।

[सं. बैंकि.नियुक्ति.एनएचबी. 9712/08.21.006/2017-18]

सुदर्शन सेन, कार्यपालक निदेशक

RESERVE BANK OF INDIA

Mumbai, the 27th April, 2018

S.O. 722.—Consequent to the amendment of clause (d) of sub-section (1) of Section 6 of the National Housing Bank Act, 1987, Shri B.P. Kanungo, Deputy Governor, Reserve Bank of India, ceases to be the Bank's Nominee Director on the Board of Directors of the National Housing Bank (NHB) with immediate effect, while Dr. Prasanna Kumar Mohanty, Director, Central Board of the Reserve Bank of India, continues as the Bank's Nominee Director on the Board of NHB.

[No. DBR.Appt.NHB. 9712/08.21.006/2017-18]

SUDARSHAN SEN, Executive Director

नागर विमानन मंत्रालय

नई दिल्ली, 27 अप्रैल, 2018

का.आ. 723.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, नागर विमानन महानिदेशालय के अंतर्गत सहायक निदेशक उड़नयोग्यता का कार्यालय, चक्रेरी, कानपुर-208008 को, वहां कार्यरत 80 प्रतिशत से अधिक कर्मिकों द्वारा हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिए जाने पर एतद्वारा अधिसूचित करती है।

[सं. ई-11014/9/2015-रा.भा.]

एस. के. मिश्रा, संयुक्त सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 27th April, 2018

S.O. 723.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the Office under the Directorate General of Civil Aviation i.e. Office of the Assistant Director, Airworthiness, Chakeri, Kanpur-208008, whereof, more than 80% of staff have acquired the working knowledge of Hindi.

[No. E-11014/9/2015-OL]

S. K. MISHRA, Jt. Secy.

श्रम एवं रोजगार मंत्रालय**(खान सुरक्षा महानिदेशालय)**

धनबाद, 27 अप्रैल, 2018

का.आ. 724.—मैं, प्रशान्त कुमार सरकार, मुख्य खान निरीक्षक जिसे खान सुरक्षा महानिदेशक के रूप में भी पदानामित किया गया है, खान अधिनियम, 1952 की धारा 6 की उप-धारा 3 के तहत प्रदत्त शक्तियों तथा उपरोक्त विषय पर पूर्व में निर्गत अधिसूचना संख्या का.आ. 3177, दिनांक 6 नवम्बर, 2009 (पृष्ठ संख्या 7420) में आंशिक संशोधन करते हुए राँची क्षेत्र का क्षेत्राधिकार एतद्वारा घोषित करता हूँ कि खान अधिनियम, 1952 की धारा 5 की उप-धारा 1 के तहत नियुक्त निरीक्षक अपने क्षेत्राधिकार के सम्बद्ध क्षेत्र में अपनी शक्तियों का प्रयोग निम्नलिखित निर्देशानुसार करेंगे।

राँची क्षेत्र, मुख्यालय—राँची, राज्य—झारखण्ड

झारखण्ड राज्य: गढ़वा, पलामू, चतरा, लातेहार, लोहरदगा, गुमला, सिमडेगा, खूँटी, राँची, रामगढ़ एवं हजारीबाग जिले के सभी खदान।

रामगढ़ उप-क्षेत्र, रामगढ़ का उप-क्षेत्रीय कार्यालय राँची क्षेत्रीय कार्यालय, राँची स्थानांतरित किया जाता है।

परंतु अन्य जोन, क्षेत्र एवं उप-क्षेत्र का क्षेत्राधिकार पूर्ववत् रहेगा।

[मि. सं. एस-29022/08/2016-सामान्य]

प्रशान्त कुमार सरकार, मुख्य खान निरीक्षक

MINISTRY OF LABOUR AND EMPLOYMENT
(DIRECTORATE GENERAL OF MINES SAFETY)

Dhanbad, the 27th April, 2018

S.O. 724.—I, Prasanta Kumar Sarkar, Chief Inspector of Mines and also designated as Director-General of Mines Safety, under the powers conferred on me under sub-section 3 of Section 6 of the Mines Act, 1952, and in partial modification of Gazette Notification earlier published vide No. S.O.3177, dated the 6th November, 2009 (page No. 7424) hereby declare the area of jurisdiction of Ranchi Region with respect to which Inspectors appointed under Sub-section 1 of Section 5 of the Mines Act, 1952 shall exercise their respective powers, as given below:

Ranchi Region, HQ at Ranchi in the State of Jharkhand.

State of Jharkhand:-All Mines in the districts of Garhwa, Palamu, Chatra, Latehar, Lohardaga, Gumla, Simdega, Khunti, Ranchi, Ramgarh & Hazaribag.

Office of Ramgarh Sub- Region, Ramgrah is being shifted to office of Ranchi Region, Ranchi.

However, area of jurisdiction of other Zones, Regions and Sub-Regions shall remain unchanged.

[F. No. S-29022/08/2016-Genl.]

PRASANTA KUMAR SARKAR, Chief Inspector of Mines

नई दिल्ली, 1 मई, 2018

का.आ. 725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 4/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/181/2006-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22012/181/2006-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 19th day of March, 2018

INDUSTRIAL DISPUTE No. 4/2007

Between :

The President,
(Shri Bandari Lingaiah),
Singareni Collieries Employees Union(CITU),
H.No.D-330, 1st Zone,
Mandamarri

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur
Adilabad – 504303

...Respondent

Appearances :

For the Petitioner : M/s. A.K. Jayaprakash Rao, K. Srinivas Rao, M. Govind & Venkatesh Dixit, Advocates
For the Respondent : Sri M.V. Hanumantha Rao, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/181/2006-IR(CM-II) dated 29.11.2006 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the management of the General Manager, M/s. Singareni Collieries Company Ltd., in dismissal of Shri Kunta Mallesh with effect from 20.3.2002 is legal and justified? If not, to what relief the workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 4/2007 and notices were issued to the parties concerned.

2. The case stands posted for Petitioner's evidence.
3. On the date of hearing of the case, the counsel for the Petitioner union as well as representative of the Petitioner Union found absent and there is no representation on behalf of the Petitioner union. Non appearance of the Petitioner union on the dates of hearing of the case indicates that perhaps the matter has been settled between the parties and the Petitioner union has no claim to raise. Hence, it is not wise to linger the case to any further date and as such the case of the Petitioner Union is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 19th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मई, 2018

का.आ. 726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 47/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/102/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2012) of the Central Government Industrial Tribunal-cum-

Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22012/102/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2018

INDUSTRIAL DISPUTE No. 47/2012

Between :

The General Secretary (Riaz Ahmed),
Singareni Miners & Engg. Workers Union (HMS),
Qtr.No.C-34,Sector-I,
Godavarikhani, Karimnagar – 505209

... Workman

AND

The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur
Adilabad Distt. – 504303

...Respondent

Appearances :

For the Workman : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Representative

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/ 102/2012-IR(C-II) dated 12.7.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Dist., in terminating the services of Sri Bhuneni Posham, Ex-Badli Filler, SRP-1 Inc., Sreerampur Area with effect from 01.03.2006 is justified or not? To what relief the applicant is entitled for ?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 47/2012 and issued notices to both the workman and the management.

2. The averments made in the claim statement in brief are as follows:

The Workman, Sri Bhuneni Posham, E.No.2807327 was initially appointed as Badli Filler in the 1st Respondent's company and from the date of appointment he used to work to the satisfaction of one and all. While the matters stood thus, charge sheet dated 25.7.2005 was issued to the Workman by the Respondents alleging that the Workman absented for duty during the year 2004, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service with effect from 1.3.2006 vide office order dated 23.2.2006. It is stated that during the course of the enquiry the Workman has categorically stated about his inability to perform his duties regularly during the year 2004 as it was only on account of his ill-health. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. With the above averments the

workman has prayed this Tribunal to declare the impugned order No. SRP/PER/13.008/1458 dated 23.2.2006 issued by the Respondent is illegal, arbitrary and to set aside the same and consequently direct the Respondents to reinstate the concerned workman Sri Bhuneni Posham (E.No.2807327), S/o Bumaiah, into service duly granting all other consequential benefits, such as continuity of service, back wages and all other attendant benefits.

3. Respondents did not file counter statement hence, they are set ex-parte.

4. In view of the memo filed by the Counsel for the Workman conceding the legality and validity of the domestic enquiry conducted in the present case, the domestic enquiry conducted by the Respondent is held as legal and valid vide order dated 15.11.2016.

5. The Petitioner union has advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Bhuneni Posham is legal and justified?
- II. Whether the Workman is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Workman submitted that due to ill-health, the Workman could not be able to attend his duty sincerely. Even in his show cause the Workman has mentioned the above fact, but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Workman. When the Workman has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, in such a circumstances, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Workman, and has given capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. The Respondent did not submit either written arguments or oral arguments.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Workman could not be able to be regular in his duty, the Workman has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 34 years, he is now aged about 41 years and is searching ways and means to provide bread and butter to his family members. When the Workman being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Workman is a first offender and has worked for about 8 years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Bhuneni Posham is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Bhuneni Posham is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Workman has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Workman is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

Result

In the result, the reference is ordered as under:

The action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Dist. in terminating the services of Sri Bhuneni Posham Ex. Badli filler, SRP-1 incline, Sreerampur Area, with effect from 23.2.2006 is not justified and is hereby set aside. It is ordered that the workman Sri Bhuneni Posham be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry and in case the workman completes the probation period of one year successfully he will be allowed to continue in service till the date of attaining his superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मई, 2018

का.आ. 727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 57/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/41/2015-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22012/41/2015-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2018

INDUSTRIAL DISPUTE No. 57/2015**Between :**

Sri Pulipaka Venkaty,
H.No.252, No.2 Incl., Line Basthi,
Bellampalli – 504251
Adilabad Distt., Telengana State

...Workman

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri (P.O.) – 504231
Adilabad district

...Respondent

Appearances :

For the Workman : Sri Y. Ranjeeth Reddy, Advocate

For the Respondent : M/s. Nandigam Krishana Rao, N.S. Pattabhi Rama Rao & J. Narasimhulu, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/41/2015-IR(CM-II) dated 29.7.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Adilabad distt., in terminating the services of Shri Pulipaka Venkaty, Ex-BF, KK-5 Inc., Mandamarri Area with effect from 5.11.1998 is justified or not? If not, to what relief the applicant is entitled for?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 57/2015 and issued notices to both the workman and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. The averments made in the claim statement in brief are as follows:

The Workman was appointed as a Badli Coal Filler on 16.10.1986 in the Respondent's organization. The Workman was regular to his duties till his dismissal from service. While the matters stood thus, one charge sheet was issued to the Workman by the Respondent alleging that the Workman absented for duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service vide order dated 5.11.1998. It is stated that during the course of the enquiry the Workman has categorically stated about his inability to perform his duties regularly during the year 1997, as it was only on account of his ill-health. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondent management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Workman has rendered 12 years of continuous service in the Respondents' management. The Workman approached the Respondent to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Workman was constrained to approach the Assistant Labour Commissioner (C), Mancheri, who sent failure report to the Government of India, Ministry of Labour and Employment, and Ministry of Labour and Employment, who referred the matter to this Tribunal. The Petitioner workman prayed this Tribunal to declare the impugned order dated 5.11.1998 issued by the Respondent as illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Workman into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondent filed counter denying the averments made in the claim statement, with the averments in brief which runs as follows:**

In the counter the Respondent while admitting some of the factual aspects to be true, stated that the Workman was appointed in the Respondent's company on 16.10.1986 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Workman has attended the dates fixed for the enquiry and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Workman is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in the present case is not challenged by the Petitioner, for which it is held as legal and valid vide order dated 12.7.2017.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Adilabad distt., in terminating the services of Shri Pulipaka Venkaty, Ex-BF, KK-5 Inc., Mandamarri Area with effect from 5.11.1998 is justified or not?
- II. Whether the Workman is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner union submitted that due to illness and family problems, the Workman could not be able to attend his duty sincerely. On account of absenteeism capital punishment of dismissal from service was imposed on the Workman. The Workman has worked about 12 years continuously in the management and no penalty has been imposed on the Workman previously. But when the Workman has taken a stand that due to his illness he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing such a capital punishment. But the authority has not considered any of the submissions of the Workman, and has imposed capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent management submitted that when the Workman was a chronic absentee and was found guilty of the charges levelled against him, the punishment imposed by the Respondent company is legal and proper. When the Workman was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the workman could not be able to be regular in his duty, and remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. The Workman has served 12 years under the Respondent. There was no previous punishment imposed on the Workman. Now he has already realised his mistake and has taken shelter in the court at the age of 50 years, he is now aged about 53 years and is searching ways and means to provide bread and butter to his family members. In such a circumstances, atleast one chance should be given to the Workman for his reinstatement into service in order to provide a square meal to his family members. Admittedly several modes of punishment are enumerated in company's Standing Orders. But, the Workman has been given capital punishment. The Workman is a first offender and has worked for about 12 years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Pulipaka Venkaty is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Pulipaka Venkaty is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondent's management. But in this case the workman has not come to the court soon after his dismissal of service. Thus, in the opinion of this Tribunal, the workman is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondent's management.

Thus, Point Nos. II & III are answered accordingly.

RESULT

In the result, the reference is answered as follows:

The action of the management of M/s. SCCL in dismissing the services of Sri Pulipaka Venkaty w.e.f. 5.11.1998 is neither legal nor justified. Proceeding dated 5.11.1998 issued by the Respondent is declared as illegal and is hereby set aside. It is ordered that the workman Sri Pulipaka Venkaty be taken into service as a fresh employee i.e., Badli Filler on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters during the year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of three months, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any short fall of attendance during one year of service of the workman he will be terminated from service without any further notice and enquiry and in case the workman completes the probation period of one year successfully he will be allowed to continue in service till the date of attaining his superannuation. The management shall consider the forced absenteeism on account of Mine accidents/Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मई, 2018

का.आ. 728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 60/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/31/2013-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22012/31/2013-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2018

INDUSTRIAL DISPUTE No. 60/2013

Between :

The General Secretary (Riaz Ahmed),
Singareni Miners & Engg. Workers Union (HMS),
Qtr.No.C-34,Sector-I,
Godavarikhani, Karimnagar – 505209

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Adilabad Distt.– 504303

...Respondent

Appearances :

For the Workman : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/ 31/2013-IR(C-II) dated 1.5.2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Dist., in terminating the services of Sri Samuel David, Ex-Coal Filler, MK-4 Inc., SCCL, Mandamarri Area with effect from 26.11.2003 is justified or not? To what relief the applicant is entitled for ?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 60/2013 and issued notices to both the Petitioner union and the management.

2. The averments made in the claim statement in brief are as follows:

The Workman, Sri Sameul David, was initially appointed as badli filler on compassionate grounds and later he was confirmed as coal filler in the year 2000. While the matters stood thus, charge sheet dated 18.11.2003 was issued to the Workman by the Respondent alleging that the Workman absented for duty during the year 2001, which amounts to misconduct under company's Standing Order No.25.25 and it is also stated that the charge sheet was sent to the Workman's house which was returned undelivered, as such a paper advertisement was issued, advising the Workman to attend for enquiry and as the Workman did not attend the enquiry on the scheduled date, an exparte enquiry was conducted and he was dismissed from service. The Workman was undergoing treatment in his native village and he was not aware of either issuance of charge sheet or publication of notice made by the Respondent in the newspapers. The Workman could have certainly participated in the enquiry, if really he was in receipt of the charge sheet or notice of paper publication. It is stated that the Workman was unable to perform his duties regularly during the year 2001

only on account of his ill-health and other family problems, for this he could not attend his duties sincerely, but without considering any of his submissions, the Workman was dismissed from service vide office order dated 18.11.2003. It is also stated that the action of the Respondent management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Workman has rendered about 7 years of continuous service in the Respondent management. He remained absent from duty only on account of his sickness which ought not to have been treated as a serious misconduct. The Workman made the above stated submissions, but without considering any of his submissions, the Workman was dismissed from service vide office order dated 18.11.2003. The Workman approached the Respondent to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Workman was constrained to approach this Tribunal to declare the impugned order No. MMR/PER/D/072/5404 dated 18.11.2003 issued by the Respondent as illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Workman into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondent filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondent while admitting some of the factual aspects to be true, stated that the Workman was appointed in the Respondent company on 17.1.1996 as a Badli Filler under dependent employment scheme of the company and subsequently he was regularized as Coalfiller. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner had remained absent unauthorizedly from duty without sufficient cause on a number of days and attended four days for duty during the calendar year 2001. A charge sheet was sent to his last known home address as per the procedure, as he was not attending for duty, which was received by him but he did not submit his explanation. An enquiry notice was sent to his residential address through Registered Post which was returned undelivered with an endorsement "absent 7 days". Subsequently, the same was published in Vartha daily newspaper dated 27.7.2002 advising the Workman to attend an enquiry fixed on 1.7.2001. The Workman neither submitted any explanation to the charge sheet nor attended the enquiry, as such an exparte enquiry was conducted on 23.9.1998 wherein the charges levelled against the Workman were proved. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet, and after receiving the show cause notice. It is further stated that the punishment imposed on the Workman is justified and legal and as such the claim petition be dismissed in limini.

4. The domestic enquiry conducted in the present case is not challenged by the Petitioner union, for which it is held as legal and valid vide order dated 7.6.2016.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in dismissing the services of Sri Samuel David w.e.f. 18.11.2003 is legal and justified?
- II. Whether the Workman is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Workman submitted that due to ill-health, the Workman could not be able to attend his duty sincerely. Even in his show cause the Workman has mentioned the above fact, but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Workman. When the Workman has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing capital punishment. The authority has not considered any of the submissions of the Workman, and has given capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondent's management is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Workman could not be able to be regular in his duty, the Workman has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 38 years. He is now aged about 42 years and is searching ways and means to provide bread and butter to his family members. When the Workman being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondent, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Workman is a first offender and has worked for about 17 years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Sameul David is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Sameul David is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondent's management. But in this case, the Workman has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Workman is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondent's management.

Thus, Point Nos. II & III are answered accordingly.

RESULT

In the result, the reference is ordered as under:

The action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Dist. in terminating the services of Sri Sameul David Ex. Badli filler, SRP-1 incline, Mandamarri Area, with effect from 18.11.2003 is not justified and is hereby set aside. It is ordered that the workman Sri Sameul David be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry and in case the workman completes the probation period of one year successfully he will be allowed to continue in service till the date of attaining his superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मई, 2018

का.आ. 729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 83/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/120/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LC 83/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22012/120/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2018

INDUSTRIAL DISPUTE No. 83/2012**Between :**

The President (Sri R. Kashiramulu),
Telengana Trade Union Council,
H.No.3-4-247/3, Azmathpura,
Karimnagar

...Workman

AND

The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam-I Area, Godavarikhani,
Karimnagar district.-505209

...Respondent

Appearances :

For the Workman : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/120/2012-IR(CM-II) dated 22.10.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar distt., in terminating the services of Shri V. Jagan, Ex-fitter, GDK-5 Inc., of Ramagundam-I Area, Godavarikhani, Karimnagar dist., with effect from 19.6.2009 is justified or not? To what relief the applicant is entitled for?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 83/2012 and issued notices to both the workman and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. **The averments made in the claim statement in brief are as follows:**

The Workman was appointed as Fitter category-IV on 1.7.1984 and later he was promoted to category-V, category-VI and further promoted to Grade C w.e.f. 1.4.2000. The Workman was regular to his duties till his dismissal from service. But during the year 2006, the Workman suffered ill-health. While the matters stood thus, one charge sheet was issued to the Workman by the Respondent alleging that the Workman absented for duty during the year 2006, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service vide order No. RG.I/PER/S.46/3380 dated 16.6.2009. It is stated that during the course of the enquiry the Workman has categorically stated about his inability to perform his duties regularly during the year 2006, as it was only on account of his ill-health. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondent management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Workman has rendered 25 years of continuous service in the Respondents' management. The Workman approached the Respondent to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Workman was constrained to approach this Tribunal to declare the impugned order No. RG.I/PER/S.46/3380 dated 16.6.2009 issued by the Respondent is illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Workman into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

In the counter the Respondent while admitting some of the factual aspects to be true, stated that the Workman was appointed in the Respondent company on 1.7.1984 as Fitter Cat.IV and subsequently he was promoted to Category VI and further to Grade C. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Workman has attended the dates fixed for the enquiry and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Workman is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in the present case is not challenged by the Petitioner union, for which it is held as legal and valid vide order dated 15.11.2016.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in dismissing the services of Sri V. Jagan w.e.f. 16.6.2009 is legal and justified?
- II. Whether the Workman is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner union submitted that due to illness the Workman could not be able to attend his duty sincerely. On account of absenteeism capital punishment of dismissal from service was imposed on the Workman. The Workman has worked 25 years continuously in the management and no penalty has been imposed on the Workman previously. But when the Workman has taken a stand that due to his illness he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing such a capital punishment. But the authority has not considered any of the submissions of the Workman, and has imposed capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent management submitted that when the Workman was a chronic absentee and was found guilty of the charges levelled against him, the punishment imposed by the Respondent company is legal and proper. When the Workman was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the workman could not be able to be regular in his duty, and remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. The Workman has served 22 years under the Respondent. There was no previous punishment imposed on the Workman. Now he has already realised his mistake and has taken shelter in the court at the age of 46 years, he is now aged about 52 years and is searching ways and means to provide bread and butter to his family members. In such a circumstances, atleast one chance should be given to the Workman for his reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. After completion of 22 years of service the Workman has been given capital punishment. The Workman is a first offender and has worked for about 22 years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri V. Jagan is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri V. Jagan is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondent's management. But in this case the workman has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the workman is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work under the Respondent management.

Thus, Point Nos. II & III are answered accordingly.

RESULT

In the result, the reference is answered as follows:

The action of the management of M/s. SCCL in dismissing the services of Sri V. Jagan w.e.f. 16.6.2009 is neither legal nor justified. Proceeding No. RG-I/PER/S/46/3380 dated 12/16.6.2009 and consequential proceeding No.RG-I/GDK-1/P-002/09/2233 dated 17.6.2009 issued by Respondent is declared as illegal and is hereby set aside. It is ordered that the workman Sri V. Jagan be taken into service as a fresh employee i.e., fitter Cat.IV on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of three months. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters during the year and the management shall have the right to review the work of the workman in a month during the period of probation. In the event of any short fall of attendance during the period of review, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman he will be terminated from service without any

further notice and enquiry and in case the workman complete the probation period of one year successfully he will be allowed to continue in service till the date of attaining his superannuation, the management shall consider any forced absenteeism on account of mine accidents, natural disasters, taking treatment in the company's hospital as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 मई, 2018

का.आ. 730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 77/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2018

S.O. 730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 26.04.2018.

[No. L-22013/01/2018-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2018

INDUSTRIAL DISPUTE L.C. No. 77/2018

Between :

Sri Garnepalli Babu,
S/o Laxminarayana,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur, Adilabad District.
2. The Dy. General Manager,
M/s. Singareni Collieries Company Ltd.,
RK-7 Incline, Srirampur Area,
Srirampur, Adilabad District.

...Respondent

Appearances :

- For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
- For the Respondent : P.A.V.V.S. Sarma & Vijaya Lakshmi, Advocates

AWARD

Sri Garnepalli Babu who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. SRP/PER/13.008/4429 dated 11.9.2007 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was initially appointed as badli filler on 20.10.2000. The Petitioner was regular to his duties till the year 2005. During the year 2006 the Petitioner met with a mine accident while performing his duties. Due to such mine accident and other family problems the Petitioner could not be regular to his duties during the year 2006. While the matters stood thus, charge sheet dated 15.2.2007 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2006, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. SRP/PER/13.008/4429 dated 11.9.2007. It is stated that during the course of the enquiry the Petitioner has categorically stated about his inability to perform his duties regularly during the year 2006, as it was only on account of his ill-health. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered 6 years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. SRP/PER/13.008/4429 dated 11.9.2007 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 20.10.2000 as a Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the dates fixed for the enquiry and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondents were constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Counsel for the Petitioner conceding the legality and validity of the domestic enquiry conducted in the present case, the domestic enquiry conducted by the Respondents is held as legal and valid vide order dated 30.3.2010.

5. Both the parties have advanced their arguments U/s.11A of the Industrial Disputes Act, 1947 in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Garnepalli Babu is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. He was getting treatment at his native village. Even in his show cause the Petitioner has mentioned the above facts but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing capital punishment. But the authority has not considered any of the submissions of the Petitioner, and has imposed capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty of the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to mine accident and other family problems of the Petitioner, he could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 43 years, he is now aged about 53 years and is searching ways and means to provide bread and butter to his family members. The Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to the court at the age of 53 years to work under the Respondents. In such a circumstances, atleast one chance should be given to him for reinstatement into service in order to save his family members. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for about 6 years under the Respondents. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Garnepalli Babu is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Garnepalli Babu is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. SRP/PER/13.008/4429 dated 11.9.2007 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Garnepalli Babu be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of three months. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry and in the event of completion of one year of probation satisfactorily, the workman is to continue in service till the age of attaining superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 3 मई, 2018

का.आ. 731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 973/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/105/1994-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 973/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 03.05.2018.

[No. L-12012/105/1994-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 3rd April, 2018

Reference: (CGITA) No. 973/2004

The Manager,
Syndicate Bank,
2.0, Neptune Tower,
Near Nehru Bridge, Ashram Road,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

The Assistant Secretary,
Gujarat Bank Workers' Union,
Rahbar, 8, Jagnath Plot,
Rajkot (Gujarat) – 360001

...Second Party

For the First Party No : Shri P.S. Chari

For the Second Party : Shri Yogen Pandya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/105/94-IR(B-II) dated 30.09.1994 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Gujarat Bank Workers' Union, Rajkot on the management of Syndicate Bank, Ahmedabad for reimbursement of hospitalisation expenses amounting to Rs.16938.78/- incurred by Shri H.G. Takerar, Clerk towards hospitalisation of his father for donating kidney is justified? If so, what relief the said workman is entitled to?”

1. The reference dates back to 30.09.1994. The second party union submitted the statement of claim Ex. 4 alleging that H.G. Takerar is working as clerk in the first party Syndicate Bank at Porbandar Branch who is member of the union named Gujarat Bank Workers' Union, the same union is a registered trade union. The workman alleged that the workman's brother was suffering with the kidney ailment which required the transplant of a kidney and the workman's father donated one of his kidneys to his brother. Workman H.G. Takerar's father was dependant on the workman and the transplant and donation of kidney of his father to workman's brother incurred hospitalisation expenses of Rs. 16938.78/- which the Syndicate Bank, the employer of the workman, refused to reimburse the aforesaid amount despite the fact that workman's father was dependant on the workman H.G. Takerar. Thus he has prayed for the reimbursement of the aforesaid amount with 12% interest per annum.
2. The first party Syndicate Bank submitted the written statement Ex. 5, denying the liability mentioned in the statement of claim, submitted that the reference is time barred and delayed and barred by the principle of estoppel, acquiescence and waiver. The first party has further submitted that the union or the workman has to prove the donation of the kidney. Under the rules of medical reimbursement, reimbursement can only be made in a case where the recipient of the kidney is the dependent or the family member of the workman employee. As the recipient of the kidney in this case is the brother of the workman who does not come within the definition of the member of the family of the workman, therefore, reimbursement cannot be made and the reference is liable to be dismissed.
3. On the basis of the pleading, the following issues arise:
 - I. Whether the demand of the Gujarat Bank Workers' Union, Rajkot on the management of Syndicate Bank, Ahmedabad for reimbursement of hospitalisation expenses amounting to Rs.16938.78/- incurred by Shri H.G. Takerar, Clerk towards hospitalisation of his father for donating kidney is justified?
 - II. To what relief, if any, the said workman is entitled?

4. Both these issues are interrelated and are decided together.
5. **Issue No. I and II:** The burden of proof of these issues was lying on the workman who submitted his affidavit Ex. 8 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination. He has admitted that the recipient of the kidney in this case was the brother of the workman and kidney was given by workman's father. This is a settled law that the brother is not the dependent or family member of the workman, therefore, under the medical reimbursement rules; reimbursement cannot be said to permissible under the rules.
6. Thus both these issues are decided in negative and against the second party workman with the observation as under: "the demand of the Gujarat Bank Workers' Union, Rajkot on the management of Syndicate Bank, Ahmedabad for reimbursement of hospitalisation expenses amounting to Rs.16938.78/- incurred by Shri H.G. Takerar, Clerk towards hospitalisation of his father for donating kidney is unjustified."
7. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 137/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/53/1998-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 137/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 03.05.2018.

[No. L-12012/53/1998-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th April, 2018

Reference: (CGITA) No. 137/2004

The Regional Manager,
Bank of Baroda,
Regional Office, North Gujarat Zone,
Opp. Income Tax Office, Ashram Road,
Ahmedabad (Gujarat) – 380014

...First Party

V/s

Shri Vijaykumar D. Parmar,
Khashipura, O/S Raipur Darwaja,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party No : Shri K.V. Gadhia
 For the Second Party : Smt. Sunita Ahuja

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/53/98-IR(B-II) dated 31.12.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of management of Bank of Baroda in terminating the services of Shri Vijaykumar Dalapatbhai w.e.f. 01.03.1996 and not considering for regular absorption as per their advertisement dated 14.08.1991 in “Sandesh” is legal and justified? If not, to what relief the said workman is entitled?”

1. The reference dates back to 31.12.1998. In response to the notice issued to the parties, the second party submitted the statement of claim Ex. 4 on 15.03.1999 alleging that the second party workman Vijaykumar Dalapatbhai joined the Gandhi Road Branch of Bank of Baroda as Badli Peon on 21.10.1986. His service record was clean and spotless. His duty hours were from 11 AM to 06 PM with Rs. 35/- as daily wages. He served the first party bank from 21.10.1986 to 22.10.1990. The first party published an advertisement on 14.08.1991 in the daily newspaper “Sandesh” providing that a person who has worked for 90 days or more than 90 days in any branch of the first party bank from 01.01.1982 to 31.12.1990, the first party will prepare a penal of such workman for their regularisation. The first party bank prepared the list of persons who had completed 90 days or more than 90 days between the aforesaid periods wherein the second party workman Vijaykumar Dalapatbhai was at Sr. No. 55. He has further alleged that the first party bank has regularised all the persons mentioned in the aforesaid list in the permanent vacancy but despite being at Sr. No. 55 in the said list and also fulfilling all the criteria as per the advertisement made in the “Sandesh”, he was not regularised as a permanent employer rather his services were also terminated on 01.03.1996 with following the due procedure of law. He has further alleged that the first party bank filed an incorrect reply before the Labour Commissioner during reconciliation proceedings because the first party bank never issued a corrigendum regarding change in the advertisement. He has further alleged that the persons who did not even completed 90 days were given regular appointment and while he worked for 551 days during 1994 to 1996, he was deprived from the opportunity of regularisation. Thus the action of the first party bank was violative of provisions of Section 25 F of the Industrial Disputes Act and he has prayed for giving permanent appointment with back wages in the light of the advertisement dated 14.08.1991.

2. The first party Bank of Baroda submitted its written statement Ex. 14 denying the averments made in the statement of claim submitting that the reference is bad as the reference is raised by the workman in his individual capacity for regularisation which can only be raised and made by the Employees Union as per the provisions of the Industrial Disputes Act. It is further submitted that this second party workman did work only for 76 days as a daily wage intermittently for the period from 21.10.1986 to 30.12.1989 on Rs. 35/- per day as daily wages. It is further submitted that this workman was not appointed as per the recruitment rules and the bank is bound to observe certain laid down norms and procedure for recruitment and appointment in the bank for permanent basis, therefore, he is not entitled for reinstatement with back wages. It is further submitted that in case the tribunal passed the order of reinstatement with back wages, would amount to back door entry and will deprive the rights of others suitable candidates possessing the qualification and experience as per the rules and are standing in long Que. It is further submitted that the impugned advertisement dated 14.08.1991 was published as per the Government guidelines issued to all the Public Sector Banks with the consultation of Ministry of Labour and Employment regarding absorption of casual labours. The guidelines were that the persons who had worked on temporary basis for 90 days or more than 90 days between 01.1.1982 to 31.12.1990 shall be considered but the Government of India subsequently amended the guidelines regarding period from 01.01.1982 to 31.12.1989 instead of 31.12.1990. Thus the second party workman did not work for 90 days or more between the amended period from 01.01.1982 to 31.12.1989, therefore, he was not entitled to get absorption and therefore, he could not be regularised.

3. On the basis of the pleadings, the following issues arise:

I. Whether the action of management of Bank of Baroda in terminating the services of Shri Vijaykumar Dalapatbhai w.e.f. 01.03.1996 and not considering for regular absorption as per their advertisement dated 14.08.1991 in “Sandesh” is legal and justified?

II. To what relief, if any, the said workman is entitled?

4. Both these issues are interrelated and are decided together.

5. **Issue No. I and II:** The burden of proof of these issues was lying on the workman who submitted his affidavit Ex. 59 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination.

6. The second party submitted 39 documents vide list Ex. 5 containing the impugned advertisement, working days, SLC, his pass certificate etc. He also submitted his affidavit Ex. 59 reiterating the averments made in the statement of claim. In his cross-examination, he has admitted that at the time of his appointment at Badli Peon, no advertisement was published in the newspaper. He was not interviewed or underwent any written test. He was paid wages on daily wages. He also admitted the letter Ex. 5/35 written by him to Government wherein he has specifically stated that during the period from 31.10.1986 to 31.12.1989, he worked only for 76 days. He has also stated in the said letter that the Government subsequently altered the guidelines and criteria of 90 days from 01.01.1982 to 31.12.1989 instead of 31.12.1990. He has further stated that persons who were recruited prior to him fulfilling the criteria of advertisement, were given permanent status. In his examination-in-chief, he has stated that he has been running a Pan Shop and his date of birth is 27.09.1964. Thus presently he is 53 years old.

7. The first party Bank of Baroda examined one P. Kumar B., Senior Manager, Human Resources and Management and has produced documents vide list Ex. 66 containing circular dated 08.08.1994 regarding recruitment and absorption of temporary employees, list of empanelled temporary peons showing their number of working days, passed service and the orders passed by the Hon'ble High Court in Special Civil Application Number 642 of 1996. The witness P.Kumar B. in his examination-in-chief has reiterated the facts detailed in the written statement specifically stating that the Government altered the guidelines and change the period from 01.01.1982 to 31.12.1989 instead of 31.12.1990 and as the second party workman was not fulfilling the criteria, therefore, he was not given the permanent status and the reference is liable to be rejected.

8. I considered the arguments of the learned counsels of both the parties and oral and documentary evidences available on the record.

9. It is admitted that the second party workman was a daily wager being engaged intermittently and was also not appointed as per the recruitment rules of the bank. The second party workman has also admitted in his evidence that there was no advertisement for appointment of the peon at the relevant time. He did not undergo the process of written test and interview. He in his letter Ex. 50 Para 2 has admitted that Government of India subsequently altered the guidelines and criteria of 90 days from 01.01.1982 to 31.12.1989 instead of 31.12.1990, thus curtailed the period to one year to 31.12.1989 wherein he worked only for 76 days. The advertisement was as follow: **“The Bank is contemplating to create a penal of persons who have worked as peon for 90 days or more in any branch of the bank in India between 01.01.1982 to 31.12.1990. Such cases may be considered for future vacancy (Ad-hoc or Permanent) subject to following terms.”**

10. Thus admittedly the period mentioned in the advertisement was changed from 01.01.1982 to 31.12.1989 instead of 31.12.1990 and it is also admitted that considering the amended period, the workman has not completed 90 days, hence is not entitled to get any relief. As per the judgement passed by the Hon'ble High Court in Special Civil Application Number 642 of 1996, this question has already been considered.

11. As per the advertisement and admission of the workman in his evidence, he has not worked for 90 days during the period from 01.01.1982 to 31.12.1989 and now, he has attained the age of 53 years as per his admission and has been running a Pan Shop, therefore, he does not deserve for permanent status. However as a humanity, he may be given a lump-sum compensation of Rs. 50000/-. Both the issues are decided accordingly.

12. The award is passed accordingly. The award shall be given effect within 60 days from the date of publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एलआईसी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 199/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-17012/22/1998-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 199/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of LIC of India and their workman, received by the Central Government on 03.05.2018.

[No. L-17012/22/1998-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th April, 2018

Reference: (CGITA) No. 199/2004

The Sr. Divisional Manager,
LIC of India,
Jeevan Prakash, 6th Floor, Relief Road,
Ahmedabad (Gujarat) –380001

...First Party

V/s

Shri Bhanuprasad Valjibhai Solanki,
Vankar Vas,
At and PO Kasindra, Daskoi,
Ahmedabad (Gujarat) – 380007

...Second Party

For the First Party No : Shri K.V. Gadhia

For the Second Party : Shri A.N. Mehta

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-17012/22/98–IR(B-II) dated 14.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of Life Insurance Corporation of India, Ahmedabad Division in terminating the service of Shri Solanki Bhanuprasad Valjibhai w.e.f. 13.04.1996 is legal and justified? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 14.05.1999. The second party workman Bhanuprasad Valjibhai Solanki submitted the statement of claim Ex. 6 alleging that he was appointed as peon in the first party Life Insurance Corporation of India, Ahmedabad, hereinafter referred to as “LIC” as a peon vide its letter Ref. ADO/P&IR dated 24.08.1996 for a period of 120 days from 17.08.1995 to 14.12.1995 which is enclosed as Annexure 1 with the statement of claim. Thereafter, he was reappointed as peon for further 120 days from 15.12.1995 to 12.04.1996 vide its letter Ref. ADO/P&IR/7-839/12 dated 01.01.1996 which is enclosed as Annexure 2 with the statement of claim but suddenly his services were illegally terminated on 13.04.1996 in violation of Section 25 G of the Industrial Dispute Act. He made representation to the said termination but to no result. Therefore, he raised the dispute. He has further alleged that employees junior to him have been appointed and retained after his termination of service in violation of Section 25 H of the Industrial Dispute Act as he was not offered any opportunity for re-employment. He has further alleged that his second time appointment was in continuation of the initial appointment without any break of service, therefore, the provision of Section 2(oo)(bb) of the Industrial Dispute Act are not applicable in this case. He has further alleged that he was eligible to be appointed as peon on the basis of age, qualification and experience and he was subjected to the process of personal interview and verification of documents regarding his age, caste, qualification etc. Thus his services were illegally terminated and he has prayed for reinstatement with back wages and other service benefits along with Rs. 8000/- as legal expenses.

2. The first party LIC in his written statement Ex. 10 denied the averments made in the statement of claim except that he was given fixed time of 120 days of appointment for twice as peon. Therefore, his case is not covered under Section 2 (oo)(bb) of the Industrial Dispute Act and the prayer sought by the second party workman is liable to be rejected and the reference is also to be decided accordingly.

3. The second party workman vide list Ex. 15 submitted the number of documents namely copy of recruitment instructions 1993, copy of LIC of India (Employment of Temporary Staff) 1993 and copy of LIC Staff Regulations 1960.

4. On the basis of the pleadings, the following issues arise:

I. Whether the action of Life Insurance Corporation of India, Ahmedabad Division in terminating the service of Shri Solanki Bhanuprasad Valjibhai w.e.f. 13.04.1996 is legal and justified?

II. To what relief, if any, the concerned workman is entitled to?

5. Both these issues are interrelated, therefore, are decided together.

6. **Issue No. I and II:** The burden of proof of these issues was lying on the workman who submitted his affidavit Ex. 22 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination. The first party LIC has not lead any evidence.

7. The arguments of learned counsels of both the parties are heard and I considered the evidences lead by the parties. The main contention of the first party LIC is that this workman was appointed on fixed term basis as said earlier that he was appointed as peon in the first party Life Insurance Corporation of India, Ahmedabad, hereinafter referred to as "LIC" as a peon vide its letter Ref. ADO/P&IR dated 24.08.1996 for a period of 120 days from 17.08.1995 to 14.12.1995 which is enclosed as Annexure 1 with the statement of claim. Thereafter, he was reappointed as peon for further 120 days from 15.12.1995 to 12.04.1996 vide its letter Ref. ADO/P&IR/7-839/12 dated 01.01.1996 which is enclosed as Annexure 2. Therefore, the discontinuation of service of this workman after expiry of period of second term will not amount to retrenchment. For the controversy involved and contentions convinced, the question emerges as to whether the termination of the workman was a retrenchment to attract the provisions of Section 25 F or as to whether it falls within the exception and per view of Section 2 (oo)(bb) to rule out the retrenchment.

8. Section 2 (oo)(bb) reads as under:

"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."

In Karnataka Handloom Development Corporation Ltd. V/s Shri Mahadeva Laxman Raval, 2006 (13) SSC 15, the Hon'ble Supreme Court held that the termination of contractual employee would not attract Section 25 F. In that case, the letter of appointment produced on record categorically stated, as in the present case, that the respondent's appointment with the Corporation was purely contractual for a fixed period. The court observed that it is not as if not period was indicated and the only indication was the temporary nature of engagement. Therefore, the position of law highlighted that once the terms and conditions of the appointment reflected from the appointment order indicates specific period, then the employee would not be working for the purpose of Section 25 F, but one employed on contract basis only. Section 2(oo) of the Act is not attracted as soon after the expiry of specific period. The services would be liable to be discontinued. The appointee would lose his right to continue beyond the period contemplated in this contractual appointment. The case would fall under Section 2(oo)(bb). In Gangadhar Pillai V/s Siemens Limited, 2007 (1) SCC 533, it was observed by the Apex Court that the termination of service, in case falling under Section 2 (oo)(bb), would not unnecessarily lead to any inference that it was actuated by malice.

In Punjab State Electricity Board (supra), the facts before the Supreme Court were that the respondent was appointed as peon on daily-wage and his appointment was shown to be of temporary character and it was from 08.01.1988 up to 29.02.1988. On 07.03.1988, his appointment was extended on the same terms and conditions. Similar extensions were thrice granted thereafter. The Hon'ble Supreme Court held that the employment being specific/fixed

term and the engagement of the workman being conditional and for specific period, which was indicated in the appointment order, his case was squarely covered by Section 2(o)(bb) and Section 25 F would be inapplicable. Also in *Kishore Chandra Samal (supra)*, the facts were akin to the facts of the present case. In that case, the applicant was appointed as Junior Typist and was engaged for various spells of fixed periods from July 1982 to August 1986. In all orders of engagement, specific period was mentioned. It was held that the case was covered by Section 2 (oo)(bb). The Apex Court affirmed the order of the High Court, quashing the reinstatement.

9. The Gujarat High Court in *GEV V/s Harish Kumar N. Bosamiya* 2014 (143) FCR 373, also following the aforesaid laws has held that discontinuation of workman on expiry of contract period would not amount to be a retrenchment and such case stands covered under Section 2 (oo)(bb) even completing 240 days of service in two spans and Gujarat High Court in the said case set aside the award of reinstatement passed by the Labour Court. The observations of the Gujarat High Court are reproduced as under:

“The orders of appointment of the respondent-workman were demonstrative that his engagement was temporary and time-bound. It may be true that the engagement of the respondent was repeated, but on each occasion, it was the appointment for fixed period. As already noted, the first order dated 28.02.1989 specified temporary engagement for a period of fifty eight days and subsequent orders too provided for a date up to which, the engagement was to last. In other words, fixed period was indicated. The last order was dated 17/18.08.1989, in which, it was stipulated that it was up to 31.12.1989. Hence, on every occasion of appointment, period was indicated. After the said last order and the period provided there under having expired, the services of the workman was not retained and were not continued.

Each order of appointment reflected contract of employment, wherein there was a stipulation about expiry of the contract. The services were terminable at the end of specified period. This being the position manifested from the orders of appointment, it was clearly established from the said materials on record that the engagement of the workman was for a specific period. When his services were not continued at the end of the period specified in the last appointment order, it did not constitute retrenchment within the meaning of Section 25 F and his case stood covered under exception as contemplated in Section 2 (oo)(bb) of the act. It was clear that the completion of 240 days of service or otherwise was an aspect rendered irrelevant.

The decisions relied upon by learned Advocate for the respondent may be adverted to. In *Surendra Kumar Verma (supra)*, it was emphasised that the Labour Law should be given broad interpretation. It was held that for the purpose of continuous service, the workman must have worked for at least 240 days in one year and it is not necessary that he has been in continuous service for one year. This decision hardly applies to the point involved in the present case. Similarly, a decision in *Anoop Sharmar (supra)* was relied upon by learned advocate for the respondent to the effect of non-compliance of clauses (a) and (b) of Section 25 F, the Hon'ble Supreme Court held that non-compliance of the said provisions would render retrenchment nullity. The Hon'ble Supreme Court restored the award of the Labour Court and directed reinstatement with payment of back wages. At the cost of repetition, it may be stated that in the instant case, on facts, one it was found that the case fell under Section 2 (oo)(bb), the question of breach of Section 25 F did not arise. The decision in *Anoop Sharma (supra)* has, therefore, no applicability.

Learned Advocate for the respondent tried to contend that since the appointments were extended in repeat, it could not be viewed as fixed time so as to attract Section 2 (oo)(bb) of the act. As already noted, each order of appointment was capable of being viewed as independent contract of service specifying the fixed term for engagement. The fact remained that the orders of such nature were passed more than once by itself could not lead to a conclusion that the employer wanted the workman to continue permanently. There was nothing to indicate that even term appointment was given as a cloak, whereas the engagement was of a permanent kind. It was open to the employer to issue such orders contracting with the workman for appointing him for a specific period. It was not that the workman continued for long years in the guise of fixed term appointment, in which event, in a given case, the inference of Section 2 (oo)(bb) may be drawn by the court. The facts of the case do not reflect such a situation.

Merely because the engagement of the workman was extended, it could not robe off the character of fixed term appointment. The services of the workman were not continued beyond 31.12.1989 which was non-renewal of contract of service and was already specified up to that date in the order of appointment. The contention that the workman was entitled to relaxation in the age, therefore also, is of no avail in view of above factual premise of the case and the legal position discussed above.

For the foregoing reasons, when the termination of the services of the workman found to be falling within the umbrella of Section 2 (oo)(bb), the findings of the Labour Court regarding breach of Section 25 F was not well conceived in law. It was an erroneous finding in eye of law and could not be sustained.”

10. Thus in the light of the aforesaid discussions, both the issues are decided in negative and against the second party workman. The workman is not entitled for any relief.

11. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 77/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/7/2005-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workman, received by the Central Government on 03.05.2018.

[No. L-12012/7/2005-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Bharat Pandey, Presiding Officer

I.D. 77/2005

Reference No.L-12012/7/2005(IR(B-II)) dated: 17.6.2005

Shri Ramesh Chand Saini
S/o Shri Bola Ram Saini
R/o Kayasthpura, Post Bagad,
Jhunjhunu, Rajasthan.

V/s

The Assistant General Manager,
Bank of Baroda
Regional Office, First polo,
Paota, Johdpur – 342001.

Present :

For the Applicant : Sh. R.C.Jain, Representative.
For the Non-applicant : Sh. Rupen Kala, Advocate.

AWARD

Dated : 29.12.2017

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the claim of Shri Ramesh Chand Saini that he was engaged on temporary basis by the management of Bank of Baroda during the period from 15.4.1996 to 28.2.2003? If so, whether the action of the management in terminating the services of claimant w.e.f. 28.2.2003 is legal and justified and what relief the claimant is entitled to and from which date?”

2. According to statement of claim applicant Sh. Ramesh Chand Saini started his service in Mugalan branch of the bank as part time Peon. He was appointed by senior Branch manager on temporary basis on daily wage of Rs.50/-.
3. He started his work as full time peon in the same branch w.e.f. 1.5.1996 on regular pay & worked till 28.8.2002 as full time peon. It has been alleged further that his services were terminated on 28.8.2002 without notice or pay in lieu of notice or retrenchment compensation. Opposite party did not indicate any reason for termination of service which is in violation of the provisions of section 25-F of the I.D.Act, 1947. Applicant had worked more than 240 days immediately preceding the date of termination.
4. It has been further alleged that applicant filed writ petition no. 6541/02 against termination of his service wherein vide order dated 24.9.2002 stay order was passed by Hon'ble Jaipur Bench of Rajasthan High Court. On the basis of order of warning in contempt petition applicant was again engaged by non-applicant on 20.11.2002 but non-applicant transferred the applicant to Tihawali (Sikar) branch. On 18.2.2003 stay order was vacated by Hon'ble High court After vacation of stay order services of the applicant were again terminated on 28.2.2003 without notice in violation of provision of section 25-F of the I.D.Act.
5. It has been further alleged there has also been violation of provision of section 25-G, 25-H & 25-N of I.D.Act, 1947. It has been prayed that the order of termination dated 28.8.2002/28.2.2003 be set aside with reinstatement of the applicant in service with back wages and continuity of service.
6. In para wise reply to statement of claim averment made in para one to five and 7 to 11 have been alleged to be wrong and denied. It has been alleged that the applicant is not entitled to any relief and statement of claim is liable to be dismissed.
7. Para 6 of the claim has been admitted to the extent that stay order passed in the writ petition was ex-parte which was vacated on 24.9.2002 after hearing both the parties. Further it has been alleged that applicant was engaged in Mugalan branch by branch manager on daily wage on completely temporary stop gap arrangement for supply of water. He was occasionally doing the job of casual labour also and paid through payment voucher. Appointment on the post of peon has been specifically denied with further allegation that branch manager is not having power of appointment as alleged in preliminary objection. Appointment on regular post of peon also has been specifically denied.
8. Further, it has been alleged that his services were not terminated on 28.8.2002 because he was not appointed & he had himself left on his own accord on 24.8.2002.
9. It has been denied that he has worked for 240 days or more than 240 days in any calendar year with further contention that provision of section 25-F, 25-H & 25-N are not attracted in case of applicant.
10. Further it has been alleged that in compliance of order dated 24.9.2002 passed by Hon'ble High court applicant was engaged again w.e.f. 20.11.2002 but he was engaged at Tihawali branch because of non- existence of work at Mugalan branch. After vacation of stay order by Hon'ble High court on 18.2.2003 applicant was not required to be retained. It has been denied that prior to 28.2.2003 applicant had worked for 240 or more than 240 days. It has been alleged that he has worked only from 20.11.2002 to 28.2.2003 barring Sunday & public holidays. It has been further alleged that notice or removal was not required to be given because he was re-engaged in compliance of order of Hon'ble High court which was vacated subsequently. Applicant was not appointed on any post of peon.
11. It has been stressfully contended that applicant was not entitled to be retained in service after vacation of stay order of Hon'ble High Court. It has been prayed that statement of claim of the applicant be dismissed with cost.
12. In preliminary objection of reply to statement of claim it has been alleged that applicant is not eligible to be appointed as class IV employee in bank according to recruitment rules and branch manager is not competent authority to appoint class IV employee on the post of peon. It has been further alleged that reference is liable to be rejected because tribunal is not having jurisdiction to entertain the adjudication.
13. No rejoinder has been filed by applicant against reply to statement of claim.
14. No documentary or oral evidence has been adduced by applicant.
15. Photocopy of cash payment vouchers dated 30.4.96 to 18.5.02 and from 1.2.03 to 1.3.03 for different branch of the bank have been filed by opposite party. Voucher dated 1.3.03 and 1.2.03 of different branch have also been filed by opposite party.
16. Applicant was given opportunity to adduce evidence in support of his claim on 22.5.2013. On 18.11.2013 and 8.11.2014 applicant was given last opportunity to produce evidence. Since 22.5.13 till 21.12.16 numerous opportunities were given to applicant to file affidavit in evidence in support of his claim but applicant did not adduce any evidence. In above circumstance evidence of both the party were closed on 21.12.16 and case was fixed for argument on 4.1.2017.

17. From 4.1.17 to 12.9.17 no argument was submitted from either side hence case was reserved for award on 12.9.17.

18. As no evidence has been adduced by applicant in support of statement of claim hence statement of claim of the applicant is liable to be dismissed for want of evidence.

19. Based on above discussion and for the reasons stated therein I am of the view that applicant Shri Ramesh Chand Saini has failed to prove that he was engaged on temporary basis by the management of Bank of Baroda during the period from 15.4.96 to 28.2.2003. He has also failed to prove that action of management of Bank of Baroda in terminating his services w.e.f. 28.2.2003 is illegal and unjustified. Claimant is not entitled to any relief. Statement of claim of the applicant is dismissed accordingly.

20. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. कैस्ट्रोल इंडिया लि., मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-39011/2/2003-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of M/s. Castrol India Ltd., Mumbai Port Trust and their workmen, received by the Central Government on 03.05.2018.

[No. L-39011/2/2003-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M.V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/17 of 2004

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

M/S. CASTROL INDIA LTD.

M/s. Castrol India Ltd.,
Technopolis Knowledge Park,
P.O. Box No. 19411
Mahakali Caves Road, Chakala,
Andheri (E), Mumbai – 400 093.

AND

THEIR WORKMEN

The Secretary,
Mumbai Port Trust Dock & General
Employees' Union, Port Trust Kamgar
Sadan, Mazgaon,
Mumbai – 400 010.

APPEARANCES:

FOR THE EMPLOYER : Mr. Goyal, Advocate

FOR THE WORKMEN : Mr. Umesh Nabar, Advocate
Mumbai, dated the 9th March, 2018

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-39011/2/2003 – IR (B-II) dated 31.03.2004. The terms of reference given in the schedule are as follows :

“Whether the action of the management of Castrol India Ltd. in closing down their establishment at White House, Walkeshwar, Mumbai and not providing the employment to the 14 regular workmen viz. S/Shri S.R. Banavadikar and 13 others [list annexed] at any other place of their business is legal and justified ? If not, what relief these 14 workmen are entitled to ?”

2. This tribunal has passed award dt. 2.1.09 and the reference is allowed. By way of award the first party is directed to treat the employees namely Padwal, Senior Clerk, Hemant Gurav, Sanjiv Pednekar, Suresh Shinde, Deepak Nachare Peons and Pradeep Kadam, Pantry boy as its employees till they attain the age of superannuation and give all monetary benefits to them. The first party has challenged the said award before Hon’ble High Court and as per the order of Hon’ble High Court the order dt. 2.1.09 passed by this tribunal is set aside and matter is remanded back to this tribunal for fresh consideration of Ref. No. CGIT-2/17 of 2004.

3. It is made clear as per Ex.130 that 8 employees who were concerned in the reference namely S.R. Banvadekar & 7 others had amicably settled the dispute with first party company by accepting ex-gratia compensation of Rs.8 lakhs each in full & final settlement of their claims against first party company and consequently they have withdrawn their claims from the pending reference. Remaining 6 concerned employees namely Padwal, Hemant Gurav, Sanjiv Pednekar, Suresh Shinde, Deepak Nachare Peons and Pradeep Kadam also settled the dispute in view of consent terms Ex.133.

4. I have gone through the Ex.133. It appears that they also accepted and received the amount as per terms of settlement in full and final settlement of their claim and resolved all the disputes including reference claim. The concerned workmen named in para 5 of the application Ex.123 have admitted their signatures of this pursis. They have also admitted the contents of the pursis. They are identified by their respective advocates. Hence in view of consent terms Ex.133, the second party workmen named in para 5 have also resolved the dispute. Hence the award has to be passed in terms of consent terms.

5. In view of that the reference is disposed of. Accordingly I pass the following order.

ORDER

Reference is disposed of in view of amicable settlement with first party vide Ex.133.

Date: 09.03.2018

M. V. DESHPANDE, Presiding Officer

Ex-133

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

Ref. CGIT-2/17 of 2004

Between :

Castrol India Ltd. : First Party

and

- 1) Mr. Sushil D. Padwal
- 2) Mr. Hemant S. Gurav
- 3) Mr. Sanjeev B. Pednekar
- 4) Mr. Suresh J. Shinde
- 5) Mr. Deepak S. Nachre

6) Mr. Pradip Kadam : Second Party

CONSENT TERMS

- 1) Castrol India Limited (the First Party) shifted its registered office from Walkeshwar Road, Mumbai-400006 to its present office at Technopolis Knowledge Park, Andheri East, Mumbai 400 093, in the year 2002. To reduce some of the surplus employees as a part of this transfer, the Company introduced a Voluntary retirement Scheme (VRS). Out of 14 affected employees, eight employees opted for voluntary retirement while the remaining six did not opt for voluntary retirement.
- 2) In order to effectively utilise the services of the remaining six workmen (the “Second Party”), the First Party proposed to transfer the Second party to its plants and C&F locations. In defiance of the transfer, the Second Party did not report to work, and consequently second party filed industrial dispute and sought quashing to the transfer orders.
- 3) The Present Reference was made in respect of the following fourteen workmen:
 - a) Mr. S.R. Banvadikar
 - b) Mr. Indra Narayan
 - c) Mr. Bhojraj Paneroo
 - d) Mr. B.P. Tiwari
 - e) Mr. Kishore R. Pawar
 - f) Mr. P.V. Mohite
 - g) Mr. Gregory Menzes
 - h) Mr. Dinkar V Walve
 - i) Mr. Sushil Padwal
 - j) Mr. Heman Gurav
 - k) Mr. Sanjeev Pednekar
 - l) Mr. Suresh Shinde
 - m) Mr. Deepak Nachre
 - n) Mr. Pradeep Kadam
- 4) During the pendency of the Reference, the following eight workmen have accepted the benefits of VRS offered by the First Party and settled their claims:
 - a) Mr. S.R. Banvadikar
 - b) Mr. Indra Narayan
 - c) Mr. Bhojraj Paneroo
 - d) Mr. B.P. Tiwari
 - e) Mr. Kishore R. Pawar
 - f) Mr. P.V. Mohite
 - g) Mr. Gregory Menzes
 - h) Mr. Dinkar V Walve.
- 5) The Reference now remains only in respect of the following 6 workmen:
 - a) Mr. Sushil D Padwal
 - b) Mr. Heman S Gurav
 - c) Mr. Sanjeev B Pednekar
 - d) Mr. Suresh J Shinde
 - e) Mr. Deepak S Nachre
 - f) Mr. Pradip Kadam.

6) The Second Party has requested amount of 10,00,000 (Rupees Ten Lacs only) each in full and final settlement of their claim against the First party, which settlement will include claims in respect of reinstatement, reemployment, back wages and all other claims including the claims made by them in the present Reference.

7) The First Party has after due consideration agreed to pay an amount of Rs. 10.00 Lacs each in full and final settlement of their claim against the first party, which settlement will include claims in respect of reinstatement, reemployment back wages and all other claims including the claims made by them in the present Reference.

8) The Provident Fund and Gratuity dues lying to the credit of the six workmen constituting the second party, are as under and the same shall be settled individually within a period of four weeks by the First Party upon the each constituent of the Second party filling in and correctly PF and Gratuity Forms in addition to the settlement amounts mentioned above.

Sr. No.	Emp. Code	Employee name	PF Balance as on February 2018	Gratuity as on February 2018
1.	83100011	Gurav Hemant S.	22,82,814.00	1,46,674.00
2.	83100012	Kadam Pradip	18,51,293.00	1,12,206.00
3.	83100013	Nachare Deepak S	3,43,781.00	1,29,910.00
4.	83100014	Padwal Sushil D	10,43,198.00	1,30,580.00
5.	83100016	Pednekar Sanjeev B	13,27,650.00	1,29,910.00
6.	83100018	Shinde Suresh J	10,90,813.00	1,13,583.00

9) Subject to Clause 6 of this Consent Terms, Payment has been made to each constituent of the Second Party today. Each of the six constituents of the Second party agree and confirm that pursuant to the payments of the final settlement amounts under these Consent Terms, no further dues, payments or amounts are due and payable by the first party and each of them stands released from all claims, obligations and disputes in this regard.

10) All claims in respect of employment of the constituents of the second party with the first party and in relation to these proceedings before this Tribunal have been fully and finally settled by the between the Parties, and each constituent of the Second party has agreed to irrevocably and unconditionally waive, abandon, fully release and discharge the first party and its successors from any and all claims, actions, causes of action, liability, costs, expenses and amounts of any nature in respect of their employment and related legal proceedings.

11) The Parties agree that the Consent Terms shall be binding upon and inure to the benefit of the Parties to these Consent Terms and their respective successors and assigns.

12) These Consent Terms are the entire agreement of the Parties on the matter of settlement and supersede all prior understandings, negotiations, agreements and/or communications between the parties in respect of their employment and related legal proceedings.

13) These Consent Terms may be executed in two counterparts, each of which shall be deemed an original, but both together will constitute the same instrument.

14) The aforesaid amount of Rs. 10.00 Lacs each paid to the concerned workmen shall be treated as spread over for the entire period on and from the date of their transfer till date so as to enable them to get the reliefs under the provision of the Income-Tax Act and the rules framed there under.

15) It is clearly agreed that on the First Party making the payment in terms of the final settlement to the Workmen as set out in the foregoing clauses, all disputes, (including the Reference claim) between the parties stand resolved or are deemed to have been resolved.

16) The Reference to be disposed off in terms of the above Consent Terms.

Dated at Mumbai this 9th day of March, 2018.

Sd/-
(Sushil Padwal)

Sd/-
(Hemant Gurav)

Sd/-
(A.S. R.S. Mani)
Sr. Manager-HR Operations
For Castrol India Ltd.

Sd/-
(Sanjeev Pednekar)

Sd/-
(Suresh Shinde)

Sd/-
(Deepak Nachre)

Sd/-
(Pradip Kadam)

Second Party

Sd/-
(Umesh Nachre)
Adv. For the Second Party

Sd/-
(Bharat Goyal)
Adv. For the First Party

ORDER

Mr. A.S. R.S. Mani is present on behalf of first party Company. He is being identified by his advocate. Concerned workmen named in para 5 of this application are present. They have admitted their signature on this purshis. They have admitted contents of purshis. They are being identified by their advocate. Respective advocates have signed the purshis. Hence read and recorded.

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 92/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12011/03/2010-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Dena Bank and their workman, received by the Central Government on 03.05.2018.

[No. L-12011/03/2010-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 10th April, 2018

Reference: (CGITA) No. 92/2010

1. The Regional Manager,
Dena Bank, Khargate, Bhavnagar (Gujarat)
2. The Branch Manager,
Dena Bank,
Challa Branch, Post Box No. 8, Amreli (Gujarat)
3. The Branch Manager,
Dena Bank, Gadhada,
Bhavnagar (Gujarat)

...First Party

V/s

Shri Himmatbhai K. Umat,
C/o The President,
Sharamik Sangh,
118-119, Kaveri Corporation, Navapara,
Bhavnagar (Gujarat)

...Second Party

For the First Party : Shri C.S. Naidu

For the Second Party : Shri H.D. Kathrotiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/03/2010-IR (B-II) dated 12.04.2010 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Dena Bank by terminating the services of Shri Himmatbhai K. Umat w.e.f. 26.07.2008 is justified? What relief the workman is entitled to?”

1. The reference dates back to 12.04.2010. The second party workman Himmatbhai K. Umat hereinafter referred to as “second party” submitted the statement of claim Ex. 5 on 07.07.2010 alleging that he was appointed as Peon on 21.08.1999 and served at various branches of the first party Dena Bank hereinafter referred to as “first party” at Bhavnagar, Chhalala, Dhrangadhra and lastly at Gadhada and worked for more than 240 days in the last preceding year from 01.04.2007 to 31.03.2008. He did work sincerely and honestly and continuously from 21.08.1999 to 27.07.2008. He worked on a permanent post but instead of regularising and confirming him on the post, he was orally terminated on 26.07.2008 without following the due procedure given under the Industrial Dispute Act, 1947. He has further alleged that he was appointed through Employment Exchange after his oral interview on 05.06.1993 and was given appointment letter on 14.06.1993 in pursuance of the said interview. He has further alleged that the first party took his services of a post of permanent employee continuously and without interruption. The management did not give him the salary of permanent employee despite making number of representation for increase of his salary. The first party instead of increasing his salary and making him regular, started to victimize him and committed unfair labour practices. He has further alleged that at the time of orally termination of his services, no notice pay or compensation was paid. The said post is still vacant but despite making request, his request is not favourably considered. He is still unemployed and the post is still vacant, therefore, he has prayed that the action of the management of orally terminating his services on 26.07.2008 be declared as illegal and has also prayed for reinstatement with full back wages and continuity of service.
2. The first party submitted the written statement Ex. 17 partly admitting the averments made in the statement of claim submitting that there is a prescribe procedure for recruitment of its employees and the persons appointed through recruitment procedure are made permanent employee with a servant-master relationship. The first party used to engage Budlee Sepoy in exigencies, without following the recruitment procedure, by way of inviting applications from Employment Exchange, and by way of preparing panel in the sub-ordinate cadre on the basis of the criteria given as under:
 - a. Age for candidate of General Category should not be less than 18 years and more than 26 years and in SC/ST Category should not be more than 31 years.
 - b. Educational Qualification: For General Category Qualification should not be less than Standard 7 and more than Standard 9, while for SC/ST Category should not be less than Standard 4 and more than Standard 9.

It has been further submitted that the second party workman does not require such qualifications and was not appointed by inviting his name from the Employment Exchange. He was engaged without following the due procedure of recruitment. Hon'ble Supreme Court and various High Courts has held that those persons who are appointed without following due procedure, cannot be regularised. He did not work for more than 240 days in any calendar year. This workman was engaged as Badlee Sepoy on temporary basis, therefore, the question of making him permanent or regularised him does not arise. There is no violation of Section 25 F, G and H of the Industrial Disputes Act. Therefore, the reference deserves to be disposed of in affirmative and also against the workman.

3. The second party workman submitted number of documents vide list Ex. 14 which are admitted by the first party. Similarly the first party submitted the documents vide list Ex. 19 which are also admitted by the second party. All these aforesaid documents have been exhibited.

4. On the basis of the pleadings, the following issues arise:

I. Whether the action of the management of Dena Bank by terminating the services of Shri Himmatbhai K. Umatw.e.f. 26.07.2008 is justified?

II. To what relief, if any, the concerned workman is entitled to?

5. Both these issues are interrelated, therefore, are decided together.

6. **Issue No. I and II:** The burden of proof of these issues was lying on the second party workman who submitted his affidavit Ex. 18 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination. The first party has also submitted the affidavit Ex. 22 of Assistant General Manager, Jay Singh who has also reiterated the averments made in the written statement but in his cross-examination, he has stated that he does not know the workman personally. The workman was never included in the panel list of Badlee Employees though he served at Chalala and Gadhadra Branch of the first party but he is unaware of him serving in any other branch. He does not remember regarding his service in Dhrangadhra and Bijakapadi Branches of the bank. He has to see the record of this workman regarding his service rendered at aforesaid places. He also does not remember the service of the workman in Sabarkundla, Gariyadhar, Banda, Mahuba, Tikar and Bhadrol Branches of the bank as he has not seen the record. He can answer these questions only after seeing the record. Therefore, the cross-examination was referred to next date on 26.04.2017. On 26.04.2017, he stated that he cannot authenticate the documents filed by the second party regarding his posting on the aforesaid places as these documents are not available in the bank. However, it is true that this workman served in 10 different branch of the bank as per need. He has also stated that he cannot answer any question with regard to papers filed vide list Ex. 19 which are all admitted by the second party. He has also stated that he check the seniority list and found that the Badlee Employees junior to this workman have been regularised and this workman has not regularised but he cannot explain as to why he was retrenched.

7. I heard the arguments of the learned counsel of the parties and considered the oral and documentary evidences.

8. The second party workman in his affidavit Ex. 18 has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination and has also been able to prove that he served the first party bank from 21.08.1999 to 27.07.2008 till the date of his termination by the bank and has also proved by filling the documents Ex. 23 to Ex. 30 that he was empanelled for regularisation but the first party bank has failed to explain as to why he was not regularised despite being empanelled vide list Ex. 23 and Ex. 24. It is also noteworthy that the first party witness Jay Singh in his cross-examination has also admitted that some of the Badlee workers junior to this workman were regularised and he cannot explain as to why he was retrenched.

9. The second party workman has relied on *Kendriya Vidhalaya Sangathan V/s S.C. Sharma*, 2005 LLR 275 wherein the apex court has observed that for dispensation of holding of an enquiry before termination of the employee it is imperative for the employer to record a conclusion that it was not reasonably practicable to hold the enquiry proceedings even when the employee was absconding and not responding to the notices as such his termination sans enquiry will be set aside. It is further observed that for entitlement of back wages on reinstatement of an employee, the initial burden lies upon the employees that he was not gainfully employed and thereafter the employer can rebut the same. When the employee as directed to be reinstated in service with back wages by the Tribunal and High Court, he will not be entitled to back wages since he has neither pleaded nor placed any material that he was not gainfully employed.

He further relied on *General Manager, Haryana Roadways V/s Redhan Singh*, 2005 (106) FLR 607, wherein the apex court has observed as under: "One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment.

However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period, i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which requires to be taken into consideration, is that nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year.”

10. The first party relied on DGM, ONGC V/s Ilias Abdulrehman, (2005) XLVI (ii) Gujarat Law Reporter Page 1050 wherein the apex court observed as under: “The learned single Judge considered the question of the nature of work done by the respondent-workman in the appellant organisation and came to the conclusion that even though the respondent-workman worked in different independent departments of the appellant-Corporation like Geophysical Party 18 and Department of Chemistry at different periods and at different places like Baroda and Mehsana, still for the purpose of computing 240 days of continuous work for the purpose of Sec. 25 F of the I.D. Act, the said employment should be construed as an employment under the appellant-corporation.

A perusal of the evidence adduced by the workman himself show that he went in search of employment to different places and whenever there was a temporary employment available in different departments of the appellant-corporation, be it field-work or the work in the Chemistry Department, he accepted the employment and worked in these departments not one place alone, but at different places like Baroda and Mehsana. It has come on record that the management did try to accommodate the appellant in a permanent job but could not do so because of lack of qualifications. In such circumstances, the Industrial Tribunal was justified in coming to the conclusion that the number of days of work put in by the respondent in broken periods, cannot be taken as a continuous employment for the purpose of Section 25 F of the Industrial Disputes Act.”

The first party has also relied on the judgement of Punjab and Haryana High Court in Satish V/s Presiding Officer and Another, 2015 LLR 174 wherein the apex court has observed as under: “Protection of Section 25 F of the Industrial Disputes Act, 1947 is not available to the workman, if he fails to prove that he had rendered continuous service for 240 days or more during the 12 preceding months. Initial burden lies upon the workman to prove that he had rendered continuous service for 240 days or more during the 12 preceding months. Non-filing of an appropriate application by the workman before the Adjudicator for directing the management to produce relevant record would reveal that the workman did not discharge his initial onus to prove continuous service for 240 days during the 12 preceding months. The High Court having supervisory jurisdiction under Article 226/227 of the Constitution of India, would not act as a court of appeal for going into the question of sufficiency and adequacy of evidence.”

11. From the perusal of the evidences of both the parties, it is admitted fact that he was appointed as Peon on 21.08.1999 and served at various branches of the first party Dena Bank at Bhavnagar, Chhalala, Dhrangadhra and lastly at Gadhada and worked for more than 240 days in the last preceding year from 01.04.2007 to 31.03.2008. He did work sincerely and honestly and continuously from 21.08.1999 to 27.07.2008. It is also an admitted fact that a penal was prepared for regularisation of the Badlee Employees and as per the admission of the first party witness, junior employees have been regularised. Secondly, no procedure as per the provisions of the Industrial Disputes Act has been followed while retrenching this workman despite the fact that the junior employees have been regularised. Oral retrenchment is not permissible under the provisions of the Industrial Disputes Act. It is also noteworthy that the first party and his witness as well deliberately withheld the evidence regarding his empanelment, reasons of not regularising him and also reasons of retrenchment. Thus in the light of the aforesaid discussions, I come to the conclusions that the second party workman was appointed as Badlee Employee by way of due procedure and was illegally retrenched orally to deprive him of his regularisation as a permanent employee despite empanelment. All these actions on the part of the first party against the second party workman are violative of Section 25 F, G and H of the Industrial Disputes Act. The second party workman deserves to be reinstated and regularised. However, back wages may not be paid on the principle of “no work no pay” but a lump-sum amount of Rs. 75000/- (Rupees Seventy Five Thousand) deserves to be paid to the second party workman.

12. Thus the Issue No. I and II are decided accordingly with the observation as under: “the action of the management of Dena Bank by terminating the services of Shri Himmatbhai K. Umatw.e.f. 26.07.2008 is unjustified.” The second party workman must be reinstated and regularised within 60 days from the publication of the award and the workman shall be paid a lump-sum amount of Rs. 75000/- (Rupees Seventy Five Thousand) by the first party.

13. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 47/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-37011/02/2010-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workman, received by the Central Government on 03.05.2018.

[No. L-37011/02/2010-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 10th April, 2018

Reference: (CGITA) No. 47/2011

The Chairman,
Kandla Port Trust,
P.B. No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport and Dock Workers Union,
21, Yogesh Building, Plot No. 586, 12-C,
Gandhidham (Gujarat) – 370201

...Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/02/2010-IR(B-II) dated 11.05.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Kandla Port Trust in not regularizing of Shri Chandubhai M. Chauhan as regular Mistry against the vacant post although he has worked 240 days every year from 1999 to 2009 is legal and justified? What relief the workman is entitled?”

1. The reference dates back to 11.05.2011. In response to the notice issued to the parties, the second party submitted the statement of claim Ex. 7 along with vakalatpatra Ex. 6 and the first party submitted the written statement Ex. 8 on 08.07.2015 but today on 10.04.2018, the second party union requested to withdraw the reference.
2. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 89/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-37011/04/2013-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workman, received by the Central Government on 03.05.2018.

[No. L-37011/04/2013-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th April, 2018

Reference: (CGITA) No. 89/2013

The Secretary,
Kandla Port Trust, Administrative Office,
Post Box No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport and Dock Workers Union,
21, Yogesh Building, Plot No. 586,
12-C, Gandhidham,
Kutch (Gujarat) – 370201

...Second Party

For the First Party No : Shri K.V. Gadhia

For the Second Party : Shri Nirdosh Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/04/2013-IR (B-II) dated 15.04.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of KPT management in not regularising the services of Shri Gani Ismail, D/R Khalasi even though he has completed 240 days in many years since February, 1980 is justified? What relief the applicant is entitled to?”

1. The reference dates back to 15.04.2013. Both the parties submitted their statement of claim Ex. 5 and written statement Ex. 6 on 14.12.2015 and 21.08.2017 respectively.

2. The reference was listed for evidence of the second party but the General Secretary of the second party union “Transport and Dock Workers Union, Kandla”, Shri M.L. Bellani vide his letter Ex. 7 through his advocate informed the tribunal on 11.04.2018 that the union is not willing to proceed with the reference.

3. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 28/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-37011/06/2015-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workman, received by the Central Government on 03.05.2018.

[No. L-37011/06/2015-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th April, 2018

Reference: (CGITA) No. 28/2015

The Chairman,
Kandla Port Trust,
Administrative Building, P.B. No. 50,
Gandhidham (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport and Dock Workers Union,
21, Yogesh Building, Plot No. 586, 12-C,
Gandhidham (Gujarat) – 370201

...Second Party

For the First Party No : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/06/2015-IR(B-II) dated 24.03.2015 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Kandla Port Trust in not allowing re-designation to Shri R.S. Sadhu, Maistry as Junior Engineer (Civil) w.e.f. 01.01.1997 is legal and justified? If not so, to what relief is the employee concerned is entitled?”

1. The reference dates back to 24.03.2015. Both the parties have moved an application Ex. 9 stating that the demand of the second party union has been accepted by the first party management; therefore, they do not want to pursue the reference.
2. Thus the reference is disposed of in the light of the application Ex. 9. The application Ex. 9 shall be the part of the award.
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 27/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-37011/03/2012-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workman, received by the Central Government on 03.05.2018.

[No. L-37011/03/2012-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th April, 2018

Reference: (CGITA) No. 27/2013

The Secretary (I/C),
Kandla Port Trust,
Administrative Office, P.B. No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport and Dock Workers Union,
21, Yogesh Building, Plot No. 586, 12-C,
Gandhidham (Gujarat) – 370201

...Second Party

For the First Party No : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/03/2012–IR(B-II) dated 01.02.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Kandla Port Trust in not paying the HRA in case of encashment of earned leave to its employees during employment as per KPT Employees (Leave) Regulations, 1964 vide para 8 (A), is legal and justified? What relief its workmen are entitled to?”

1. The reference dates back to 01.02.2013. Both the parties have moved an application Ex. 6 stating that the demand of the second party union has been accepted by the first party management; therefore, they do not want to pursue the reference.
2. Thus the reference is disposed of in the light of the application Ex. 6. The application Ex. 6 shall be the part of the award.
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 118/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-37011/8/2008-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workman, received by the Central Government on 03.05.2018.

[No. L-37011/8/2008-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th April, 2018

Reference: (CGITA) No. 118/2010

The Chairman,
Kandla Port Trust,
P.B. No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport and Dock Workers Union,

21, Yogesh Building, Plot No. 586, 12-C,
Gandhidham (Gujarat) – 370201

...Second Party

For the First Party No : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/8/2008–IR(B-II) dated 05.02.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Chairman, Kandla Port Trust, P.O. Box No. 50, Gandhidham, Kutch in not giving promotion to Shri Vedruchi Acharya working as Office Superintendent to the post of Asst. Administrative Officer/Assistant Secretary is legal and justified? What relief the workman concerned is entitled to?”

1. The reference dates back to 05.02.2009. The second party workman Vedruchi Acharya moved a withdrawal application Ex. 9 alongwith Identification Card and office order dated 12.01.2018 passed by Kandla Port Trust revealing that he had been promoted to the post of Asst. Administrative Officer/Assistant Secretary in the pay scale of 16400-40500 (pay revised) on regular basis with immediate effect. Thus the prayer sought in the reference has been accepted. Thus there is no justification to keep pending the reference.

2. The reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रेलवे बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 39/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12025/01/2018-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 139/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of Railway Board and their workmen, received by the Central Government on 03.05.2018.

[No. L-12025/01/2018-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1 : ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI

ID No. 139/2013

Shri Naveen Dutt S/o Shri Vijendra Dutt,
R/o 311, V&P Ghevra,
Delhi 110 081 **through**

All India Central Government Canteen Employees Association
And Canteen Mazdoor Sabha Registered,
F-48, Lado Sarai,
New Delhi 110 030

...Workman

Versus

- (i) The Chairman,
Railway Board,
Ministry of Railway,
Rail Bhawan,
New Delhi – 110 001
- (ii) The Managing Director, through
The Protocol Officer,
M/s Mumbai Railway Development Corporation,
A-5, Fourth Floor,
Dhawan Deep Building,
New Delhi – 110 001
- (iii) M/s Mumbai Railway Development Corporation,
Head Office : 2nd Floor, Churchgate,
Railway Station Building,
Mumbai – 400 020

...Managements

AWARD

This is a claim filed directly under Section 2-A of the Industrial Disputes Act, 1947 (in short the Act) by Shri Naveen Dutt (in short the claimant) with the averments that he was engaged as attendant in Guest House of the management with effect from 15.11.2007. The claimant was performing his duties in the guest house of the management on a monthly salary of Rs.5114.00. Claimant has completed 240 days of service without any break since his engagement in the year 2008, 2009, 2010 and 2011. Due to hard work at the guest house, the claimant was feeling mentally disturbed and became sick, as such, he had to undergo treatment with Dr. Ram Manohar Lohia Hospital, New Delhi. The claimant informed the management regarding this through FAX message. The claimant's father personally informed Shri Sanjeet Singh.

2. The claimant was orally removed from service by Shri Sanjeet Singh, Protocol Officer with effect from 13.01.2012 while the claimant submitted fitness certificate issued by Dr. Ram Manohar Lohia Hospital on 12.01.2012. Claimant was not served with any show cause notice. Salary of the claimant at the time of removal from service was Rs.12,780.00.

3. Thereafter, the claimant preferred conciliation before the Assistant Labour Commissioner and matter was taken up on various dates, i.e. 29.01.2013, 19.02.2013, 06.03.2013, 09.04.2013, 09.05.2013, 12.06.2013, 18.07.2013, 02.08.2013 and 26.08.2013. Since no settlement could be arrived at between the parties, as such, it resulted in failure of conciliation. Now the claimant has approached this court seeking relief for terming his termination from service to be illegal and void and that he is entitled for reinstatement with back wages.

4. Claim was contested by the management, who filed written statement and took preliminary objection of maintainability, locus standi etc. It is also alleged that the management Mumbai Railway Vikas Corporation Ltd. (in short MRVC) is purely a temporary project and is a joint venture constituted by Ministry of Railway, Government of Maharashtra. Management has established a camp office in New Delhi for movement of dak and other allied unskilled work. Protocol Officer, New Delhi has engaged the claimant purely on contract basis. Claimant was engaged for performing duties of office attendant in MVRC office, New Delhi as per office order dated 11.12.2007 for a period of six months only. Thereafter, contract was renewed from time to time. However, his work during the year 2010-11 was not found to be satisfactory. The last contractual service period of the claimant was from 01.07.2011 to 31.12.2011. The claimant has been paid full wages upto 31.12.2011 despite his unauthorized absence. Claimant was negligent in performance of his duties and remained unauthorizedly absent from 10.12.2011 till the end of his service upto 31.12.2011. Management has denied the other averments made in the claim petition. It has been denied that the claimant was removed orally from service or even otherwise by the Protocol Officer as the contract period of the claimant expired on 31.12.2011. As such, there is no question of oral termination of the claimant on 13.01.2012.

5. Against this factual background, my learned predecessor vide order dated 23.01.2014 framed the following issues:

- (i) Whether action of the management in non-renewal of term of service of the claimant amounts to retrenchment?
- (ii) Whether claimant had rendered continuous service for a period of 240 days, as contemplated by provisions of section 25-B of the Industrial Disputes Act, 1947?
- (iii) Whether claimant is entitled to reinstatement of service?

6. Claimant in order to prove his case against the management examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A and also relied on documents Ex.WW1/1 to Ex.WW1/16. Management, in order to rebut the case of the claimant, examined Shri Balwinder Singh Kumar, Protocol Officer as MW1, whose affidavit is Ex.MW1/A.

Findings on issue No.(i) and (ii)

7. Both these issues are being taken up together for the purpose of discussion as they are co-related and can be conveniently disposed of. It is clear from matrix of the case that the claimant has come with the plea that he was engaged by the management on 15.11.2007 and his service was orally terminated by the management on 13.01.2012. During the course of arguments, factum of engagement of the claimant as attendant was not denied inasmuch as the management has admitted in its written statement that the Protocol Officer has engaged the claimant Shri Naveen Dutt purely on contract basis for a period of six months. Thereafter, from time to time his contract was renewed. However, case of the management is that the service performed by the claimant was not found to be satisfactory and he also remained unauthorized absent for the period from 10.12.2011 to 31.12.2011. As such, his contract was not renewed, which has even otherwise come to an end.

8. Claimant has tendered in evidence the application moved by him for his engaged as office assistant, which Ex.WW1/1 and order of his appointment dated 11.12.2017 is Ex.WW1/2. Terms and conditions of his appointment are as under:

- Shri Naveen Dutt, S/o Shri Vijendar Dutt is hereby informed that he has been engaged in MRVC on daily rate basis, to perform the duties of Office Assistant in MRVC.
- Shri Naveen Dutt is engaged on daily rate basis for a period of six months from 15.11.2007 or till the post is filled by a regular incumbent.
- Shri Naveen Dutt is further advised that the engagement is terminable forthwith without giving any notice once a regular incumbent is posted. The engagement is also terminable even otherwise without assigning any reason, notice pay in lieu thereof in the interest of the Administration.
- The service in this Corporation will not give him any lien, entitlement of claim for further or continued employment in the Corporation or the Railways.

9. Similar are office orders Ex.WW1/3 and Ex.WW1/4 dated 01.07.2009 which again deals with the terms and conditions of the engagement of the claimant. This letter again shows that engagement of the claimant is for the period 01.07.2009 to 30.06.2010. There is mention of monthly salary of the claimant as well as payment of washing allowance etc. It is further stipulated in the above letter that the claimant shall be entitled for special leave on completion of every one month of service plus 2 restricted holidays and in case of any unauthorized absence or leave beyond this limit, pro rata recovery would be effected from the workmen. In case of unauthorized absence for more than 3 days at a stretch, contract shall be deemed to have been terminated.

10. It is necessary to mention here that initially the Protocol Officer has found the service being rendered by the claimant to be satisfactory and he has also issued certificate to this effect, which Ex.WW1/5. It is further clear from perusal of documents Ex.WW1/6 dated 01.07.2011 that the contract of employment of the claimant was further extended by the management with effect from 01.07.2011 to 30.06.2012. This, in fact, is the last contract and as per the stand taken by the management services of the claimant stood terminated on 30.06.2012. From the first para of the contract Ex.WW1/6, it is evident that the period of engagement of the claimant is from 01.07.2011 to 30.06.2012, which shows that as per contract documents claimant should have continued in service upto 30.06.2012. Claimant was also given appreciation letter Ex.MW1/8 alongwith a cash prize of Rs.500.00. There is another certificate of appreciation Ex.WW1/9 vide which cash prize of Rs.1000.00 has been given to the claimant for rendering good service during 2010-11. Claimant has specifically alleged in the statement of claim that he in fact had duly informed the management regarding his illness. He has fully proved his illness vide medical certificate Ex.WW1/10, which shows that the claimant was getting medical treatment from Dr. Ram Manohar Lohia Hospital. There is a detailed mention of the various medicines and the OPD card Ex.WW1/10 which clearly shows that the claimant was under treatment during the period December 2011 and he remained on treatment till 12.01.2012. The certificate issued by Dr.Ram Manohar Lohia Hospital clearly shows that the claimant Shri Naveen Dutt was suffering from psychological problem and was under treatment from 19.12.2011 till date, i.e. 12.01.2012. Thus, there is prima facie evidence on record to suggest that the plea taken by the claimant regarding his illness is not a figment of imagination or false plea but the same is supported by documentary evidence on record. Claimant has also filed letter Ex.WW1/11 addressed to the Managing Director wherein he has given complete details. He has specifically mentioned that he is enclosing medical certificate of fitness dated 12.01.2012 issued by Dr.Ram Manohar Lohia Hospital, which is self-explanatory. Even at that time, claimant was under medical treatment. This letter again further reads that he had reported for duties on 13.01.2012 alongwith the above medical certificate, but he was not allowed to join duties. Claimant has also supported all these

averments while appearing as WW1 and all these facts find mention in his affidavit Ex.WW1/A. Claimant has been subjected to cross examination but he has stood the test of cross examination as nothing could come out in favour of the management in the said cross examination. He has denied the suggestion that he was a habitual absentee. He has averred that every time he was given fresh letter of appointment and he has given medical certificate regarding his illness.

11. There is no merit in the contention of the management that the work performed by the claimant was not found to be satisfactory as a result of which management did not renew its contract. This fact is not supported by any evidence. Moreover, as discussed above, certificate of appreciation Ex.WW1/8 and Ex.WW1/9 clearly shows that the claimant was paid cash prize for good performance of duties with a sum of Rs.500.00 and Rs.1000.00 respectively.

12. Management, in order to rebut the case of the claimant, examined Shri Balvinder Singh Kumar as MW1. He has stated that performance of the claimant during the period 2010-11 was not satisfactory. Claimant was issued memo on 14.02.2011 Ex.MW1/1. He further admitted that no show cause notice prior to this was issued to the claimant. He has further admitted that the claimant was discharged from service on 31.12.2011. He again admitted that the claimant was doing service for the principal employer and on behalf of the management.

13. This Tribunal cannot ignore the fact that the claimant has been in continuous service since the time of his engagement, i.e. 15.11.2007 and remained with the management till 31.12.2011. Though the management was issuing fresh letter of appointment every time on renewal of contract but practically there is no break in service of the claimant and such artificial breaks as per the settled legal position cannot be taken into consideration while computing the period of employment. Since the factum of engagement of the claimant by the management has been admitted in the pleadings, as such, onus was on the management to prove that the claimant has, in fact, not completed 240 days of continuous service in a calendar year preceding his termination. Management has not filed record relating to the attendance of the claimant. Management was in possession of the relevant record relating to payment of salary, attendance etc. Admittedly, no show cause notice was served upon the claimant before discharging him from service. Even as per the stand taken by the management in its pleadings, claimant was discharged from service on 31.12.2011 but renewal of contract of agreement was lastly executed vide Ex.WW1/6, which reads as under:

1. Contract Period : This engagement is purely on contract basis from 01.07.2011 to 30.06.2012, during which you have to provide satisfactory and disciplined services to the Corporation.
2. Consolidated emoluments : The consolidated monthly emoluments payable to you will be Rs.13,748.00 (rupees thirteen thousand seven hundred forty eight only).
3. Provident Fund : 12% contribution is made from your emoluments and 13.61% contribution is made by the Corporation'.

14. It is clear from perusal of the above that contract period of the claimant herein as per letter dated 01.07.2011 Ex.WW1/6 was upto 30.06.2012 whereas the management has done away with the service of the claimant as per its own admission of 31.12.2011. As discussed above, absence of the claimant prior to his discharge was on account of his illness and it was not willful or intentional default on the part of the claimant. Moreover, it is not the case of the management that on account of unauthorized absence, the claimant was retrenched from service. Even otherwise, legal position is now clear from the various pronouncements that even in case of unauthorized absence, management is required to serve notice upon the workman before order of termination is passed against such workman. In the case on hand, nothing of this sort has been done by the management. Accordingly, action of the management is totally illegal and in violation of the provisions of section 25-F of the Act.

15. There is no merit in the contention of the management that services of the claimant was retrenched after completion of the project in terms of provisions of section 2(oo)(bb) of the Act; as such, the same cannot be termed to be a legal retrenchment. As discussed above, services of the claimant as per the own admission of the management was done away with on 31.12.2011 whereas contract was to expire on 30.06.2012 as per Ex.WW1/6. Management, admittedly, has not paid any retrenchment compensation to the claimant. It has been held by Hon'ble Apex Court in the case of (1993) Legal Eagle (SC) 458 that order of termination of service of an employee visits with civil consequences of jeopardizing not with civil consequences of jeopardizing not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee, fair play requires that a reasonable opportunity be afforded to the workman to put forth his case and in case no such opportunity is given, then action of the management would be in violation of principles of natural justice as well as Article 14 of the Constitution of India. Principles of natural justice, as is well settled position in law, are inbuilt in any administrative action which have adverse consequences against the employer. Hon'ble Apex Court in S.M.Nilajakar Vs. Telecom District Manager (2003) (4) SCC 27 while dealing with provisions of Section 2(oo) (bb) of the Act observed that termination of service which does not fall within clause a, b and c would amount to retrenchment under the law.

However, termination of service of a workman engaged in a project or scheme would not amount to illegal retrenchment within the meaning of sub-clause (bb), if the following conditions are satisfied:

- (i) that the workman was employed in a project or scheme of temporary duration;
- (ii) the employment was on a contract, and not as a daily wager simpliciter, which provided inter-alia that the employment shall come to an end on the expiry of the scheme or project;
- (iii) the employment came to an end simultaneously with the termination of the scheme or project and consistently with the terms of the contract, and
- (iv) the workman ought to have been apprised or made aware of the aforesaid terms by the employer at the commencement of employment.

16. It is clear from the above that the workman is required to be apprised and made fully aware of the aforesaid terms before his termination/retrenchment can be held to be within sub-clause (bb) of Section 2(oo) of the Act. Since in the case on hand, management has violated conditions of appointment by granting pre-mature termination/retrenchment to the claimant, as such, action of the management is held to be per se illegal. The Tribunal cannot ignore the fact that provisions of Act as well as other industrial enactments are enacted to help the poor workmen in case of doubt or where two different views are possible. Parliament has given a wider definition to the term retrenchment by implied words 'termination by the employer of the service of the workman for any reason whatsoever', which is clearly suggestive of the fact that services of the claimant is to be permitted in case of illegal retrenchment.

17. Net result of the above is that the action of the management is discharging the service of the claimant amounts to illegal termination and does not fall within the explanation of sub-clause 2(oo)(bb) of the Act. It is further held that the claimant has rendered more than 240 days of continuous service in a calendar year preceding his termination.

Findings on issue No.(iii)

18. Now, the only residual question which survives for consideration is whether the claimant is entitled to reinstatement in service. It is apposite to mention here that earlier Hon'ble Apex Court has articulated a view which is reflected in several judgments that if termination of a workman is found to be illegal, the relief of reinstatement with back wages would follow. However, in recent past, there is change in this trend and now in several cases a view has been taken that relief by way of reinstatement with full back wages is not automatic.

19. Though it has been averred by the workman in his affidavit as well as statement of claim that he is not gainfully employed with any other management yet this court has to keep in mind that he was not a regular employee of the management nor he has vested right to continue in said employment. The ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wager worker and where the termination is found illegal because of procedural defect namely in violation of Section 25-F reinstatement with back wages is not to be automatic. Instead the workman would 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 mandatorily required under Section 25-F 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.

20. While dealing with reinstatement, the court has to take in mind the nature of the post, duration of the engagement, nature of appointment, availability of the post, delay in raising industrial dispute and whether the appointment was in accordance with rules or not. The workman herein was admittedly holding temporary post of daily wager.

21. As discussed above, claimant was in continuous employment of the management since 2007. Moreover, at present, work of the management is still in operation in various places in India. Hence, the claimant Shri Naveen Dutt is entitled to reinstatement in service of the management with full back wages as action of the management in the case on hand, is totally in violation of the provisions of Section 25-F of the Act. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: March 12, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 667/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/275/1998-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 667/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 03.05.2018.

[No. L-12012/275/1998-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 13th April, 2018

Reference: (CGITA) No. 667/2004

The Assistant General Manager,
Bank of Baroda,
Baroda City Region, 5th Floor,
Suraj Plaza – III, Sayajigunj,
Baroda – 390006

...First Party

V/s

Mr. Shyam Bahadur Singh,
C/o R.S. Singh,
Krishna Nr. Room No. 72, Behind Rozary Garden,
Chhani Road,
Vadodara – 390002

...Second Party

For the First Party : Shri M.K. Thakar

For the Second Party : Shri H.D. Kathrotiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/275/98-IR(B-II) dated 12.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda through its officers, in terminating/discontinuing the services of Shri Shyam Bahadur Singh in the Subordinate Cadre of the bank at University Campus Branch, Baroda in the month of October, 1997 is justified, proper and legal? If not, what benefits the workman is entitled for and what other directions are necessary in the matter?”

1. The reference dates back to 12.05.1999. In pursuance of the notice, the second party submitted the statement of claim Ex. 3 alleging that the second party workman Shyam Bahadur Singh joined the first party Bank of Baroda hereinafter referred to as "Bank" as Sub-staff on a permanent post on 09.04.1991. He discharged his duties faithfully and diligently on a regular basis. The bank was having no grievances against his work and conduct. He was also issued two certificates dated 07.12.1995 and 20.01.1998 regarding his work and conduct. He has further alleged that he worked in various branches of the first party bank and worked for more than 240 days in every calendar year. Lastly, he was working at University Branch of Bank of Baroda where the Manager orally terminated his services w.e.f. 10.10.1997 without serving any notice or paying notice pay or compensation. There were by-partite and tri-partite settlement between the bank and the employees union and under the said settlement, any person working in the bank who completed 90 days of service was eligible for permanent post but the bank instead of regularising his services, terminated his services and recruited new hands in his place. He met the officers of the bank at its Regional Office personally and apprised them of his termination of service. The bank high officials stated that the bank is going to conduct the process of regularisation and advertisement to this effect has been published in the newspaper. But since the year 1998, the bank did not carry out any process of regularisation; therefore, he raised the dispute through his employees union. He has further alleged that the termination of his service by the first party bank was improper, illegal and unfair labour practices, therefore, violative of provisions of Section 25 F, G, H and N of the Industrial Disputes Act. He has further alleged that two employees junior to him were retained by the bank at the time of termination of his service. He tried to search an alternative job but could not succeed and has been unemployed since then. Therefore, he has prayed for declaring the termination of his service dated 10.10.1997 as illegal, improper and has also prayed for reinstatement of his service at the original post with full back wages and service benefits.

2. The first party Bank of Baroda submitted the written statement Ex. 8 partly admitting the averments made in the statement of claim, submitted in the written statement that the reference is made wrongly. This tribunal has no jurisdiction to try the reference as being barred by delay and laches and making false averments in the statement of claim. It is further submitted that the eligibility for the post of peon in the bank is with a qualification of 9th standard and age must not be more than 26 years. The workman has to undergo the process of interview while getting a permanent post and his name must be sponsored by the Employment Exchange. Merely, a person had worked as casual worker on temporary basis for a long time cannot be said to be entitled for a regular job. No person can become entitled for regular employment in the bank who has simply worked as casual worker on temporary basis in the absence of vacant and sanctioned post. There are certain laid down norms and rules for appointment of permanent staff like age, qualification, selection process etc. and appointment ought to have been made by a competent authority and not by the Branch Manager. It has been further alleged that in the light of the judgement reported in AIR 1997 SC 1628, the workman is not entitled for any relief and the reference is liable to be rejected.

3. The second party submitted the documents vide list Ex. 24, a certificate dated 20.01.1998 issued by the Branch Manager of the bank indicating that the second party workman worked for 304 days between 10.12.1996 to Oct. 1997 purely on temporary basis and without any commitment of guarantee on the part of the bank for his continuation or recruitment in the bank and a document that is acknowledgement regarding statement of claim being received by the bank. The document Ex. 9 filed by the second party is the same document as has been discussed earlier filed vide Ex. 24. He has also filed the copy of the award Ex. 11 passed by the Industrial Tribunal in Reference (ITC) No. 11/1997. The second party has also submitted a document Ex. 20 which is an advertisement in a daily newspaper "Sandesh" which is reproduced as under: **"The Bank is contemplating to create a penal of persons who have worked as peon for 90 days or more in any branch or office in India between 01.01.1982 to 31.12.1990. Such cases may be considered for future vacancies (ad-hoc or permanent) subject to following terms."**

4. The second party also filed the documents Ex. 23. They are mainly the circulars of the bank and the advertisement produced vide document Ex. 20 and 21.

5. The first party submitted the documents vide list Ex. 10. They are mainly the circulars regarding the recruitment of sub-ordinate staff indicating the vacancies in the sub-ordinate staff cadre to be notified and to be filled through Employment Exchange alone and other permissible sources can be tabbed only if the Employment Exchange a non-availability of proper candidates. He has also filed the circular which is already filed by the second party vide Ex. 19 and 20.

6. On the basis of the pleadings, the following issues arise:

- I. Whether the action of the management of Bank of Baroda through its officers, in terminating/discontinuing the services of Shri Shyam Bahadur Singh in the Subordinate Cadre of the bank at University Campus Branch, Baroda in the month of October, 1997 is justified, proper and legal?
- II. To what benefits, if any, the workman is entitled for and what other directions are necessary in the matter?

7. Both these issues are interrelated, therefore, are decided together.

8. **Issue No. I and II:** The burden of proof of these issues was lying on the second party workman who submitted his affidavit Ex. 12 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination. In his cross-examination, he has admitted that he studied up to the 7th standard which is passed in the year 1983. For the first time, he came to Baroda in 1985. His name was not registered with any Employment Exchange. He joined the bank in the year 1991 and worked up to 1992, thereafter, he worked from 10.12.1996 to 10.10.1997.

9. The first party examined one Somabhai Jethabhai Makwana vide affidavit Ex. 17 wherein he has reiterated the facts made in the written statement and also stated that the second party workman is not entitled to get the benefits of advertisement Ex. 20 produced by the second party because the second party workman worked only for 304 days from December 1996 to October 1997. He has further stated that an Officer as a Branch Manager has no powers to engage, terminate and make any casual worker permanent employee. He has further stated the second party workman never worked under him. He did not know the workman and his work and conduct personally. There are certain guidelines issued by the bank regarding age and qualification of a peon. He admitted that it is true that after the year 1997, the bank engaged new sub-ordinate persons and this workman was not called for re-employment.

10. I heard the arguments of the learned counsel of the parties and considered the evidences oral as well as documentary lead by both the parties. It is clear from the evidence that there were certain rules regarding recruitment and as per the rules, a person must be 9th standard pass and ought not to be more than 26 years of age and his name must also be sponsored by the Employment Exchange. The second party has himself admitted that he is 7th standard pass and his name was not registered with any Employment Exchange. The second party workman has failed to lead any evidence regarding his engagement in the bank from 1991 to 1992. He has simply orally and by way of documentary evidence established that he worked from 10.12.1996 to 10.10.1997 by way of a certificate issued by the Chief Manager, University Branch regarding 304 working days. Secondly, the second party workman has relied upon the advertisement Ex. 20 which is not applicable because as per the advertisement, those workmen were eligible who have worked for 90 days between the period from 01.01.1982 to 31.12.1990. The second party though has proved that he worked for 304 days from 10.12.1996 to 10.10.1997 on the basis of a certificate issued by the Branch Manager of the bank but he has failed to prove that who were those junior employees being engaged or permitted to continue in service after the termination of the services of the workman. It is also noteworthy that as per the aforesaid advertisement, the workman was not eligible as per his qualification. He has also failed to prove that he worked for the period from 1991 to 1992. Thus the impugned order of termination cannot be said to be violative of provisions of Section 25 F, G, H and N of the Industrial Disputes Act.

11. It is also noteworthy that this second party workman was terminated in the year 1997 but the reference has been made after two years from his termination and after the termination of his services, 20 years have been passed and no prudent person can believe that for all these years, the second party workman would have been remained unemployed. It is also a settled law that a person, who has been appointed illegally, would not be entitled to get any relief.

12. The Supreme Court in Senior Superintendent of Telegraph (Traffic), Bhopal V/s Santosh Kumar Seal, 2010 (6) SC C 773 and Bharat Sanchar Nigam Limited V/s Mansingh, 2012 (1) SC C 598, held that it is settled law that the relief by way of reinstatement with back wages is not automatic even if the termination of the workman is illegal or in contravention of the prescribed procedure, however, in some cases, grant of monetary compensation may be an appropriate relief. Looking to respondents putting 2 or 3 year service, compensation of Rs. 40000/- would meet the ends of justice.

13. Thus in the light of the aforesaid discussions, I come to the conclusion that the termination of the services of the workman was not improper or illegal. However, as the workman has put in more or less 2 years of service as casual labour, therefore, a compensation of Rs. 40000/- (Rupees Forty Thousand) would be appropriate. The Issue No. I and II are decided accordingly.

14. The award is passed accordingly and shall be in effect within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 744.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 77/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/85/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 03.05.2018.

[No. L-12012/85/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 77/2013

Date of Passing Award – 8th March, 2018

Between :

The Branch Manager,
State Bank of India,
Gopinathpur Branch,
At./Po. Gopinathpur, Dist. Cuttack

... 1st Party-Management

(And)

Shri Sunakar Behera,
S/o. Late Satrughna Behera,
Vill./Po. Mauda, Dist. Cuttack

... 2nd Party-Workman

Appearances :

None	...	For the 1 st Party-Management.
Shri Sunakar Behera	...	For Himself the 2 nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour has referred an Industrial Dispute for its adjudication vide its letter No. L-12012/85/2013 – IR (B-I), dated 21.10.2013 in exercising its authority conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short “The Act”) and the schedule of reference is (1) “whether the action of the part of the Branch Manager, SBI . Gopinathpur instantly following the orders of Zonal Office, Bhubaneswar and Regional Business Office, Cuttack for disengaging the ½ time scale sweeper Shri Sunakar Behera from sweeping job after rendering 25 years of continuous service and without following Section 25-F of the I.D. Act is justified and legal? To what relief the workman is entitled?” (2) “Whether the action on the part of the mgt not giving a proper chance in the regular selection process for regularizing the job of Shri Sunakar Behera, Sweeper tantamount to the violation of principles of natural justice? To what relief the workman is entitled?”

2. The 2nd party-workman has filed his statement of claim pleading inter alia that he was appointed as a temporary part-time sweeper on 2.4.1985 on a daily wage of Rs. 8/- in the Management-Bank in its branch at Gopinathpur, Dist. Cuttack. His wage was enhanced from time to time. He has claimed that he received 1/3rd of pay with effect from 1.11.1987, which was enhanced from 1/3rd to 1/2 pay with effect from 1.1.1991. Besides, he was receiving proportionate increments as per his pay scale on 1.11.1988, 1.11.1989, 1.11.1990 and so on. According to him, several

other persons engaged like him were regularized in service even though they were engaged subsequent to him. He attended an interview called in the Zonal Office, Bhubaneswar for his permanent appointment. Thereafter, In spite of his several representations for regularization of his service he was not informed about the result of his interview attended in the Zonal Office. On the other hand when he claimed for regularization of his service on account of regularization of services of his juniors, he was disengaged from his job with effect from 17.5.2012 on a plea that he was not selected through recruitment process. It is his claim that he worked in the establishment of the Management for more than 25 years continuously and uninterruptedly till he was disengaged. He was not given any notice or notice pay in lieu of notice and retrenchment compensation before his such disengagement. In view of such infraction of provisions of Section 25-F and 25-G of the Act his disengagement is a retrenchment without compliance of provisions of Section 25-F and as such, the same is illegal and unjustified. Hence, he has claimed to be reinstated with full back wages and other consequential benefits.

3. Being noticed the Management made his appearance in the initial stage of hearing and took adjournment to file its written statement. When it failed to take any steps in subsequent stage, it was set *exparte*.

4. The points for consideration in the adjudication is whether the disengagement of half time scale sweeper Shri Behera from sweeping job after 25 years of his continuous service without compliance of provisions of Section 25-F is justified and legal and if the action of the Management not giving a scope to Shri Behera to attend an interview or his selection to be absorbed permanently amounted to the violation of the principle of natural justice and to what relief Shri Behera is entitled to.

5. The individual workman has examined himself as W.W.-1 and filed Xerox copies of the interview call letter dated 5.6.1997, copy of the application form, copy of the information dated 4.1.2013 obtained under R.T.I. Act, copy of another interview call letter dated 5.11.1994, copy of letter dated 16.8.1994, copy of the letter of the Management, copy of the letter of the Management dated 25.1.1991, copy of letter of the Management dated 22.12.1990, copy of the letter of Management dated 14.1.1995, copy of letter of the Management dated 7.7.1994, copy of the letter dated 9.10.2010 addressed to the Management, copy of the letter addressed to the Management with a prayer for absorbing in the Bank as permanent Class-IV employee, copy of the letter dated 15.6.1996 written to the Management, copy of the circular of the Management with regard to conversion of part-time subordinate cadre employees to full time sub-ordinate cadre employees, copy of Memorandum of Management dated 09.06.1997 and copy of letter of the Management dated 17.5.2012 addressed to the workman which are marked from Ext.-1 to Ext.-15 in support of his claim.

6. The oral testimony of the workman is nothing more or less than the reiteration of pleadings advanced in his statement of claim. In his sworn affidavit filed towards his examination in chief the workman has claimed that he joined as a sweeper in the Management-Bank's branch at Gopinathpur, P.S. Jagatpur, Dist. Cuttack, on 2.4.1985 on a daily wage of Rs. 8/- for the period from 2.4.1985 to 14.4.1987. From 15.4.1987 to 31.10.1987 his wage was raised to Rs. 10/- and thereafter he was paid 1/3rd pay of a regular employee of similar cadre from 1.11.1987 to 21.12.1990 and thereafter his wage was fixed half pay of a regular employee with effect from 22.12.1990 onwards. According to him he was also receiving proportionate increments as per his pay scale from 1.11.1988 onward. It has been claimed in his sworn affidavit that services of Muralidhar Behera and Bansidhar Behera and some other persons, who were in same footings, were regularized in the year 2000 and they were allowed to draw full scale of pay. He has testified that the Branch Manager, Gopinathpur Branch informed him vide Ext.-15 about his disengagement. He was not paid any notice pay and compensation as per provisions of Section 25-F when Ext.-15 was issued to him. There is nothing substantial to disbelieve his unchallenged and uncontroverted testimony. Rather, contents of documents filed by him more particularly Ext.-5, 8 & 9 support his version. It is revealed from these documents that the workman had been working as a Sweeper in the Gopinathpur Branch since 2.4.1985 on daily wage basis till 30.10.1987 and thereafter he received wages as per 1/3rd pay with effect from 1.11.1987 and half pay with effect from 22.12.1990. Ext.-15 reveals that he was communicated on 17.5.2012 that as per the decision of the appropriate authority he was disengaged from service on the same day as he was not selected through recruitment process. Thus, from his unchallenged oral testimony and documents relied upon by him more particularly the documents mentioned above it can be safely concluded that he was employed on a casual and daily wage basis with effect from 02.04.1985 to work as a sweeper in the branch of the Management-Bank of Gopinathpur and he continued to work as such till he was disengaged on 17.5.2012. His engagement was found to be continuous and uninterrupted till he was disengaged. No material is placed before this Tribunal to establish if any notice pay and retrenchment compensation was paid to him at the time of his disengagement. In the above facts and circumstances, his disengagement was amounted to retrenchment in violation of provisions of Section 25-F of the Act. That apart, his claim that his juniors were regularized in the service remains unchallenged. Hence, it can be safely held that the Management had also violated the provisions of Section 25-G while refusing employment to the workman. The evidence analyzed and discussed above is sufficient from which conclusion about employer and employee relationship between the parties can be drawn and Shri Behera can be safely said to be a workman of the Management-Bank. An irresistible conclusion can also be drawn that his disengagement without compliance of the provisions of Section 25-F and 25-G was undoubtedly illegal and unsustainable in the eye of law.

However, it is emerging from his pleadings and evidence that he attended an interview held in the year 1994 and there is no evidence on the record to hold that any other recruitment process was taken place after such interview held in the year 1994. Therefore, the Management cannot be accused of depriving the workmen from taking part in the regular selection process and thereby it violated the principles of natural justice for not giving proper scope to the workman for regularization of his service.

7. Coming to the relief to which he is entitled to, it is seen that he was working as a Sweeper from the year 1985. It cannot be over-sighted that juniors to him were appointed against permanent posts. Being eligible he was called to attend the interview held in the Zonal office in the year 1994 for the purpose of regularization of his service and he was allowed to continue in his job till he was disengaged on 17.5.2012. Had he been unsuccessful in the interview he should have been immediately informed and in the meanwhile he is expected to be over-age for the purpose of any job in Government or semi-Government organizations. His juniors in part-time service are stated to have been regularized in service. Having regard to the above peculiar facts and circumstances of the case it is felt that his reinstatement with payment of 50% back wages and continuity of service would meet the ends of justice in the instant case. Accordingly the Management is directed to reinstate the workman Shri Sunakar Behera with 50% back wages and continuity of service within two months from the date of publication of the award failing which the workman is entitled to 8% interest on the back wages. Further, the Management is at liberty to consider the regularization of his service keeping in view of his length of continuity in temporary Sweeper job and the fact of services of his juniors being regularized.

8. Accordingly the reference is answered.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 3 मई, 2018

का.आ. 745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 73/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.05.2018 को प्राप्त हुआ था।

[सं. एल-12011/92/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 3rd May, 2018

S.O. 745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 03.05.2018.

[No. L-12011/92/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE SHRI S.S GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/73/2013

Date: 09.03.2017

Party No. 1 : The Deputy General Manager,
State Bank of India, A.O.,
Plot no. 79, N-5 CIDCO
Aurangabad- 431 003

V/s

Party No. 2 : The General Secretary,
State Bank Workers Organisation,
542, Dr.Munje Marg, Opp: New English High School,
Congress Nagar,
Nagpur-440025.

ORDER

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute for adjudication between the management of State Bank of India and Shri C.T. Kale vide letter **No.L-12011/92/2013-IR(B-I) dated 03.01.2014**, on the following schedule:-

"Whether the action of the management of State Bank of India, Aurangabad for transferring Shri C.T. Kale, Zone Secretary and protected workman of Aurangabad Module from CCPC, Aurangabad to Sillod Branch is justified? To what relief the union is entitled?"

2. On receipt of the reference, notices were issued to parties to file claim, and written statement and accordingly the petitioner filed its Statement of claim, rejoinder and affidavit and the party No.2 filed its written statement.

Today Advocate Mrs. Rachana Joshi present on behalf of the petitioner.

Shri S.N. Kumar Advocate also present on behalf of the Party No.2.

Party no.2 filed an application to withdraw the present reference because their dispute was settled with Party No. 1. So party No.2 does not want to prosecute present/reference, so he pray for withdraw the present matter/reference. He files an application for permission to withdraw the case on 07.03.2018 which is marked as I.A. No.3.

Management on reply of this application gave their consent to withdraw the reference. So, the application for withdrawal of reference is allowed. Hence, it is ordered:-

ORDER

The application for withdrawal of the case is allowed. The case is treated as withdrawn. The application filed by the Party No. 2 for withdrawal of the case is made part of the order. The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 34/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/82/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/82/2010-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No. 34/2011

The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri Rajesh Singh Thakur

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/82/2010-IR(B-I) dated 28.04.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Baroda, in not appointing Smt. Passiben A. Solanki and Shri Gunwant Harijan as Safaiwala on the ground of not fulfilling requisite conditions in spite of the orders of CAT, Ahmedabad, is legal and justified? To what relief the workmen are entitled?”

1. The reference dates back to 28.04.2011. In response to the notice, the second party union submitted the statement of claim Ex. 3 on 23.08.2011 but the first party despite filing vakalatpatra Ex. 5 of Shri Rajesh Singh, did not prefer to file written statement. Therefore, on 05.08.2016, the case was ordered to proceed ex-parte against the first party and was fixed for evidence of the second party.
2. Today on 12.04.2018, Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
3. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 20/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/26/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/26/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No. 20/2012

1. The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
2. The Chief Medical Officer,
Western Railway, New Railway Colony, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri N.J. Acharya

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/26/2011-IR(B-I) dated 27.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Ahmedabad in not issuing privilege pass to second wife of Shri Tulsibhai Manilal Makwana, Safaiwala, is legal and justified? To what relief the workman/union is entitled?”

1. The reference dates back to 27.12.2011. In response to the notice, the second party union submitted the statement of claim Ex. 4 on 26.07.2012 but the first party despite filing vakalatpatra Ex. 3 of Shri N.J. Acharya, did not prefer to submit written statement. Therefore, on 12.10.2017, the case was ordered to proceed ex-parte against the first party and was fixed for evidence of the second party.
2. Today on 12.04.2018, Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
3. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 748.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 149/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41012/112/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 149/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41012/112/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th April, 2018

Reference: (CGITA) No. 149/2010

1. The General Manager,
Western Railway,
Churchgate, Mumbai
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat)
3. The Senior DEN (North),
Western Railway, Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The President,
General Workmen's Union,
Near Sinduri Mata Devasthan, S.T. Nagar, Panchmahal,
Godhra (Gujarat)

...Second Party

For the First Party No : Shri Rajesh Singh Thakur

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/112/2007-IR(B-I) dated 11.06.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway in imposing penalty of removal from service on Shri Arvind Manor w.e.f. 01.07.2002, is legal and justified? To what relief is the concerned applicant entitled?”

1. The reference dates back to 11.06.2009. The second party submitted the statement of claim Ex. 4 on 04.12.2009 and the first party submitted the written statement Ex. 9 on 28.11.2017. But today on 11.04.2018, Shri J.K. Ved, The President, General Workmen's Union, Near Sinduri Mata Devasthan, S.T. Nagar, Panchmahal, Godhra, requested to withdraw the reference.
2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 749.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 66/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/47/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/47/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 10th April, 2018

Reference: (CGITA) No. 66/2015

The Divisional Engineer (Coordination),
Western Railway,
Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)

...First Party

V/s

The Vice President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri Bhagyodaya Mishra

For the Second Party : Shri R.S. Sisodiya (Union Representaton)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/47/2015-IR(B-I) dated 21.09.2015 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Vice President, Paschim Railway Karmachari Parishad, Ahmedabad against the Sr. Divisional Engineer (Co-ordination), Western Railway, Ahmedabad to grant annual increment of salary to Shri Mohan Bhaika, Gangman from 2006 is legal, fair and justified? If so, then what relief the workman is entitled to?”

1. The reference dates back to 21.09.2015. Despite submitting vakalatnama Ex. 5 by the first party, both the parties refrained to submit their statement of claim or written statement as the case may be.

2. Today on 10.04.2018, Shri R.S. Sisodiya, The Vice President, Paschim Railway Karmachari Parishad, 28/B, Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.

3. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 750.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 26/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/118/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/118/2010-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 10th April, 2018

Reference: (CGITA) No. 26/2012

The Sr. Divisional Engineer (HQ),
Western Railway,
Bhavnagar Para,
Bhavnagar (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri H.B. Shah

For the Second Party : Shri R.S. Sisodiya (Union Representaton)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/118/2010-IR(B-I) dated 27.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of union, Paschim Railway Karmachari Parishad, for conducting an enquiry in the matters of (i) violation of instructions contained in DRM Note No. DRM/Misc/2009(71) dated 01.07.2009 (ii) disturbing the work atmosphere in Computer Cell and construction wing (iii) holding of meeting and union activities during office hours (iv) taking undue interest in tender cell, by some employees of a certain union, is legal and justified? To what relief, the union, Paschim Railway Karmachari Parishad is entitled?”

1. The reference dates back to 27.12.2011. In response to the notice Ex. 2 issued to the parties, Shri H.B. Shah submitted the vakalatpatra Ex. 5 on behalf of the first party but despite service of notice, both the parties refrained to submit their statement of claim or written statement as the case may be.
2. Today on 10.04.2018, Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, 28/B, Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
3. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 59/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/35/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/35/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 10th April, 2018

Reference: (CGITA) No. 59/2015

1. The Divisional Railway Manager,
Western Railway, Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)
2. The Sr. Divisional Engineer,
Western Railway, Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)
3. The Chief PWI (BG),
Western Railway, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
Gujarat Kamdar Mandal, 402/403,
Ship – II, Sales India, Income Tax, Ashram Road,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/35/2015-IR(B-I) dated 14.07.2015 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the General Secretary, Gujarat Kamdar Mandal, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad to reinstatement in service of Shri K. Aarmugam, Gangman with full back wages and all other benefits from 07.07.1997 is legal, fair and justified? If so, then what relief the workman is entitled to?”

1. The reference dates back to 14.07.2015. Despite service of notice issued by the tribunal to all the parties, the first party moved an application Ex. 7 praying that the proper party is The Divisional Railway Manager, Western Railway, Baroda but the second party The General Secretary, Gujarat Kamdar Mandal, Ahmedabad, despite service of notice in July, 2015, as acknowledgement of service was also received, has not been appearing since then to submit his statement of claim.
2. Thus it appears that the second party is not willing to prosecute the case.
3. Thus the reference in non-filing of the statement of claim by the second party, is disposed of with the observation as under: “the demand of the General Secretary, Gujarat Kamdar Mandal, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad to reinstatement in service of Shri K. Aarmugam, Gangman with full back wages and all other benefits from 07.07.1997 cannot be said to be legal, fair and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1041/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/186/95-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 752.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1041/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 04.05.2018.

[No. L-12012/186/95-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th April, 2018

Reference: (CGITA) No. 1041/2004

1. The Manager,
State Bank of Saurashtra (Now State Bank of India),
Manavadar Branch,
Junagadh (Gujarat)
2. The Manager,
State Bank of Saurashtra (Now State Bank of India),
Head Office,
Bhavnagar (Gujarat)

...First Party

V/s

The President,
Saurashtra Employees Union,
Umesh Commercial Complex, R. No. 213 and 214,
2nd Floor, Near Chaudhary High School,
Rajkot (Gujarat)

...Second Party

For the First Party No : Shri B.B. Gogia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/186/95–IR(B-I) dated 07.02.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the State Bank of Saurashtra, Mamavadar Branch, Junagadh in discontinuing, not taking on duties, terminating the services of Shri N.K. Joshi, Peon w.e.f. 15.09.1994 is valid, just and legal? If not, to what benefits the workman is entitled for and what directions are necessary in the matter?”

1. The reference dates back to 07.02.1997. The second party submitted the statement of claim Ex. 2 on 10.11.1998 and the first part submitted the written statement Ex. 7 on 16.01.2002. Thereafter, the second party moved an application Ex. 8 for production of documents on 03.09.2003 through which the first party submitted the reply Ex. 18 along with affidavit. Since then the second party has been absent and his advocate seeks time on every date but since 28.02.2017, advocate for the second party also stopped to attend the case. On 16.02.2018, the first party submitted the reply Ex. 18 as said earlier. Today on 05.04.2018, the advocate for the second party moved an application that he informed the second party but he has not turned up. Thus it appears that the second party is not willing to prosecute the reference.
2. Thus the reference is disposed of in the absence of the second party with the observation as under: “the action of the State Bank of Saurashtra, Mamavadar Branch, Junagadh in discontinuing, not taking on duties, terminating the services of Shri N.K. Joshi, Peon w.e.f. 15.09.1994 can be said to be valid, just and legal.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 109/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/09/2013–आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/2013) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/09/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 06th April, 2018

Reference: (CGITA) No. 109/2013

1. The Divisional Railway Manager,
Western Railway,
Ratlam (Gujarat)
2. The Finance Advisor and Chief Accounts Officer,
Western Railway, Churchgate,
Mumbai

...First Party

V/s

The Dy. General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri H.R. Raval

For the Second Party : Shri R.S. Sisodiya (Union Representaton)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/09/2013-IR(B-I) dated 27.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of The Dy. General Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ratlam to appoint Shri Mahendra Kumar S/o Shri Ramdhan B. on compassionate ground is legal, fair and justified? If yes, then to what relief Shri Mahendra Kumar S/o Shri Ramdhan B. is entitled to?”

1. The reference dates back to 27.05.2013. Despite submitting statement of claim Ex. 3 and written statement Ex. 7 by the respective parties, Shri R.S. Sisodiya, The Dy. General Secretary, Paschim Railway Karmachari Parishad, 28/B, Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
2. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 98/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/76/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 04.05.2018.

[No. L-41011/76/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No. 98/2011

1. The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
2. The Sr. Divisional Engineer (HQ),
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri Rakesh P. Sharma

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/76/2011-IR(B-I) dated 08.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Ahmedabad in awarding the punishment of reduction in pay of Shri Mohan Bhayka for five years with future effect, is legal and justified? To what relief the workmen/union is entitled?”

1. The reference dates back to 08.12.2011. In response to the notice, the second party union submitted the statement of claim Ex. 6 on 10.01.2014 but the first party despite filing vakalatpatra Ex. 5 of Shri H.B. Shah, did not prefer to file written statement. Therefore, on 21.10.2016, the case was ordered to proceed ex-parte against the first party and was fixed for evidence of the second party. On 13.10.2017, Shri Rakesh P. Sharma filed the vakalatpatra Ex. 7 on behalf of the first party and also filed application Ex. 8 for recalling of the order of ex-parte hearing and permission to file written statement, the said application Ex. 8 was allowed and the case was fixed for filing of written statement. Thereafter, the first party filed the written statement Ex. 10 on 09.02.2018 and the case was fixed for evidence of the second party.

2. Today on 12.04.2018, Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
3. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 4 मई, 2018

का.आ. 755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार न्यू इंडिया एश्योरेंस कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 535/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-17012/19/2002-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2018

S.O. 755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 535/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of The New India Assurance Company Limited and their workmen, received by the Central Government on 04.05.2018.

[No. L-17012/19/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 09th April, 2018

Reference: (CGITA) No. 535/2004

The Regional Manager,
The New India Assurance Company Limited,
5th Floor, Popular House, Ashram Road,
Ahmedabad (Gujarat) – 380009

...First Party

V/s

Shri Navinchandra Dahyabhai Maheria,
20, Rohitnagar Society,
Behind New Civil Hospital,
Near Hitendra Desai Garden, Sahibaugh,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party No : Shri B.M. Joshi
For the Second Party : Shri C.R. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-17012/19/2002-IR(B-I) dated 10.02.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Shri Navinchandra Dahyabhai Maheria for reinstatement as permanent part time sweeper or peon with payment of salary for days of being laid off by the management of the Regional Manager, The New India Assurance Co. Ltd., Ahmedabad w.e.f. 08.07.1997 is legal and justified? If yes, what relief the concerned workman is entitled to?”

1. The reference dates back to 10.02.2003. The second party workman Navinchandra Dahyabhai Maheria hereinafter referred to as “second party” submitted the statement of claim Ex. 5 alleging that he was engaged by the first party employer The Regional Manager, The New India Assurance Company Limited, 5th Floor, Popular House, Ashram Road, Ahmedabad, hereinafter referred to as “first party” as Sweeper-cum-Peon for the upkeep of the office from 08.02.1996 in place of regular and permanent post of sub-staff. Initially, in February 1996, an artificial intermittent brake was given to him but he continuously and uninterruptedly has been working from April 1996 to till the date of his termination on 08.07.1997. He did work for more than 240 days in the preceding calendar year. He was used to be paid Rs. 50/- per day as wages. His services were utilised by the first party in its various offices and branches but no muster roll was prepared or kept despite the fact that he has been working regularly and uninterruptedly on a permanent and regular post with a view to avoid claim of regularisation of the second party. He made number of representations on 25.02.1997, 04.09.1997 and lastly 26.03.1999 for his reappointment and regularisation but to no result. Thus he has prayed for declaring termination of his service as illegal, arbitrary and unjustified and has also prayed for reinstatement with back wages.
2. The second party also submitted number of documents vide list Ex. 7 regarding his application for the post, aforesaid representations and certificate issued by the first party regarding his work.
3. The first party submitted the written statement Ex. 10 admitting that the second party workman was engaged as a daily wager as stated in the statement of claim but denied rest of the averments and submitted that the second party did not work for more than 240 days in any calendar year and the certificate issued by the Divisional Manager of the first party was incorrect and was issued without verifying the records. There was no violation of provisions of Section 25 F, G and H of the Industrial Disputes Act as the second party did fall within the definition of Section 2 (oo)(bb) of the Industrial Disputes Act. The first party has also relied on the judgement of Union of India V/s Uma Maheswari 1997 (11) SC C 228. It has been further submitted that the second party did work in number of offices on different dates during the questioned period from 09.05.1996 to 15.01.1997 and therefore, the so called certificate issued counting the number of working days between the aforesaid periods without excluding the dates on which he was not engaged. Therefore, the prayer sought by the second party is liable to be dismissed.
4. On the basis of the pleadings, the following issues arise:
 - I. Whether the demand of Shri Navinchandra Dahyabhai Maheria for reinstatement as permanent part time sweeper or peon with payment of salary for days of being laid off by the management of the Regional Manager, The New India Assurance Co. Ltd., Ahmedabad w.e.f. 08.07.1997 is legal and justified?
 - II. To what relief, if any, the workman Navinchandra Dahyabhai Maheria is entitled?
5. Both these issues are interrelated, therefore, are decided together.
6. **Issue Nos. I and II :** The burden of proof of these issues was lying on the workman who submitted his affidavit Ex. 14 wherein he has reiterated the averments made in the statement of claim and has not said anything contrary in his cross-examination but he has admitted in his cross-examination that during the questioned period from 09.05.1996 to 15.01.1997, he did work in number of branches as daily wager. In reply to the evidence of the second party, the first party filed the affidavit of Girish Somabhai Madhu reiterating the averments made in the written statement but he was not produced for cross-examination. Therefore, his affidavit cannot be read in evidence. Thereafter, the first party filed affidavit Ex. 20 of Ashok Kotijmal Tahilini reiterating the averments made in the written statement stating that the muster roll of the daily wages are used to be maintained. In his cross-examination, he has said that this workman was engaged on 09.05.1996. The workman served in number of branches. He does not remember as to whether any other employee has been regularised. We do not maintain attendance register and pay details of daily wagers employees but admitted all the papers filed by the second party and the relevant record is that the Divisional Manager in the certificate Ex. 25 issued by him, makes it clear that the services of the second party was utilised from 09.05.1996 to 15.01.1997. He is unaware of any regularisation of workman named N.J. Barot and M.B. Rathod. He never saw this workman while working in the first party organisation. As the first party witness has evaded the reply as to whether the persons N.J. Barot and M.B. Rathod are regularised or not. Secondly, he has failed to explain as to whether this workman was asked to work in number of branches by the authority who engaged him but as the first party organisation is a statutory organisation and a Public Sector Undertaking under the Government of India, recruitments can only be made through due procedure, therefore, the regularisation of this workman will be a back door entry. As the second party workman has worked for more than 240 days as per the documentary evidence Ex. 25 and admission of the first party and was

terminated without giving the retrenchment pay, therefore, it could be appropriate that this workman must be granted a lump-sum compensation of Rs. 75000/-. Thus all these issues are decided accordingly.

7. The award is passed accordingly and the award shall be effect within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 756.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बोलानी ओर माइन्स, आरएमडी, सेल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 409/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-29011/30/2001-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 409/2001) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bolani Ores Mines RMD, SAIL and their workman, which was received by the Central Government on 04.05.2018.

[No. L-29011/30/2001-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 409/2001

Date of Passing Award – 20th March, 2018

Between:

The General Manager,
Bolani Ores Mines RMD, SAIL,
Po. Bolani, Dist. Keonjhar – 758 037

...1st Party-Management

(And)

The General Secretary,
North Orissa Workers Union,
Po. Barbil, Dist. Keonjhar

...2nd Party-Union

Appearances:

Shri B.Mokhopadhyay, A.G.M. (Law)	...	For the 1 st Party-Management
Shri B.S. Pati, General Secretary	...	For the 2 nd Party-Union

AWARD

The Government of India, in the Ministry of Labour in exercising its authority conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short "The Act") have referred an industrial dispute between the management of Bolani Ores Mines and one Shri Sagar Munda and three orders alleged to be the workmen of the above Management for its adjudication vide its letter No. L-29011/30/2001 – IR(M), dated 14.06.2001 and the schedule of reference is "Whether the demand of the North Orissa Workers Union, Barbil for

absorption in the regular services of Bolani Ores Mines to Shri Siril Munda, Sri Sagar Munda, Sri Salan Munda and Shri Simon Munda from 1.9.1992 with payment of differential wages and payment of wages from 9.3.1999 due to illegal termination from the services is justified? If not, what relief the workmen are entitled to?"

2. In short, the case of the 2nd party-Union is that the Bolani Ores Mines is under the control of the Raw Materials Division of the Management Steel Authority of India Limited. Iron ore extracted from the said mine is being transported through conveyor belt to the railway siding situated within the lease-hold area of the mines from where it is transported to various steel plants under the SAIL by the railway. The Management of Bolani Iron Ore Mines is directly controlling and looking after the management and the maintenance of the siding situated in its mine. The 1st Party-Management have some permanent employees of different categories to manage and maintain the sidings and they are paid wages/salaries and other allowances. Apart from those regular employees some labourers are engaged to work as a Mate Key Man, Helper etc. for maintaining and cleaning the railway track leading to the sidings. The repair, maintenance and cleaning of such track in the sidings is permanent and perennial in nature and the work is being done under direct control and supervision of the official of the Management. The disputant workmen were doing such cleaning and maintenance job from the year 1990 on the basis of payment of wages at the end of the month. Though their services were shown hired through contractors from time to time, no contractor was ever present in the site. They were paid wages directly by the Management. According to the Union on 18.5.1995 a Memorandum of Agreement was executed between the Management of SAIL and different Unions whereby it was agreed on principle to abolish the engagement of contract labour in the job of permanent and perennial in nature and the workmen irrespective of being contract labourer are supposed to be absorbed as regular employees to do such jobs of permanent and perennial in nature. When the disputant workmen raised a dispute claiming equal pay for equal work and to be treated as employees of the Management of SAIL due to their such engagement in cleaning and maintenance of siding and railway track, the Management engaged new people in place of disputant workmen to carry out the said jobs and the disputants were disengaged. Though they were working for the Management continuously and uninterruptedly from the year 1990, they were removed without compliance of the provisions of Section 25-F i.e. without payment of notice pay and retrenchment compensation. Hence, prayer has been made for reinstatement of the disputant workmen and regularization of their services by the Management.

3. In its written statement the Management of SAIL has resisted the above claim taking a stand that the disputants were never engaged by them and there was no existence of employer and employee relationship between them and the disputant workmen. Hence, question does not arise on their part to retrench or to terminate the services of the disputants. Initially the Indian Railway being the sole owner of the railway operation was maintaining the tracks for safe movement of its wagons. In the year 1992 the railway stopped maintaining the private sidings and as such the Management engaged contractor having expertise in track maintenance. One M/s. G.P. Track Care was entrusted with the maintenance and cleaning work of the track. On expiry of the contract with M/s. G.P. Track Care a new agreement was entered into with M/s. Kirit Kumar Doshi. The disputants were engaged by such contractors. After expiry of the contract the work was being executed by engaging some labourers when the repair and cleaning of the siding track is required. The job was not permanent and perennial in nature and as the disputants were never engaged as contractor labourers there was no scope to absorb them permanently in the establishment of the Management. Thus, they are not entitled to any relief as claimed in their statement of claim.

4. On the aforesaid pleadings of the parties the following issues have been settled for just and proper adjudication of the dispute.

ISSUES

1. Whether the reference is maintainable?
2. Whether the demand of the North Orissa Workers Union, Barbil for absorption in the regular services of Bolani Ores Mines to Shri Siril Munda, Sri Sagar Munda, Sri Salan Munda and Sri Simon Munda from 1.9.1992 with payment of differential wages and payment of wages from 9.3.1999 due to illegal termination from the services is justified?
3. If not, to what relief the workmen are entitled to?
4. Whether the 1st Party-Management No. 2 is entitled to be exonerated from the case on the ground stated in his written statement?

In order to establish the claim the 2nd party-Union has adduced oral as well as documentary evidence. One of the disputant workmen namely Siman Munda has been examined as W.W.-1 and copy of Memorandum of agreement dated 25.5.1983 of National Joint Committee for Steel Industry, copy of the Memorandum of Agreement dated 18.5.1995 of NJC for Steel Industry and copy of the Provident Fund accounts slip issued by the Bolani Ores Mines of

RMD, SAIL are filed, which are marked as Ext.-1 to Ext.-3. On the other hand the Management has examined Shri Kaushlendra Singh Chauhan, A.G.M. (Mechanical) to refute the claim of the workmen and filed documents like copy of the letter No. NOWU/RMD(c)/6(1)95 dated 4.3.1995 to AGM, BOM Bolani, copy of the letter dated 20.5.1995, copy of the letter dated 12.8.1999 to AGM, Bolani and copy of the letter dated 31.8.1995 addressed to A.L.C.(C), Rourkela marked Ext.-A to Ext.-D.

FINDINGS

All the issues are taken for consideration simultaneously for the sake of convenience.

The first and foremost point of dispute between the parties relates to the person/organization who had employed the disputants to do the job of maintenance and cleaning of the railway track and the siding. As per the pleading and contentions advanced by the Management, the work of cleaning and maintenance was entrusted to the contractors whereas the pleadings and evidence has been advanced on behalf of the Union that such work was done by the Management through direct engagement of disputants by the Management in the guise of contract labourer and in the event of abolition of system of contract labour the Management was duty bound to absorb those labourers as its employees. Though oral evidence has been advanced by W.W.-1 and W.W.-2 in shape of sworn affidavit to establish that the disputants were directly employed by the Management and they were working under the direct control and supervision of the officers of the Management, not a single scrap of paper has been filed except Xerox copy of the statement of provident fund (Ext.-3) wherein SAIL, Bolani Ores Mines have been mentioned and the statement relates to one Seril Munda, Salan Munda and Simon Munda further. The statement relates to 31st March, 2011 when the disputant workmen are said to have been already allegedly removed or disengaged by the Management. The said exhibit does not specifically mention anything that deposits were made by the Management of Bolani Ores Mines of SAIL. No prayer has been ever made by the Union for production of original documents in this regard so as to enable the Tribunal to reach a conclusion that the E.P.F. deposits were actually made by the Management in respect of the E.P.F. account of the disputant workmen. That apart, the statement relates to the year 2011 when the services of the disputants are said to have been terminated. No explanation is coming forth in this regard from the witnesses of the Union. That apart, W.W-1 has admitted categorically in his cross examination that Thikadar was paying wages to them. Therefore, it can be safely said that except unilateral oral assertion of the disputant workmen and the Secretary of the Union there is no other clinching and credible and relying evidence from which the relationship of employer and employee between the parties can be established. It is well settled that initial burden lies on the disputant to establish that they were engaged and paid wages by the employer/Management so as to enable the Tribunal to hold that they are the workmen of the Management irrespective of the nature and character of their employment/engagement by the Management. When one of the disputant admits to have been paid wages by the Thikadar, it is hard to believe that he was engaged as a contract labourer or as a labourer directly by the Management to do the job of maintenance and cleaning of the railway track and sidings.

Further, no notification under Section 10 of the C.L. (R & A) Act, was ever made by the appropriate authority prohibiting engagement of contract labourer in the mining area. The N.J.C.S. agreement in this regard reveal that as a matter of policy it was decided to abolish the system of contract labour in the various set-up of the SAIL Management. That apart, the evidence of the Union is wanting to establish that the railway wagons are running regularly on the railway tracks near the sidings for which the job/work of its cleaning and maintenance was perennial and permanent in nature and character and as such the contract labourers engaged for such work are to be treated permanent and regular employees of the Management in the event of abolition of contract labour system in the said mining and siding area.

Further, when the 2nd party-Union has failed to establish that the disputants were engaged and paid wages and they were working directly under the control and supervision of the Management, there was no scope for the Tribunal to say that there was a termination of services of the disputant workman by the Management and the same being infraction of Section 25-F was illegal and unjustified. On the other hand the oral evidence of the Management which is neither demolished nor seriously challenged in the cross examination of the witness reveals that the maintenance and repair of the track and siding are being given on contract. It is hard to believe that services of the disputants were hired as contractor labourers. Therefore, the disputant-workmen are not entitled to get any relief and the statement of claim filed by the Union is devoid of any merit.

Accordingly the reference is answered.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स केन्द्रीय भण्डारण निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 108/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-42011/2/2007-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 108/2007) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and their workman, which was received by the Central Government on 04.05.2018.

[No. L-42011/2/2007-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 04th April, 2018

Reference: (CGITA) No. 108/2007

1. The Managing Director,
Central Warehousing Corporation,
4/1, Siri Institutional Area, Hauz Khas,
New Delhi – 110016
2. The Regional Manager,
Central Warehousing Corporation,
Regional Office, Mahalaxmi Char Rasta,
UnnatiVidhyalaya, Paldi,
Ahmedabad (Gujarat) – 380007

...First Party

V/s

The Secretary,
CWC Employees Union C/o Central Warehousing Corporation,
Mahalaxmi Char Rasta, UnnatiVidhyalaya, Paldi,
Ahmedabad (Gujarat) – 380007

...Second Party

For the First Party No : Shri Naidu Associates

For the Second Party : Shri S.N. Gandhi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42011/2/2007-IR(M) dated 22.10.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of management of Central Warehousing Corporation, New Delhi in signing settlement dated 08.06.2006 with Federation of CWC Employees Unions Delhi and All India CWC Employees Union

Front Lucknow in the absence of Federation of CWC Employees Unions, Mumbai revising selective fringe benefits and giving effect from 01.04.2006 instead of 01.04.2003 (as demanded by Federation of CWC Employees Unions, Mumbai and CWC Employees Union Gujarat), is legal, valid and justified? If not, what directions are necessary in the matter?"

1. The reference dates back to 22.10.2007. The second party union submitted the statement of claim Ex. 7 on 02.12.2008 along with number of documents vide list Ex. 8. The first party no. 2 The Regional Manager, Central Warehousing Corporation, Regional Office, Mahalaxmi Char Rasta, Unnati Vidhyalaya, Paldi, Ahmedabad, on behalf of both the first parties, submitted the notarised written statement Ex. 11 on 10.07.2009. Since then the second party union has not been leading evidence.
2. A fresh notice was issued to both the parties to appear on 29.06.2011 for leading evidence but to no result. The advocate Shri S.N. Gandhi, on behalf of the second party union earlier stated in the tribunal that the workmen have not been in his contact. Therefore, aforesaid notice was issued to the second party workmen. Thereafter, Shri Prashant Chuadhary appeared and stated that he will appear but now today on 04.04.2018, he also declined to appear.
3. Thus it appears that the second party union and their workmen are not willing to contest the case. Thus the reference in non-prosecution of the case by the second party union and their workmen in the absence of the workmen, is disposed of with the observation as under: "the action of management of Central Warehousing Corporation, New Delhi in signing settlement dated 08.06.2006 with Federation of CWC Employees Unions Delhi and All India CWC Employees Union Front Lucknow in the absence of Federation of CWC Employees Unions, Mumbai revising selective fringe benefits and giving effect from 01.04.2006 instead of 01.04.2003 (as demanded by Federation of CWC Employees Unions, Mumbai and CWC Employees Union Gujarat) can be said to be legal, valid and justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ. एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 412/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-30015/10/2001-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 412/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. ONGC Limited and others and their workman, which was received by the Central Government on 04.05.2018.

[No. L-30015/10/2001-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

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

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th April, 2018

Reference: (CGITA) No. 412/2004

1. The Group General Manager (P),
ONGC Ltd.,
Ahmedabad Project, Chandkheda,
Ahmedabad (Gujarat) –380001
2. M/s Paroshram Labour Co-operative Society,
Sahanand Complex, Shahibaug,
Ahmedabad (Gujarat)
3. M/s I.S.S. Laviyr Co-operative Society,
C/o The Group General Manager (P),
ONGC Ltd.,
Ahmedabad Project, Avani Bhawan, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The Vice President,
ONGC Employees Union,
177, Sunrise Shopping Centre,
Opp. Raichand Nagar, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party No : Shri C.S. Naidu

For the Second Party : Shri A.N. Patel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30015/10/2001–IR(M) dated 06.09.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

- a. “Whether the action of the management of ONGC Ltd., in terminating the services of Shri Rawal Popatbhai Juhabhai & 61 others is legal, proper and justified? If not, to what relief the concerned workmen are entitled to?”
- b. “Whether the demand of the union for regularising the services of Shri Rawal Popatbhai Juhabhai and 45 others from the date of their entry in service is legal, proper and justified? If so, to what relief the concerned workmen are entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 06.09.2001. The second party submitted the statement of claim Ex. 5 on 01.11.2001 and the first party submitted the written statement Ex. 12 on 08.02.2002. On 27.06.2016, one of the workmen Fafad Nayankumar Umakant vide application Ex. 59 and 60 got his name deleted from the reference. Thereafter, on 27.03.2017, Petroleum Mazdoor Sangh moved an application Ex. 63, 64 and 65 for to get the names of Bharvad Jethabhai and Jadhav Jagdish Popatbhai be deleted. On 30.03.2017, the names of the aforesaid workmen were deleted vide order below Ex. 64.

2. Since then neither the second party union nor the workmen tried to lead evidence despite the reference pending since 06.09.2001. It is also noteworthy that the second party union on 11.10.2017 moved an application Ex. 66 for grant of last opportunity for leading evidence but thereafter giving 2 more opportunities, the second party union did not turn up. Thus it appears that the second party union or their workmen are willing to prosecute the case.

3. Thus the reference in the absence of the evidence of the second party union or their workmen, is disposed of with the observation as under: “the action of the management of ONGC Ltd., in terminating the services of Shri Rawal Popatbhai Juhabhai & remaining workmen can be said to be legal, proper and justified.” and “the demand of the union for regularising the services of Shri Rawal Popatbhai Juhabhai and remaining workmen from the date of their entry in service cannot be said to be legal, proper and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स चन्द्रपुर फ़ैरो एलॉय प्लांट (सेल) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 37/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-43011/7/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 759.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2014) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Chandrapur Ferro Alloy Plant (SAIL) and their workman, which was received by the Central Government on 04.05.2018.

[No. L-43011/7/2014-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE SHRI SHYAM SUNDER GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/37/2014-15

Date: 01.02.2018

Party No. 1 : The Executive Director,
Chandrapur Ferro Alloy Plant (SAIL),
Chandrapur, Mul Road,
Distt. Chandrapur (M.S.)

Versus

Party No. 2 : The Secretary,
Chandrapur Ferro Alloy Plant (SAIL)
Mazdoor Sangh, C/o Sh. R.M. Halder,
Plot No. 226, Mukti Colony, Macchinala,
Near Durga Mandir, Indust Estate, Mul Road,
Distt. Chandrapur (M.S.)

AWARD(Dated: 01st February, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Chandrapur Ferro Alloy Plant (SAIL) and their union, Chandrapur Ferro Alloy Plant (SAIL) Mazdoor Sangh, for adjudication, as per letter **No.L-43011/7/2014- IR(M) dated 31.10.2014**, with the following schedule:-

"Whether the demand of Union namely Chandrapur Ferro Alloy Plant (SAIL) Chandrapur Mazdoor Sangh for deduction of subscription for the membership from the wages of the members of their union and deposit the amount in the union bank account against the management of Chandrapur Ferro Alloy Plant (SAIL), is legal, just and proper and if not, what relief to the said union is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledgement due.

In spite of sufficient service of notices on the petitioner, none appeared on behalf of the petitioner. No statement of claim has also been filed on today i.e. on 24.01.2018 even after notice was served for the date of 22.12.2017.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out

grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मेंगनीज ओर (इंडिया) लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 70/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-27011/11/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2014) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Manganese Ore (India) Ltd. and their workman, which was received by the Central Government on 04.05.2018.

[No. L-27011/11/2014-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE SHRI SHYAM SUNDER GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/70/2014-15

Date: 01.02.2018

Party No.1 : The Mines Manager,
Manganese Ore (India) Ltd.,
Chikla Mine, Post: Sitasawangi,
Tehsil: Tumsar, Distt. Bhandara,
Bhandara – 441920.

Versus

Party No.2 : The General Secretary,
Bhartiya Manganese Mazdoor Sangh,
Chikla-Jode Sadak,
Post: Gobarwahi, Tehsil: Tumsar,
Bhandara – 441907.

AWARD

(Dated: 01st February, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial

dispute between the employers, in relation to the management of Manganese ore (India) Ltd. and their union, Bhartiya Manganese Mazdoor Sangh, for adjudication, as per letter No.L-27011/11/2014- (IR (M) dated 19.02.2015, with the following schedule:-

“Whether the action of the management of MOIL Ltd., Chikla Mine, in not making medically unfit at proper time to Sh. Toliram Sadshiv is fair, just or legal? If not, to what relief Sh. Toliram Sadshiv is entitled for?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due.

The party No.1 appeared through their advocates on 01.09.2015.

In spite of sufficient service of notices on the petitioner, none appeared on behalf of the petitioner. No statement of claim has also been filed on today i.e. on 24.01.2018 even after notices were served for the dates of 22.11.2017 and 19.12.2017. Today, advocate for the management filed an application for closure of the reference.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 761.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारत एल्युमिनियम कम्पनी लिमिटेड (बालको) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 44/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-29011/18/2000-आईआर (एम)]

डी. के. हिमाशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2000) of the Central Government Industrial Tribunal/Labour Court, Asansol now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s Bharat Aluminium Company Ltd. (BALCO) and their workman, which was received by the Central Government on 04.05.2018.

[No. L-29011/18/2000-IR (M)]

D.K. HIMANSHU, Under Secy,

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL****PRESENT :** Shri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 44 OF 2000****PARTIES :**

The General Manager, B.A.L.C.O., Bidhanbag Unit

V/s

The General Secretary, J. K. Nagar Aluminium Workers Union

REPRESENTATIVES :

For the Management : Shri Maloy Kumar Burman, Learned Advocate

For the Union (Workman) : Shri Sayantan Mukherjee, Learned Advocate

Industry : Aluminium

State : West Bengal

Dated : 21.03.2018

A W A R D

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-29011/18/2000/IR (M)** dated 04.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of BALCO by not regularizing the services of the canteen workers as permanent workmen of the management at least w.e.f. the date of nationalization i.e. 02.06.1984 is legal and justified? If not, to what relief the Canteen Workers of BALCO are entitled? ”

1. Having received the Order **NO. L-29011/18/2000/IR (M)** dated 04.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **44 of 2000** was registered on 01.08.2000. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.
2. Case called out. Shri Sayantan Mukherjee is the learned advocate of the workers and Shri Maloy Kumar Burman is the learned advocate of the management of Bharat Aluminium Company Limited, Bidhanbag. Both the advocates are absent.
3. On perusal of the case record I find that the In-charge of Bharat Aluminium Company Limited, Bidhanbag has filed an application on 21.08.2012. He has alleged that for same cause of action by the same party a Civil Suit No. 27 of 2002 has been filed before the Learned Civil Judge (Junior Division), 2nd Court at Asansol. For same cause of action by the same party the reference has been filed in this Tribunal. The Hon'ble High Court of Kolkata has stayed the proceeding in Suit No. 27 of 2002 pending before the Learned Civil Judge (Junior Division), 2nd Court at Asansol. Therefore the management of Bharat Aluminium Company Limited, Bidhanbag requested to stay the proceeding of this reference by this Tribunal. The proceeding was stayed by this Tribunal on 31.03.2015 and was fixed for further order.
4. The workmen has not filed any objection to the application of management of Bharat Aluminium Company Limited, Bidhanbag dated 21.08.2012.
5. If, for the same cause of action a Suit has been filed by the same party before the Learned Civil Judge (Junior Division), 2nd Court at Asansol then it is settled law that another proceeding is not maintainable in this Court / Tribunal. The Suit which is pending before the Learned Civil Judge (Junior Division), 2nd Court at Asansol has been stayed by the Hon'ble High Court of Kolkata. Since, the Hon'ble High Court of Kolkata has not stayed the proceeding in Reference No. 44 of 2000 pending in this Tribunal but even then workmen are not interested to proceed the reference. Several dates have been fixed but the workmen seldom appears. The

reference is one of the oldest reference of this Tribunal. Since, the workmen are not interested to proceed further with the reference. Therefore the tribunal is left with no option but to pass a 'No Dispute Award'. As such the case is closed and accordingly a '**No Dispute Award**' is hereby passed.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स दिल्ली इंटरनैशनल एयरपोर्ट (प्राइवेट) लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 60/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. एल-11011/1/2014-आईआर (एम)]

डी. के. हिमाशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2014) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s Delhi International Airport (P) Ltd. and others and their workman, which was received by the Central Government on 04.05.2018.

[No. L-11011/1/2014-IR (M)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI

ID No. 60/2014

The General Secretary,
Hindustan Engineering & General Mazdoor Union,
A-193, Karampura,
New Delhi – 110 015

...Workman

Vs.

1. The Chairman,
Delhi International Airport (P) Ltd.,
New Udaan Bhawan, IGI Airport,
New Delhi – 110 037
2. The Manager,
M/s Apple Tree Building Maintenance Pvt. Ltd.
Plot No.176, Sector 8,
IMT Manesar, Gurgaon
3. The Manager,
M/s Technoclean India Pvt. Ltd.,
2nd Floor, Pragati house,
47-48, Nehru Place,
New Delhi

...Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.L-11011/1/2014-IR(M) dated 16.05.2014 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, (in short, the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether non-fulfillment of demands raised by contract workmen of M/s Apple Tree Building Maintenance Pvt. Ltd. alongwith their regularization on the role of DIAL are just, fair and legal? If not, what relief the workmen concerned are entitled?’

2. In partial modification of the reference, corrigendum was received vide letter No.L-11011/1/2014-IR(M) dated 12.08.2014, the appropriate in the first line of the schedule between the words ‘raised’ and ‘by’, the words (Charter of demands enclosed) and in the second line, between the words ‘Ltd.’ and ‘along’ the words/figures ‘Shri Narendra Kumar and 104 others (list enclosed) was to be treated as added and the name of ‘The Director, Delhi International Airport Ltd.’ was to be treated as added in the party list at serial No.2.

3. Again vide letter No.L-11011/1/2014-IR(M) dated 17.11.2014, the appropriate Government in partial modification of order of even number dated 19.05.2014 and corrigendum dated 12.08.2014, the address of the management of M/s Apple Tree Building Maintenance Pvt. Ltd. was to be treated as replaced with ‘The Management, M/s Apple Tree Building Maintenance Pvt. Ltd., Plot No.186, IMT Manasar, Sector-8, Gurgaon, Haryana-122 050.

3. Parties were put to notice and claimant union filed statement of claim averring therein that the claimants were working with Delhi International Airport (P) Ltd. and gave no chance of complaint to the management. As per the orders of the Hon’ble High Court of Delhi and Supreme Court in SLP No.(C) 377/22012, Trolly labour were not to be engaged through contractor and all the workmen who were operators were to be regularized. A meeting of the Operators was held on 03.04.2012 with General Secretary of Hindustan Engineering and General Mazdoor Union, wherein following demands were made:

- Equal wage for equal work
- to stop the unlawful practice of contract labour of at Delhi International Airport (P) Ltd.
- Payment of wages as per the Sixth Pay commission
- Arrears of bonus for three years from 2010 to 2012
- Appointment letter to be issued by Delhi International Airport (P) Ltd.
- During pendency of demands, workmen to remain the same despite change in contractor
- Provide two sets of summer and winter uniforms
- Insurance of Rs.10 lakh in case of death of an workman as they have to clean windows 80-90 feet and Rs.5 lakh compensation in case the workman is becomes handicapped and compassionate appointment to a member of such workman.
- Provision of ESI facility, leaves for the last three years, appointment letters, payment of overtime wages etc.

4. Finally, it has been prayed that the claimants may be regularized in service.

5. Statement of defence was submitted by M/s Apple Tree Building Maintenance Pvt. Ltd., who have also taken various preliminary objections, inter alia of the same being false and frivolous, not approaching the court with clean hands, claim being without any cause of action, it being abuse and misuse of process of law, claim being signed through the Union instead of the claimants etc.. On merits, M/s Apple Tree Building Maintenance Pvt. Ltd. have denied the other material averments contained in the statement of claim as they were granted contract by Delhi International Airport (P) Ltd. for a period of three years and later on extended for three months. The claim has been filed with ulterior motive with a view to harass the management. The claimant had refused to work on any other site. Finally, it has been prayed that the claim statement may be dismissed as the same is false and frivolous.

6. In the meanwhile, it was stated by the authorized representatives of the respective parties that there are chances of settlement. Good sense prevailed and the dispute was settled in the Lok Adalat between the parties amicably. In view of these facts that the parties had settled their dispute amicably, there remains no occasion to proceed in the matter on merits.

7. Authorized representative for the claimants made a statement to the effect that the claimants have received their full and final payment and there remains nothing to be paid from the side of management of M/s Apple Tree Building Maintenance Pvt. Ltd. The receipt of full and final settlement/no dues certificates in respect of the claimants

has already been filed, which is marked as Ex.C-1(colly). Statement of Shri Kailash Kumar, authorized representative of the claimant and Ms.Poonam Dubey, Assistant Manager(HR), M/s Apple Tree Building Maintenance Pvt. Ltd. have been separately recorded. The receipt of full and final settlement, Ex.C-I (colly), shall form integral part of the award. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : January 16, 2018

A.C. DOGRA, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ग्लोबल वेक्टर हेलीकॉप्ट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 124/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2018 को प्राप्त हुआ था।

[सं. जेड-16025/4/2018-आईआर (एम)]

डी. के. हिमाशु, अवर सचिव

New Delhi, the 7th May, 2018

S.O. 763.—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-1, New Delhi now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s Global Vectra Helicorp Ltd. and their workmen, which was received by the Central Government on 04.05.2018.

[No. Z-16025/4/2018-IR (M)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1 : ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI

ID NO. 124/2012

Captain Steven Bruce Bokan,
S/o Istvan Miklos Turcsani,
R/o Prakriti Apartments D-201, Plot No.26,
New Delhi – 110075

...Workman

Vs.

Global Vectra Helicorp Ltd.
A-54, Kailash Colony (Regd. Off.)
New Delhi – 110048.

New address:

Global Vectra Helicorp. Ltd.,
221, 2nd Floor, Okhla Industrial Area, Phase-III,
New Delhi

...Management

AWARD

1. This claim has been filed by Captain Steven Bruce Bokan (in short the workman) under section 2 (2)(a) of the Industrial Disputes Act, (in short, the Act) with the averments that workman is a trained helicopter pilot with an experience of more than 6000 hours in helicopter flying. The workman joined service with the management company on 01.09.2009 and was posted in Delhi. The management is an aviation company duly registered with the DGCA and is carrying on flying activities in India. The workman is a skilled workman and management is an industry within the meaning of Section 2(j) of the Act.

2. It is alleged that workman always conducted his flying in a professional manner as per rules and regulations of the DGCA and there has been never any complaint against nature of the work of the workman. The management has appointed the workman vide appointment letter dated 01.09.2010. In fact, the said employment agreement is

appointment letter of the workman and mere mentioning the same as employment agreement is camouflage and it amounts to unfair labour practices on the part of management. The management has also taken the services of the workman for Company Operations Manual which included writing of extensive 90 pages underslung training Manual. The work of the workman was duly appreciated and management also started the said manuals on regular basis in their day to day work. The said manual helped the management to get underslung approvals from DGCA for successfully running their helicopter operations. The workman raised demand of Rs.2.7 lacs towards preparing the said manual but the management kept delaying the payments to the workman on one pretext or the other.

3. It is the case of the workman that management all of a sudden on 6.12.2010 sent a false charge-sheet to the workman leveling false and frivolous allegations against the workman. Prior to issuance of above charge-sheet, no show cause notice or memo was issued to the workman by the management. The management levelled false charges for remaining absent from duty with effect from 08.11.2010 without prior permission or intimation. The management also alleged that workman did not report for duty on 23.11.2010 and left Delhi without any intimation or permission from the management. It was also alleged that the workman carried out unauthorized sortie and lifted passengers for a joy ride without informing the management. The management also alleged that workman failed to report for proficiency check on 29.11.2010 which makes the workman unavailable for flying upto 10.12.10. The workman has filed reply denying all the material charges.

4. It is also alleged in para 7 of the claim that on 14.12.2010, the workman received a letter of termination of his service without conducting any domestic enquiry. The action of the management is totally illegal and alleged to be in violation of principles of natural justice.

5. The services of the workman have been terminated abruptly. He was not paid salary w.e.f. 1.10.2010 and management wrongly withheld the salary of the workman for the months of October, November and December, 2010. The management also did not pay the workman for the preparation of company operations manual. The company derived benefit from the said operational manuals prepared by the workman.

6. There is also reference to the complaint filed by the wife of workman under Section 498-A IPC due to which for some days, the workman was not in a position to perform his duty. The workman was also suffering from typhoid and chickangunia and had accordingly informed the management for his ailment. The workman had informed the management that he is ready to report for duty on 23.11.2010 but the management did not inform the workman about the flights to be operated by the workman. The management also did not inform the workman about the proficiency check to be held on 29.11.10. The workman has been unnecessarily being harassed by the management. There is also reference to the claim filed before the Asstt. Labour Commissioner on 29.12.2011. The workman has made a prayer for setting aside his illegal termination of service by declaring the same to be null and void with full back wages and well as reimbursement of 45 days of leave and further making payment of Rs.2.7 lacs to the workman for compensation for preparing the manuals.

7. The claim was contested by the management who filed written statement thereto and took various preliminary objections. It is alleged that workman who is an Australian citizen was engaged on a fixed term assignment for the period 1.9.2009 to 30.8.2011 by the management and the provisions of the Industrial Disputes Act are not applicable to the workman. It is also alleged that this Tribunal has no jurisdiction to entertain the present claim as the appropriate forum for deciding this dispute is Mumbai court. It is further mentioned that workman performed his duty on regular basis till August, 2010. Subsequently, in the month of December, 2010 workman did not perform his duty as per his commitment and a result of which his service was terminated on 14.10.10. He continued on unauthorised absence.

8. On merits, the management denied all the material averments. However, it is alleged that workman was engaged on a fixed term assignment and he has entered into a contract on September 1st, 2009 with the management which is strictly governed under the Indian Contract Act and provisions of Industrial Disputes Act, 1947 are not applicable to the case in hand. The workman was appointed as a Pilot in the company on terms and conditions determined by the work of contract. It was mandatory for the workman to be punctual, regular and efficient in the performance of his duty. It is also alleged that during survey operations between February and May 2010, the workman had, on two occasions, over torqued the engine. The aforesaid acts of the workman constituted gross misconduct and he was accordingly served a charge sheet dated December 6, 2010. The workman on receipt of the same, sent an e-mail dated 9.12.10 purporting to be a reply to the charge sheet. Since reply filed by the workman was not found to be satisfactory as such his service was dispensed with finally. It is prayed that claim of the workman be dismissed.

9. On the factual background, this Tribunal on the pleadings of the parties, vide order dated 03.04.2013 framed the following issues.

- (i) Whether jurisdiction of this Tribunal stood ousted in view of terms and conditions contained in letter of appointment dated 01.09.2009?
- (ii) Whether the workman abandoned his duties since 07.10.2010?

(iii) Whether workman is entitled to reinstatement

10. Both the parties adduced evidence in support of their pleas. Workman Capt. Steven Bruce Bokan examined himself as WW-1 and tendered in evidence his affidavit Ex.WW1/A. and also relied on documents. The management in order to rebut the case of workman examined Capt. S.K.S. Panwar as MW-1 and Capt. R.S. Bindra as MW-2. Some documents were also tendered in evidence by the management.

Findings on Issue No. (i)

11. Ld. A/R for the management has strongly urged that the workman Capt. Steven Bruce Bokan does not fall within the definition of 'workman' as defined in Section 2(s) of the Act. The present dispute cannot be entertained and decided by this Tribunal. In this regard, attention of this Tribunal was drawn to the definition of "workman" as well as decisions of Hon'ble Supreme Court in case of H.R.Adyantha and Ors. Vs. Sandoz (India) and Ors. (1994) 5 SCC 737 as well as May & Baker (India) Ltd. Vs. Their Workmen (1961) II LLJ 94 as well as A Sundarambal Vs. Govt of Goa, Daman & Diu (1988) 4 SCC 482. It was urged on behalf of the management that workman in the present case is not simply a Pilot performing his own job rather as per his own admission, he has done extra job of preparation of manuals etc. as such he does not fall within the definition of workman. In this regard, the attention of the Tribunal was also invited to the reply to charge sheet Ex.WW1/2 where workman himself has admitted that only a pilot can truly be the right judge as to what best actions should be taken to keep the aircraft safely airborne without a potential major incident or catastrophe.

12. Ms. Beenashaw Soni, Ld. A/R appearing on behalf of the workman strongly urged that management in the written statement has nowhere taken the objection that workman herein does not fall within the definition of 'workman' under the Act, therefore, this objection cannot be taken at the arguments stage by the management. The attention of the court was invited to the letter of appointment as well as other documents on record so as to show that workman herein was engaged by the management as Co-Pilot and his main duty was of skilled nature. Therefore, a pilot would come within the definition of 'workman' as defined in Section 2(s) of the Act.

13. Before I proceed to consider the submissions raised on behalf of the either party, it is necessary to refer to the pleadings of the parties. Admittedly, the management has not specifically taken in any para the plea that workman herein does not fall within the definition of 'workman' as defined in section 2(s) of the Act. The main plea taken by the management in the written statement is that CGIT does not have jurisdiction to entertain the present industrial dispute for the reason that appropriate court in this regard is Mumbai Court having exclusive jurisdiction over the case. Since both the parties had mutually agreed regarding Mumbai Court as such this court does not have the jurisdiction.

14. It is now well settled proposition in law that prima facie the onus is upon the workman to prove that he falls within the definition of 'workman' as defined in section 2(s) of the Act. However, as discussed above, the objection of the management is not regarding the status of the workman herein as 'workman' but the objection is regarding the jurisdiction of this court to try the present dispute. No doubt, in employment agreement/letter of appointment Ex.WW1/M1, in clause 15, it is provided as under:

"15. Jurisdiction

The appropriate courts in Delhi shall have exclusive jurisdiction in respect of any claim or dispute between the Parties in connection with or arising out of this Agreement including any dispute as to the existence or validity thereof."

15. Thus, it is clear from the perusal of clause 15 of the agreement that this tribunal has territorial jurisdiction in respect of claim or dispute between the parties arising out of the agreement mentioned above. However, perusal of Ex.MW1/2 shows that this agreement is not signed by workman herein. Moreover, it is the photostat copy. Though Ex.WW1/M1 which is almost same as Ex.MW1/2, which bears the signature of Steven Bruce Bokan, the workman herein, but original of this agreement was not produced before this Tribunal as there appears variations in the above two documents Ex.WW1/M1 and MW1/2. In fact, this agreement is more in the form of letter of appointment than an agreement between the parties as the same was issued to the workman herein at the time of his appointment. It was not a formal agreement wherein, normally after due deliberation, parties to it agree and reduce the same to writing. Normally an agreement bears signatures of both the parties at the end of document/agreement. But this vital requirement is missing in the present case. The workman was not asked any question by the management when he appeared as WW1 as to whether he signed the agreement Ex.MW1/1. If the management was so serious regarding the territorial jurisdiction of the matter then it was also incumbent upon the management to have duly proved the above documents as required under the law. The workman in the statement of claim has alleged the said agreement to be a camouflage etc. The management has also, at no stage, seriously pressed the issue of jurisdiction and even during the course of arguments also including written submissions filed by the management issue of jurisdiction has not been discussed. It is not the case of management that this court does not have "subject matter jurisdiction" to try the dispute.

Admittedly, the dispute is an industrial dispute and management falls within the definition of industry as such this court has jurisdiction to try the present industrial dispute.

16. It is equally settled proposition of law that a party who seeks oust jurisdiction of the court to try a case or it has to establish its contention as the law always leans in favour of jurisdiction of the court. The present is not a case where the jurisdiction of this Tribunal is expressly or impliedly barred under any statute or enactment. Moreover, the plea of territorial jurisdiction does not go to the root of the case nor even the judgment or the award can be set aside solely on the ground that court was acting without territorial jurisdiction unless the same has caused any prejudice to such a party.

17. So far as the contention of the management regarding status of the workman herein as a workman under the Act is concerned, the law has been settled by the Id. Apex Court in the case of Management of Sonapat Sugar Mills Ltd. Vs. Ajit Singh 2005 (105) FLR 1 has laid down the same criteria and observed that a person would come within the purview of the definition of 'workman' if he ; (i) is employed in any industry, and (ii) performs any unskilled, skilled, technical, operational clerical or supervisory work. However, it is under the trite that issue as to be whether an employee answers the description of a workman or not as to be determined on the basis of a conclusive evidence.

18. I have carefully gone through the case H.R.Adyantha & Ors vs. Sandoz (India) Ltd. (1964) 5 SCC 737 relied upon by the management. In the said case, the primary question before the court was whether a medical representative was workman according to the definition of workman under section 2(s) of the Act. A careful perusal of the above case shows that in order to fall within the definition of a workman a person must be employed to any of the categories of the work mentioned in the main body of the definition (viz. manual, unskilled, skilled, technical, operational etc.) and it is not enough that he is not merely covered by any of the four exceptions of the definition. Regarding the meaning of the word 'skilled', it was observed as under :

"The connotation of the word 'skilled' under Section 2(s) of the ID Act in the context in which it is used, will not include the work of a sales promotion employee such as the medical representatives in the present case. The word has to be construed *ejusdem generis* and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition. Hence the contention that the medical representatives were employed to do skilled work within the meaning of the said definition, has to be rejected. As regards the 'technical' nature of their work, it has been expressly rejected by the Supreme Court in *Burmah Shell case*."

19. This judgment is not helpful to the case of management in any manner in as much as there is ample evidence on record to show that workman herein was engaged as a co-pilot and he was not performing any supervisory or any job of administrative control over his subordinates. Simply because workman has written an operational manual or done any kind of ancillary job so as to strengthen the management would not mean that workman has ceased to be a pilot which is primary job. Similarly, there is no dispute with the presumption of law in *May & Baker (India) Ltd. (1961) 2 LLJ 94*. It was a case where workman was employed as representative of pharmaceutical concern and the question about his status as a workman was considered by the court when his service was terminated. There are observations of the above judgment that it has to be seen in each case from the nature of duties whether the person employed is a workman or not. The court also observed that a person employed as a representative (for canvassing order) mainly for canvassing and any clerical manual work that he had to do was incidental to his main work of canvassing as such he would not fall within the definition of workman.

20. In *Sundarambal Vs. Govt. of Goa, Daman & Diu and others, (1988) 4 SCC 482*, the Hon'ble Apex Court dealt with the status of school teacher engaged by a society whose service were terminated by the management. The teacher has raised industrial dispute and govt. declined to refer the dispute to the Tribunal on the ground that teacher is not workman as defined under section 2(s) of the Act. The factual matter in the present case is entirely different as workman is admittedly a pilot performing skilled job and his service cannot be compared with a teacher. Therefore, reliance placed by the management upon this judgment is misplaced and same is not applicable to the controversy in hand.

Findings on Issue No. (ii)

21. Though the management has taken plea of abandonment of the job by the workman herein, however there is no specific pleadings nor evidence adduced by the management in this regard. It is clear from perusal of the written statement filed by the management that the management has in fact taken plea of unauthorized absence of the workman from duties as a result of which his services were terminated on 14.12.2010. Management further alleged that such continuous unauthorized absence from duties amounts to abandonment of duties.

22. It is clear from statement of claim as well as perusal of Ex.MW2/3, Ex.WW1/6, e-mail Ex.MW2/4 and Ex.MW2/6 that the workman has tried to explain reasons for his absence. There is reference to his illness also, i.e.

workman was suffering from typhoid and other illness. Workman was also involved in a criminal case lodged by his wife under section 458 IPC and he had to attend hearings in the court also as a result of which the workman was not in a position to attend to his duties during the said period.

23. It is now well settled position in law that even if the workman is unauthorizedly absent or has abandoned his job voluntarily, in that eventuality also management is required to hold a formal enquiry against such delinquent workman before ordering his termination. In this regard, reference can be made to the case of *D.K. Yadav vs JMA Industries* (1993) LLR 584 SCC, *Uptron India Ltd. Vs. Shammi Bhan and Anr.* (AIR 1988 SC 1681) and *Narain Singh Vs. State of Himachal Pradesh* (2017) LLR 647. In all these cases, a consistent view has been taken by Hon'ble High Court that in case of mere absence from duties or abandonment of job by a workman, management is still required to adhere to principles of natural justice and hold domestic enquiry. During the course of arguments, reliance was strongly placed on the case of *D.K. Yadav* case (supra) by the learned A/R for the workman. In the said case, it has been held that order of termination of service of an employee visits with civil consequences of jeopardizing not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee, fair play requires that a reasonable opportunity be afforded to the workman to put forth his case and domestic enquiry is conducted complying with principles of natural justice. Principles of natural justice must read into the standing order in those cases where there are no specific rules or regulations dealing with holding of domestic enquiry. In view of the above discussions, it is held that the workman has not abandoned his duties from 02.07.2010. Issue No.2 is decided accordingly.

Findings on Issue No. (iii)

24. This issue pertains to reinstatement of the workman in service. Admittedly in the present case, services of the workman was terminated vide letter dated 14.12.2010 Ex.WW1/13.. During the course of arguments, learned counsel for the respective parties urged that in fact after termination of the workman, he had ample opportunity to apply for job with other companies and he had even posted his entire profile on Facebook. However, he has denied that since April 2011 he is employed as Helicopter Instructor Pilot with Fishtail Air. In fact he was offered a job at Khatmandu in April 2011 and negotiation went on till December 2011. He has also produced his validation certificate which is Ex.WW1/MY. However, he has not produced offer letter given to me by Fishtail Air in April 2011. He had referred to one agreement from August 2014 Ex.WW1/MZ. Finally he has denied the suggestion that he was employed with Vertical Freedom Helicopter as Mountain Rescue Helicopter and Instructor.

25. It is clear from perusal of Ex.WW1/MX that from December 2011 till December till November 2014 he is shown to be in the employment of Fishtail Air and thereafter from January 2015 to December 2015 with Manang Air Helicopters and finally from March 2016 to November 2016 with Royal Bhutan Helicopter Services Limited. letter Ex.WW1/MX shows that Capt. Steven Bruce Bokan has ceased to be in the employment of Global Vectra from 14.12.2010 and the company has also provided NOC for future employment on 04.01.2011. No doubt, contract with the management, as is evident from letter Ex.WW1/M1 is for a period of two years. However, during the course of arguments, there was a broad consensus on the point that after execution of such formal agreement, services of pilots are retained by the company as the company has to impart training to such pilots from time to time and later on, appointments are reviewed in a routine manner by the company. Clause 11.7 of the agreement clearly stipulates that this agreement was initially for a period of two years.

26. Now, the only residual question which survives for consideration is whether the workman is entitled to reinstatement in service with full back wages. It is apposite to mention here that earlier Hon'ble Apex Court has articulated a view which is reflected in several judgments that if termination of a workman is found to be illegal, the relief of reinstatement with back wages would follow. However, in recent past, there is change in this trend and now in several cases a view has been taken that relief by way of reinstatement with full back wages is not automatic.

19. The ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. However, this is the position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Hon'ble Apex Court in case **“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya”** (AIR 2014 SC (Supp) 121) has held as under :

The propositions which can be culled out from the aforementioned judgments are :

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the

adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

27. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497 and *Hari Nandan Prasad vs Employer I/R Management of Food Corporation of Indian* (2014) 7 SCC 190 and *Malin Sharma Vs. State of Assam* (2016 LLR 1125(SC)).

28. While dealing with reinstatement, the court has to keep in mind nature of the post, duration of the engagement, nature of appointment, availability of the post, delay in raising industrial dispute and whether the appointment was in accordance with rules or not. The workman herein was admittedly holding a permanent post.

29. As discussed above, workman was in continuous employment of the management since 01.09.2009 till 14.12.2010. In view of the legal position discussed above, this court is of the firm view that workman is entitled to 50% of the back wages instead of full back wages for the period Capt. Steven Bruce Bokan remained out of employment as well as reinstatement in service with continuity, as action of the management in the case on hand is totally in violation of the provisions of Section 25-F of the Act.. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : March 16, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आई सी आई सी आई बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 8/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/113/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of ICICI Bank and their workmen, received by the Central Government on 07.05.2018.

[No. L-12012/113/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

NO. CGIT/LC/R/8/2014

Shri Abhishek Vyas,
S/o Mahesh Narayan Vyas,
Bungalow No.35, D.K.Honey Homes,

Nayapura, Kolar Road,
Bhopal.

... Workman

Versus

Regional Head,
ICICI Bank, RAPG,
2nd Floor, Hira Complex,
Zone-I, MP Nagar,
Bhopal (MP)

...Management

ORDER

Passed on this 22nd day of March 2018

1. As per letter dated 13-1-2014 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-12012/113/2013-IR(B-I). The dispute under reference relates to:
 “(i) Whether Shri Abhishek Vyas S/o Mahesh Narayan Vyas designated as Senior Officer in ICICI Bank is a workman under ID Act, 1947 as per nature of job performed by him?
 (ii) If so, whether action of management of ICICI Bank in terminating the services of Shri Abhishek Vyas S/o Mahesh Narayan Vyas w.e.f. 23-12-10 without following procedure under ID Act, 1947 is justified? If so, what relief Shri Abhishek Vyas is entitled to?”
2. It is pertinent to mention here that the disputed workman has filed a separate application resorting to the provisions of Section 2-A(2 & 3) of Amended ID Act which was registered as Case No. RC/17/2013. This reference case has been tagged with the earlier case filed directly by the disputed workman vide order dated 27-3-2014 and both the cases are being taken for hearing simultaneously. On 19-1-2018, the case registered at the instance of the disputed workman is already dismissed for non-prosecution and default of the applicant. The disputed workman has not filed any separate statement of claim in this reference case and no separate steps were not taken in this case. In the above premises having regard to the order passed in RC/17/2013 and the fact that the disputed workman is not taking any steps inspite of several adjournments and scope given to him, there is no alternative than to infer that the disputed workman has no interest to prosecute the matter. In absence of any statement of claim, this Tribunal has no alternative than to return the reference without answering the same. Accordingly the case is disposed off.

B. C. RATH, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 765.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 1229/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-41012/69/2003-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1229/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 07.05.2018.

[No. L-41012/69/2003-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present: Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No. 1229/2004

1. The Divisional Railway Manager,
Western Railway, Divisional Office, Kothi Compound,
Rajkot (Gujarat) - 360001
 2. The Assistant Engineer,
Western Railway, Sabarmati (MG),
Ahmedabad (Gujarat) – 380001
- ...First Party

V/s

The Secretary,
Railway Workers Union,
7, Mahudi Mahavir Society,
D Cabin Area, Sabarmati,
Ahmedabad (Gujarat) – 380019

...Second Party

For the First Party : Shri Janak R. Pandya
For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/69/2003–IR(B-I) dated 06.06.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Railway Workers Union, Ahmedabad for the grant of pensionary benefits to Shri Madhusinh M., Ex. Gangman of P.W.I., Prantij by the Divisional Railway Manager, Western Railway, Rajkot is proper and justified? If so, what relief the workman concern is entitled for?”

1. The reference dates back to 06.06.2003. In response to the notice, the second party submitted the statement of claim Ex. 2 on 10.10.2004 but the first party despite filing vakalatpatra Ex. 8 of Shri Janak R. Pandya, did not prefer to file written statement. On 04.03.2011, fresh notice Ex. 8 was issued to both the parties to appear on 21.04.2011 but the first party again did not prefer to file written statement. Therefore, on 12.10.2017, the case was ordered to proceed ex-parte against the first party and was fixed for evidence of the second party.
2. Today on 12.04.2018, Shri R.S. Sisodiya, on behalf of the Secretary, Railway Workers Union, 7, Mahudi Mahavir Society, D Cabin Area, Sabarmati, Ahmedabad, stated and requested to withdraw the reference.
3. Thus the reference is disposed of as withdrawn.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 06/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/73/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Reserve Bank of India and their workmen, received by the Central Government on 07.05.2018.

[No. L-12012/73/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present: Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 13th April, 2018

Reference: (CGITA) No. 06/2015

1. The Regional Director,
Reserve Bank of India,
Near Gandhi Bridge, Income Tax Char Rasta,
Ahmedabad (Gujarat)
2. The General Manager (Banking),
Reserve Bank of India,
Nr. Gandhi Bridge, Income Tax Char Rasta,
Ahmedabad (Gujarat)

...First Party

V/s

Shri Ashwin Hiralal Gandhi,
Block No. 26, Flat No. 280,
Poojan Apartment, Nr. Lavanya Society, Vasna,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri M.S. Punia
For the Second Party : Shri Sandeep S. Gandhi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/73/2014-IR(B-I) dated 12.01.2015 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Regional Director, Reserve Bank of India in dismissing the services of Shri Ashwin Hiralal Gandhi, Secretarial Assistant (Stenographer) is justified? If not, to what relief the workman is entitled?”

1. The reference dates back to 12.01.2015. After issuing notice to the parties, the second party submitted the statement of claim Ex. 3 alleging that the second party workman Ashwin Hiralal Gandhi hereinafter referred to as “workman” had been working in the first party Reserve Bank of India, Ahmedabad hereinafter referred to as “Reserve Bank” on the post of Secretarial Assistant (Stenographer) since last 34 years w.e.f. 26.04.1978 and his last basic pay was Rs. 35215/- per month. He had been discharging his duties honestly and obediently according to the rules and regulations of Reserve Bank of India. He did not do any work or breach any rules and regulations which may tarnish the image of Reserve Bank of India during his entire period of service. But suddenly, The Reserve Bank of India issued him a show-cause notice on 26.03.2012 alleging fraud and cheating with his colleague P.C. Solanki which was replied by him denying all the allegations labelled in the said show-cause notice. The Reserve Bank of India did not consider his reply and issued a second show-cause

notice dated 23.04.2012 which was also replied by him on 17.05.2012 denying all the allegations of committing fraud and cheating with P.C. Solanki. He has further alleged that the Reserve Bank of India conducted a day to day departmental enquiry against him without giving him proper opportunities of defending himself. The Reserve Bank of India did not give him opportunities during his enquiry to examine his own witnesses for defending himself. The Reserve Bank of India with a prejudice and pre-determined mind got the enquiry conducted by his own officer who held him guilty of the charges despite the fact that the charges were not properly proved. He has further alleged that after finding of the enquiry, the Reserve Bank of India give him a final show-cause notice dated 14.12.2012 to which he replied on 09.01.2013 but the Reserve Bank of India passed an order of dismissal of his service on 28.02.2013 with a pre-determined and prejudiced mind with intent to victimize him. The said order was illegal and just and was not acceptable to him. He made an appeal on 11.04.2013 against the said order of dismissal of service but his appeal was dismissed on 27.05.2013 by the appellant authority. Thereafter, he preferred an appeal to the Governor, Reserve Bank of India on 16.07.2013 which was also dismissed on 05.06.2014. He has further alleged that he has not committed breach of Rules 32, 44 (1), 45 and 47(1) of the Reserve Bank of India but The General Manager (Banking), The Reserve Bank of India served the order of dismissal of service with a prejudice mind. He has further alleged that he gave a notice to the Reserve Bank of India on 30.06.2014 demanding reinstatement with continuity of service and back wages with all benefits but same was also rejected. Therefore, he moved before Assistant Labour Commissioner for reconciliation which failed, hence this reference for adjudication. He has prayed in the statement of claim for declaring the departmental enquiry unjust and illegal and also declaring the dismissal of service as unjust, illegal and untenable with a prayer to reinstate with continuity of service and back wages with all benefits.

2. The Reserve Bank of India submitted the written statement Ex. 6 denying all the allegations labelled in the statement of claim Ex. 3, submitting that the workman was appointed on 26.04.1978 as Typist in Class III cadre who was later promoted to the post of Secretarial Assistant (Stenographer) w.e.f. 16.06.1980. Thereafter, he was promoted to the post of Assistant General Manager in Class I cadre w.e.f. 10.09.2004. He was charge-sheeted on 07.05.2009 for misconduct under regulations 45 of Reserve Bank of India (Staff) Regulations 1948. He was dismissed from service on 03.08.2010 after holding a departmental enquiry following the principle of natural justice. The workman preferred an appeal on 13.09.2010 before the appellant authority who reinstated him in Class III cadre as Secretarial Assistant (Stenographer) purely on humanitarian ground with a hope that he will improve his conduct. The reinstatement of the workman was subject to certain conditions given as under:
 - a. His reinstatement in Class III cadre would be permanent and he would be debarred from promotions to any higher grade.
 - b. On resuming duty, his pay as Secretarial Assistant would be fixed at Rs. 9110/- in the pay scale of Rs. 5450-220-6110-320-7390-430-9110-530-10700-700-14700 and his next increment in the scale with fall due on completion of one year from the date of his reporting for duty subject to his being otherwise found eligible under Reserve Bank of India (Staff) Regulations, 1948.
 - c. His absence from duty from 04.08.2010 till he reports for duty would be regularised by grant of extra ordinary leave without pay and allowances and not counting for increment.

It has been further submitted that while the matter stands, the Reserve Bank of India received a complaint dated 26.11.2010 from one of the bank's employee named P.C. Solanki, Senior Assistant alleging that the workman cheated him in a properly transaction agreed upon between them. Solanki stated in the complaint that the workman entered into an agreement dated 03.03.2010 with him for sale of his residential flat situated at Flat No. 26/280, Poojan Apartment, Jeevraj Park, Vasna, Ahmedabad for Rs. 25 lac declaring that the said property was free from all encumbrances with a clear and marketable title but despite making a payment of Rs. 12.92 lac, the workman neither transferred the said flat by way of sale-deed nor he refunded the part-consideration received by him. The bank received the complaint into the matter and investigation observed that the workman was involved in obtaining loan and advances from various bank by way of mortgaging the title-deeds of the property which he agreed to sale to the complainant named P.C. Solanki. It is also observed in the investigation that the workman has not obtained the prior permission from the bank for to get the sale of his property as well as availing loan from Ahmedabad District Central Co-operative Bank as per the Circular dated 28.02.2011 of the Reserve Bank of India which provides that all Class III employees are required to obtain prior permission for availing loans and advances of more than Rs. 10 lac from external institutions. It was also observed in the enquiry that the said loan was not shown in the liability statement dated 30.06.2011

submitted to the bank in his liability statement. The bank issued a notice dated 26.03.2012 calling upon the workman to explain as to why the disciplinary action ought not to be initiated against him under the Reserve Bank Staff Regulations 1948 which is annexed as Ex. B with the written statement. The workman in his reply dated 13.04.2012 to the aforesaid show-cause notice was not able to give a satisfactory reply, therefore, the competent authority issued a charge-sheet dated 23.04.2012 charging the workman for violation of regulation 32, 44 (1), 45 and 47 (1) of the aforesaid Reserve Bank Staff Regulations 1948 which is enclosed as Ex. C with the written statement. The enquiry proceedings commenced on 25.06.2012 to 28.08.2012 in accordance with the laid down procedure, adhering to the principle of natural justice and the workman has given the opportunity to defend his case. The enquiry officer submitted its report dated 21.09.2012 holding him guilty of the aforesaid charges. The said enquiry report is exhibited as Ex. D annexed with the written statement. The workman submitted his reply to the enquiry report to the competent authority who did not find the reply satisfactory, therefore, vide order dated 28.01.2013, imposed a penalty of dismissal on the workman in terms of Regulations 47 (1) (F) of the Reserve Bank Staff Regulations 1948 which is exhibited as Ex. E annexed with the written statement. Accordingly, the competent authority after considering the records and regulations, passed the order of dismissal of the service of the workman on 28.01.2013 vide office order Ex. F. The workman preferred an appeal against the said order of dismissal on 11.04.2013 to the competent authority which was rejected by the appellate authority vide order Ex. H. Thereafter, the workman moved a second appeal on 16.07.2013 to the Governor, Reserve Bank of India for reconsideration and deduction of the punishment. The copy of the said appeal is annexed as Ex. I which was also rejected vide letter CO HRMD No. DISC 15491/06.52.01/13-14 dated 20.05.2014. A copy of the said letter is at Ex. J. Consequently, the workman raised the dispute before the Labour Commissioner, Ahmedabad for reinstatement with back wages for reconciliation which failed, therefore, this reference is forwarded to the tribunal.

3. The first party submitted the documents as referred in the written statement Ex. 6 and the second party submitted the documents vide list Ex. 7 which are as under:

S. No.	Description of Documents	Date
1	RBI's Rules & Regulation regarding service, conduct, discipline and appeals (Zerox Copy)	
2	Reply of Show Cause Notice (Zerox)	13.04.2012
3	Reply of Charge Sheet (Zerox)	17.05.2012
4	Reply of RBI letter(Zerox)	19.03.2012
5	Reply of Second Show Cause Notice of RBI (Zerox)	09.01.2013
6	Second Party's Appeal before the Appellate Authority of RBI (Zerox)	11.04.2013
7	Second Party's Appeal before the Governor of RBI (Zerox)	16.07.2013
8	Regarding the Second Party's Flat Title Clear Report(Zerox)	11.05.2011
9	Zerox Copy of Khari Nakal of Second Party's Flat	06.06.2011
10	Zerox Copy of Index 2 of Mortgage Deed	06.06.2011
11	No Due Certificate (Zerox)	30.01.2012

4. On the basis of the pleadings, the following issues arise:

- I. Whether the action of the management of Regional Director, Reserve Bank of India in dismissing the services of Shri Ashwin Hiralal Gandhi, Secretarial Assistant (Stenographer) is justified?
- II. To what relief, if any, the workman is entitled?

5. Both these issues are interrelated, therefore, are decided together.

6. **Issue No. I and II:** The burden to prove of these issues was lying on the second party workman. To prove his case, the second party workman submitted his affidavit Ex. 10 wherein he has reiterated the averments made in the statement of claim. In his cross-examination, he has stated that he was appointed as Typist in Reserve

Bank of India on 26.04.1978 and was aware of the provisions of Reserve Staff Regulations and all the circular letters issued by the Reserve Bank of India from bank to bank. He was promoted on the post of Stenographer on 01.06.1980 and subsequently was promoted to the post of Assistant Manager on 10.07.2004 but was demoted to the post of Secretarial Assistant/Stenographer on 13.09.2010 on a Class III post. He has further stated that he was dismissed on 28.01.2013 on account of financial liabilities outside Reserve Bank of India. He has further stated that earlier also on 03.08.2010, he was dismissed while serving as Assistant Manager on the charges of financial liabilities outside Reserve Bank of India but was reinstated as Stenographer on 13.09.2010 on the consideration of his representation that to on humanitarian ground. He knows P.C. Solanki, a clerk in Reserve Bank of India with whom he held financial transaction which were personal, therefore, were not revealed to Reserve Bank of India. It is wrong to say that P.C. Solanki had ever lodged any FIR against him but it is true that he filed a Civil Suit against him in the Civil Court. He has further stated that he availed Car and Housing Loan from Reserve Bank of India and Reserve Bank of India Housing Society respectively. The said loan is still outstanding and guarantors are paying these loans. He has further stated that he also took loan from Co-operative Bank which he had paid but he did not take any loan from any Commercial Bank. He has further stated that he never informed Reserve Bank of India regarding the loan of Rs. 15 lac from the Ahmedabad District Co-operative Bank on 16.05.2011 and repaid on 19.01.2012 as he did not use this loan. This loan was taken for the purpose of the marriage of his daughter. Further he admitted that the marriage of his daughter was performed on 10.02.2008 and this marriage was performed by borrowing money of Rs. 12 lac from his friends and relatives namely Virain B. Shah, Vijay B. Shah and Jagat Gandhi. He further admitted that he did not take the permission from Reserve Bank of India for taking loan from Ahmedabad District Co-operative Bank. He has further admitted that he did not show these financial liabilities in his property and financial liabilities statement of the relevant year submitted in Reserve Bank of India. He has further stated that he filed appeal against the order of dismissal of Reserve Bank of India. He never said that he was given sufficient time for appeal and reply. His question regarding in-sufficient opportunities of being heard met that the disciplinary proceedings were conducted from day to day basis. He admitted that he was given opportunity of producing witnesses. He further admitted that his salary was not sufficient to meet out house hold expenses and to pay outstanding loans.

7. The first party Reserve Bank of India submitted affidavit Ex. 14 of his witness Pravinkumar Chaturbhai Solanki with whom, the second party workman entered into an agreement to sale his flat to him, has reiterated the averments made in the written statement and has stated that the workman agreed to sale his flat for Rs. 25 lac but refused to execute sale-deed and also refused to return the advanced money of Rs. 12.5 lac which was taken at the time of executing the sale. In his cross-examination, he has said that he knows Ashwin Gandhi since 2007. He was having good relations with him. Ashwin Gandhi executed an agreement to sell his flat of Rs. 25 lac to him in the year 2010 after taking Rs. 5 lac as advanced. The time limit for execution of his sale-deed was 7 months. He paid further Rs. 30 lac to Ashwin Gandhi in the first week of March, 2010 but immediately thereafter, Ashwin Gandhi underwent medical treatment of mental disorder in Jeevraj Mehta Hospital, Vasna for 3 months. Immediate after the medical treatment, he offered remaining Rs. 7 lac to Ashwin Gandhi and asked to execute sale-deed which he refused. He admitted that he does not have the documentary evidence regarding the medical treatment. He took loan from the Central Bank for purchasing the said flat. Ashwin Gandhi refused to execute Sale-deed so he filed a Civil Suit for specific performance of agreement in Civil Court. It is wrong to say that Ashwin Gandhi would have paid the money given by him to the builder and would have given the sale-deed of the flat to him to deposit in the Central Bank. He further stated that Ashwin Gandhi applied for a loan in Ahmedabad District Co-operative Bank to which he is the guarantor. It is true that he did not write any letter to Ashwin Gandhi for executing the sale-deed but he issued a show cause notice to his advocate after 6 months. He also filed an FIR in the Police Station for cheating and mis-appropriation of money but police did not taken any action. It is wrong to say that he is not willing to purchase the flat from Ashwin Gandhi. He did not know the financial liabilities of Ashwin Gandhi but it is false to say that Ashwin Gandhi would not have cheated him.
8. Both the parties submitted the written arguments Ex. 16 and 17 respectively which I have gone through and considered them along with the evidence on the record.
9. From the pleadings and evidence of the parties, it is established that the second party workman Ashwin Gandhi admitted in his cross-examination that he was not able to meet out the house hold liabilities from his salary. He has also admitted that earlier also in the year promoted on the post of Stenographer on 01.06.1980

and subsequently was promoted on the post of Assistant Manager on 10.07.2004 but was demoted to the post of Secretarial Assistant/Stenographer on 13.09.2010 on a Class III post. He has further stated that he was dismissed on 28.01.2013 on account of financial liabilities outside Reserve Bank of India. He has further stated that earlier also on 03.08.2010, he was dismissed while serving as Assistant Manager on the charges of financial liabilities outside Reserve Bank of India but was reinstated as Stenographer on 13.09.2010 on the consideration of his representation that to on humanitarian ground. He knows P.C. Solanki, a clerk in Reserve Bank of India with whom he held financial transaction which were personal, therefore, were not reveal to Reserve Bank of India. It is wrong to say that P.C. Solanki had ever lodged any FIR against him but it is true that he filed a Civil Suit against him in the Civil Court. He has further stated that he availed Car and Housing Loan from Reserve Bank of India and Reserve Bank of India Housing Society respectively. The said loan is still outstanding and guarantors are paying these loans. He has further stated that he also took loan from Co-operative Bank which he had paid but he did not take any loan from any Commercial Bank. He has further stated that he never informed Reserve Bank of India regarding the loan of Rs. 15 lac from the Ahmedabad District Co-operative Bank on 16.05.2011 and repaid on 19.01.2012 as he did not use this loan. This loan was taken for the purpose of the marriage of his daughter. Further he admitted that the marriage of his daughter was performed on 10.02.2008 and this marriage was performed by borrowing money of Rs. 12 lac from his friends and relatives namely Virain B. Shah, Vijay B. Shah and Jagat Gandhi. He further admitted that he did not take the permission from Reserve Bank of India for taking loan from Ahmedabad District Co-operative Bank. He has further admitted that he did not show these financial liabilities in his property and financial liabilities statement of the relevant year submitted in Reserve Bank of India. He has further stated that he filed appeal against the order of dismissal of Reserve Bank of India. He never said that he was given sufficient time for appeal and reply. His question regarding in-sufficient opportunities of being heard met that the disciplinary proceedings were conducted from day to day basis. He admitted that he was given opportunity of producing witnesses. He further admitted that his salary was not sufficient to meet out house hold expenses and to pay out outstanding loans. Thus it is clear that from his cross-examination that the second party workman is habitual in violating the provisions of Reserve Bank of India Staff Regulations and circular letters of the Reserve Bank of India issued from time to time which is a gross misconduct.

10. The provisions of the aforesaid regulations are reproduced as under:

Conduct, Discipline and Appeals

Section 1 – Conduct and Discipline

- 31 Unless in any case it be otherwise distinctly provided, the whole time of an employee shall be at the disposal of the Bank, and he/she shall serve the Bank in its business in such capacity and at such place as he/she may from time to time be directed.
- 32 Every employee of the Bank shall conform to and abide by these Regulations and shall observe, comply with and obey all orders and directions which may from time to time be given to him/her by any person or persons under whose jurisdiction, superintendence or control he/she may for the time being be placed.
- 33 Every employee shall maintain the strictest secrecy regarding the Bank's affairs and the affairs of its constituents and shall not divulge, directly or indirectly, any information of a confidential nature either to a member of the public or of the Bank's staff, unless compelled to do so by judicial or other authority, or unless instructed to do so by a superior officer in the discharge of his/her duties.
- 34 Every employee shall serve the Bank honestly and faithfully and shall use his/her utmost endeavours to promote the interests of the Bank, and shall show courtesy and attention in all transactions and intercourse with the officers of Government and the Bank's constituents.
- 35 No employee shall take an active part in politics or in any political demonstration, or stand for election as member for a Municipal Council, District Board or any Legislative Body.
- 35 A (1) No employee who is not a workman within the meaning of the Industrial Disputes Act, 1947, shall –
 - (i) Become or continue to be a member of office-bearer of, or be otherwise directly or indirectly associated with, any trade union of the employees of the bank who are workmen within the meaning of that Act, or a federation of such trade unions.

- (ii) Resort to, or in any way abet, any form of strike or participate in any violent, unseemly or provided that nothing in this regulation shall be deemed to prohibit an employee from making a bonafide investment of his/her own funds in such manner as he/she may wish.

44 (1) An employee shall not borrow money from or in any way place himself/herself under a pecuniary obligation to a broker or an employee of the Bank subordinate to him/her or any firm or persons having dealings with the Banks.

(2) No employee shall make or permit any member of his/her family to make any investment likely to embarrass or influence him/her in the discharge of his/her official duties.

Explanation: For the purpose of this sub Regulation the word 'family' includes any relative ordinarily residing with or dependent on an employee.

45 An employee who is in debt shall furnish to the Competent Authority a signed statement of his/her position half-yearly as on the 30th June and 31st December, and shall indicate in the statement the steps he/she is taking to rectify his/her position. An employee who makes a false statement under this Regulation or who fails to submit the prescribed statement or appears unable to liquidate his/her debts within a reasonable time or applies for the protection of an insolvency court shall be liable to dismissal.

Explanation 1: For the purpose of this Regulation an employee shall be deemed to be in debt if his/her total liabilities exclusive of those which are fully secured exceed his/her substantive pay for twelve months.

Explanation 2: An employee shall be deemed to be unable to liquidate his/her debts within a reasonable time if it appears having regard to his/her personal resources and unavoidable current expenses that he/she will not cease to be in debt within a period of two years.

46 (1) An employee who is arrested for debt or on a criminal charge or is detained in pursuance of any process of law, may, if so directed by the Competent Authority, be considered as being or having been under suspension from the date of his/her arrest, or as the case may be, of his/her detention, up to such date or during such other period, as the Competent Authority may direct. In respect of the period in regard to which been arrested for debt or on a criminal charge or to his/her having been detained in pursuance of any process of law, the provisions of Regulation 39 shall also apply, and for the purposes of that Regulation as so applied, the employee shall be treated as having absented himself/herself without leave or, as the case may be, overstayed, otherwise than under circumstances beyond his/her control.

47(1) without prejudice to the provisions of other Regulations, an employee who commits a breach of the Regulations of the Bank, or who displays negligence, inefficiency or indolence, or who knowingly does anything detrimental to the interests of the Bank or in conflict with its instructions, or who commits a breach of discipline or is guilty of any other act of misconduct, shall be liable to the following penalties:

- (a) Reprimand;
- (b) Delay or stoppage of increment or promotion;
- (c) Degradation to a lower post or grade or to a lower stage in his incremental scale;
- (d) Recovery from pay of the whole or part of any pecuniary loss caused to the bank by the employee;
- (e) Dismissal.

(2) No employee shall be subjected to the penalties (b), (c), (d) or (e) of sub-regulation (1) except by an order in writing signed by the Competent Authority and no such order shall be passed without the charge or charges being formulated in writing and given to the said employee so that he/she shall have reasonable opportunity to answer them in writing or in person, as he/she prefer, and in the latter case his/her defence shall be taken down in writing and read to him/her.

Provided that the requirements of this sub regulation may be waived if the facts on the basis of which action is to be taken have been established in a court of law of court martial or where the employees has absconded or where it is for any other reason impracticable to communicate with him/her or where there is difficulty in observing them and the requirements can be waived without injustice to the employee. In every case where all or any of the requirements of this sub regulation are waived, the reasons for so doing shall be recorded in writing."

11. In the light of the aforesaid provisions of the Reserve Bank of India Staff Regulations, the arguments of the second party workman has no force because he appears to be a habitual violator of the Reserve Bank of India Staff Regulations and its various circulars. The workman was earlier committed the misconduct but the Reserve Bank of India management imposed a lesser penalty on humanitarian ground but the workman did not learn any lesson, therefore, he does not deserve any sympathy in the light of the misconduct, he committed by way of cheating his own colleague who filed Civil Suit as well as lodge a criminal complaint against him and the said charges were found proved in the departmental proceedings. The misconduct of the workman has also tarnished the image of the Reserve Bank of India.
12. The Hon'ble Supreme Court in UPSRTC V/s Vinod Kumar 2008 (1) CLR 847 has held that in the absence of challenging the correctness, the legality or validity of the enquiry conducted, the Labour Court cannot go into the findings recorded by the enquiry officer regarding the misconduct committed by the respondent. The case being of misappropriation, Labour Court is not justified to interfere in to the punishment awarded by the appropriate authority.

The Hon'ble Supreme Court further in Employers, West Bokaro Colliery V/s workman Ramparvesh Singh, 2008 (2) CLR 220 has also held that in a case of serious misconduct like leaving the place of work without permission and disorderly behaving with Superintendent and Co-worker, the Labour Court fell into the factual as well as the legal error in setting aside the findings recorded by the Domestic Tribunal.
13. Thus in the light of the aforesaid discussion, both the issues are decided in affirmative and against the workman and the workman does not deserve to get any relief.
14. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 173/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-41012/133/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 173/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 07.05.2018.

[No. L-41012/133/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present:

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No- 173/2004

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat)
 2. The Chief Project Manager,
Western Railway,
Kalupur, Ahmedabad (Gujarat) ... First Party
- V/s
- The President,
Bharatiya Mazdoor Sangh,
J.P. Chawak, Khanpur,
Ahmedabad (Gujarat) ... Second Party
- For the First Party No : Shri H.R. Raval
For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/133/98-IR(B-I) dated 09.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demands of the Paschim Railway Karmachari Parishad, Ahmedabad for recasting the date of temporary status of the employees presently working under CPWI, Sabarmati by taking into consideration their past service as project casual labours and payment of arrears due to the above are legal and justified? If yes, to what relief the concerned employees are entitled to?”

1. The reference dates back to 09.03.1999. The second party union submitted the statement of claim Ex. 4 on 18.11.1999. The first party no. 1 The Divisional Railway Manager, Western Railway, Pratapnagar, Baroda, submitted the written statement Ex. 10 on 20.10.2000 and the first party no. 2 The Chief Project Manager, Western Railway, Kalupur, Ahmedabad, submitted the written statement Ex. 19 on 07.08.2008. Since then the second party union has not been leading evidence despite giving number of times as last opportunity. Thus it appears that the second party union is not willing to prosecute the case.
2. Thus the reference in the absence of the evidence of the second party union, is disposed of with the observation as under: “the demands of the Paschim Railway Karmachari Parishad, Ahmedabad for recasting the date of temporary status of the employees presently working under CPWI, Sabarmati by taking into consideration their past service as project casual labours and payment of arrears due to the above cannot be said to be legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 98/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-41011/61/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, received by the Central Government on 07.05.2018.

[No. L-41011/61/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR****Industrial Dispute No. 98 of 2011****Between:**

The Vice-President,(Case of Tika Ram),
Rashtriya Mazdoor Congress Zila Council (INTUC),
8/84, Bhogipura, Shahganj,
Agra (U.P.)

AND

The Divisional Railway Manager,
North Central Railway,
Jhansi.

AWARD

1. Central Government, Mol, vide notification No.L-41011/61/2011-IR (B-I) dated 11-11-2011, has referred the following dispute for adjudication to this tribunal.
2. “Whether the demand of the Union, Rastriya Mazdoor Congress, Zila Council (INTUC), Agra for appointment of Shri Tika Ram in Railway, is legal and justified? To what relief Shri Tika Ram is entitled?”
3. The case of the concerned claimant Sri Tikaram as set by the union raising the present dispute is that his deceased father Babulal died on 27.01.99 while he was in the active employment of the railway administration. Sri Tikaram had raised his demand several times before the railway administration for providing him appointment on compassionate grounds, but no appropriate action was taken by the opposite party. It is alleged that he was aged about 38 years at the time of death of his father and now he has attained the age of 51 years. When no appropriate action was taken by the authorities of the railways a representation was submitted before the General Manager, NCR, Allahabad, and the said authority by its letter 22.12.09 issued certain directions whereupon D.R.M. (P) NCR, Jhansi by their letter dated 10.02.10, informed Tikaram that as more than 5 years have passed from the date of death of his father hence under rules of Railway Board his case is not covered for consideration and therefore he could not be given appointment on compassionate ground. It is further alleged by the Union that the ground shown by the railway administration denying for providing compassionate appointment to Sri Tika Ram is absolutely wrong inasmuch as soon after the death of his father he started raising demand with effect from 27.01.99. It is also pleaded that D.R.M.(P), NCR, Jhansi, vide its letter 29.04.2010 has admitted the fact that a undated representation was received from Sri Tikaram. It is further pleaded that in the official records the date of birth of Tikaram is recorded as 09.09.60 which is correct. Tikaram has not committed any deliberate delay in raising his demand; therefore, he is entitled for appointment on compassionate ground in place of his deceased father.
4. Lastly it is prayed that the railway administration be directed to provide appointment on compassionate ground in place of his deceased father.
5. The Union along with the claim petition has filed photocopies of representations submitted by him before the railway authorities as mentioned in its claim petition which will be discussed at appropriate stage in the body of the award.
6. Opposite party has refuted the entire claim of the union as pleaded by them and have been raised to mislead this Hon'ble Tribunal. The inter-se Correspondence alleged to be in between the office of the General Manager, NCR, Allahabad and DRM (P), NCR, Jhansi which have been mentioned in the claim petition are admitted to the railway administration and it is stated that Tikaram was informed that more than 5 years have been passed from the date of death of his father hence under Railway Boards Rules his case for giving appointment on compassionate ground cannot be considered.
7. It is further pleaded that Tikaram is the son of first wife of deceased Babulal, by name Smt. Kapura Devi and it is also admitted that Babulal died in harness while on railway duty on 27.01.99. It is further alleged that there had been a written agreement on 12.03.99 between Smt. Anara Devi widow of Babulal, Chhitoram and Kamal Singh etc. First Party and Tikaram son of late Babulal Second Party in which it was agreed upon that except pension whatever amount is payable to late Babulal, 50% of the same will be payable to first party to the agreement i.e. Smt. Anara Devi and his sons and daughters and 50% amount will become payable to

Tikaram, Second Party to the said agreement and Chhitoram born through Anara Devi second wife of late Babulal will be given appointment on compassionate ground in place his deceased father. Late Babulal on 18.09.70 in the presence of witness has submitted form serial No.6 before P.W.I. Agra Cantt. wherein the date of birth of Tikaram has been shown as 09.09.60 and the said form was also countersigned by Permanent Way Inspector. It is alleged that letter dated 04.12.98 alleged to have been issued by Railway Board clearly provide that under prevailing instructions minimum qualification for providing compassionate appointment in group (D) is class 8th pass. Sri Tikaram in his letter dated 17.11.09 has mentioned that he is illiterate and now the minimum educational qualification as fixed by Railway Board is 10th class pass and as he does not fulfill the requirement as required by Railway Board under these circumstances he is not entitled to claim appointment on compassionate ground as well as he cannot lay any claim according to the agreement dated 12.03.99.

8. On the basis of above it is requested by the railway administration that the claim of Tikaram is against recruitment rules, without any basis and is devoid of merit hence claim is liable to be rejected.
9. Tikaram has also filed rejoinder but nothing new has been mentioned therein. He has also filed certain photocopies of certain documents with his rejoinder.
10. On behalf of union Sri Tikaram has been examined as W.W.1 and the management has examined Sri Brijesh Kumar Chaturvedi as M.W.1.
11. I have heard the parties and have perused the record.
12. Applicant Tikaram in his examination in chief has deposed that his father late Babulal working as gangman in railway died in the month of Jan.99 and thereafter he has moved application for appointment on compassionate ground. He was aged 38 years. He was informed by the management that as he has moved application after five years from the date of death of his father and he is uneducated he is not entitled for appointment on compassionate ground.
13. In his cross-examination he has admitted that at the time of death of his father he was having his step mother Smt. Anar Devi and two sons as LR's of his father. He has admitted this fact that he and his step mother received equal payment of gratuity and other dues given by the management but he has denied that there was any compromise with his step mother. He also alleged that he has moved application for appointment just after six months after the death of his father and has denied that there was any compromise with his step mother that he will not claim for compassionate appointment and he has given up his right to his step brother for compassionate appointment.
14. Applicant has filed several applications of the year 2007 but there is no receiving of these applications nor has the applicant filed any postal receipt of his applications so it cannot be said that applicant has moved applications for his appointment within 5 years from the date of death of his father. Both the parties have filed copies of applications and orders showing that the applicant has moved applications in the year 2009 which was suitably replied by railway denying his right of appointment on the ground that the application was moved after five years of the date of the death of his father and he is uneducated.
15. M.W.1 Sri Brijesh Kumar Chaturvedi officer of the management has been examined as M.W.1 who has deposed that as applicant has moved application after 5 years of death of his father and he was uneducated he was not given appointment because minimum qualification for appointment in Group 'D' was class 8th pass in the year 1998, which was enhanced to High School later on. He has also proved the compromise deed executed between Tikaram and Smt Anar Devi wherein applicant Tikaram has given up his right to claim appointment on compassionate ground in favor of his step brother Chhitoram. It is also mentioned in the deed that except pension other dues to be given by the railway shall be distributed between Tikaram and his step mother Smt. Anar Devi and as per his own admission applicant Tikaram payment was received equally as per deed, therefore, it is also clear that settlement is binding between the parties that was held through compromise deed and now the applicant Tikaram is denying its execution.
16. For the reasons given above it is held that demand of union for appointment in railway is neither legal nor just and applicant Tikaram is not entitled for compassionate appointment or to any other relief.
17. Award is passed accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 424/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-12012/146/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 424/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 07.05.2018.

[No. L-12012/146/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR**

Present: Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 424/2001**Date of Passing Award – 20th March, 2018****Between:**

1. The Assistant General Manager,
State Bank of India, Regional Office,
Jeypore, Orissa – 767 033.

2. The Branch Manager,
State Bank of India, Jeypore Branch,
Orissa – 767 033

... 1st Party-Managements

AND

Shri. B. Pendra Prasad Pattnaik,
C/o. N. Pattnaik, MIG-1, 31/3,
Housing Board Colony, Chandrasekharpur,
Bhubaneswar

... 2nd Party-Workman.

Appearances:

M/s. S.M. Dwibedi, Advocate

...

For the 1st Party-Management

M/s. S.K. Pattnaik & Associates, Advocates

...

For the 2nd Party-Workman**AWARD**

This award arises out of a reference with the schedule “whether the action of the management of State Bank of India in terminating the services of Shri B. Pendra Prasad Pattnaik, Ex-Messenger of Jeypore Bazar Branch without complying Section 25-F is justified? If not, what relief the disputant is entitled?” made by the Government of India vide its Letter No. L-12012/146/2001 – IR(B-I), dated 08.10.2001 in exercising its authority by clause (d) of sub-section 2 of Section 10 of the Industrial Disputes Act, 1947 (herein after referred to as “The Act”) and the reference is stated to have been arose out of a dispute between the management of State Bank of India and one B. Pendra Prasad Pattnaik alleged to be a workman of the said Management.

2. The claim of the disputant workman is that he was employed initially as a Messenger in the branch of the management Bank at Koraput and then, in the branch at Jeypore Bazar from 01.12.1984 to 21.08.1997. He was entrusted with the work of Messenger being employed on daily wage basis and he worked for more than 240 days in

each calendar year during the period of his employment. He appeared in the interview held in the year 1989 for his absorption against the post of Messengers or sub-staff category and he was placed at Sl. No. 41 of the said selection list. But his service could not be regularized in the said sub-staff cadre. Pursuant to his empanelment in the selection list he was given regular scale of pay during his temporary employment from December, 1994 onwards. He was refused employment suddenly with effect from 22.08.1997. Such refusal of employment was amounted to retrenchment and the retrenchment was made without following the mandatory provisions of the Act. That apart, it is pleaded that casual labours engaged in different branches subsequent to his engagement were appointed in sub-staff category after an interview held in the year 1994. Though he was working on daily wage basis and discharging the job of Messenger, he was not called to the said interview held in 1994 on the ground of over age. It is his claim that appointment of other casual labours who are engaged subsequent to him is a violation of provisions of Section 25-H of the Act. In that view of the matter his retrenchment was illegal and unjustified and as such he should be reinstated with back wages along with other service benefits and his service should be regularized in the sub-staff cadre of the Management-Bank.

3. Per contra, the Management-Bank has resisted the claim taking a stand that the disputant was never engaged or employed against any post of Messenger or sanctioned post of sub-staff category. He was engaged intermittently on daily wage basis as and when it was required by the Management-Branch in the event of permanent staff being on leave or under certain contingencies. His engagement was never continuous and uninterrupted for more than 240 days in any calendar year. That apart, the engagement was on daily wage basis and for a specific purpose as well as for a specific period. Such employment being made for a specific cause and for a specific period on a daily wage basis, the disputant workman is not entitled to any benefits prescribed under section 25-F and 25-G of the Act. Since his engagement was for a specific period due to permanent staff being on leave or for other contingencies, his such employment came to an end automatically. As such, question of refusal of employment amounting to retrenchment did not arise in the matter and compliance of the provisions of Section 25-F or 25-G was not required. That apart, it has been pleaded by the Management that pursuant to an agreement between the Management-Bank and Employees Federation, an interview was held for absorption of such casual daily wagers engaged in different branches of the Management-Bank and such casual labourers who worked for more than a period of 240 days in a calendar year for three consecutive years subject to other eligibility were called to face the interview being placed in Group-A category. Similarly, temporary casual labourers engaged less than 240 days in a calendar year were also called to that interview. The disputant appeared in the said interview held in the year 1989 and placed at Sl. No. 41 of the selection list. As candidates listed up-to 33 could be adjusted and appointed against the available vacancies in the cadre of Messenger or other sub-staff categories, the disputant could not be given regular appointment. According to the Management he and some others preferred a writ before the Hon'ble High Court of Orissa for their regular appointment and the said Writ was dismissed on contest. As such the present reference and claim of the disputant for his reinstatement and regularization of service is not maintainable in the eye of law.

4. On the aforesaid pleadings of the parties the following issues are settled for just and proper adjudication of the dispute.

ISSUES

1. Whether the reference is maintainable in view of the disposal of O.J.C. No. 12131/97?
2. Whether the action of the Management of State Bank of India in terminating the services of Shri B. Pendra Prasad Patnaik without compliance of Section 25-F of the Industrial Disputes Act is justified?
3. To what relief the workman (2nd Party) is entitled?

The disputant workman has examined himself only as W.W.-1 in support of his claim whereas the Management has examined its Chief Manager, State Bank of India, Jeypore Branch as M.W.-1 and filed copies of the settlements arrived between the Management and Federation dated 17.11.1987, 16.7.1988, 27.10.1988, 09.01.1991 and 30.07.1996 which are marked Ext.-A to Ext.-E to refute the allegations raised by the disputant workman.

FINDINGS

For the sake of convenience all the issues are taken into consideration simultaneously.

The disputant workman has claimed in his oral testimony that he had worked for more than 240 days continuously and uninterruptedly in a calendar year of 12 months preceding to his refusal of employment on 22.8.1997. Besides, it has been claimed that he worked for more than 240 days continuously and uninterruptedly in each calendar year during the period of his employment from 01.12.1984. The proof of working for 240 days is stated to be on the employee in the event of any denial of such a factum and in that score the Hon'ble Apex Court in the case Range Forest Officer –versus – S.T. Hadimani. (2202-I-LLJ-1053 SC) have observed “ **In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the**

claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the awards is liable to be set aside” The position is again reiterated in the case of Rajasthan state Ganganagar S. Mills Ltd., -versus – State of Rajasthan and Anr. (2004-I-LLJ-832 SC) with observation that **“it was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had in fact worked up to 240 days in the year preceding his termination. He has filed an affidavit. It is only his own statement which is in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year.”**

7. In the case at hand, the claimant has led his oral testimony only to establish that he worked up to 240 days in the year preceding to his retrenchment. No proof of receipt of salary or wages for 240 days or order or record in that regard has been produced. The disputant has not also made any prayer for a direction to the Management to produce its record to show the period for which the disputant was engaged in each year in between 1984 to 1997 or a calendar year of twelve months preceding to his alleged retrenchment so as to enable the Tribunal to arrive at a conclusion whether the disputant had worked for more than 240 days continuously and uninterruptedly in a year preceding to his alleged retrenchment. Though, some Xerox copies of experience certificate obtained from the branch office is filed by the workman, he had not uttered a single word in his oral testimony about such Xerox documents and its source from which the same were obtained. His testimony is also silent about the original of those experience certificate. They are not also exhibited. Thus, it is seen that except his oral version there is no other material to support the claim of the disputant workman that he actually worked continuously for 240 days either in a twelve months calendar year just preceding to his alleged retrenchment or in any year in between 1984 to 1997, in which he claims to have been engaged on daily wage basis to discharge the job of Messenger or any sub-staff of the Management-Bank.

8. On the other hand, it is emerging from the oral testimony of M.W.-1 that the disputant was engaged casually on daily wage basis when a Messenger or employee of sub-staff cadre was on leave or there was any contingency. His engagement was never continuous for 240 days in a calendar year. There is nothing in his cross examination to disbelieve his version. In view of the principles set out by the Hon'ble Apex Court the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is to be discharged by the workman by adducing cogent evidence both oral and documentary. In the case of termination or retrenchment of service of daily wagers, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Hence, the workman can only call upon the employer to produce before the Court the nominal muster roll for the given period, the official order of appointment or termination, if any, the wage register, the attendance register, the vouches under which the wages of such temporary daily wagers are paid and other such connecting papers drawing of adverse inference for non-production of those documents would depend thereafter on the facts of each case. But, in the case at hand no effort is taken by the workman to call for any of the above records from the possession of the Management. This fact can be taken note of against the claim of the disputant. When the disputant has failed to discharge his burden regarding his engagement for 240 days continuously preceding to refusal of employment to him, the Management cannot be held to have violated the provisions of Section 25-F while refusing employment to the disputant.

That apart, it cannot be over-looked that the disputant was not engaged or employed against any sanctioned post. He was engaged on daily wage basis. His engagement was under certain contingencies like leave taken by any sub-staff employee or other contingencies. Hence, it can be expected that the disputant was aware that his engagement was for a specific period or for a specific occasion and in the event of fulfilment of the occasion his employment was come to an end. Therefore, refusal of extension of such engagement cannot be amounted retrenchment as defined under the Act. Rather, such non-engagement would be covered by explanation given in the provisions of Section 2(oo)(bb). Hence, there was no need of giving any notice to him as contemplated under section 25-F of the Act when his engagement was not extended after 21.8.1997. The action of the Management did not amount to any termination of service of the disputant workman.

For the reasons discussed above, the claim of the disputant workman has no merit and he is not entitled to any relief.

The reference is answered accordingly.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 189/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.05.2018 को प्राप्त हुआ था।

[सं. एल-41012/11/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 189/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 07.05.2018.

[No. L-41012/11/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

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

Present: Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th April, 2018

Reference: (CGITA) No. 189/2004

1. The Works Manager,
Western Railway, Signal Workshop, Sabarmati, D Cabin,
Ahmedabad (Gujarat) – 380001
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 394220

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar,
Nr. New Railway Colony, Sabarmati,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party No. : None

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/11/99-IR(B-I) dated 11.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Railway Administration in denying regularisation to Shri Mahadeo Prasad G. employed as Casual/Temporary with the Works Manager, Signal Workshop, Sabarmati since 10.01.1991 by not screening him before 16.12.1996 and thus deprived him of future promotions along with his fellow employees is legal and justified? If not to what relief the concern employee is entitled and from which date?”

1. The reference dates back to 11.05.1999. The second party submitted the statement of claim Ex. 7 on 11.10.2001 and the first party submitted the written statement Ex. 10 on 27.10.2003 along with number of documents.

2. The examination-in-chief of the second party workman's was recorded on 06.01.2004. His cross-examination was partly recorded.

3. The second party submitted the affidavit Ex. 17 along with number of documents from number 19 to 24 vide list Ex. 18. Since then the second party workman and his union's representative have not been appearing and Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, E/209, Sarvottam Nagar, Nr. New Railway Colony, Sabarmati, Ahmedabad, informed the tribunal that the workman has expired.

4. Thus the reference is disposed of as abate.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स डबलू सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 90/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/116/2011-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 27.04.2018.

[No. L-22012/116/2011-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

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

NO. CGIT/LC/R/90/2011

Shri Bharat Singh, General Secretary,
Sanyukt Koyla Mazdoor Sangh (AITUC),
Eklehra Colliery, Chhindwara

...Workman/Union

Versus

Chief Manager,
WCL Pench Area,
Parasia, Chhindwara

...Management

A W A R D

Passed on this 22nd day of March, 2018

1. As per letter dated 13-9-2011 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-22012/116/2011-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of M/S WCL in dismissing Shri Mangal S/o Shri Roopchand, Haulage Khalasi from service w.e.f. 2-3/6/2010 is legal and justified? To what relief the concerned workman is entitled to?"

2. After receiving reference, the parties were duly noticed. Pursuant to such notice, the Union filed its statement of claim and management has also filed its Written Statement. After filing of Written Statement by the management, representative of the Union filed a memo on 17-7-2017 mentioning that the Union is not interested in prosecuting the dispute raised in the reference. Having regard to the memo, the Tribunal has no alternative than to return the reference without giving any award. Accordingly case is disposed off.

B. C. RATH, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ई.सी. एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 68/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/185/2007-आईआर (सी.एम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s E.C.L., and their workmen, received by the Central Government on 25.04.2018.

[No. L-22012/185/2007-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

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

PRESENT: Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 68 OF 2007

PARTIES :

The management of B.M.P. Group of Collieries of M/s. ECL

V/s

Shri Mansa Majhi

REPRESENTATIVES :

For the Management : Shri P. K. Goswami, Learned Advocate

For the Union (Workman) : Shri Sayantan Mukherjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated : 12.04.2018

A W A R D

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/185/2007-IR (CM-II)** dated 07.08.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of M/s. ECL in dismissing Shri Mansa Majhi, U.G. Loader w.e.f. 10.02.2005 is legal and justified? If not, to what relief is the workman entitled? ”

1. Having received the Order **NO. L-22012/185/2007-IR (CM-II)** dated 07.08.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **68 of 2007** was registered on 04.09.2007. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.
2. Case called out. Shri P. K. Goswami, learned advocate appeared on behalf of the management of B.M.P. Group of Collieries of M/s. Eastern Coalfields Limited and Shri S. K. Pandey, Learned union representative appeared on behalf of the workman, Shri Mansa Majhi.

3. Shri S. K. Pandey, Learned union representative of the workman prays that the case may be closed as the workman, Shri Mansa Majhi does not want to proceed with the case further. On perusal of the case record I also find that the case was fixed for evidence of the workman on 05.01.2010. Thereafter more than 8 (Eight) years have been passed, but the workman never appeared before the Tribunal. So, it is clear from the record that the workman is not at all interested to proceed with the case further. The reference is also more than 10 (Ten) years old – of the year 2007. I have no option left but to close the case. As such the case is closed and accordingly a ‘**No Dispute Award**’ is hereby passed.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 मई, 2018

का.आ. 773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1065/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.04.2018 को प्राप्त हुआ था।

[सं. एल-22012/459/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th May, 2018

S.O. 773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1065/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad, as shown in the Annexure, in the industrial dispute between the management of M/s Food Corporation of India and their workmen, received by the Central Government on 27.04.2018.

[No. L-22012/459/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

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

Present: Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 06th April, 2018

Reference: (CGITA) No- 1065/2004

1. The Sr. Regional Manager,
FCI (Industry House), Ashram Road, Behind Natraj Talkies,
Ahmedabad (Gujarat) – 380009
2. The Joint Manager (PO),
FCI, Chandan Chambers,
Plot No. 18, Ward 12-A, P.B. No. 130, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The Regional Secretary,
FCI Employees Association,
Kandla/Gandhidham Region C/o FCI, Chandan Chambers,
Plot No. 18, Ward 12-A, P.B. No. 130, Gandhidham,
Kutch (Gujarat) – 370201

...Second Party

For the First Party No : Shri D.C. Gandhi, Associates

For the Second Party : Shri V.D. Mehta

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-22012/459/96–IR(C-II) dated 29.08.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the FCI Employees Association, Kandla/Gandhidham on the management of FCI Ahmedabad for promotion of 32 employees, who were superseded in promotion vide order no. 178/95 dated 27.12.1995 w.e.f. the date of their supersession is legal and justified? If so to what relief are the workmen entitled and from which date?”

1. The reference dates back to 29.08.1997. The second party union FCI Employees Association submitted the statement of claim Ex. 5 alleging that the workmen detailed in the list enclosed with the reference were appointed in the year 1976 and 1977 and were drawing basis pay of Rs. 3245/- in the month of December, 1995 while some of the junior workmen appointed during the year 1979 and 1984, were promoted as Dusting Operator in the year December 1995. It is further alleged that the workmen detailed in the enclosed list despite their seniority suffered financial loss due to their supersession. The heavy financial loss suffered by these senior watchmen/concerned workmen may be calculated as under:

Pay drawn in 12/95 in revised pay scale of Workmen (S.G.)	Rs. 3245/-
Basis pay if promoted as D/Op. in 12/95	Rs. 3415/-
Difference (Loss) suffered by senior persons per month	Basic Pay Rs. 170/- H.R.A. Rs. 34/- D/Op. Allow Rs. 125/- Total Rs. 329/- per month

It has been further alleged that these workmen/senior watchmen has not only suffered financial losses but also superseded by way of giving promotion to junior employees. Thus they have prayed for promotion to the post of Dusting Operator from the date they became entitled from the date of their supersession.

2. The first party Food Corporation of India submitted the written statement Ex. 23 submitting that these 32 workmen on whose behalf the second party union has raised the demand were granted promotion immediately after December 1995 and remaining 26 watchmen were granted promotion in the year 1996 and 1997 and left over 32 employees were also granted promotion in the year 2000. The copy of these orders is also enclosed with the written statement.

3. The second party union filed a rejoinder Ex. 25 on 20.03.2017 alleging that the first party has not given them promotion from the date when they became entitled, therefore, the first party ought to be asked to amend their orders.

4. The second party union on 21.08.2017 moved an application Ex. 26 for adjournment but despite giving dates on 23.10.2017, 14.12.2017 and 15.02.2018, the union or his representative did not appear and also did not lead their evidence. Thus it appears that the second party union and their workmen are not willing to contest the case.

5. Thus the reference in non-prosecution of the case by the second party union and their workmen in the absence of the union and their workmen, is disposed of with the observation as under: “the demand of the FCI Employees Association, Kandla/Gandhidham on the management of FCI Ahmedabad for promotion of 32 employees, who were superseded in promotion vide order no. 178/95 dated 27.12.1995 w.e.f. the date of their supersession cannot be said to be legal and justified.”

P. K. CHATURVEDI, Presiding Officer