



# भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित  
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सं. 9] नई दिल्ली, मार्च 8—मार्च 14, 2026, शनिवार/फाल्गुन 17—फाल्गुन 23, 1947  
No. 9] NEW DELHI, MARCH 8—MARCH 14, 2026, SATURDAY/PHALGUNA 17—PHALGUNA 23, 1947

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक 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  
(व्यय विभाग)

नई दिल्ली, 5 मार्च, 2026

का.आ. 287.—राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उप नियम (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, एतद्वारा भारतीय लेखापरीक्षा और लेखा विभाग के अंतर्गत प्रधान महालेखाकार का कार्यालय (लेखापरीक्षा-II), कर्नाटक, बेंगलूरु, जिसके 80 प्रतिशत कर्मिकों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ए-12034/02/2026-ईजी]

रामेश्वर कुमार, अवर सचिव

**MINISTRY OF FINANCE**  
**(Department of Expenditure)**

New Delhi, the 5th March, 2026

**S.O. 287.**—In exercise of the powers conferred by 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 office of the Principal Accountant General (Audit-II), Karnataka, Bengaluru under the Indian Audit and Accounts Department, whereof eighty per cent. of the staff have acquired working knowledge of Hindi.

[F. No. A-12034/02/2026-EG]

RAMESHWAR KUMAR, Under Secy.

**विदेश मन्त्रालय**

**(सी.पी.वी. प्रभाग)**

नई दिल्ली, 3 मार्च, 2026

**का.आ. 288.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार, मार्च 3, 2025 से कांसुलर सेवाएं के निर्वहन करने के लिए भारतीय दूतावास, रियाद में सहायक कांसुलर अधिकारियों के रूप में इस मंत्रालय के निम्नलिखित अधिकारियों की नियुक्ति करता है:

| क्रम सं. | अधिकारी का नाम और पद                  | मिशन पोस्ट जिसमें /सहायक कांसुलर अधिकारी के रूप में नियुक्त किया गया है |
|----------|---------------------------------------|-------------------------------------------------------------------------|
| 1        | श्री जसबीर सिंह, कनिष्ठ सचिवालय सहायक | भारतीय दूतावास, रियाद                                                   |
| 2        | श्री सचिन, कनिष्ठ सचिवालय सहायक       |                                                                         |
| 3        | श्री रविंदर, कनिष्ठ सचिवालय सहायक     |                                                                         |

[फा. सं. टी. 4330/01/2026(04)]

तरुण कुमार, अवर सचिव [सीपीवी-II]

**MINISTRY OF EXTERNAL AFFAIRS**  
**(CPV Division)**

New Delhi, the 3rd March, 2026

**S.O. 288.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints the below mentioned officials of this Ministry, as Assistant Consular Officers in Embassy of India, Riyadh, to perform Consular services with effect from March 3, 2026:

| S. No | Name & Rank of the Officer                     | Mission/Post wherein appointed as Assistant Consular Officer |
|-------|------------------------------------------------|--------------------------------------------------------------|
| 1     | Mr. Jasbir Singh, Junior Secretariat Assistant | Embassy of India, Riyadh                                     |
| 2     | Mr. Sachin, Junior Secretariat Assistant       |                                                              |
| 3     | Mr. Ravinder, Junior Secretariat Assistant     |                                                              |

[F. No. T.4330/01/2026 (04)]

TARUN KUMAR, Under Secy. (CPV-II)

**परमाणु ऊर्जा विभाग**

मुंबई, 24 फरवरी, 2026

**का.आ. 289.**—सार्वजनिक परिसर (अनाधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस विभाग के दिनांक 25.06.1998 की अधिसूचना सं. 5/1(2)/95-SUS/447 के अधिक्रमण में, केंद्र सरकार एतद्वारा निम्नलिखित तालिका के कॉलम (1) में उल्लिखित अधिकारी को, जो सरकार का राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त तालिका के कॉलम (2) में संगत प्रविष्टियों में निर्दिष्ट सार्वजनिक परिसरों के संबंध में उक्त अधिनियम द्वारा या उसके अधीन प्रदत्त शक्तियों का प्रयोग करेगा और संपदा अधिकारी के कर्तव्यों का पालन करेगा।

| अधिकारी का पदनाम<br>(1)                                                                                                                                            | सार्वजनिक परिसर की श्रेणियाँ और अधिकार क्षेत्र की स्थानीय सीमाएँ<br>(2)                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| निदेशक (कार्मिक एवं प्रशासन) अथवा<br>मुख्य प्रशासनिक अधिकारी,<br>निर्माण, सेवा एवं संपदा प्रबंध निदेशालय,<br>विक्रम साराभाई भवन,<br>अणुशक्ति नगर,<br>मुंबई-400 094 | बृहन्मुंबई और नई दिल्ली में परमाणु ऊर्जा विभाग के स्वामित्व वाले या उसके प्रशासनिक नियंत्रण के अधीन परिसर। |

[फा. सं. 5/1(1)/2026-SUS/2386]

बिपिन कुरूप, अवर सचिव [सीपीवी-II]

**DEPARTMENT OF ATOMIC ENERGY**

Mumbai, the 24th February, 2026

**S.O. 289.**—In exercise of the powers conferred by Section-3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971) and in supersession of this Department's Notification No.5/1(2)/95-SUS/447 dated 25.06.1998, the Central Government hereby appoints the officers mentioned in column (1) of the Table below being Gazetted Officers of the Government, to be the Estate Officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on Estate Officer, by or under the said Act, in respect of Public Premises specified in the corresponding entries in column (2) of the said Table.

| Designation of the Officer<br>(1)                                                                                                                                                 | Categories of Public Premises and local limits of Jurisdiction<br>(2)                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Director (P&A) or<br>Chief Administrative Officer,<br>Directorate of Construction, Services & Estate Management,<br>Vikram Sarabhai Bhavan,<br>Anushakti Nagar,<br>Mumbai-400 094 | Premises belonging or under the administrative control of the Department of Atomic Energy in Greater Mumbai & New Delhi. |

[F. No. 5/1(1)/2026-SUS/2386]

BIPIN KURUP, Under Secy. (CPV-II)

**पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय**  
**नई दिल्ली, 20 फरवरी, 2026**

**का.आ. 290.**—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उप-धारा (4) द्वारा प्रदत्त शक्तियों के तहत, केंद्र सरकार एतद्द्वारा पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय के सचिव डॉ. नीरज मिश्र को 13 फरवरी, 2026 से अगले आदेश तक तेल उद्योग विकास बोर्ड का अध्यक्ष नियुक्त करती है।

[फा. सं. जी-38011/41/2016-फिन.आई (ई-33886)]

रघुराम कृष्णा, अवर सचिव

**MINISTRY OF PETROLEUM AND NATURAL GAS**

New Delhi, the 20th February, 2026

**S.O. 290.**—In exercise of the Powers conferred by Sub-Section (4) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Dr. Neeraj Mittal, Secretary, Ministry of Petroleum and Natural Gas as Chairman of the Oil Industry Development Board w.e.f. 13. 02.2026, until further orders.

[F. No. G-38011/41/2016-Fin.I (E-33886)]

REGHURAM KRISHNA, Under Secy.

नई दिल्ली, 20 फरवरी, 2026

**का.आ. 291.**—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उप-धारा (3)(a) द्वारा प्रदत्त शक्तियों के तहत, केंद्र सरकार एतद्द्वारा श्री श्रीकांत नागुलपल्ली, महानिदेशक, हाइड्रोकार्बन महानिदेशालय को 13 फरवरी, 2026 से 12 फरवरी, 2028 तक या अगले आदेश तक, जो भी पहले हो, तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[फा. सं. जी-38011/41/2016-फिन.आई (ई-33886)]

रघुराम कृष्णा, अवर सचिव

New Delhi, the 20th February, 2026

**S.O. 291.**—In exercise of the Powers conferred by Sub-Section (3)(a) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Shri Srikant Nagulapalli, Directorate General, Directorate General of Hydrocarbon as Members of the Oil Industry Development Board w.e.f. 13.02.2026 to 12.02.2028 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I (E-33886)]

REGHURAM KRISHNA, Under Secy.

नई दिल्ली, 20 फरवरी, 2026

**का.आ. 292.**—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उप-धारा (3)(b) द्वारा प्रदत्त शक्तियों के तहत, केंद्र सरकार एतद्द्वारा श्री वेदवीर आर्य, अतिरिक्त सचिव एवं वित्तीय सलाहकार, पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय को 13 फरवरी, 2026 से 12 फरवरी, 2028 तक या अगले आदेश तक, जो भी पहले हो, तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[फा. सं. जी-38011/41/2016-फिन.आई (ई-33886)]

रघुराम कृष्णा, अवर सचिव

New Delhi, the 20th February, 2026

**S.O. 292.**—In exercise of the Powers conferred by Sub-Section (3) (b) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Shri Vedveer Arya, Additional Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas as Members of the Oil Industry Development Board w.e.f. 13.02.2026 to 12.02.2028 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I) (E-33886)]

REGHURAM KRISHNA, Under Secy.

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 25 फरवरी, 2026

**का.आ. 293.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (26/2015) प्रकाशित करती है।

[सं. एल-39025/01/2026-आई आर(बी- II)-21]

सलोनी, उप निदेशक

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 25th February, 2026

**S.O. 293.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 26/2025) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2026—IR(B-II)-21]

SALONI, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL****TRIBUNAL- CUM - LABOUR COURT****CHENNAI****ID No. 26/2025****Present: SUSHIL KUMAR-II, PRESIDING OFFICER****Date: 05-02-2026**

Sh. V. Suresh,  
S/o, Veerappan,  
No.26, Kannaagi Street,  
Indira Gandhi Nagar,  
Puducherry-605 001

:

1<sup>st</sup> Party/Petitioner**AND**

1. The General Manager,  
Carana Bank, Disciplinary Action Cell,  
Chennai Circle Office,  
New No.524, (Old No.563/1), Annai Salai,  
Teynampet, Chennai-600 018.

:

2<sup>nd</sup> party/1<sup>st</sup> Respondent

2. The Assistant General Manager,  
Carana Bank, No.45, NSC Bose Road,  
(Old Gingly Salai), Puducherry- 605 001 : 2<sup>nd</sup> Party /2<sup>nd</sup> Respondent

**Appearance:**

- For the 1<sup>st</sup> Party/Petitioner : None  
For the 2<sup>nd</sup> Party/ 1<sup>st</sup> and 2<sup>nd</sup> Respondents : M/s. R. Rajesh, Adv

**Award**

The Central Government, Ministry of Labour & Employment vide its Order No.7/8/2021/PDY/300037066/ADJ/A1, dated 30.01.2025 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

1. Whether the action of Canara Bank Management in imposing the punishment of “Dismissal” to Shri. V. Suresh vide its proceedings dated 26.04.2005 is fair, legal and justified? and
2. Whether Shri. V. Suresh is entitled to receive Pension / EPF benefits under Employees Contributory Provident Fund? If not, to what relief Shri. V. Suresh is entitled to?

2. On receipt of the above reference dated 30.01.2025 from the appropriate Government, the dispute was registered as ID No. 26/2025 and due notices were issued to both the parties for their appearance fixing the case to 26.05.2025. Neither the Petitioner nor any Counsel / Authorized Representative turned up resulting further adjournments to 17.07.2025, 03.09.2025, 29.10.2025, 29.12.2025. The Petitioner did not turn up whereas the Respondent filed Vakalat Nama. It reveals from the body of reference that while the appropriate Govt. sent the reference dated 30.01.2025 to this Tribunal for adjudication, copies of the reference were sent to the Petitioner and all the opposite parties. It is therefore well presumed that both parties must have received the reference. Even then, in the interest of justice, the Petitioner was once again directed to appear and to file claim statement fixing the case to 05.02.2026. The Petitioner did not turn up nor was any authorized representative of the counsel on his behalf present. The claim statement was not furnished in any manner by the Petitioner. It reveals the Petitioner, despite of sufficient opportunity choose not to appear or to file claim statement and documents.

3. In the circumstance it deems proper not to re-list the case for the same purpose to any other date which would be wastage of the valuable time of this Tribunal.

4. In view of the discussion held supra, it is crystal clear that the petitioner has got no interest to proceed with the case. Thus, the Tribunal is not in a position to adjudicate the dispute as referred by the Appropriate Government, as there exists no Industrial Dispute for adjudication as per the reference.

5. In the result the reference is answered against the petitioner.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 26 फरवरी, 2026

**का.आ. 294.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **डब्लू सी एल** क प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -सह - श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 10/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/02/2026 को प्राप्त हुआ था।

[सं. एल-22012/38/2019-आई आर(सी.एम-II)]

सलोनी, उप निदेशक/संपर्क अधिकारी

New Delhi, the 26th February, 2026

**S.O. 294.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 10/2019**) of the **Central Government Industrial Tribunal-cum-Labour Court, Nagpur** as shown in the Annexure, in the industrial dispute between the Management of **M/s. WCL and their workmen** received by the Central Government on **25/02/2026**.

[No. L-22012/38/2019- IR (CM-II)]

SALONI, Dy. Director/Link Officer

**ANNEXURE**  
**BEFORE SHRI SHIV SHANKER PRASAD, PRESIDING OFFICER,**  
**CGIT-CUM-LABOURT COURT, NAGPUR**

Case No.CGIT/NGP/10/2019

Date: 03.02.2026.

**Party No.1** : The Area General Manager,  
 Western Coalfields Ltd.,  
 Ballarpur Area Post. Sasti, Tah. Rajura,  
 Distt. Chandrapur (MS)-442905.

: The Superintendent of Mines,  
 Western Coalfields Ltd., Ballarpur colliery,  
 3 & 4 Pits, Ballarpur, Distt. Chandrapur-442701.

**Versus**

**Party No.2** : Shri Mallesh Chandraish  
 R/o. Mines's Quarter No. 4/3, BC,  
 WCL Colony, Ballarpur Distt. Chandrapur-442701,

**AWARD**

(Dated: 3<sup>rd</sup> February, 2026)

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 Western Coalfields Limited and one other and their workman Shri Mallesh Chandraish for adjudication, as per letter **No.L-22012/38/2019 (IR(CM-II) dated 09.05.2019**, with the following schedule:-

**"Whether the action of the management of WCL through the Superintendent of Mines, Ballarpur Distt. Chandrapur in termination of service of the applicant Shri Mallesh Chandraiah, Ex. Senior Clerk Ballarpur Colliery, 3 & 4 Pits, Ballarpur Dist. Chandrapur and request to quash and set aside the order of Discharge dated 15.02.2018 and reinstate in service with all consequential benefits, is just, fair and legal? If not, to what relief the concerned workman is entitled to?"**

2. On receipt of the reference, notices were issued to the parties i.e. the petitioner Shri Mallesh Chandraiah and the management of Western Coalfields Limited ("party no.1" in short). The petitioner filed statement of claim and the respondent also filed written statement. On 09.12.2025 the learned counsel for the petitioner filed a pursis mentioning that the petitioner died on 21.09.2025 due to illness. A copy of death certificate is also enclosed with the pursis. On 07.01.2026 Shri Srinivas Mallesh Yengulwar son of late Mallesh Chandraiah filed pursis that he doesn't want to proceed with the matter anymore.

Hence, the reference is closed and an award is passed against the petitioner.

It is ordered:-

**ORDER**

**“The action of the management of WCL through the Superintendent of Mines, Ballarpur Distt. Chandrapur in termination of service of the applicant Shri Mallesh Chandraiah, Ex. Senior Clerk Ballarpur Colliery, 3 & 4 Pits, Ballarpur Dist. Chandrapur is just, fair and legal. The workman Late Mallesh Chandraiah is not entitled to any relief.**

Justice (retd.) SHIV SHANKER PRASAD, Presiding Officer

(हिन्दी अनुभाग)

नई दिल्ली, 2 मार्च, 2026

का.आ. 295.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम एवं रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है:

1. कर्मचारी राज्य बीमा निगम अस्पताल, साहिबाबाद, गाजियाबाद (उत्तर प्रदेश)
2. कर्मचारी राज्य बीमा निगम चिकित्सा महाविद्यालय एवं अस्पताल, जोका, (पश्चिम बंगाल)
3. कर्मचारी राज्य बीमा निगम अस्पताल, बीकानेर (राजस्थान)
4. कर्मचारी राज्य बीमा निगम अस्पताल, बिबवेवाड़ी, पुणे
5. कर्मचारी राज्य बीमा निगम चिकित्सा महाविद्यालय एवं अस्पताल, नरोड़ा, अहमदाबाद

[सं. ई-11016/1/2022-रा.भा.नी]

अतनु कुमार चौधुरी, उपमहानिदेशक

(Hindi Section)

New Delhi, the 2nd March, 2026

S.O. 295.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following offices under the administrative control of the Ministry of Labour & Employment, more than 80% Staff whereof have acquired working knowledge of Hindi:-

1. Employees' State Insurance Corporation Hospital, Sahibabad, Ghaziabad (Uttar Pradesh)
2. Employees' State Insurance Corporation Medical College and Hospital, Joka (West Bengal)
3. Employees' State Insurance Corporation Hospital, Bikaner (Rajasthan)
4. Employees' State Insurance Corporation Hospital, Bibvewadi, Pune
5. Employees' State Insurance Corporation Medical College and Hospital, Naroda, Ahmedabad

[No. E-11016/1/2022-RBN]

ATANU KUMAR CHOWDHURY, Dy. Director General

नई दिल्ली, 2 मार्च, 2026

का.आ. 296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (105/2002) प्रकाशित करती है।

[सं. एल-12012/186/2000-आई आर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 296.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 105/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.**

[No. L-12012/186/2000– IR (B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5<sup>th</sup> day of February, 2026

#### INDUSTRIAL DISPUTE No. 105/2002

[Old ID No.126/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri Teetala Deva Prasad,

S/o T. Jakaraiah,

R/o 14/49, Sainath Puram,

C.S.I Church,

Mydukuru Post & Mandal,

Cuddapah Dist. A.P.

... Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi.

.....Respondent

#### Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri A. Ratang Phani Reddy, Advocate

#### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/186/2000-IR(B.I) dated 19.09.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No.126/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

#### SCHEDULE

“Whether the action of the management of State Bank of India, Mydukur Branch justified in terminating Sri Teetala Deva Prasad, Messenger, from the services of the Bank? If not, what relief he is entitled?”

After receipt of the reference, it was numbered as ID No. 105/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch

cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

*“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date.”

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1990 to 1991, and has rendered unblemished service spreading over a period of about 2 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the

suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the bank". The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, "to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, "will be given another chance to appear for interview".

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is

a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to

their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final,

settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights

have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W3. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the letter for interview. Further Ex.W2 is the panel list. Ex.W3 is the Service certificate.

21. On the other hand, Respondent has examined witness MW1 Sri K. Bala Kotaiah and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Mydukur branch in terminating the services of Workman Sri Teetala Deva Prasad, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

18. Persons on whom settlements and awards are binding.

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management whereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into

between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon'ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of 1his Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other induce- ments. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settle- ment as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

27. **Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

**Section 25F provides:-**

Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

**Section 25B defines the term continuous service which provides**

Definition of continuous service.- For the purposes of this Chapter,--

(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;

(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

**In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that** "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the

period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Suresh Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J., after noticing the amendment and referring to the decision in \[Sur Enamel and Stamping Works \\(P\\) Ltd\]\(#\) case, held as under:](#)

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

"I was not sponsored by any employment exchange. I did not undergo regular process of selection required for appointment in the branch.."

"I did not work for 240 days in any year in my entire service in the bank."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual

labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial

vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied in response to the notification issued by the bank in terms of the settlements entered between the bank*

*and the union.... Further, witness states, Some person who were included in the panel were given regular employment in the bank.... Further witness states, I am not having any papers or particulars to show that any person who had worked for less number of days than me was given appointment in the bank."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*"(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by

continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and*

*give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*" 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state."*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post.

Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontroverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Teetala Deva Prasad, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 5<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

MW1: Sri Teetala Deva Prasad

MW1: Sri K. Bala Kotaiah

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of letter for interview

Ex.W2: Photocopy of panel list

Ex.W3: Photocopy of Service certificate

### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 2 मार्च, 2026

**का.आ. 297.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (198/2002) प्रकाशित करती है।

[सं. एल-12012/46/2000-आई आर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 297.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 198/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/46/2000– IR (B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 4<sup>th</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 198/2002**

[Old ID No.34/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri Voore Seenaiah,

Madgul(P.O.) & Vill.

Mandal Madgul,

Mahaboobnagar.

Distt. Mahaboobnagar.

... Petitioner

And

The General Manager,

State Bank of India,

Local Head Office,

Bank Street, Hyderabad .

.....Respondent

#### Appearances:

For the Petitioner : Sri Macheral Rangaiah, Advocate

For the Respondent: Sri A. Ratang Phani Reddy, Advocate

#### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/46/2000-IR(B.I) dated 11.7.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No.34/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

#### SCHEDULE

“Whether the action of the management of State Bank of India, Hyderabad main branch in terminating the

services of Sri Voore Seenaiah, Messenger, from the services of the Bank by way of oral orders w.e.f. 31.3.1997 is justified? If not, what relief he is entitled?"

After receipt of the reference, it was numbered as ID No. 198/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

*" 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date."

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1990 to 1997, and has rendered unblemished service spreading over a period of about 7 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were

listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth, “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has

submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized

and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided

by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on

permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W10. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the service certificate. Further Ex.W2 is the notification. Ex.W3 is the interview call letter. Ex.W4 to Ex.W8 are the service certificates. Ex.W9 is the circular in the year 1999 and Ex.W10 is the audit report & circular

21. On the other hand, Respondent has examined witness MW1 Sri Aluru Rama Rao and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Hyderabad main branch in terminating the services of Workman Sri Voore Seenaiah, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of

I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

*- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management whereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

*"We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997."*

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, "Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed." Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

**In the case of Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

*"4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).*

*14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The*

Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under Section 41(1) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon’ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*“When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs.”*

Therefore, in view of the law laid down by the Hon’ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon’ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto

31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

27. **Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

#### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

#### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

*"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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 These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."*

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held *"the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment."* In *M.P. Electricity Board v. Hariram (2004 (8) SCC 246)* the position was again reiterated in paragraph 11 as follows: *"The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial*

*Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously ..”*

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."**

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

*"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J.](#), after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:*

*"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."*

*In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."*

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

*"I was not sponsored by any employment exchange, did not undergo the regular process of selection before my engagement as temporary messenger in the branch.."*

*"It is true that I did not work for 240 days in any year in my entire service in the bank in any branch."*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wage depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that

no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would

be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees

and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*“I applied for appointment as Messenger, in response to the advertisement issued by the bank and the union in the year 1991.... Further, witness states, The panel was prepared basing upon the number of days of service put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the in the order of their seniority in the panel.... Further witness states, I am not having any documents to show that any of my juniors are continuing in service in the bank.”*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have has laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not*

*filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman

utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*" 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state."*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of

understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement and absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Voore Seenaiah, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 4<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

MW1: Sri Voore Seenaiah

MW1: Sri Aluru Rama Rao

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of News paper advertisement/ notification

Ex.W3: Photocopy of interview call letter

Ex.W4: Photocopy of service certificate

Ex.W5: Photocopy of Service certificate

Ex.W6: Photocopy of service certificate

Ex.W7: Photocopy of Service certificate

Ex.W8: Photocopy of service certificate

Ex.W9: Photocopy of circular in the year 1999

Ex.W10: Photocopy of audit report & circular

**Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 2 मार्च, 2026

**का.आ. 298.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (133/2002) प्रकाशित करती है।

[सं. एल-12012/173/2000-आई आर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 298.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 133/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/173/2000- IR (B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 4<sup>th</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 133/2002**

(Old ID No.117/2000 transferred from Industrial Tribunal -I, Hyderabad)

Between:

Sri Pasala Pushpa Raju,

S/o P. Subbaiah,

Gaddamalarvada palem(V),

Mydukur (M & P),

Cuddapah (A.P).

... Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi - 517501.

.....Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri A. Ratang Phani Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/173/2000-IR(B.I) dated 19.09.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No.117/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Mydukur branch justified in terminating of Sri Pasala Pushpa Raju, Messenger, from the services of the Bank? If not, what relief he is entitled to?”

After receipt of the reference, it was numbered as ID No. 133/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing

*for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

*9. In the result, these writ appeals are ordered;*

*(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;*

*(2) the further findings and directions issued through the impugned common order are vacated;*

*(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,*

*(4) the parties to make appearance before the Tribunal on the given date."*

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1987 to 1995, and has rendered unblemished service spreading over a period of about 9 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth. "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the bank". The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, "to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, "will be given another chance to appear for interview".

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to

make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen

covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the

Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into

thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W7. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the notification. Further Ex.W2 is the interview call letter. Ex.W3 is the panel list. Ex.W4 is the service certificate. Ex.W5 is the service certificate. Ex.W6 is the notification issued by bank. Ex. W7 is the circular dated 14.07.199.

21. On the other hand, Respondent has examined witness MW1 Sri K. Bala Kotaiah and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Mydukur branch in terminating the services of Workman Sri Pasala Pushpa Raju, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

**25. Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

*- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been

decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon’ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322, Hon’ble Supreme Court have held:-**

The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.

“When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.

It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court

*the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

**28.** On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

#### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

**In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25). No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held** that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, i.e. the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J.](#), after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court,

we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

*“I was not sponsored by any employment exchange. I did not undergo regular selection process required for appointment as a temporary messenger..”*

*“I did not work for 240 days in any year in my entire service I worked in the bank.”*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly*

panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively.”

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*“I applied in response to an advertisement issued by the bank as per the settlements entered between the bank and the union.... Further, witness states, it is true that the panel was prepared basing upon the number of days of service put in by the temporary employees .....further witness adds, It is true that some of the employees whose names are kept in the panel were given regular appointment in the bank in order of their seniority .... Further witness states, I am not having any document to show that any person who had worked for less no. of days than me was given appointment in the bank.”*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957.

This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to

extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*“8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized.”*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*“7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review.”*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*“Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act.”*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*“ 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record*

*is satisfactory and his appointment does not run counter to the reservation policy of the state. ”*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### ORDER

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Pasala Pushpa Raju, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 4<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence****Witnesses examined for the**

Petitioner

WW1: Sri Pasala Pushpa Raju

**Witnesses examined for the**

Respondent

MW1: Sri K. Bala Kotaiah

**Documents marked for the Petitioner**

Ex.W1: Photocopy of notification

Ex.W2: Photocopy of interview call letter

Ex.W3: Photocopy of Panel list

Ex.W4: Photocopy of service certificate

Ex.W5: Photocopy of Service certificate

Ex.W6: Photocopy of notification

Ex. W7: Photocopy of Circular dated 14.07.1999

**Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 2 मार्च, 2026

**का.आ. 299.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (99/2002) प्रकाशित करती है।

[सं. एल-12012/177/2000-आई आर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 299.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 99/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/177/2000- IR (B-I)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 3<sup>rd</sup> day of February, 2026**INDUSTRIAL DISPUTE No. 99/2002**

[Old ID No.121/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri C. Srinivasa babu,

S/o C. Krishna Murthy,

R/o 20/775, Co-op colony,

R.K. Nagar,

Cuddapah Dist.-516001

... Petitioner

And

The Deputy General Manager,

State Bank of India, Zonal Office,

Renigunta Road, Tirupathi-517501.

.....Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/177/2000-IR(B.I) dated 19.09.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No.121/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Cuddapah Main Branch justified in terminating Sri C. Srinivasababu, Messenger, from the services of the Bank? If not, what relief he is entitled to?”

After receipt of the reference, it was numbered as ID No. 99/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the

*proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

*9. In the result, these writ appeals are ordered;*

*(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;*

*(2) the further findings and directions issued through the impugned common order are vacated:*

*(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,*

*(4) the parties to make appearance before the Tribunal on the given date.”*

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1987 to 1997, and has rendered unblemished service spreading over a period of about 11 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth. “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management

so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The

same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was

arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence

which has been exhibited as Ex.W1 to W7. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the service certificate Ex. W2 is the interview letter Ex. W3 is the issuing order Ex. W4 is the panel list Ex. W5 is the Caste Certificate Ex. W6 is the Memorandum of marks Ex. W7 is the Transfer Certificate Ex.W8 is the service certificate.

21. On the other hand, Respondent has examined witness MW1 Sri K. Bala Kotaiah and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Non Messenger Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Cuddapah main branch in terminating the services of Workman Sri C. Srinivasa Babu a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

*- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and

that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon’ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322, Hon’ble Supreme Court have held:-**

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel*

that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.

*"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

**28.** On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

**Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days'*

average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;

(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held** that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Suresh Kumar Verma and Ors. v. Central Government Industrial-cum-Labour](#) Court, New Delhi and Anr., Chinnappa Reddy, J., after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\)](#)

*Ltd case, held as under:*

*"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."*

*In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."*

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

*"I am not sponsored by any employment exchange. I did not undergo the regular selection process required for appointment as a Messenger in the bank."....*

*"It is true that I did not work for 240 days in any year in my entire life service."*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengersial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any

temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

**Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied in response to the notification issued by the bank as per the settlements entered into by the union with the bank. ....Further, witness states, it is true that the bank had filled up the vacancies of messengers with the temporary employees in order of their seniority depending upon the no. of days they worked..... Further witness states, I am not having any document to show that the persons who had worked less. Of days of service than me were given regular employment in the bank."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular

appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to

create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a*

permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

" 49. If for any reason an *ad hoc* or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state."

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri C. Srinivasa Babu, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC transcribed by him, corrected and signed by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the  
Petitioner

WW1: Sri C. Srinivasa Babu

Witnesses examined for the  
Respondent

MW1: Sri K. Bala Kotaiah

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of is the service certificate

Ex.W2: Photocopy of interview letter

Ex. W3: Photocopy of order about listing of panel

Ex. W4: Photocopy of panel list

EX. W5:Photocopy of Caste certificate

EX. W6:Photocopy of Memorandum of marks

Ex. W7:Photocopy of transfer certificate

Ex.W8:Photocopy of service certificate

### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 2 मार्च, 2026

**का.आ. 300.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट(156/2001) प्रकाशित करती है।

[सं. एल-12012/428/2000-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 300.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 156/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/428/2000- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5<sup>th</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 156/2001**

Between:

Sri Y. Venkatadri,

R/o H.No. 19-4-41/6,

S.T.VNagar,

Tirupathi, Chittor District-517501.

... Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office Region II,

.....Respondent

#### Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri A.Ratang Phani Reddy, Advocate

#### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/428/2000-IR(B.I) dated 22.5.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to requiring this forum to decide the question:

#### SCHEDULE

“Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing the services of Sri Y. Venkatadri, Ex-Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 156/2001 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

*“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date.”

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.2019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1985 to 1997, and has rendered unblemished service spreading over a period of about 6 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment.

Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth, “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit

would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices

and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the

vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and

deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W12. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the notification. Further Ex.W2 is the interview call letter. Ex.W3 is the Service Certificates. Ex.W4 is the service certificate. Ex.W5 is the service certificate. Ex.W6 is the service certificate. Ex. W7 is the Service Certificates Ex. W8 is the Service Certificates Ex. W9 is the Service Certificates Ex. W10 is the Service Certificates Ex. W11 is the Service Certificates Ex. W12 is the Service Particulars.

21. On the other hand, Respondent has examined witness MW1 Sri K. Bala Kotaiah and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, in dismissing the services of Workman Sri Y. Venkatadri, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

18. *Persons on whom settlements and awards are binding.*

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon’ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and

*Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not."*

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon'ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25

F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

**Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

**Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

**In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

*"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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 These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."*

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held *"the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment."* In *M.P. Electricity Board v. Hariram (2004 (8) SCC 246)* the position was again reiterated in paragraph 11 as follows: *"The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."*

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that** *"the initial burden of proof was on the Workman to show that he had completed 240 days of service."*

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the**

**principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, i.e. the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J.](#), after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

"I was not sponsored by any employment exchange. I did not undergo regular process of selection before my appointment in the branch.."

"It is true that I did not work for 240 days in any year in my entire service in the bank."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there

was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996

whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengers' vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengers' vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengers' staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federation's affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent

management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied in response to the notification given by the bank as per the settlements between the bank and the union.... Further, witness states, The panel was prepared basing on the number of days of service put in by the temporary employees. Some of them whose names were included in the panel were given regular appointment on regular basis as per settlements.... Further witness states, I am not having any document to show that any person who had worked for less no. of days than me was given appointment on regular basis in the bank."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*"(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make*

a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and

(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have

held:-

“7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review.”

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

“Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act.”

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

“ 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state.”

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner

was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement and absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Y. Venkatadri, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 5<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the  
Petitioner

Witnesses examined for the  
Respondent

WW1: Sri Y. Venkatadri

MW1: Sri Bala Kotaiah

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of News paper advertisement/ notification

Ex.W2: Photocopy of interview call letter

Ex.W3: Photocopy of Service certificate

Ex.W4: Photocopy of service certificate

Ex.W5: Photocopy of Service certificate

Ex.W6:Photocopy of service certificate

Ex.W7:Photocopy of service certificate

Ex.W8:Photocopy of service certificate

Ex.W9:Photocopy of service certificate

Ex.W10:Photocopy of service certificate

Ex.W11:Photocopy of service certificate

Ex.W12:Photocopy of service certificate

**Documents marked for the Respondent**

|         |                                                                                                             |
|---------|-------------------------------------------------------------------------------------------------------------|
| Ex.M1:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87   |
| Ex.M2:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88    |
| Ex.M3:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988 |
| Ex.M4:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991   |
| Ex.M5:  | Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995                |
| Ex.M6:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996  |
| Ex.M7:  | Photocopy of Memorandum of understanding dt. 27.1.1997                                                      |
| Ex.M8:  | Photocopy of statements giving the particulars of 1989 messenger panel.                                     |
| Ex.M9:  | Photocopy of statement of 1989 Non-messenger panel                                                          |
| Ex.M10: | Photocopy of statement of 1992 panel                                                                        |
| Ex.M11: | Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98                                          |
| Ex.M12: | Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98                                              |

नई दिल्ली, 2 मार्च, 2026

**का.आ. 301.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट (233/2002) प्रकाशित करती है।

[सं. एल-12012/441/2001-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 301.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 233/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/441/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 4<sup>th</sup> day of February, 2026**INDUSTRIAL DISPUTE No. 233/2002**

Between:

Sri G. Nagamalleswara Rao,

S/o Balakotaiah,

Koduru (P.O.),

Koduru(M),

Krishna Distt.

... Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office,

Vijayawada-520001.

.....Respondent

**Appearances:**

For the Petitioner : Sri Macharla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/441/2001-IR(B.I) dated 4.4.2002 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 management of State Bank of India, Tirupathi Zone in dismissing services of Shri G. Nagamalleswara Rao, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No.233/2002 and notices were issued to both the workman and the management.

2. Petitioner has filed his claim statement and as per his claim he has worked continuously in the Respondent organization during the period from 1984 to 1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act and prayed to reinstate him with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

4. Perused the record. As per provision contained u/s.25F of the Act, the workman has to put in 240 days continuous service just preceding from the date of his termination in a 12 month of a calendar year. But, despite sufficient opportunity petitioner failed to adduce any oral or documentary evidence in support of his claim of 240 days of the service in a calendar year just preceding from the date of his termination. Therefore, the claim of the Petitioner is not substantiated by any oral or documentary evidence. Therefore, ‘No Claim’ award is passed. Transmit.

Award is passed. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 4<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 2 मार्च, 2026

**का.आ. 302.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट (275/2002) प्रकाशित करती है।

[सं. एल-12012/13/2002-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 302.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 275/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/13/2002- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 2<sup>nd</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 275/2002**

Between:

Sri Sirra Sabhash Raju,

C/o Sri China Vedulu,

Ourangabad (Village),

Kovvur (Taluka),

Kovvur (Post)

West Godavari Dist.

.....Petitioner/Union

AND

1. The Chief General manager,

State Bank of India,

Local Head Office,

Bank Street, Hyderabad 500 007.

2. The Dy. General Manager,

State Bank of India,

Zonal Office,

Vijayawada – 520 004.

.....Respondents

Appearances:

For the Petitioner : Sri Yogender Singh, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No.L-12012/13/2002- IR(B.I) dated 19.6.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

**SCHEDULE**

“Whether the action of the Management of State Bank of India in terminating the services of Sri Sirra Sabhash Raju, Ex-Messenger with effect from 31.3.1997 arbitrarily is justified? If not, what relief the concerned workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 275/2002 and notices were issued to the parties concerned.

2. Petitioner has filed his claim statement and as per his claim he has worked for more than 240 days in the Respondent organization during the period from 3.7.1987 to 31.8.1996 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act of law and prayed to reinstate him with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

4. Perused the record. As per provision contained u/s.25F of the Act, the workman has to put in 240 days continuous service just preceding from the date of his termination in a 12 month of a calendar year. But, despite sufficient opportunity petitioner failed to adduce any oral or documentary evidence in support of his claim of 240 days of the service in a calendar year just preceding from the date of his termination. Therefore, the claim of the Petitioner is not substantiated by any oral or documentary evidence. Therefore, ‘No Claim’ award is passed. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 2<sup>nd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 2 मार्च, 2026

**का.आ. 303.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय हैदराबाद के पंचाट (253/2002) प्रकाशित करती है।

[सं. एल-12012/392/2001-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 303.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 253/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/392/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 2<sup>nd</sup> day of February, 2026**INDUSTRIAL DISPUTE No. 253/2002**

Between:

Sri M. Vijaya Raju,

S/o Sri M. Vijaya Dathu,

Woddpet, D.No.36-1-4, Labbipet, P.O.,

Vijayawada Dist.-10.

.....Petitioner

AND

The Asst. General manager,

State Bank of India,

Zonal Office,

Vijayawada -520004.

.... Respondent

Appearances:

For the Petitioner : Sri Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No.L-12012/392/2001- IR(B.I) dated 9.5.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

**SCHEDULE**

“Whether the action of the Management of State Bank of India, Vijayawada Zone in dismissing services of Sri M. Vijaya Raju, Ex-Messenger is justified? If not, what relief the workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 253/2002 and notices were issued to the parties concerned.

2. Petitioner has filed his claim statement and as per his claim he has worked for more than 240 days in the Respondent organization during the period from 1983 to 1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act of law and prayed to reinstate him with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

4. Perused the record. As per provision contained u/s.25F of the Act, the workman has to put in 240 days continuous service just preceding from the date of his termination in a 12 month of a calendar year. But, despite sufficient opportunity petitioner failed to adduce any oral or documentary evidence in support of his claim of 240 days of the service in a calendar year just preceding from the date of his termination. Therefore, the claim of the Petitioner is not substantiated by any oral or documentary evidence. Therefore, ‘No Claim’ award is passed. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 2<sup>nd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 2 मार्च, 2026

**का.आ. 304**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट (254/2002) प्रकाशित करती है।

[सं. एल-12012/444/2001-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 304.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 254/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/444/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 3<sup>rd</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 254/2002**

Between:

Sri V. Naga Babu,

Keduru, Pamidimukkala.

Krishna Dist.-521185.

.....Petitioner/Union

AND

The Asst.General Manager,

State Bank of India,

Zonal Office, RG-II,

Vijayawada – 520 004.

.... Respondent

Appearances:

For the Petitioner : Sri K. Lakshman, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

### **AWARD**

The Government of India, Ministry of Labour by its order No.L-12012/444/2001- IR(B.I) dated 9.5.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

### **SCHEDULE**

“Whether the action of the Management of State Bank of India, Tirupathi Zone in dismissing services of Sri V. Naga Babu, Ex-Messenger is justified? If not, what relief the workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 254/2002 and notices were issued to the parties concerned.

2. Petitioner has filed his claim statement and as per his claim he has worked continuously in the Respondent organization during the period from 1978 to 1.1.1996 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act and prayed to reinstate him with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

#### **4. On the basis of pleadings either parties following issue raise for determination in this case:-**

I. Whether the action of Respondent in terminating services of the Petitioner Sri V. Naga Babu Ex-Messenger is justified?

II. To what relief the workman entitled?

#### **Findings:-**

##### **5. Issue No. I:-**

In support of claim Petitioner has examined himself as WW1 and in his chief examination affidavit Petitioner witness WW1 has reiterated the averment made in the claim statement and states that Respondent has terminated his services without payment of notice pay of one month and retrenchment compensation. Therefore, terminated by the Respondent has terminated his service in gross violation of section 25-F of the I.D Act. Whereas this witness WW1 was cross examined by the Respondent and in his cross-examination, witness has admitted that “it is true that I did not work for 240 days in any year in my entire service in the Bank in any branch”. Thus, in view of the statement of Petitioner witness it is established that Petitioner had not worked for 240 days continuously in any calendar year just preceding from the date of his termination. Thus, claim of the Petitioner is not found substantiated by the any oral or documentary evidence. Therefore, in view of the oral and documentary evidence produce by the Petitioner, the claim of the Petitioner that his services have been terminated by the Respondent orally with effect from 01.11.1996 in violation of provision contained under section 25-F of the I.D Act, is not proved and established. Therefore, in view of above the action of Respondent in terminating the services of the Petitioner is held justified.

Issue is decided against the Petitioner accordingly.

##### **6. Issue No. II: -**

In view of the finding given of at Issue No. I, the claim of Petitioner is not found proved by any evidence, hence Petitioner is not entitled for any relief. Claim statement of the Petitioner is liable to be dismissed.

### **AWARD**

The claim statement of the Petitioner is dismissed. The action of Respondent Management in terminating the services of the Petitioner from service is held justified. Reference is answered accordingly.

Award is passed. Transmit

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, 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, 2 मार्च, 2026

**का.आ. 305.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट (284/2002) प्रकाशित करती है।

[सं. एल-12012/77/2002-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 305.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 284/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/77/2002- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**  
Presiding Officer

Dated the 3<sup>rd</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 284/2002**

Between:

Sri I. Nagamalleswara Rao,  
C/o I. Suryanarayana Rao,  
Malakapatnam, D.No.30/288,  
Machuilipatnam.

AND

The Asst.General Manager,  
State Bank of India,  
Zonal Office, RG-II,  
Vijayawada – 520 004.

.... Respondent

Appearances:

For the Petitioner : Sri Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No.L-12012/77/2002- IR(B.I) dated 27.8.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

**SCHEDULE**

“Whether the action of the Management of State Bank of India, Vijayawada Zone in dismissing services of Sri I. NagamalleswaraRao, Ex-Messenger is justified? If not, what relief the workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 284/2002 and notices were issued to the parties concerned.

2. Petitioner has filed his claim statement and as per his claim he has worked continuously in the Respondent organization during the period from 1981 to 1996 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act and prayed to reinstate him with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

4. Perused the record. As per provision contained u/s.25F of the Act, the workman has to put in 240 days continuous service just preceding from the date of his termination in a 12 month of a calendar year. But, despite sufficient opportunity petitioner failed to adduce any oral or documentary evidence in support of his claim of 240 days of the service in a calendar year just preceding from the date of his termination. Therefore, the claim of the Petitioner is not substantiated by any oral or documentary evidence. Therefore, ‘No Claim’ award is passed. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, 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, 2 मार्च, 2026

**का.आ. 306.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय हैदराबाद के पंचाट (220/2001) प्रकाशित करती है।

[सं. एल-12012/124/2001-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 2nd March, 2026

**S.O. 306.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 220/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/124/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**  
Presiding Officer

Dated the 2<sup>nd</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 220/2001**

Between:

Smt. B. Savitri,

W/o Lalsingh,

H.No.7-1-632/106, Bapunagar,

S.R. Nagar, Hyderabad -500 385.

.....Petitioner

AND

The Asst. General Manager (Personnel & HRD Deptt.)

State Bank of India, Local Head Office,

Bank Street, Koti, Hyderabad -500 095.

.... Respondent

Appearances:

For the Petitioner : Sri Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No.L-12012/124/2001- IR(B.I) dated 18.9.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

**SCHEDULE**

“Whether the action of the Management of State Bank of India, Local Head Office, Hyderabad in terminating the services of B. Savitri, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified or not? If not, what relief the applicant is entitled?”

The reference is numbered in this Tribunal as I.D. No. 220/2001 and notices were issued to the parties concerned.

2. Despite of service of notice and sufficient opportunity Petitioner did not file any claim statement. It seems she do not want to prosecute her case. Therefore, in the absence of claim statement, ‘No Claim’ award is passed. Reference is answered accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 2<sup>nd</sup> day of February, 2026.

IRFAN QAMAR, 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, 5 मार्च, 2026

**का.आ. 307.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय नं. I, नई दिल्ली के पंचाट (आई डी नम्बर 278/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/03/2026 को प्राप्त हुआ था।

[सं. एल-20013/01/2026 -आई आर(सीएम- I)]

सलोनी, उप निदेशक/संबद्ध अधिकारी

New Delhi, the 5th March, 2026

**S.O. 307.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID No. 278/2018**) of the **Central Government Industrial Tribunal-cum-**

**Labour Court NO.I, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **03/03/2026**

[No. L-20013/01/2026 – IR (CM-I)]

SALONI, Dy. Director/Link office

**ANNEURE**

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI NO.1 NEW DELHI.**

**DID No. 278/2018**

Sh. Prem Pal S/o Sh. Mahar Chand,

R/o H.No.437, Ajad Nagar, Ward No.-1, Near Ravi Das Mandir, Ballabhgarh, Faridabad, Haryana-121004.

.....Workman

Versus

1. M/s Chairman & Managing Director, Food Corporation of India, 16-20 Barakhambha Lane, New Delhi-110001.
2. M/s Chauhan Association, Add-BE-4 Shashi Garden, Mayur Vihar, Phase-1, Delhi-110009.

.....Management

**AWARD**

1. This is an application Under Section 2A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 03.10.2017 by the management which he declare illegal and unjustified and he be reinstated with full back wages, it is the case of the applicant/workman that he has been working with the management. He has not been provided any legal facilities. He was illegally terminated from his service on 03.10.2017 without any rhyme or reason and without conducted any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Management No.2 did not file written statement. Hence, it was proceeded ex-parte. However, Management no.1 appeared and filed the rebuttal written statement. Thereafter, issues were framed. After that, the claimant as well as her AR stopped appearing in the tribunal to substantiate his claim.

3. Hence, in these circumstances when the claimant seems uninterested in pursuing the case and not been appearing for so long, this Tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby sent to the appropriate Government for notification under section 17 of the I.D. Act, 1947.

Date: 31.10.2025

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 5 मार्च, 2026

**का.आ. 308.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (23/2001) प्रकाशित करती है।

[सं. एल-20012/326/2000 -आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 308.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 23/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*

**Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.**

[No. L-20012/326/2000 – IR (B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 4<sup>th</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 23/2001**

Between:

Sri M. Rajesh

S/o M. Komaraiah,

H.No. 2-120/120/1/64,Zooper,

Xapar, Banjara Hills, Road No. 10,

Hyderabad.- 34.

... Petitioner

And

The Assistant General Manager,

(Personnel & HDR Deptt.)

State Bank of India,

Local Head Office, Bank Street, Koti,

Hyderabad.

.....Respondent

**Appearances:**

For the Petitioner : Sri K.R. Prabhakar, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/326/2000-IR(B.I) dated 19.04.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Local Head office Hyderabad in terminating the services of Sri M. Rajaiah Temporary/Non- Messenger, by way of oral orders w.e.f. 31.3.1997 is justified? If not, what relief the applicant is entitled?”

After receipt of the reference, it was numbered as ID No. 23/2001 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch

cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favor of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

*" 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

*9. In the result, these writ appeals are ordered;*

*(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;*

*(2) the further findings and directions issued through the impugned common order are vacated;*

*(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,*

*(4) the parties to make appearance before the Tribunal on the given date."*

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.2019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that the Workman joined in the service of the management institution as Messenger from 1979 to 1997 and has rendered unblemished service spreading over a period of about 18 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment.

Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid up to December 1991. Clause 10 of the settlement specifically provided that henceforth, “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there are minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit

would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1.1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the

Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a

genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door

entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W32. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to Ex. W9 are the School certificates. Further Ex.W10 is the Caste Certificate of the Petitioner. Ex.W11 is the employment card. Ex.W12 to Ex. W18 are the wage receipts. Ex.W19 is the Petitioner Appointment. Ex.W20 is the Appointment order. Ex. W21 is the Service Certificate. Ex. W22 is the letter from Respondent to Petitioner. Ex. W23 is the Service Certificate. Ex. W24 is the appear in the interview on 04.07.1989Ex. W25 is the Original certificates Ex. W26 is the Service certificate Ex. W27 is the Service certificate Ex. W28 is the Service Certificates. Ex. W29 is the is the Service Certificates Ex. W30 is the is the Service certificate. Ex. W31 is the Service Certificates. Ex. W32 is the Service Certificate. Ex.W33 and W34 are the instructions to employ persons issued by Respondent bank.

21. On the other hand, Respondent has examined witness MW1 Sri Aluru Rama Rao and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Local Head Office Hyderabad in terminating the services of Workman Sri M. Rajesh a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;

**Section 18(1) provides as follows:-**

18. Persons on whom settlements and awards are binding.

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management whereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

"We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997."

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, "Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed." Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

"4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes](#)

Act, with extensive powers cannot be disputed. What we mean to say is that the Authority under Section 41(1) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under Section 41(1) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon’ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under section 18 (1) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*“When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs.”*

Therefore, in view of the law laid down by the Hon’ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon’ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

27. **Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice;*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

#### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

#### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

*"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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 These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."*

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held *"the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment."* In *M.P. Electricity Board v. Hariram (2004 (8) SCC 246)* the position was again reiterated in paragraph 11 as follows: *"The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."*

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that** *"the initial burden of proof was on the Workman to show that he had completed 240 days of service."*

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour](#) Court, New Delhi and Anr., Chinnappa Reddy. J., after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

"I was not sponsored by any employment exchange. I did not undergo process of selection before my appointment as Sweeper.."

"It is not true to say that I never worked for 240 days ....."

Thus, it is clear from the testimony of WW1 that the Workman had worked for 240 days continuously in various branches but Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order

dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it

was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengers' vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengers' vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengers' staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federation's affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The

workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*“it is not true to say that I all the persons who were given regular appointment by the bank were seniors to me and they had worked for more no. of days than me.....*

*I am not having any documents to show that any of my juniors are continuing in the service.”*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have has laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article](#)*

*14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely lo be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastry award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*" 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state. "*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank.

Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement and absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri M. Rajesh Ex. Temporary/ Non- Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 4<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

|                            |                            |
|----------------------------|----------------------------|
| Witnesses examined for the | Witnesses examined for the |
| Petitioner                 | Respondent                 |
| WW1: Sri M. Rajesh         | MW1: Sri Aluru Rama Rao    |

### **Documents marked for the Petitioner**

Ex.W1 to Ex W9: Photocopy of are the School Certificate of the Petitioner

Ex.W10: Photocopy of Caste Certificate of the Petitioner

Ex.W11: Photocopy of Petitioner Appointment.

Ex.W12 to Ex. W18: Photocopies of the wage receipts.

Ex.W19: Photocopy of Appointment of Petitioner

Ex.W20: Photocopy of letter to appear in the interview on 04.07.1989

Ex.W21: Photocopy of Service certificates

Ex.W22: Photocopy of is the letter from Respondent to Petitioner

Ex.W23: Photocopy of Service Certificates

Ex.W24: Photocopy of appear in the interview on 04.07.1989

Ex.W25: Photocopy of Original certificates

Ex.W26: Photocopy of Service Certificates

Ex.W27: Photocopy of Service Certificates

Ex.W28: Photocopy of Service Certificates

Ex.W29: Photocopy of Service Certificates

|              |                                                        |
|--------------|--------------------------------------------------------|
| Ex.W30:      | Photocopy of Service Certificates                      |
| Ex.W31:      | Photocopy of Service Certificates                      |
| Ex.W32:      | Photocopy of Service Certificates                      |
| Ex.W33 & 34: | Photocopies of notifications issued by Respondent bank |

**Documents marked for the Respondent**

|         |                                                                                                             |
|---------|-------------------------------------------------------------------------------------------------------------|
| Ex.M1:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87   |
| Ex.M2:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88    |
| Ex.M3:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988 |
| Ex.M4:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991   |
| Ex.M5:  | Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995                |
| Ex.M6:  | Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996  |
| Ex.M7:  | Photocopy of Memorandum of understanding dt. 27.1.1997                                                      |
| Ex.M8:  | Photocopy of statements giving the particulars of 1989 messenger panel.                                     |
| Ex.M9:  | Photocopy of statement of 1989 Non-messenger panel                                                          |
| Ex.M10: | Photocopy of statement of 1992 panel                                                                        |
| Ex.M11: | Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98                                          |
| Ex.M12: | Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98                                              |

नई दिल्ली, 5 मार्च, 2026

**का.आ. 309.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (12/2001) प्रकाशित करती है।

[सं. एल-12012/287/2000-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 309.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/287/2000- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5<sup>th</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 12/2001**

Between:

Smt. G. Koteswaramma,

W/o Madhava Rao,

Setya Lanka, 1 ward,

Avanigadda (M) Krishna Dist..

... Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office,

RG-II, Labbipet,

Vijayawada – 520 004.

.....Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/287/2000-IR(B.I) dated 19.4.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing services of Smt. G. Koteswaramma, Ex-Messenger, by way of oral orders w.e.f. 31.3.1997 is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 12/2001 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon’ble High Court of Andhra Pradesh and Hon’ble High Court vide its’ judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon’ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon’ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon’ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for

*consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. *In the result, these writ appeals are ordered;*

*(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;*

*(2) the further findings and directions issued through the impugned common order are vacated:*

*(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,*

*(4) the parties to make appearance before the Tribunal on the given date.”*

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in her claim statement are that, the Workman joined in the service of the management institution as Messenger from 1987 to 1997, and has rendered unblemished service spreading over a period of about 10 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth. “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies

were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W6. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the notification. Further Ex.W2 is the interview call letter. Ex.W3 and Ex.W4 are service certificates. Ex.W5 is the circular. Ex.W6 is the another circular.

21. On the other hand, Respondent has examined witness MW1 Sri Rupakula Prakash Babu and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of

Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, ADB Anantapur branch in terminating the services of Workman Sri P. Narayanaswamy, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

*- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

*"We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997."*

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of

temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, "Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed." Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

"4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not."

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322, Hon'ble Supreme Court have held:-**

The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of 1st Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.

"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other induce- ments. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.

It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad.

*Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

**28.** On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

**Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

**Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

**In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that** "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, i.e. the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J.](#), after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies

upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in her cross examination has stated that,

*"I was not sponsored by any employment exchange. I did not undergo any regular selection process before my appointment as a temporary employee."*

*"I did not work for 240 days in any year in my entire service in the bank."*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish her plea by his oral and documentary evidence that she had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that she has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of her claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of her claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory

condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

**35. Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

**36.** On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengers' vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengers' vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengers' staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federation's affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

**37.** The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors, AIR 1997 SC 3091**, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in*

*respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied for appointment as Non-Messenger, in response to the advertisement issued by the bank as per the settlement entered between the bank and the union. .... Further, witness states, The panel was prepared basing upon the number of days of service put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel.... Further witness states, I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;

(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;

(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;

(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and

(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in

the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*“8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized.”*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*“7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review.”*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*“Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act.”*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*“ 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record*

*is satisfactory and his appointment does not run counter to the reservation policy of the state. ”*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Smt. G. Koteswaramma, Ex. Non-Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 5<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

| Witnesses examined for the<br>Petitioner | Witnesses examined for the<br>Respondent |
|------------------------------------------|------------------------------------------|
| WW1: Smt. G. Koteswaramma                | MW1: Sri Rupakula Prakash Babu           |

**Documents marked for the Petitioner**

Ex.W1: Photocopy of notification  
Ex.W2: Photocopy of interview call letter  
Ex.W3: Photocopy of service certificate  
Ex.W4: Photocopy of service certificate  
Ex.W5: Photocopy of circular  
Ex.W6: Photocopy of another circular

**Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87  
Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88  
Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988  
Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991  
Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995  
Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996  
Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997  
Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.  
Ex.M9: Photocopy of statement of 1989 Non-messenger panel  
Ex.M10: Photocopy of statement of 1992 panel  
Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98  
Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 5 मार्च, 2026

**का.आ. 310.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (44/2002) प्रकाशित करती है।

[सं. एल-12012/234/2000-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 310.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 44/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/234/2000- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad**Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 3<sup>rd</sup> day of February, 2026**INDUSTRIAL DISPUTE No. 44/2002**

[Old ID No.135/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri S. Aslam Basha,  
R/o 21/249-A, Old Town,  
Anantapur.

Ananthapur Dist. A.P.

... Petitioner

And

The Deputy General Manager,  
State Bank of India, Zonal Office,  
Renigunta Road, Tirupati A.P-517501.

.....Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/234/2000-IR(B.I) dated 29.09.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No.135/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Main Branch, Anantapur is justified in terminating Sri S. Aslam Basha, Messenger, from the services of the Bank? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 44/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial

*Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated:

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date.”

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Non Messenger from 1988 to 1997, and has rendered unblemished service spreading over a period of about 10 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth. “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management

so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The

same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the

Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W5. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the service certificate. Ex.W2 is the interview letter. Ex.W3 is the empanel list. Ex.W4 and Ex.W5 are the service certificates.

21. On the other hand, Respondent has examined witness MW1 Sri K. Bala Kotaiah and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Non Messenger Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Kallur branch in terminating the services of Workman Sri S. Aslam Basha, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

*- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon’ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322, Hon’ble Supreme Court have held:-**

The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the

company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.

*"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration."*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

**28.** On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;

(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002) (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004) (8) SCC 195**, held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004) (8) SCC 246 the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held** that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained. move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour](#) Court, New Delhi and Anr., Chinnappa Reddy. J., after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

*"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."*

*In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."*

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

*"I am not sponsored by any employment exchange. I did not undergo regular selection process required for regular appointment in the bank ."*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengersial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been

terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wagger for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of

panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied in response to the notification issued by the bank in response to the notification issued by the bank as per the settlement. .... Further witness states, I do not know that the temporary employees who were included in the panel were given regular appointment in the bank as per the settlements in order their seniority in number of days."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from

the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts

has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the*

requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act.”

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon’ble Supreme Court have held:-

“ 49. If for any reason an *ad hoc* or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state.”

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

**ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri S. Aslam Basha, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., transcribed by her, corrected and signed by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner

WW1: Sri S. Aslam Basha

Witnesses examined for the  
Respondent

MW1: Sri K. Bala Kotaiah

**Documents marked for the Petitioner**

Ex.W1: Photocopy of Service certificate

Ex.W2: Photocopy of interview letter

Ex. W3: Photocopy of empanelled list

Ex. W4: Photocopy of Service certificate

Ex. W5: Photocopy of Service certificate

**Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 5 मार्च, 2026

**का.आ. 311.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (29/2003) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई आर(बी- I)-60]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 311.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 29/2003) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2026- IR(B-I)-60]

SALONI, Dy. Director

**ANNEXURE**  
**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT**  
**HYDERABAD**

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 3<sup>rd</sup> day of February, 2026

**INDUSTRIAL DISPUTE L.C.No.29/2003**

[Old ID No.271/1999 of Industrial Tribunal cum Labour Court, Guntur]

Between:

Sri Munnangi Yohoshuva,  
S/o Ramaswamy,  
Kattakinda Palem,  
Addanki.

... Petitioner

And

1. The Chairman,  
The State Bank of India,  
Central Office,  
Mumbai.
2. The Chief General Manager(Personnel),  
State Bank of India, Head Office,  
Hyderabad.
3. The Branch Manager,  
State Bank of India A.D.B.,  
Addanki Branch.
4. Regional Manager,  
State Bank of India, Zonal office,  
Tirupathi.

.....Respondents

**Appearances:**

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

Sri Munnangi Yohoshuva who worked as Messenger (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 State Bank of India seeking for reinstatement into service as Messenger/Sweeper 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. Earlier Petitioner has filed this dispute before the Industrial Tribunal cum Labour Court, Guntur] for adjudication and later the same has been transferred to this Tribunal bearing ID No.271/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No.29/2003.

2. Earlier this industrial dispute was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been

occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) *affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;*
- (2) *The further findings and directions issued through the impugned common order are vacated;*
- (3) *all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,*
- (4) *the parties to make appearance before the Tribunal on the given date.”*

**Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger and has rendered unblemished service. The Respondent has terminated services of Workman by oral orders with effect from 31.7.98. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth. “there will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the

panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of

temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities wanted to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated

27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers

denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements

cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W4. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the interview call letter. Further Ex.W2 is the caste certificate. Ex.W3 is the service certificate. Ex.W4 is the transfer certificate.

21. On the other hand, Respondent has examined witness MW1 Sri I.S. Appa Rao and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Addanki ADB branch in terminating the services of Workman Sri M. Yohoshuva, a Messenger is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-** Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been

issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon’ble Court have held:-**

“4. There was a settlement between the Management and the workmen under Section 18(1) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under Section 18(1) of the Industrial Disputes Act. There is no dispute that these settlements are under Section 18(1).

14. Now the Authority constituted under Section 41(1) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of Section 40 of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under Section 18(1) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under Section 18 of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the Industrial Disputes Act, with extensive powers cannot be disputed. What we mean to say is that the Authority under Section 41(1) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under Section 41(1) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322, Hon’ble Supreme Court have held:-**

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under section 18 (1) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*"When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs."*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

27. **Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

### **Section 25B defines the term continuous service which provides**

Definition of continuous service.- For the purposes of this Chapter,--

(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;

(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held** that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in *Surendra*

Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J., after noticing the amendment and referring to the decision in Sur Enamel and Stamping Works (P) Ltd case, held as under:

*"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."*

*In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."*

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

*"I was not sponsored by any employment exchange. ....*

*"It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."*

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank

that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I made an application in response to the advertisement issued by the bank as per the settlement.... Further, witness states, The panels were prepared basing upon the number of days of service of the temporary employees. The temporary employees from the panel were given regular appointment in order of their seniority.... Further witness states, I am not having any evidence to show that any of my juniors are continuing in the service."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself

admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*“(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in Article 14 of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under Section 2(ra) read with Item 10 of the Vth Schedule of the ID Act, the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any

evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in Articles 14 and 16 of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Article 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a*

*permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

*" 49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state."*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Munnangi Yohoshuva, Ex. Messenger by way of oral orders w.e.f. 31.12.1986 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Sri Munnangi Yohoshuva

MW1: Sri I.S. Appa Rao

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of interview call letter News paper advertisement/ notification

Ex.W2: Photocopy of caste certificate

Ex.W3: Photocopy of Service certificate

Ex.W4: Photocopy of transfer certificate

### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non-messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 5 मार्च, 2026

**का.आ. 312.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (63/2001) प्रकाशित करती है।

[सं. एल-12012/499/2000-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 63/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.**

[No. L-12012/499/2000- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 2<sup>nd</sup> day of February, 2026

**INDUSTRIAL DISPUTE No. 63/2001**

Between:

Sri Kona Yesu,

S/o Govindu,

Koduru Mandal,

Krishna Dist – 521124.

... Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi.

.....Respondent

#### Appearances:

For the Petitioner : Sri B. Suman, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

#### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/499/2000-IR(B.I) dated 26.6.2001 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 management of State Bank of India, Vijayawada zone in dismissing the services of Sri Kona Yesu, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 63/2001 and notices were issued to both the Workman and

the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

*“ 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date.”

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated 20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the Workman joined in the service of the management institution as Messenger from 1987 to 1996, and has rendered unblemished service spreading over a period of about 9 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid upto December, 1991. Clause 10 of the settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the bank". The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May, 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, ie. Settlement No.1, the selected panel was to be valid upto December, 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, "to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, "will be given another chance to appear for interview".

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there is minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P.. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March, 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid upto December, 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the

employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attendars/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted inspite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees where in they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the

Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to the all similarly situated candidates like the Workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a

genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive upto March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise upto 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were effected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door

entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W6. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the notification. Further Ex.W2 is the panel list. Ex.W3 and W4 are the service certificates. Ex.W5 is the circular dt.8.4.1999. Ex.W6 is the circular dt.14.7.99.

21. On the other hand, Respondent has examined witness MW1 Sri Rupakula Prakash Babu and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Vijayawada zone in terminating the services of Workman Sri Kona Yesu, a Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent management as per averments made by him in the claim statement?
- IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-**Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

*(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;*

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while

*deciding whether retirement as per the contract of employment, is legal or not. ”*

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon'ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*“When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs.”*

Therefore, in view of the law laid down by the Hon'ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

**27. Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

**Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

**Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

**In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

*"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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 These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."*

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** held *"the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment."* In *M.P. Electricity Board v. Hariram (2004 (8) SCC 246)* the position was again reiterated in paragraph 11 as follows: *"The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."*

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that** *"the initial burden of proof was on the Workman to show that he had completed 240 days of service."*

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** *"Clause (2)(a) provides for a fiction*

to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, i.e. the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour Court, New Delhi and Anr., Chinnappa Reddy. J.](#), after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

"I was not sponsored by any employment exchange. I did not undergo regular process of selection before my appointment in the branch.."

"t I did not work for 240 days in any year in my entire service in the bank."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there

was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/ temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily

wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The

workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied in response to the advertisement issued by the bank as per the settlement.... Further, witness states, The panels were prepared basing upon the number of days of service put in by the temporary employees Some of the temporary employees whose names were included in the panel were given regular appointment in the in the order of their seniority in the panel.... Further witness states, I am not having any document to show that any of my juniors are continuing in service."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have has laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*"(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of*

Article 14; and

(v) In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held:-

“7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely lo be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review.”

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

“Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastry award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act.”

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held:-

“ 49. If for any reason an *ad hoc* or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state.”

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary

service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement and absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No.IV:-** In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Kona Yesu, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt.K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 5<sup>th</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Sri Kona Yesu

MW1: Sri Rupakula Prakash Babu

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of News paper advertisement/ notification

Ex.W2: Photocopy of Panel list

Ex.W3: Photocopy of service certificate

Ex.W4: Photocopy of service certificate

Ex.W5: Photocopy of circular dt.8.4.1999

Ex.W6: Photocopy of circular dt.14.7.99

### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

- Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
- Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
- Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997
- Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.
- Ex.M9: Photocopy of statement of 1989 Non-messenger panel
- Ex.M10: Photocopy of statement of 1992 panel
- Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
- Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 5 मार्च, 2026

**का.आ. 313.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (201/2001) प्रकाशित करती है।

[सं. एल-12012/37/2001-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 5th March, 2026

**S.O. 313.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 201/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/37/2001- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 3<sup>rd</sup> day of February 2026

#### INDUSTRIAL DISPUTE No. 201/2001

Between:

Sri N. Pushpa,  
S/o N. Sree Ramulu,  
R/o. H. No. 5-1-166/3,  
Jambagh, Poosalabasti,  
Hyderabad-500 004.

... Petitioner

And

The Assistant General Manager,  
(Personnel & HDR Deptt.)  
State Bank of India,  
Local Head Office, Bank Street, Koti,  
Hyderabad.

.....Respondent

Appearances:

For the Petitioner : M/s. V. Mallik, K. Shankar Rao, M. Madhusudhan & Galaiah Velugu, Advocates

For the Respondent: Sri Ratang Phani Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/37/2001-IR (B.I) dated 6.09.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Local Head office Hyderabad in terminating the services of Smt N. Pushpa Temporary Non-Messenger, SBI, w.e.f. 31.3.1997 is justified? If not, what relief the applicant is entitled?”

After receipt of the reference, it was numbered as ID No. 201/2001 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favor of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of I.D cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below: -

*“7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial Respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal, the proper course to be adopted was to remit all the cases to the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.*

9. In the result, these writ appeals are ordered;

(1) affirming the impugned common order of the learned single Judge to the extent it sets aside the common award dated 17.05.2005 of the Industrial Tribunal;

(2) the further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five (5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date.”

Thus, in view of the above direction of Hon'ble High Court of Andhra Pradesh in W.A.No.1268 of 2014 and batch cases. This Tribunal has taken up the matter of industrial dispute for hearing and deciding it afresh in view of the aforesaid guidelines laid down by the Hon'ble High Court in Writ Appeal No.1268/2014 vide judgement dated

20.3.019.

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that the Workman joined in the service of the management institution as Sweeper from 1985 to 1997 and has rendered unblemished service spreading over a period of about 12 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait-listing them by offering permanent appointment or waitlisting till such opportunity arises.

4. That on 17.11.1987 a settlement was reached between All India State Bank of India Staff Federation and the Management of State Bank of India - settlement one, under this settlement three categories of employees were listed. That is, A) those who have completed 240 days in 12 months or less after 1.7.1975. B) those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975. C) (i) those who have completed minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or (ii) 70 days aggregate temporary service in continuous block of 36 months after 1.7.1975.

5. The persons who satisfied in all the above 4 categories were to be interviewed by a selection committee and the said selection committee would determine the suitability of the said candidate for permanent appointment. Therefore, the bank prescribed certain qualifications and from among the candidates satisfying the qualifications the suitable candidates were enlisted by a selection committee. The Clause 7 of the said agreement provided with the selected candidate would be wait listed in order of their respective categorization and the selected panel would be valid up to December 1991. Clause 10 of the settlement specifically provided that henceforth, “There will be no temporary appointments in the subordinate cadre”, except on a restrictive basis in the specified category, “from amongst empanelled candidates as per existing guidelines of the bank”. The Workman further submits that consequent upon the said agreement and the draft, a notification was issued in the newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A selected panel was prepared, as per Clause 7 of the agreement, i.e. Settlement No.1, the selected panel was to be valid up to December 1991, the Workman submits that circular was issued on 26.4.91 by the said letter it is mentioned that the terms of the agreement dated 17.11.87 was modified vide second agreement dated 16.7.88 was entered into between the parties. In terms of the said agreement a chance was to be given, “to all eligible temporary employees for permanent appointments. The appointments were against the vacancies likely to arise during the years 1995-96, circular made it clear that in view of the enormity of the problem an extension of the currency of the panel, eligible temporary employees who have been empanelled could not appear in the earlier interviews and have been pursuing their cases thereafter, “will be given another chance to appear for interview”.

6. Workman submits that there was total five settlements. The settlement dated 17.11.87 is the 1<sup>st</sup> settlement (Ex M1), settlement dated 16.7.88 is 2<sup>nd</sup> settlement (Ex M2), settlement dated 27.10.88 is the 3<sup>rd</sup> settlement (Ex M3), then settlement dated 9.1.91 is 4<sup>th</sup> settlement and settlement dated 30.7.96 is 5<sup>th</sup> settlement (Ex M6). In between there are minutes of conciliation proceedings dated 9.6.95 marked as Ex M5. That due to all these settlements which were extended by subsequent settlements thereby created reasonable expectations in the list of the selected candidates arose with that it's a question of time their appointments or services would be regularized in the services of the bank. The Workman was working with the bank on temporary basis was under the bonafide hope that sooner his services will be regularized with the bank. He is thereby closed all his options elsewhere. It is needless to point out that employing person to whom hope of employment in substantial terms was made is a facet of Article 21 of the Constitution of India.

7. Further Workman submits that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. Under said circular the chief Executives of all public sector banks including the Management herein were specifically instructed that until the problem of existing temporary employees is fully resolved, no bank is permitted to make any permanent appointments. That some of the persons similarly situated like this Workman aggrieved by the inaction on the part of the management of the bank is not regularizing their services from out of the selected panel and not clearly focusing the vacancy position, filed W.P. No. 4194/97 before Hon'ble High court of A.P. It is specifically averred in the said writ petition that the Management of the bank had failed to implement the settlement and that it violates the various fundamental rights guaranteed under the constitution of India. The Hon'ble High court of A.P. by order dated 5.3.97 directed the bank to implement the settlement as amended from time to time. It also directed the bank to carry out the terms of settlement before the expiry of March 1997. The Hon'ble High Court also recorded finding that the Bank cannot escape its liability of enforcement of the Settlement. In view of the directions given by the High Court all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.87 under which the panel was valid up to December 1991, and on the basis of a settlement dated 27.10.1988 whereby the panels were made alive up to 31.3.1997 under which the panel was valid up to December, 1999. The other agreement dated 16.7.1988 under which the panel was valid up to 1992 and on the basis of the settlement dated 27.10.1998 whereby the panels were made alive up to 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the aforesaid directions given by the High Court and contrary to the settlements entered into between the parties, the bank issued proceedings dated 25.3.1997, dated 27.3.1997 and

31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the bank from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

8. Further, Workman submits that in the counter affidavit filed in Writ Petition No.9206/97, the bank has submitted that it has about 805 branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent or need or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the bank either on the ground of urgent need or of temporary employees is a façade to perpetuate unfair labour practice. It is designed to on the one hand, keep the employed in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the bank. A reading of the counter affidavit would show that the bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice.

9. The Workman submits that the bank had referred in its counter affidavit to three settlements dated 17.11.87, 16.7.88 and 27.10.88. The bank in the guise of extending the benefits of the circular of Government dated 16.8.90 stated in its counter affidavit that as follows:

"Government of India, vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive Months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired, they could enter into a conciliation settlement with the representative union. Para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1 1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the bank by way of further concession entered into settlements Even in respect of those who had put in less than 90 days. As such, it could be Seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6(c) that the banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The Respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the Respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para 6(k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement. This would mean that the Government of India guidelines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the Respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

10. The Workman submits that the bank also referred a subsequent settlement dated 9.1.1991 wherein there is a clause to the effect- that the panel of temporary employees and the panel of daily wage employees will be operated to a particular period. Therefore, their cases will not be considered. The Management herein relying upon this settlement in their impugned action. It is submitted that even the settlement dated 9.1.1991 will not empower the management to terminate the services of the temporary employees who are working in the bank services like the Workman herein as it does not specify the termination of the employees. In fact, there are so many vacancies wherein the Management has engaged several new persons as temporary messengers/ attenders/ sweepers etc., even after the judgment of Hon'ble High Court without considering the cases of the similarly situated candidates like the Workman herein. It is submitted in spite of engaging fresh candidates as is now being done by the Management they would have continued the similarly situated candidates like the Workman herein in the services of the bank and consider their cases for

absorption in view of the circulars issued by Central Government as well as the directions of this Hon'ble Court in Writ Petition No.4194/97, dated 5.3.97. In view of the circulars issued by the Central Government, the Management should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

11. The Workman submits that in W.P. No.4194/97 filed by the union of temporary employees wherein they have complained about the non- implementation of the settlements arrived between the parties and sought for absorption. Such employees in the bank services on permanent basis before the date fixed for carrying out the terms of settlement, the Court held that the members of the union had been empanelled in the list, they were not regularized and the time was going to run out to the near future and the Respondent bank and its officers cannot escape from the liability of enforcing the settlement which has been reached and therefore directed that the bank and the officers shall implement the settlement dated 17.11.87 as amended from time to time before the expiry of 31.3.97.

12. Further, it is submitted that in the clause of Settlement it is specifically mentioned that the workmen to be absorbed/appointed in the bank prohibiting any temporary appointments subsequent to the date of settlement even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the Workman and that should be continued till they are absorbed. The management committed unfair labour practices and terminated the services of the candidates with effect from 1.4.1997 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

13. The Workman submits that it is strange as to how the panels were allowed to lapse by a so-called Memorandum of Understanding dated 25.2.1997, that the action of terminating such employees like the Workman by virtue of an impugned oral proceedings without implementing the settlement would be illegal and unfair labour practice which cannot be allowed to be perpetuated. That the discontinuance of the Workman after 31.3.97 who had served in the bank in any capacity amounts to retrenchment. It could not have been done without any notice and it violates Sec.25FF of the Industrial Disputes Act, 1947 and the said action is violative of principles of natural justice guaranteed under Chapter III of the Constitution of India. This amounts to retrenchment without one month's notice and taken in view of such notice. Thus, the main proceedings issued by the Respondent is without jurisdiction and is arbitrary, illegal and therefore liable to be quashed. That the alleged Memorandum of Understanding dated 27.2.97, Ex.M5 does not own any legal entity, as the said Memorandum of Understanding is not published anywhere to brought to the notice of the Workman whose rights are being affected. It is submitted that Management did not adhere to the procedure envisaged by the Central Government in its' instructions dated 16.8.90 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment exchange instead of giving chance to the empanelled candidates like the Workman here. It is pertinent to mention here that the Respondent Management sent letters to all similarly situated candidates like the Workman in the month of June 1997, subsequent to the passing of impugned termination orders. After knowing the facts that the candidates are litigating, the Management refused to engage these candidates. It is once again reiterated that the panels are meant for absorption but not for termination. It was the duty of the Management to engage the empanelled candidates like the Workman even in temporary vacancies till they are absorbed permanently in regular vacancies. Hence, the action of the Respondent Management terminating the services of the Workman by oral order dated 31.3.97 is unjust, illegal, violative of principles of natural justice and hence, the Management be directed to reinstate and absorb the Workman and to grant all incidental and consequential benefits.

14. Per contra, Respondent had filed counter and made a contention that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff like messengers, sweepers, sweeper cum water boys, etc., depending on the availability of work on purely temporary basis for the smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments.

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992

in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3<sup>rd</sup> settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended up to 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

16. It is submitted that the administrative set up of the Hyderabad Local Head Office comprises of four Zonal Offices (Zones) at Hyderabad, Vijayawada, Visakhapatnam and Tirupathi covering all the Districts of Andhra Pradesh. In terms of the settlement the Management after following the procedure laid down therein prepared the panels of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during the stipulated period i.e., 1.7.1975 to 31.7.1988. That the Federation approached the Regional Labour Commissioner(C) for implementation of bi-partite settlement in respect of absorption of temporary employees. The Regional Labour Commissioner(C) conducted conciliation proceedings and an agreement was arrived between the Federation and the bank. It was agreed that it would be kept alive up to March, 1997. A copy of the conciliation proceedings dated 9.2.1995 signed by the parties is filed as material paper. A settlement was arrived at, and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Sec.2 (p) read with Sec.18(1) of the Industrial Disputes (Central) Rules, 1957, which is hereinafter called as 5<sup>th</sup> settlement. That on 27.2.1997 a Memorandum of understanding was also signed by the federation's affiliate and the bank Management recording the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by Central Office and thereby 403 messengerial vacancies were sanctioned. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached accordingly. It was agreed between the Federation's affiliate and the Management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers/casual employees would lapse on 31.3.1997. That as agreed upon vacancies were filled from the panels. The Workman who has put in an aggregate temporary service of less than 240 days in a continuous block of 12 months period during 1.7.1975 to 31.7.1988 has no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlement entered into thereon.

17. Respondent contended that, in fact, the case of the Workman can be considered under all the five settlements having got his case considered under provisions of these settlements. All the other provisions and terms of the settlements are also binding on him/her. The Management bank has not violated any of the provisions of the terms of the said settlement. That the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. These settlements were time bound, and they ceased to exist on 31.3.1997. That the bank has never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates will be considered for absorption in the vacancies that may arise up to 1992. Keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the Management bank. That the settlements are binding on the parties. The Workman is also bound under the terms of the said settlement. The settlement does not suffer from any ambiguity as their language is very clear. The right under the settlements is to give them a chance to be considered for future appointment in the bank's services against the vacancies likely to arise. The settlements were affected to balance the expectations of the temporary employees to be absorbed in permanent service as against the constitutional rights for all eligible persons to be considered for employment every time a vacancy arises. That the alleged dispute including the demand for reinstatement has to be

decided in this context. It is submitted that the period of panel list got expired on 31.3.97 and it is an integral term of the settlement and cannot be modified in any proceedings under the law. These temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All-India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full-time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favor of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

18. Further, it is contended that if the panels were not lapsed at the end of designated period and allowed to be continued it would result in making the contracts of temporary employment indirectly permanent through back door entry, which would not only be contrary to the settlements but also to Articles 14 and 16 of Constitution of India and deprive the chances of original claimants who would Come through proper recruitment procedure. As their rights have been crystallized by operation of the settlements. Hence, there is no question of any Legitimate expectation being violated.

19. Similarly placed ex-employees filed WP No.9206/1995 and the batch before the Hon'ble High Court of A.P. and the learned Single Judge allowed the Writ Petitions. Aggrieved by the same WA No.86/98 and the batch was filed and the Division Bench set aside the order of the Single Judge. Thereafter the ex-temporary employees filed Special Leave Petition No.11886-11888 of 1998 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the SLP. Therefore, reference to the Judgement of the Learned Single Judge in WP No.9206/97 is of no consequences as the same has already been set aside. The observations made in the Judgements cannot be relied upon for any purpose what so ever. The question of operation of Sec.25F would not come into play. Further the issue is covered by various Judgements of Hon'ble Supreme Court of India and various Hon'ble High Courts. Hence, the reference may be ordered that the Workman is not entitled for any relief.

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex. W1 to W11. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under: -

Ex. W1 is the service certificate. Further Ex. W2 is the notification. Ex. W3 is the interview call letter. Ex. W4 is the panel list. Ex.W5 to W9 are the Service Certificates. Ex.W10 is the notification of vacancies issued by Respondent bank. Ex.W11 is the circular issued by bank.

21. On the other hand, Respondent has examined witness MW1 Sri Aluru Rama Rao and this witness has exhibited 12 documents, marked as Ex.M1 to M12. The details of these documents are as follows:-

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

22. Apart from afore mentioned documents, Learned Counsel for Workman has also filed a long list of various judgements of Hon'ble Supreme Court as well as Hon'ble High Court, which we will discuss at appropriate place in this Award.

23. Heard the argument of Learned Counsel for Workman as well as for Respondent.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for both the parties, following points arise for determination in the industrial dispute :-

- I. Whether the 1<sup>st</sup> settlement dated 17.11.1987, 2<sup>nd</sup> settlement dated 16.7.1988, 3<sup>rd</sup> settlement dated 27.10.1988, 4<sup>th</sup> settlement dated 9.1.1991 and 5<sup>th</sup> settlement dated 30.7.1996 entered into between State Bank of India and All India State Bank of India Staff Federation and also Memorandum of Understanding are binding upon both the parties?
- II. Whether the action of State Bank of India, Basheerbagh branch in Hyderabad terminating the services of Workman Smt. N. Pushpaa Messenger with effect from 31.3.1997 is justified?
- III. Whether the Workman is entitled for absorption on permanent post in the Branch of Respondent

management as per averments made by him in the claim statement?

IV. To what relief if any the Workman is entitled for?

#### **Findings:-**

25. **Point No.I:-**Undisputedly settlements dated 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996, minutes of conciliation proceedings and memorandum of understanding dated 27.2.1997 were executed between the State Bank of India and All India State Bank of India Staff Federation under section 2(p) and 18 (1) of I.D. Act, 1947 read with Rule 58 of Industrial Disputes (Central Rules), 1957.

**Section 2(p) of the Industrial Disputes Act, 1947** as follows:-

(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer;

**Section 18(1) provides as follows:-**

*18. Persons on whom settlements and awards are binding.*

- [(1) A settlement arrived at by agreement between the employer and Workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Therefore, in view of the provision contained u/s.18 (1) I.D. Act, 1947, terms and conditions enumerated in the aforesaid settlements are binding on the parties to the agreement. The Learned Counsel for Workman has argued that the Workman after going through the selection procedure has successfully been listed in the panel for appointment on the permanent basis in the Respondent management and the empanelled list has to be valid till last person in the empanelled list is appointed on permanent basis. But the impugned order dated 25.3.97, 27.3.97 and 31.3.97, has been issued by Respondent management thereby the services of the Workman has been terminated and the said order is not in consonance of the terms of the agreement entered into between the parties. Further, Workman submits that the Respondent in the 5<sup>th</sup> settlement has mentioned the date i.e., 31.3.1997 for lapse of empanel list which is illegal and that is not binding upon the Workman. The condition of lapse of empanelment list on 31.3.97 incorporated in the aforesaid 5<sup>th</sup> settlement, is arbitrary and illegal.

26. The perusal of the impugned order dated 25.3.1997 goes to reveal that the Chief/Branch Manager, SBI Zonal Office has issued the letter to all the branches with regard to the subject not to make any temporary appointments in the Branch in messengerial category from 1.4.1997. The extract of the said letter is given below:-

“We have been advised by the Deputy General Manager, Zonal Office, Hyderabad that as both the panels of temporary employees of 1989 and daily wagers/casual labours of 1992 will lapse by 31.3.1997, it has been decided by Central Office not to make any temporary appointments in messengerial category from 1.4.1997.”

Thus, from the contents of the aforesaid letter, it manifest that Head Office of State Bank of India vide letter dated 25.3.1997 has issued direction to all its branches not to make any temporary appointments in messengerial category from 1.4.1997 due to reason of lapse of both panels i.e., 1989 & 1992 on 31.3.1997 as per terms of settlements entered into by both parties. Further, the contents of the subsequent letter dated 27.3.1997 issued by Respondent Management is also direction to Branch Manager, State Bank of India not to make any temporary messengerial category appointment with effect from 1.4.1997 and it has also been communicated to all concerned that the panels of temporary employees and daily wagers maintained by Zonal offices stand lapsed from 31.1.1997. Further, office order dated 31.3.1997 has been issued by Respondent management that goes to reveal that the said office order has been issued to this effect that, “Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that no one onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed.” Therefore, it reflects from the contents of the aforesaid orders that the temporary appointment in messengerial category and daily labour has been stopped by the Respondent management with effect from 1.4.1997 because of the lapsed of panel of temporary workers and daily wagers by 31.3.1997. The agreement for lapse of both the panels on 31.3.1997 is contained in the 5<sup>th</sup> settlement which has been arrived at between the parties on dated 30.7.1996 with the consensus of both the parties. Therefore, Workman can not challenge the terms and conditions contained in settlement dated 30.7.1996 regarding lapse of panel on 31.3.1997 as agreed between State Bank of India and State Bank of India Staff Federation. As per provision contained u/s.18(1) of I.D. Act, 1947 the said Agreement dated 30.7.1996 is binding on both the parties.

In the case of **Allied Sales Corporation Secunderabad vs. The Authority Under Andhra Pradesh..... 1990 II LLJ 510 AP para 414, Hon'ble Court have held:-**

“4. There was a settlement between the Management and the workmen under [Section 18\(1\)](#) of the Industrial Disputes Act on 25th April 1983 under which the age of superannuation of the workmen was fixed at 55 years. The settlement was to be in force upto 30th June 1986 and the next settlement, incorporating practically the same terms, was again

entered into on 4th February 1987 under [Section 18\(1\)](#) of the Industrial Disputes Act. There is no dispute that these settlements are under [Section 18\(1\)](#).

14. Now the Authority constituted under [Section 41\(1\)](#) of the Act is an authority with very limited jurisdiction. It can only decide in the first appeal whether a termination by the management is valid or not and is within the parameters of [Section 40](#) of the Act. The said Authority, in our view, has absolutely no jurisdiction to decide whether a settlement entered into under [Section 18\(1\)](#) of the Industrial Disputes Act between the representatives of the Workmen and of the Management, is vitiated by undue influence or misrepresentation or coercion on the part of the Management. The Authority, namely, the Assistant Commissioner of Labour, was never intended by the A.P. Legislature to have jurisdiction to go into the question of the validity of a settlement arrived at under [Section 18](#) of the Industrial Disputes Act by an Industrial Court. That Parliament has, in fact, constituted Industrial Courts under the [Industrial Disputes Act](#), with extensive powers cannot be disputed. What we mean to say is that the Authority under [Section 41\(1\)](#) of the A.P. Act has no jurisdiction what-so-ever either to question or to decide about the validity of any such settlements. If parties to a settlement have a grievance about the validity of a settlement, it is for them to agitate the matter before the appropriate forum and they cannot ask an Authority constituted under [Section 41\(1\)](#) of the A.P. Shops and Establishments Act, 1966 with limited jurisdiction, to go into any such question and, that too, incidentally while deciding whether retirement as per the contract of employment, is legal or not.”

It is not the case of Workman that aforesaid settlements are vitiated by undue influence or misrepresentation or coercion on the part of the management. If the Workman feeling aggrieved by any terms of settlement/ agreement on the aforementioned grounds then he can challenge of settlement before a competent authority under the Act, 1947. But here in the instant matter it is not a case of Workman that aforementioned settlement has been entered into between the parties on the ground of undue influence or misrepresentation or coercion. Therefore, Workman is barred to raise any objection in respect of fixing the date of lapse of both panels on 31.3.1997 as agreed between both the parties and Workman can not challenge any terms of said Agreement.

Further in the case of **Herbertsons Limited Vs. Workmen of Herbertsons Limited and Ors, 1977 AIR 322**, Hon’ble Supreme Court have held:-

*The Tribunal thought that the question of the quantum of membership of the 2nd Respondent did not call for a finding at all in view of this Court's order. As observed above that was not a correct assumption. On the other hand, we feel that this view of the Tribunal has led it to approach the matter in an entirely erroneous manner. The Tribunal is, rightly enough, conscious that under [section 18 \(1\)](#) of the Industrial Disputes Act the settlement was binding on the company and the members of the 3rd Respondent union. Even so, the Tribunal devoted nearly half of its order in scanning the evidence given by the company and Respondent No. 3 to find out whether the terms of the settlement had been explained by the President of the union to the workmen or not and whether the workers voluntarily accepted the settlement knowing all the "consequences". This to our mind is again an entirely wrong approach.*

*“When a recognised union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of mala fides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd Respondent in this case. That being the position, prima facie, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration.*

*It is not possible to scan the settlement in bits and pieces and hold some parts good and acceptable and others bad. Unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantages gained the Court will be slow to hold a settlement as unfair and unjust. The settlement has to be accepted or rejected as a whole and we are unable to reject it as a whole as unfair or unjust. Even before this Court the 3rd Respondent representing admittedly the large majority of the workmen has stood by this settlement and that is a strong factor which it is difficult to ignore. As stated elsewhere in the judgment, we cannot also be oblivious of the fact that all workmen of the company have accepted the settlement. Besides, the period of settlement has since expired and we are informed that the employer and the 3rd Respondent are negotiating another settlement with further improvements. These factors, apart from what has been stated above, and the need for industrial peace and harmony when a union backed by a large majority of workmen has accepted a settlement in the course of collective bargaining have impelled us not to interfere with this settlement. That being the position, we uphold the settlement as fair and just and order that the award of the Tribunal shall be substituted by the settlement dated October 18, 1973. The said settlement shall be the substituted award. The appeal is disposed of accordingly. There will be no order as to costs.”*

Therefore, in view of the law laid down by the Hon’ble Apex Court as discussed above, the contention of the Workman that the date fixed for lapse of empanelled list on 31.3.1997 for appointment to the permanent post vide 5<sup>th</sup> Settlement dated 30.7.1996 is arbitrary, illegal is not untenable. The recognized union of Workmen has negotiated with the Respondent Bank Management representing large number of Workmen and the Workman as individual do not come into picture. Workman in the instant case has work as temporary Workmen in the Respondent Branch and in response of Notification he had applied for inclusion of his name in the panel and he was selected for inclusion

his name in the panel list to be utilized for absorption of such Workman to permanent post in order of their seniority in the list. The Settlement dated 30.7.1996 between State Bank of India and All India State Bank of India Staff Federation under Sec.2(p) and Sec.18(1) of I.D. Act, 1947 has clearly provided as regard non-messengerial position and it is agreed that all such posts sanctioned fallen vacant upto 31.3.1997 shall be filled before empanel list is allowed to lapse. Thus, in view of law laid down by the Hon'ble Apex Court, in the instant case, Agreement dated 30.7.1996 was entered into between both the parties in respect of lapsing of the both the panels on 31.3.1997 and absorption of the Workmen from panel list was subject to availability of vacancy of post likely to arise upto 31.3.1997, have a binding force on Workman as well as management of State Bank of India in view of provision contained under section 18 (1) of I.D. Act, 1947.

Thus, Point No.I is answered against the Workman and in favour of the Respondent.

27. **Point No.II:-** Firstly, it is submitted on behalf of the Workman that the Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof. Therefore, the termination order of the Workman from service is in violation of provision contained Under Section 25 F of I.D. Act, 1947. Therefore, the order is liable to be set aside.

28. On the other hand, Respondent counsel contended that Workman has not worked for 240 days in any preceding calendar year. Therefore, reference of the industrial dispute is not relevant. In this context, the Workman has examined himself as WW1 who has reiterated that Workman has been terminated from service by Respondent on 31.3.1997 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

#### **Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

#### **Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a Workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the Workman;*

*(2) where a Workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the Workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a Workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

In order to prove the fact of 240 days of service within 12 months of a calendar year just preceding from the date of termination, the initial burden of proof lies upon the Workman and the Workman has to prove this factum by adducing his oral as well as documentary evidence in support of his claim.

Further, how to calculate 240 days of service by the Workman in a calendar year. In this context the reference of decisions of Hon'ble Supreme Court is relevant and the same are discussed below:-

#### **In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:**

*"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 worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor 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 These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere*

non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195)**, held "the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In *M.P. Electricity Board v. Hariram* (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court** held that "the initial burden of proof was on the Workman to show that he had completed 240 days of service."

**Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:** "Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, i.e. the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

"14. We have already extracted section 25B since its amendment and the change in language is the legislative exposition of which note must be taken. In fact, we need not further dilate upon this aspect because in [Surendra Kumar Verma and Ors. v. Central Government Industrial-cum-Labour](#) Court, New Delhi and Anr., Chinnappa Reddy. J., after noticing the amendment and referring to the decision in [Sur Enamel and Stamping Works \(P\) Ltd](#) case, held as under:

"These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a Workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months, it is not necessary that he should have been in the service of the employer for one whole year."

In a concurring judgment Pathak J. agreed with this interpretation of section 25B(2). Therefore, both on principle and on precedent it must be held that section 25B(2) comprehends a situation where a Workman is not in employment for a period of 12 calendar months, but has rendered service for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25B and Chapter VA."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the initial burden of proof lies upon the Workman to show that he has completed 240 days of the service with the Respondent just preceding from the date of his termination. Further, in respect of the employment of calculating the 240 days service in view of the contents of Section 25-F read with Section 25-B of the I.D. Act, 1947.

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997.

In this context, WW1 in his cross examination has stated that,

"I did not undergo regular process of selection before my appointment in the branch.."

"It is true that I did not work for 240 days in any year in my entire service in the bank in any branch."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wage depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

30. Per contra, the Learned Counsel for Respondent has submitted the allegation of Workman that he was terminated from services is not correct. As the vacancies were filled up on regular basis in order of their respective seniority the non-engagement of the Workman does not amount to termination. Further, Respondent contended that no law provide that even though there is no work temporary employee should be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.3.1997 rather he was disengaged in view of the non-availability of the work in the branch. Further, there was direction issued by the Head Office of the Respondent authority not to engage any daily wager Workman/temporary Worker w.e.f. 1.4.1997. Thus, such disengagement of Workman does not amount to termination. Moreover, the Workman failed to prove his claim that he was terminated in contravention of provision of Sec.25F of the I.D. Act, 1947 as he failed to establish his plea by any oral or documentary evidence that he had worked for 240 days continuously in a twelve months of calendar year just preceding from date of termination i.e., 31.3.1997.

32. Further, perusal of the order dated 25.3.1997 goes to reveal that the Chief Branch Manager, State Bank of India has issued the letter to Zonal Office with direction to all its branches to this effect that they have been advised by the DGM, Zonal Office, Hyderabad that as both the panel of temporary employees of 1989 and daily wagers/casual labour of 1992 will lapse on 31.3.1997 it has been decided by central office not to make any temporary appointments in messengerial cadre from 1.4.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.4.1997. There is no mention in this order that the Workman herein has been terminated from service by this order.

33. Further, the circular dated 27.3.1997 was issued by DGM, SBI to all branches in commercial network in respect of the non-appointment of temporary employees in subordinate cadre and it has directed not to make any temporary employment in the subordinate cadre with effect from 1.4.97 and further, it has directed to ensure that no temporary/casual/daily basis appointment of the petty cash. Further, it is directed to all Branch Managers that any deviation in this regard will be viewed seriously. Thus, these circulars do not reflect that the Workman has been terminated from service by this order.

34. Similarly, office order dated 31.3.1997 is simply a direction to all branches of the Respondent bank by DGM that no further daily labour should be engaged or employed. Therefore, the plea of the Workman that he has been terminated by the aforesaid order dated 25.3.1997, 27.3.1997 and 31.3.1997 from the service by the Respondent is not acceptable. The evidence adduced by the Workman clearly goes to reveal that he had worked as a daily wager for which he has been paid wages according to number of working days. As there was an order for prohibition for engaging temporary workmen, in the bank, therefore, Workman could not be engaged by the Respondent for work from 1.4.1997 and there after. It is settled law that the daily wagers are engaged by the employer depending upon the availability of work and as the work was not available the Workman was not engaged further by the Respondent management. Therefore, the Workman on the ground of number of days he had worked in the Respondent bank cannot claim any right to reinstate him into the employment. As the Workman failed to prove the mandatory condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

Thus, this point is answered against the Workman and in favour of Respondent.

35. **Point No.III:-** In this context, the Workman has contended that the management failed to implement the selected panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993 a copy of the same is filed in the material papers and the same may be read as part of the claim statement. Further, it is submitted that management has to adhere the procedure issued by the Central Government, the instructions dated 16.8.1990 in the year 1995, but same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through employment exchange instead of giving chance to the empanelled candidates like the Workman herein. The management sent call letters to the similarly situated candidates like the Workman in the month of June 1997 subsequent to issuance of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, the copies of call letters issued are filed herein along with claim petition. The Workman herein reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the Respondent management to engage the empanelled candidates like the Workman herein even in temporary vacancies till they are absorbed permanently in regular vacancies.

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary

employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 5<sup>th</sup> settlement for brevity, is also filed as a material paper. The 5<sup>th</sup> settlement dated 30.7.1996 whereunder the earlier four settlements dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 were also referred, it was agreed to, by the Federation and the Management bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March, 1997 for filling the vacancies existing/arrived at as on 31.12.1994 as per the norms agreed to between the bank and Federation and that thereafter the said panels would lapse. It was also agreed that within the framework of the above settlements the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour would be decided administratively on circle to circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. It was further agreed that all messenger real vacancies/positions in the subordinate cadre including part-time attendants specifically provided as leave reserve will be filled by the end of 31.3.1997. Further, Respondent contended that on 27.2.1997 a memorandum of understanding was also signed between the Federation's affiliate and the bank management regarding the fact that the exercise of identifying the messengerial vacancies as on 31.12.1994 has since been completed by central office and thereby 403 messengerial vacancies were sanctioned to the circle of the Management bank and it was agreed that these vacancies may be filled from 1989 panel of temporary employees after effecting conversion from full time non-messengerial staff in the usual manner and the agreement was reached upon. Further, it was agreed between the Federations affiliate and the management bank that in terms of the settlement dated 30.7.1996 both the panels of temporary employees and daily wagers /casual employees would lapse on 31.3.1997.

37. The Workman has contended that the empanelled list prepared by the Respondent management for appointment of temporary and daily wage Workers to the permanent post cannot lapse unless until it is exhausted by appointing all the empanelled persons and it should continue even after 31.3.1997, i.e., the date fixed for the lapse of panel. It is undisputed that the date of lapse of empanelled list of Workmen has been fixed to 31.3.1997 as mentioned in the settlement dated 30.7.1996, and agreed between the parties. It is settled law that and once the life of panel list lapses on the date as agreed between the parties it cannot be extended beyond that date. In the instant case the panel list of the workmen was valid upto 31.3.1997 in view of the terms and conditions enumerated in the 5<sup>th</sup> Settlement entered into between the parties. As the lapse of panel i.e., 31.3.1997 has been agreed by State Bank of India and State Bank of India Staff Federation through 5<sup>th</sup> Settlement, the Workman is not competent to challenge the same.

In this context I would like to take reference of the decision of the apex court in the case of **Syndicate Bank and Ors vs. Shankar Paul and Ors**, AIR 1997 SC 3091, therein the Hon'ble Apex Court have held:-

*"Till 1982, the branches of the appellant Bank in Calcutta region were recruiting persons locally to work as temporary attenders in leave vacancies. In view of the revised procedure prescribed by the Government of India in respect of such temporary appointments, the Calcutta regional office of the appellant Bank issued a circular to all of its branches on 14.8.1982, instructing all the branches under it to discontinue the old practice from 1.6.1982 and appoint only empanelled candidates. The regional office was to prepare a panel of eligible candidates, after calling names from the local/district employment exchange, and split it up branch-wise. Following that new procedure yearly panels were prepared thereafter. Names of the Respondents were for the first time included in the panel prepared for the period 7.2.1987 to 6.2.1988. By its letter dated 7.2.1987 the Bank had informed the Respondents that the panel was valid for one year only and that inclusion of their names in the panel was not to confer on them any right to seek permanent appointment in the service of the bank. Considering the object with which the panel was prepared and the fact that it was an yearly panel expiring on 6.2.1988, we are of the opinion that the Respondents did not get any right, because of inclusion of their names in the said panel, for permanent absorption in the service of the Bank. Whatever conditional right they had came to an end with the expiry of the panel. The claim of the Respondents, as contained in the writ petition was thus misconceived and therefore the learned single Judge and the Division Bench, when it first decided the appeal, were right in dismissing the writ petition and the appeal respectively."*

Thus, in view of the above law laid down by the Hon'ble Apex Court and in view of the terms and conditions of the 5<sup>th</sup> Settlement the contention of the Workman that empanelled list should continue even after 31.3.1997 till the last Workman in the panel is absorbed is not tenable. The contention of the Workman is baseless in view of recital in the settlement. Therefore, in view of the fore gone discussion and finding given at Point No. I regarding binding nature of Settlements and terms and conditions enumerated therein, in view of the provision contained u/s.18(1) of the I.D. Act, 1947, I am of the considered view that life of panels lapsed on 31.3.1997 in view of terms of settlement dated 30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has

no legal force and same is untenable.

38. Undisputedly, settlement agreement dated 30.7.1996 was executed between the State Bank of India and State Bank of India Staff Federation and in that settlement it was agreed that both the panels of temporary employees and daily wagers/ casual employees will be used for filling vacancies existing as on 31.12.1994 as per the norms agreed between the bank and the Federation. These empanelled workmen were to be given a chance for permanent appointment in the bank against vacancies arising up to December 1994 whereas the daily wagers/ casual employees were to be considered against the vacancies arise from January 1995 to December 1996, whereby the said panel would lapse. It was agreed that the vacancies falls upto 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, the claim of the Workman to the post of permanent non-messenger in the Respondent management was subject to the availability of the sanctioned post and vacancies arising upto 31.3.1997. The workmen given chance to the permanent post were seniors in number of working days in panel list and Workman herein was junior to those workmen. Therefore, Workman could not be given absorption to permanent post being junior to other workmen in the panel list.

39. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

*"I applied for appointment as Non-Messenger, in response to the advertisement issued by the bank .... Further, witness states, The panel was prepared basing upon the number of days of service put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel.... Further witness states, It is true that I am not having any documents to show that any of my juniors are continuing in the service of the bank."*

Thus, from the above statement of the Workman witness WW1 it is clear that the panel was prepared in terms of various settlements entered into between Staff Federation of State Bank of India and State Bank of India and it was prepared on the basis of number of days of work put in by the temporary employees. Further, the Workman himself admitted that some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel and he is not having any document to show that any person who worked for less number of days than the Workman was given appointment in the bank. Therefore, the allegation of the Workman that the regular appointment has been made by the bank from the panel list in breach of the terms of the settlement and violation of seniority of panel list is not proved by this evidence of WW1. Thus, there is no evidence on record that bank has given the appointment to the temporary employees as well as daily wagers from the panel list 1989 and 1992 in breach of seniority of the temporary employees in the list. There is no evidence of jumbling in the panel list to make appointment of any permanent Workman in breach of the seniority. Therefore, I am constrained to hold that the Respondent Management has appointed the workmen from panel list in order of seniority and there is no jumbling of workmen in the panel list before it got lapsed on 31.3.1997.

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5<sup>th</sup> Settlement dated 30.7.1996 was entered under Section 2(p) and 18(1) of I.D. Act, 1947 read with Rule 58 of Industrial Dispute (Central) Rules 1957. This settlement has been entered into by the competent parties and in this settlement parties thereto agreed that both the panels of temporary employees and daily wagers/casual employees will lapse on 31.3.1997. Thus the date of lapse of panel was fixed by both the parties with consensus under the settlement dated 30.7.1996 and same is binding upon the Workman under the provision of Section 18(1) of I.D. Act, 1947. Moreover, this issue of binding force of the settlement dated 17.11.1987, 16.7.1988, 27.10.1988 and 9.1.1991 has already been discussed, decided at finding in Point No.I of this award. However, the legality and validity of the aforementioned settlement has not been challenged by the Workman before any competent forum. Thus, claim of Workman that the date of lapse of panel i.e., 31.3.1997 has been fixed arbitrarily by the Respondent bank is untenable. As regard the claim of Workman for his absorption to the permanent post it is settled law that the Workman can not claim his regularization to permanent post merely on the basis of number of working days.

42. In this context the reference of the decision of Hon'ble Supreme Court in the case of **Oil and Natural Gas Corporation vs Krishan Gopal 2020(3) SCALE 272, date of decision 7.2.2020** is relevant therein Hon'ble Supreme Court have has laid down principle regarding regularization of the Workman on permanent posts. Hon'ble Supreme Court have laid down the prepositions of regularization of the workmen to permanent post is as under:-

*"(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in [Article 14](#) of the Constitution;*

(ii) *The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

(iii) *The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

(iv) *Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

(v) *In order to constitute an unfair labour practice under [Section 2\(ra\)](#) read with Item 10 of the [Vth Schedule of the ID Act](#), the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, with the object of depriving them of the benefits payable to permanent workmen.*

Thus, in view of the principles laid down by the Hon'ble Supreme Court as discussed above, in the instant matter the Workman utterly failed to prove his claim by adducing any documentary or oral evidence that the employer has indulged in unfair labour practice by not filling the permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performance was the same work, as regular workmen on lower wages.

43. Respondent has contended that all the vacancies exist and arise upto 31.3.1997 has been filled up from the panel list in order of seniority and no vacancy exists or arises as on 31.3.1997 remained unfilled. Further, it is contended that as per terms of settlement the life of panel lists has been lapsed on 31.3.1997, hence, there is no occasion to extend the life of panel lists beyond 31.3.1997. However, the workman failed to prove contrary by any evidence to the aforesaid contention of the Respondent that the vacancies were existing as on 31.3.1997 and the workman was not given absorption to the permanent post in order of his seniority. It is settled law that the power to create permanent or sanctioned post lies outside the judicial domain and where no posts are available, a direction to grant regularization would be impermissible merely on the basis of the number of years of service. Therefore, the claim of the workman on this ground also not acceptable.

44. Further, as per the of settlement, panel was prepared for absorption of the workmen on the permanent posts has already been lapsed on 31.3.1997 and the vacancies existing and arising upto 31.12.1994 and upto 31.3.1997 as settlement dated 30.7.1996 has been filled up from the panel by appointing the workmen as per seniority in the panel list. Workman witness WW1 in his cross examination has himself admitted this fact that, some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. The Workman failed to show that there was any breach of terms of settlement has been committed by the Respondent in appointment to permanent post from aforesaid panel list.

45. As discussed in preceding paragraph of this Award, the life of the panel has not been extended beyond 31.3.1997, by any further settlement hence, the panel list in which name of the Workman was included got expired on 31.3.1997. It is not the case of the Workman that Respondent has regularized similarly situated workmen either in the scheme or otherwise and the Workman has been deprived of same benefit on par with those workmen or the vacancies remained unfilled on the date of lapse of panels i.e., 31.3.1997, Industrial Tribunal has no jurisdiction to extend the date of lapse of panel i.e., 31.3.1997. This Tribunal can not order for regularization of workmen to the permanent post in contravention of the provision of Article 14 of the Constitution of India.

In the case of **Mahboob Deepak vs. Nagar Panchayat Gajraula & Anr, Civil Appeal No.5875/2007 date of judgement 13.12.2007**, Hon'ble Supreme Court have held:-

*"8. Respondent is a Local Authority. The terms and conditions of employment of the employees are governed by a statute and statutory rules. No appointment can be made by a Local Authority without following the provisions of the recruitment rules. Any appointment made in violation of the said rules as also the constitutional scheme of equality as contained in [Articles 14](#) and [16](#) of the Constitution of India would be a nullity.*

*9. Due to some exigency of work, although recruitment on daily wages or on an ad hoc basis was permissible, but by reason thereof an employee cannot claim any right to be permanently absorbed in service or made permanent in absence of any statute or statutory rules. Merely because an employee has completed 240 days of work in a year preceding the date of retrenchment, the same would not mean that his services were liable to be regularized."*

Therefore, in view of the law laid down by the Hon'ble Apex Court, the claim of the Workman for absorption merely on the basis of number of day of work in the Respondent bank Branch is not acceptable. As regard plea of the Workman that the Workman should have been given employment even after 31.3.1997 as temporary Workman, it is the discretion of Respondent to engage the Workman depending upon availability of work and this Tribunal can not direct the Respondent to engage the Workman in the absent of such rule/scheme.

46. In view of principle laid down by Hon'ble Apex Court as discussed above, in the instant matter Workman utterly failed to establish the fact of rendering continuous service for a period of 240 days of service within a period of 12 calendar months commencing and coming backward from relevant date i.e., the date of retrenchment, if has he would be denied to be in continuous service for a period of one year. Therefore, the provision contained under Sec.25F of retrenchment is not applicable to Workman.

Counsel for Workman has relied upon number of decisions of Hon'ble High Court and Hon'ble Supreme Court and few of them are discussed herein:-

In the case of **F.C.I., vs. Kamdhenu Cattle Feed Industries 1993 (1) SCC 71**, therein Hon'ble Supreme Court have held: -

*"7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to [Article 14](#) of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non- arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but providers for control of its exercise by judicial review."*

In the case of **State Bank of India, R.O., Vijayawada vs. Industrial Tribunal, Hyderabad WP No.193/1997**, therein Hon'ble High Court have held,

*"Sri Krovvidi Narasimham, the learned counsel for the 2<sup>nd</sup> respondent contends, supporting the award that it was a permanent vacancy and even though the 2<sup>nd</sup> respondent was appointed on temporary basis, his services were not liable to be terminated and he was to be regularised into service on permanent basis. Shastri award warrants that no temporary appointment can be made to a permanent post. But the matter is now covered by two division bench judgements dated 28.11.1986 in W.A. No.791 of 1986 and 25.8.1987 in W.A. No.270 of 1982. The ratio decided in the two judgements is to the effect that there cannot be any mandate to appoint employees on permanent basis when the requirement was for appointment on temporary basis. But it is held in the said judgements that when a temporary appointee is ousted from service and not for misconduct and, if again temporary appointment is to be made, then, the case of such temporary appointee who was ousted, has got to be considered in accordance with Sec. 25-H of the Act."*

In the case of **State of Haryana and others vs. Piara Singh and others. 1992 (4) SCC 118**, therein Hon'ble Supreme Court have held: -

*"49. If for any reason an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state."*

In the above cited judgements by the Workman the facts of the case are different hence do not apply to instant case of Workman.

47. On the other hand, in support of his contention Respondent has examined witness MW1 and MW1 in chief examination states that, Settlements i.e., on 17.11.1987, 16.7.1988, 27.10.1988, 9.1.1991 were entered into between the SBI and SBI Staff Federation for filling up of the vacancies that arise up to 1994 for those temporary employees who has worked on scale wages. Further, MW1 states that two different panels for messengers and non-messengers as per the eligibility criteria prescribed by the bank. There are four modules in Andhra Pradesh, and they are Hyderabad, Tirupathi, Vijayawada and Visakhapatnam. MW1 states that the temporary employees so empanelled were given permanent absorption depending upon the vacancies so arise strictly in terms of the settlement. MW1 states that on 9.6.1995 conciliation proceeding was held before the RLC(C), Hyderabad and in said proceedings it was decided that the panels will be kept live up to 31.3.1997 and vacancies will be filled from both the lists concurrently. A copy of the said minutes of proceedings is Ex.M5. Further, MW1 states that on 30.7.1996 another settlement was entered between the SBI and All India SBI Staff Federation providing for filling up of the vacancies arising up to December 1994 in respect of subordinate cadre and daily wage /casual wage employees out of panel so prepared were to be considered against vacancies arising from January 1995 to December 1996, thereafter the said panels lapse. MW1 states that it was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus, in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the

copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non-messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come, he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents, Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover, the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such, but their services were not utilized after the cutoff date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

**48. Point No. IV:** -In view of the discussion and finding given at Point Nos. I, II and III, the Workman is not entitled for any relief and claim statement of Workman sans merit and liable to be dismissed.

This Point is answered accordingly.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Smt. N. Pushpa Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 3<sup>rd</sup> day of February, 2026.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the

Petitioner

WW1: Smt N. Pushpa

Witnesses examined for the

Respondent

MW1: Sri Aluru Rama Rao

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of notification

Ex.W3: Photocopy of interview call letter

Ex.W4: Photocopy of panel list

Ex.W5: Photocopy of service certificate

Ex.W6: Photocopy of service certificate

Ex.W7: Photocopy of service certificate

Ex.W8: Photocopy of service certificate

Ex.W9: Photocopy of service certificate

Ex.W10:Photocopy of notification of vacancies issued by Respondent bank

Ex.W11:Photocopy of the circular issued by bank

**Documents marked for the Respondent**

- Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
- Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
- Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
- Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
- Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
- Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
- Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997
- Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.
- Ex.M9: Photocopy of statement of 1989 Non-messenger panel
- Ex.M10: Photocopy of statement of 1992 panel
- Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
- Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98.

नई दिल्ली, 6 मार्च, 2026

**का.आ. 314.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय-सह- अतिरिक्त जिला. एवं सत्र न्यायालय, गोदावरीखानी के पंचाट (पहचान संख्या. 57/2025) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22013/01/2026-आई आर(सीएम- II)]

सलोनी, उप निदेशक

New Delhi, the 6th March, 2026

**S.O. 314.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 57 / 2025**) of the **INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.L.** and their workmen, received by the Central Government on **06/03/2026**

[No. L-22013/01/2026 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE**

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI.**

PRESENT:- **SRI Dr.T.SRINIVASA RAO,**

CHAIRMAN-CUM-PRESIDING OFFICER.

THURSDAY, ON THIS THE 12<sup>th</sup> DAY OF FEBRUARY, 2026.

**I.D.No.57 of 2025**

**Between:-**

Sattu Srinivas, S/o. Rayalingu, Age:39 Years, E.C.No.0991049, Ex-Badli Filler, R/o.H.No.7-1-269/1, Opp:Qr.No.T2-247,G.M. Office Colony, Post: Godavarikhani, District Karimnagar-505 209 (TS).

...Petitioner/Workman

A N D

1. The Superintendent of Mines, Godavarikhani No.2A-Incline, Singareni Collieries Company Limited, Ramagundam Area-1, Post Godavarikhani, District Karimnagar-505 209, (TS).
2. The General Manager, Godavarikhani No.2A-Incline, Singareni Collieries Company Limited, Ramagundam Area-1, Post Godavarikhani, District Karimnagar-505 209, (TS).
3. The Chairman & Managing Director, Singareni Collieries Company Limited, Post Kothagudem, Dist: Khammam (TS).

...Respondents/Management

This case coming before me for final hearing in the presence of Sri D.Anjaiah, Advocate for the Petitioner and of Sri T. Ravinder Singh, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:

**:- AWARD :-**

This is a petition filed U/Sec.2-A (2) of I.D. Act, 1947 praying to set aside the dismissal order dt.24/26.04.1998 issued by Respondent No.2 and to direct the respondents' company to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits and full back wages.

2. The alpha and omega of the case of the petitioner is as follows:-

2(a). The petitioner was appointed as Badli Filler in the respondents' company during the year 1996 under dependant employment scheme and he discharged his duties to the utmost satisfaction of his superiors without any kind of adverse remarks. While he was working under the control of the Respondent No.1, due to underground atmosphere and coal dust, he suffered from severe Typhoid and ill-health and unable to attend to his duties regularly. Further, he sustained injuries to his knees and was compelled to undergo prolonged treatment in the Govt. Hospital, Karimnagar. But, the Respondent No.1 issued charge sheet dt.11.11.1997 to him alleging that the petitioner absented to duties from January to September 1997:-

*"25.25: Habitual late attendance or habitual absence from duty without sufficient cause from January 1997 to September 1997".*

2(b). The petitioner submitted satisfactory explanation to the charge sheet and submitted Medical Certificate from 07.07.1997 to 20.01.1998 issued by the Govt. Hospital, Karimnagar and deposed the true facts before the Enquiry Officer and requested him to exonerate him. But, the respondents have unjustly victimized the petitioner and there is no deliberate absenteeism on his part and there is reasonable and sufficient cause for the alleged absence of the petitioner during charge sheet period. Further, he submitted detailed representation dt.25.03.1998 on the enquiry findings and requested the respondents to provide him an opportunity to serve the Company. But, the Respondent No.2 unjustly dismissed him from service by Ref. dt.24/26.04.1998 with effect from 30.04.1998 straight away, without issuing any prior Show Cause Notice proposing the said capital punishment of dismissal from service.

2(c). Further, there is sufficient and reasonable cause for the petitioner for not attending to duties during the charge sheet period. As such, it cannot be termed as serious misconduct warranting the extreme punishment of dismissal from service. Imposing the capital punishment of dismissal from service without any prior show cause notice is against the mandatory provisions and contrary to the principles of natural justice. Further, extremely harsh punishment of dismissal from service is highly excessive and shockingly disproportionate and it amounts to economic death of the petitioner, which is not at all warranted.

2(d). Ever since his unjust dismissal from service, the petitioner could not secure any other alternative job & remained unemployed. He lost lively hood and incurred huge debts for his medical and domestic expenses. He is facing lot of hard ship and misery to eke out lively hood for all his family members. The limitation of 3 years was brought into force as per the Amendment Act 2010 and the petitioner was dismissed from service prior to the said Amendment Act.

As such, the limitation period is not applicable to this case of 1998. Due to domestic and financial problems, the petitioner could not approach this Hon'ble Court earlier; and the delay if any in filing this case may please be condoned by this Hon'ble Court. This Court has got every jurisdiction to try the case U/Sec.2-(A) (2) of I.D. Act, as per the settled law declared by the Hon'ble High Court. Therefore, he prays to set aside the dismissal order issued by the Respondent No.2 and to direct the Respondents'-Company to reinstate him into service with continuity of service, all consequential attendant benefits and full back wages.

3. On the other side the Respondents/Management filed counter by admitting the employment of the Petitioner/Workman with the Respondents'-Company, however, inter-alia contended that the at the outset the Respondent No.1 to 3 denies all the material averments of the Petition, except those which are specifically admitted herein. It is to further submit that in view of the settled Legal Position the present I.D is hopelessly barred by Limitation. The petitioner was dismissed w.e.f., 30.04.1998 vide Lr.No. GDK- 2A/02-0/868, dt.29.04.1998 and he ought to have filed the Industrial Dispute long back. But, he filed this I.D in the month of July, 2025 after a lapse of (27) years from the date of dismissal Order U/Sec.2-(A)(2)(A.P.Amendment Act No 32 of 1987) of Industrial Dispute Act, 1947 trying to bring the I.D within the period of Limitation which otherwise is barred by Limitation.

3(a). The Respondent Company is a Government Company incorporated under the provisions of Companies Act, 1956 for carrying out the business of winning and selling the coal. Since the coal mining industry is a central subject, Appropriate Government for this Respondent management is Central Government. As per Sec.7A (I) of Industrial Disputes Act 1947, Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29.12.2000 for adjudication of industrial disputes and the Petitioner ought to have approached the said tribunal for the redressal of grievance, if any. But, he conveniently avoided filing his petition before the Tribunal established by the Central Govt., for the reasons best known to him. The petition is not maintainable under law and the same may be dismissed on this ground alone. The maintainability of the dispute raised by the petitioner before this Court may be decided as preliminary issue before proceeding with the trial. The repealing and Amending Act No.23 of 2016 is not helpful to the petitioner as the same was incorporated in to the parents Act. Hence this petition filed by the Petitioner is not maintainable and liable to be dismissed.

3(b). Without prejudice to the preliminary objection raised as above, an underground employee is required to put in minimum musters of (190) and surface employees is to put in (240) musters. The petitioner was initially appointed into the services of the Respondent Company Badli Filler on 28.07.1996 under Dependent Employment of his father Sri. Sattu Rayalingu and he worked as Badli Filler at GDK 2-A Incline, RG-I Area of the Respondent Company. He failed to put in required (190) Musters of attendance in the year 1997; as such, the Respondent Company was constrained to issue charge sheet dt.11.11.1997, for unauthorized absenteeism under Company Standing Order. The relevant clause of Standing orders reads as under:

*25.25: Habitual Late attendance or habitual absence from duty without sufficient cause.*

A written enquiry was conducted, in which he fully participated in the enquiry proceedings dt.03.02.1998. He was given full and fair opportunity to defend his case. The charges leveled against the petitioner were proved and he was issued a show cause notice dt.19/20.03.1998 to submit his explanation within (07) days. He submitted explanation dt.25.03.1998 against findings of enquiry officer; however it does not deserve any consideration he was dismissed vide letter dt.24/26.04.1998.

3(c). Further, the Respondent Company is providing Medical facilities as In and Out-patients to its employees and their dependants through its Hospitals and if required the patients will be referred to higher centers for further treatment/diagnosis. But, the Petitioner has not reported sick in Company's Hospitals during the entire absenteeism period. Even though if he was availing treatment elsewhere, it was his obligation to inform the employer. Moreover, the respondent company has chain of hospitals and refers to super specialty hospitals for better treatment and Company will bear all the expenditure. The Enquiry Officer has conducted enquiry proceeding duly following the principles of natural justice and by affording full and fair opportunity to the petitioner to defend his case. Show cause notice along with enquiry report and enquiry proceedings were sent vide letter dt.19/20.03.1998 to submit his explanation within (07) days. As the petitioner's explanation against findings of enquiry officer does deserve any consideration, he was dismissed vide letter dt.24/26.04.1998. He being habitual and chronic absentee, the Respondent was constrained to dismiss him due to his misconduct. Further, as per Article-311 (1) of Constitution of India, issue of show cause notice proposing punishment is not a requirement of principles of natural justice. Moreover, the respondent company's standing orders which were approved as per the provisions of Industrial Employment (Standing Orders) Act, 1946, do not speak about issue of show cause notice proposing the punishment to be imposed on the delinquent employee. Hence, there is no victimization nor the punishment of dismissal is harsh. The Respondent Company was very much correct in imposing the punishment of dismissal because of the misconduct and the reckless attitude of the Petitioner.

3(d). Further, the Respondents'-Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates

sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on other employees. The Respondent/ Management cannot be held responsible for the alleged debts and unemployment and the other allegations of the petition are denied. Hence, the Respondents prayed to dismiss the petition, without granting any relief to the petitioner.

4. In support of the claim of the Petitioner/Workman Ex.W-1 and Ex.W-2 were marked and on the other side for the Respondents'-Company Ex.M-1 to Ex.M-5 were marked, with consent.

5. Arguments of the learned counsel for Petitioner/workman as well as the learned standing counsel for the Respondents/ Management heard. Perused the record produced before this Tribunal, their rival arguments and citations.

**6. Now the points for consideration are:-**

1. ***Whether this Tribunal has jurisdiction to entertain this I.D; and whether the domestic enquiry conducted by the respondents is held valid or not?***
2. ***Whether the charge leveled against the petitioner is proved basing on evidence or not?***
3. ***Whether the dismissal order dt.24/26.04.1998 is liable to be set aside, if so, the petitioner is entitled to reinstatement with continuity of service with all attendant benefits and full back wages?***

***If not to what relief is the worker entitled to?"***

7. From the pleadings of the Petitioner/Workman and Respondents' Company, these are the admitted facts that the petitioner/ workman worked as Badli Filler in the Respondents'-Company and he was dismissed from service. Now coming to the documentary evidence on both sides, on behalf of Respondents'/ Company, Ex.M-1 to Ex.M-5 were marked, wherein, Ex.M-1 is attested copy of Enquiry proceedings and Ex.M-2 is attested copy of Enquiry Report. Ex.M-3 is attested copy of Notice to the petitioner vide Lr.No. P.RG.I/32/1444. Ex.M-4 is attested copy of Dismissal Order of the Petitioner vide Lr.No.P.RG.I/32/2025. Ex.M-5 is attested copy of Name Removal order of the petitioner vide Lr.No.GDK.2A/ 02-0/868. On the other side, the petitioner got marked Ex.W-1 and Ex.W-2 on his behalf, wherein, Ex.W-1 is Dismissal Order passed by the respondent No.2 and Ex.W-2 is O/c of demand letter with RP receipt & postal acknowledgement. The above documents of both sides are not in much dispute by either side.

8. Here, the learned standing counsel for the respondents'-company has strenuously argued and raised a Preliminary Objection in the Counter that since the coal mining industry is a central subject the Appropriate Government for Respondent/ Management is Central Government, which established Central Govt. Industrial Tribunal, at Hyderabad for adjudication of Industrial Disputes and the petitioner ought to have approached the said Tribunal for the redressal of grievance, if any. But, the Petitioner conveniently avoided filing his petition before the Tribunal established by the Central Government and approached this Tribunal; hence it is not maintainable under law and the same may be dismissed on this ground alone.

8(a). Further, the learned counsel for the respondents-company strenuously contended that the petitioner raised the dispute after long lapse of more than 27-years. The Industrial Disputes (Amendment) Act 2010 was incorporated into parents Act i.e., in Industrial Disputes Act 1947 by inserting Sec.2 (A) (2) and (3). Hence, the repealing and Amending Act No.23 of 2016 is not helpful to the petitioner hence the petition filed by the Petitioner is not maintainable and liable to be dismissed. Therefore, he prayed to dismiss the petition on the ground of maintainability itself and not to grant any relief to the petitioner.

8(b). The learned standing counsel for the respondents'-company without prejudice to the above preliminary objection; has put forth and set forth that the petitioner was appointed as Badli Filler on 28.07.1996 and he being an underground employee is expected to put minimum (190) Musters in a calendar year. But, he was not regular to his duties and did not put-in (190) musters from the date of his appointing year to till his dismissal from the services. During the year 1997 the petitioner has not put-in (190) musters for which he was issued with charge sheet. If he was really suffering from ill-health, it becomes his primary responsibility to report sick in Colliery Hospital or he should have informed to unit officers about his incapability to attend duties and he would have got leave or loss of pay leave but he did not inform anything. The Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on the other employees.

8(c). The learned standing counsel for the respondents'-company further argued that enquiry into the charges leveled against the petitioner was conducted by the Enquiry Officer on 03.02.1998 in which the Petitioner has fully participated in the enquiry proceedings. He was given full and fair opportunity to defend his case. In his deposition

before the Enquiry Officer, the petitioner admitted charges mentioned in the charge sheet. He accepted his mistake that he remained absent during the dates mentioned in the charge sheet due to Jaundice and Typhoid. However, he did not submit any other documentary evidence about the alleged ill-health which prevented him from remaining absent from duties during entire absenteeism period. As the charges were proved against the petitioner, show cause notice was issued to submit his explanation within 7-days on the findings of the E.O.

8(d). The learned standing counsel for the respondents'-company further put forth and set forth that the petitioner was given number of opportunities to correct himself. But, even after giving opportunities to improve his attendance, the petitioner continued his absenteeism and there is no improvement in the attendance. The petitioner's misconduct has compelled the Respondent/ Management to impose penalty of dismissal which cannot be termed as unjust. The petitioner not utilized the opportunities given by the company and not improved his attendance. Hence, the Respondent Company dismissed him from service vide order dt.24/26.04.1998, which is justified. Hence, he prayed to dismiss the petition, without granting any relief to the petitioner/workman.

9. Per contra, on the point of jurisdiction and preliminary objection, the learned counsel for the Petitioner/workman has strenuously put forth and set forth that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997(III) LLJ (Supp.)11, Between: U. Chinnappa Vs. Cotton Corporation of India, this Tribunal has jurisdiction over Singareni Collieries Company Ltd., to entertain the Industrial Dispute raised by the petitioner/workman though the appropriate Govt. is Central Govt., The petitioner need not raise the Industrial Dispute compulsorily before the Central Govt. Industrial Tribunal, Hyderabad alone, as contended by the respondents' company. Hence, this I.D petition filed by petitioner/ workman is well maintainable before this Tribunal for adjudication of the dispute on merits.

9(a). Further, regarding the above contention of learned counsel for the respondents'/company that this I.D. is not maintainable as barred by Limitation, the learned counsel for the petitioner/ workman strenuously contended that though the petitioner was dismissed from service by order dt.24/26.04.1998 and he moved before the respondent for 7-years through union leaders. After moving from pillar to post, the petitioner having lost all his hopes approached this Tribunal and filed the I.D. petition on 29.10.2015. But, it was returned on the Bench by docket order dt.01.08.2019 and later on re-submission on 03.07.2025, this Tribunal registered the same on 14.07.2025. There is continuation of cause of action, the delay of 7-years cannot be attributed to the petitioner and hence, the dispute is alive. Apart from the above, he contended that I.D. (Amendment) Act, 2010 as whole was repealed by the Central Government long back in the year 2016, vide the Gazette of India dated 09<sup>th</sup> May, 2016; and hence limitation period is not applicable to the provisions of Industrial Disputes Act. Therefore, this petition is not barred by limitation and deserved to be adjudicated by this Tribunal on merits of the case.

9(b). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the Petitioner/Workman was appointed during the year 1996 as Badli Filler. He suffered from chronic ill-health, Jaundice and Typhoid and was imparted prolonged medical treatment. But, due to underground work his health was not cured completely. But, alleging absenteeism to duties during year 2017, the petitioner was dismissed from service vide Ref. dt.24/26.04.1998. There is sufficient and reasonable cause for the petitioner for not attending to duties during the above charge sheet period. But without considering the true facts, Respondent No.2 dismissed the petitioner from service, illegally.

9(c). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the petitioner participated in the enquiry, deposed the true facts of suffering from Jaundice and Typhoid. But, the enquiry officer did not properly appreciate the facts and he gave his vague findings, which are quite biased and perverse. But, respondent No.2 straight away dismissed him from service vide Ref. dt.24/26.04.1998. No prior Show Cause Notice was issued to the petitioner proposing the capital punishment of dismissal from service and he was not afforded an opportunity explain as to why the extreme punishment of dismissal shall not be imposed on him. The petitioner's health condition was badly deteriorated and he suffered from serious ill-health, during the charge sheeted period and there is sufficient and reasonable cause for not attending to duties during charge sheet period.

9(d). The learned counsel for the Petitioner/workman further put forth and set forth that imposing the capital punishment of dismissal from service without any prior show cause notice is against the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to economic death of the petitioner. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job in spite of his best efforts. He hails from a very poor family and has no other source of livelihood. Therefore, he prayed to set aside the dismissal order and to direct the Respondents'-Company to reinstate the petitioner/workman into service with continuity of service, all consequential attendant benefits and full back wages.

#### **POINT No.1:**

10. Here, on the point of territorial jurisdiction of this Tribunal, it is settled Law that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997(III)LLJ(Supp.)11, Between: U. Chinnappa Vs. Cotton Corporation of India, this Tribunal has got every jurisdiction to entertain the Industrial Dispute raised by the petitioner/workman who was an employee of Singareni Collieries Company Ltd., Even though, the Central Govt. is appropriate Govt., for the respondents'-Company, the petitioner need not compulsorily raise the Industrial Dispute

before the Central Govt. Industrial Tribunal, Hyderabad, as contended by the respondents' company; and he can file this I.D. case before this Tribunal as well. Hence, the contentions of the respondents'-company on the point of jurisdiction of this Tribunal are not sustainable under Law.

10(a). Further, with regard to the contention of delay and barred by limitation, this Tribunal relied on a D.B. Judgment of the Hon'ble Supreme Court in Civil Appeal No.2157/1999, dt.08.04.1999 between Ajaib singh vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., & another, wherein their lordships held that:-

*“Article 137 of schedule of Limitation Act not applicable to the proceedings under I.D. Act. The object of Industrial Disputes Act is to give succor to weaker sections of the society. The emergence of the concept of Welfare State implies an end to exploitation of labour by the employer and to ensure termination of Industrial Disputes in a peaceful manner.”*

*The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for Welfare State. To ensure industrial peace and pre-empt industrial tension, the Act further aims at enhancing the industrial production which is a blood of a developing society.*

*The Act provides a machinery for investigation and settlement of industrial dispute ignoring the legal technicalities and procedural delays, by specially authorized Courts which are not supposed to deny the relief on account of the procedural delays.*

10(b). Further, relied on a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships held that:-

*“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the Preamble and Directive principles of State Policy in Part-IV of the Constitution. Merely because workman approached delay, relief cannot be denied. No indication in the Act that delay extinguishes right conferred on the workmen under Industrial Disputes Act. Labour Court is conferred with very wide discretion U/Sec.11-A from considering the delay on part of workmen in granting relief.”*

*Section 2-A (2) or Section 10(1) of the Act do not prescribe any period of limitation for raising industrial dispute. Limitation Act, 1963 has no application (Ajaib Singh's case supra). Merely because the workman approached delay, the relief cannot be denied. The Act nowhere gives an indication that the delay extinguishes the right conferred on the workman under Industrial Law. The Industrial Court conferred with very wide discretion U/Sec.11-A of the Act, is not precluded from considering the delay on the part of workman in granting relief.”*

10(c). Further, the Hon'ble Gujarat High Court following the Hon'ble Supreme Court, in a judgment dt.15.02.2020 Between: Dharampur Nagarpalika Vs. Mahendrasinh Narsinh Padhiyar their Lordship have observed that:-

- (a) *Law of limitation does not apply to the proceedings under the Industrial Disputes Act, 1947.*
- (b) *The words 'at any time' used in Section 10 would support that there is no period of limitation in making an order of reference.*
- (c) *At the same time, the appropriate Government has to keep in mind as to whether the dispute is still existing or live dispute and has not become a stale claim and if that is so, the reference can be refused.*
- (d) *Whether dispute is alive or it has become stale/non-existent at the time when the workman approaches the appropriate Government is an aspect which would depend upon the facts and circumstances of each case and there cannot be any hard and fast rule regarding the time for making the order of reference.*

Their Lordships have further held that: *This Court shall need to regard, of course, the later decision which speaks of grant of back wages as if he was not illegally terminated. However, the period for which there is no initiative taken by him from the year 1995 to 2001, the same will have to be treated as dias-non. It is also not possible for a driver not to be working for all these years with his skill as a Driver and therefore, according to this Court, C/SCA/2404/2017 JUDGMENT the back wages shall have to be reduced to 80% from the date of filing of the reference as dias-non.*

10(d). Apart from the above, their Lordships of the Division Bench of Hon'ble Rajasthan High Court in a recent decision Between: **Heera Ram Vs. Assistant Engineer, Irrigation and others**, dt.08.02.2023, wherein their lordships held that:-

*...Law can be summarized that there is no prescribed time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is more so in view of the language used, namely, if any industrial dispute exists or is apprehended, the appropriate government “at any time” refer the dispute to a Board or Court for enquiry. The reference sought for by the workman cannot be said to be delayed or suffering from a lapse when law does not prescribe any period of limitation for raising a dispute under Section 10 of the Act. The real test for making a reference is whether at the time of the reference, dispute exists or not and when it is made it is presumed that the State Government is satisfied with the ingredients of the provision, hence, the Labour Court cannot go behind the reference. It is not open to the Government to go into the merit of the dispute concerned and once it is found that an industrial dispute exists then it is incumbent on the part of the Government to make reference. ... we do not think that the delay in the case on hand has been so culpable as*

*to disentitle him any relief. We are also satisfied that in view of the details furnished and explanation offered, the workman cannot be blamed for the delay and he was all along hoping that one day his grievance would be considered by the Management or by the State Government."*

10(e). It is not in dispute that in the present case on hand, the petitioner was dismissed from service by the Respondent No.2/ General Manager vide Ref. dt.24/26.04.1998. The learned counsel for the petitioner strenuously contended that the petitioner moved before the respondents for 7-years through union leaders. After moving from pillar to post, he lost all his hopes approached this Tribunal and filed the I.D. petition on 29.10.2015. But, it was returned on the Bench by docket order dt.01.08.2019 and later on re-submission on 03.07.2025, this Tribunal registered the same on 14.07.2025. Thus, there is continuation of cause of action and the dispute is alive. For about 6-years from 1999 to 2015, the petitioner kept quiet and he raised the dispute before this Tribunal during 2015. Hence, there is no abnormal delay on the part of the petitioner, the dispute cannot be said to be stale or non-existent and the dispute is alive and deserves to be adjudicated by this Tribunal judiciously.

11. Therefore, in view of the above cited decisions and facts and circumstances of the present case on hand, I am of the considered view that there is no force in the contention of the learned counsel for Respondents/Company with regard to delay. Further, it is a fact the whole I.D. (Amendment) Act, 2010 was repealed by the Central Government vide the Gazette of India dated 09<sup>th</sup> May 2016 and limitation period is not applicable to the provisions of Industrial Disputes Act. But, this Tribunal has to mould the relief by considering the facts and circumstances of each case. **Hence, the doubts raised by the learned counsel for the respondents are like that of a "Doubting Thomas", which are not real and tangible doubts.** Accordingly, it is answered in favour of the petitioner and against the respondents' Singareni Collieries Company Limited.

12. Further in this matter, initially the petitioner/workman denied the validity and legality of the enquiry report. But on 20.01.2026, the learned counsel for petitioner filed Memo U/Sec.11-A of I.D Act by accepting the procedure of domestic enquiry to be fair and valid. Hence, it can be said the Enquiry Officer has followed the principles of natural justice. Now the next question is, whether the misconduct is proved in the facts of the case and the findings are not perverse. So, this Tribunal is to re-appreciate the evidence and come to its own conclusion with regard to finding guilty or not based on evidence. Accordingly, the Point No.1 is answered.

### **POINT No.2 & 3:**

13. In view of the pleadings of the Petitioner/Workman as well as Respondents/corporation as well as in view of the rival arguments of their respective counsel now this Court will go into the evidence on record. Admittedly, the petitioner was dismissed from service by Ref. dt.24/26.04.1998 wherein it is alleged that the petitioner was absent from duty without sanctioned leave or sufficient cause during the year 1997 i.e., for 9-months from January 1997 to September 1997. From a perusal of the record, it shows that Charge Sheet dt.11.11.1997 was issued to the petitioner. It is evident from the domestic enquiry proceedings dt.03.02.1998 and enquiry report 04.02.1998 under Ex.M-1 and Ex.M-2 that the petitioner absented to duties for 9-months from January 1997 to September, 1997. Further, a perusal of these documents under Ex.M-1 and Ex.M-2 would go to show that the Petitioner participated in the domestic enquiry and deposed that he remained absent on the dates as mentioned in the charge sheet and it was his mistake. He admitted the charges framed against him and pleaded guilty and deposed that due to Jaundice and Typhoid, he could not attend for his duties during the year 1997. He further admitted that he did not inform the Management in advance about his absence.

13(a). From the Enquiry Report which is also under Ex.M-2, it is further evident that the petitioner absented to duty without sanctioned leave and he accepted the charge made under Company's standing order 25.25 (*Habitual late attendance or habitual absence from duty without sufficient cause*) mentioned in the charge sheet dt.11.11.1997 was held proved. It appears that the petitioner submitted medical certificate from 07.07.1997 to 24.01.1998, which shows that he did not attend to his duties from January 1997 to 24.01.1998. The charge sheet period is January to September 1997, but beyond that period, the petitioner remained absent till 24.01.1998. Further vide letter dt.19/20.03.1998, the petitioner was given another opportunity to submit representation on the enquiry findings report within 7 days. The dismissal order dt.24/26.04.1998 is marked as Ex.M-4 wherein it shows that considering the charge leveled and proved against the petitioner being grave and serious, he was dismissed from services of Company w.e.f., 30.04.1998.

13(b). It is clear that the petitioner has not attended to duties during the charge sheet period and the charges were amply proved against him. Therefore, it can be said that the respondents/ company has no axe to grind against the petitioner. Hence, this Tribunal has no hesitation to hold that the charge leveled against the petitioner/ workman is proved and misconduct of the workman is established basing on the evidence and the findings of enquiry officer are not perverse.

### **14. Now the question is whether the punishment of removal from service is disproportionate or not?**

14(a). It is settled law that the object of I.D.Act is to give succor to weaker sections of the society and it is a social welfare legislation. Here, there is no "*Plumblin Precision*" for deciding the proportionality of punishment, which depends upon the facts and circumstances of each case. The Industrial Tribunal/Labour Court is empowered to

exercise discretionary powers U/Sec.11-A of Industrial Disputes Act for judicious adjudication of the industrial disputes. Several factors like nature of duty, past service past conduct, previous penalties if any and the discipline required to maintain in the department, victimization and plea of the petitioner/workman and the punishment must be commensurate with the gravity of charge against the petitioner/workman etc., by considering the relevant factors and mitigating circumstances of each case are to be taken into consideration so as to mould the relief appropriately and reduce the punishment imposed on the petitioner/workman.

15. Here, the learned counsel for the petitioner/workman submitted that the Petitioner was appointed in the year 2015 and rendered very short service of about 2-years. Wide powers are vested in Labour Court or Tribunal. Labour Court can temper justice with mercy and give an opportunity to an erring workman to reform himself. The petitioner remained unemployed from the date of dismissal, he hails from a very poor family, he has got no other livelihood and facing untold financial problems, and prayed to consider the case U/Sec.11-A of I.D. Act., by granting another opportunity to serve the Company.

16. Here, this Tribunal relied on a Division Bench Judgment of the Hon'ble Supreme Court rendered in Civil Appeal No.2157/1999, dt.08.04.1999 between Ajaib Singh vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., & another, wherein their lordships held that:-

*“The object of Industrial Disputes Act was to give succor to weaker sections of the society. The emergence of the concept of Welfare State implies an end to exploitation of workman and as a corollary to that collective bargaining came into it own. The Legislature had intended to protect workmen against victimization and exploitation by the employer and to ensure termination of Industrial Disputes in a peaceful manner.*

*“The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for Welfare State. To ensure industrial peace and pre-empt industrial tension, the Act further aims at enhancing the industrial production which is acknowledged to be life-blood of a developing society. The Act provides a machinery for investigation and settlement of industrial dispute ignoring the legal technicalities with a view to avoid delays, by specially authorized Courts which are not supposed to deny the relief on account of the procedural wrangles”.*

16(a). Further, in a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships observed that:-

*“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. The Labour Court/Industrial Tribunal is conferred with very wide discretion U/Sec.11-A of the Act for granting appropriate relief”.*

17. Here, their Lordships of the Hon'ble Gujarat High Court in a case rendered on 04.05.1994, Between: Management of Glaxo India Ltd., Vs. State of Assam and 3 others categorically observed that **“a Labour Court is required to settle a dispute according to the principles of natural justice, equity and good conscience and law without attaching undue importance to legal technicalities”.**

18. Further, it is well settled law that if the Industrial Tribunal/ Labour Court is satisfied that the punishment imposed on the petitioner/workman is not justified, the Industrial Tribunal/ Labour Court **is clothed with the power to reappraise the evidence** in the domestic enquiry and satisfy itself whether the said evidence relied on by the Enquiry Officer or Respondents/ Management established the misconduct alleged against the workman. Further, Sec.11-A comes into effect only at the time when the Industrial Tribunal/Labour Court considers about the punishment to be imposed. While previously the Industrial Tribunal/Labour Court had no **power to interfere with the punishment, it is now clothed with such a power.** Apart from the above, Industrial Tribunal/Labour Court should temper justice with mercy and not flog the petitioner/ workman to asset our might. The power of ocean does not lie in its tumultuous tides but in its meditative vastness”. My above view is fortified with the observation of their Lordships of Hon'ble Madras High Court in a case Between: **High Court of Madras Vs. R.D.Santhana Krishnan dt.21<sup>st</sup> December, 2021.**

19. Here, it is to be noted that the concept of Industrial Dispute is quite broad and with the passage of time its horizon is being expanded. Further, the disputes are required to be resolved for the purpose of establishing peaceful and cordial atmosphere in an industry. Peace and harmony are the quintessential aspects which are to be kept in view while dealing with the “lis” or “controversy” relating to any industry. Apart from the above, whether the impugned punishment is so disproportionate as to shock the conscience of the Court, has to be decided on the facts of each case, having due regard to the gravity of misconduct & nature of duties discharged by the delinquent employee.

20. Here, it is pertinent to note that the term “misconduct” is the intentional doing of something which the doer knows to be wrong, or which he does recklessly, not caring what the result may be. It includes negligence or want of proper care which an employee is to take. But, it is a fact that **“to err is human”** and **“to forgive is divine”**. Keeping the said spirit into consideration and in the interest of cause of justice, every errant conduct of an employee of an organization could not be treated as grave misconduct. Further, it is settled law that promoting empathy and understanding by encouraging forgiveness, which is a divine quality transcending human limitation, should be preferred to anything else in the given circumstances. My above view is fortified by observation of their Lordships of the Hon'ble Supreme

Court in a judgment rendered Between: **Ratilal Jhaverbhai Parmar Vs State Of Gujarat dt.21<sup>st</sup> October, 2024.**

21. Further, the Hon'ble Madras High Court observed in a case rendered in *Management of Hyundai Motor India Ltd Vs. T.Sudhakar ... on 31<sup>st</sup> January, 2022*:

***“When scales of justice stands balanced in a given case, the tilt to be exercised should be in favour of the poor workmen rather than the mighty Managements.”***

22. Here, I am of the opinion that for promoting ethical behavior and integrity for Public Servants, the Latin Maxim (*Memento Mori: remember that you must die*) acts as a check against selfish to selfless service. It serves as a reminder that: *“when office is gone, only the legacy of their character remains”*. So, the old Adam or old Man or old-self of him or her must die. Otherwise, it will kill them. In summary, *Memento Mori* serves as a sobering, yet empowering reminder that allows Public Servants to focus on leaving a positive, lasting impact rather than chasing, selfish and temporary goals.

23. Therefore, by taking a holistic view of the matter, I am of the considered view that the extreme punishment of dismissal from service imposed by the respondents/company against the petitioner/workman is harsh, disproportionate and shocks to conscience of this Tribunal, hence, deserves to be modified since the disciplinary authority cannot be permitted to act arbitrarily and work like a Roman Knight and it cannot be allowed a fight between David and Goliath as in the present case on hand. Moreover, facts of this case attracts the proverbial saying *“Every saint has a past and every sinner has a future”* and Biblical proverbs *“Speak up for those who cannot speak for themselves, for the rights of all who are destitute”* and *“Speak up and judge fairly; defend the rights of the poor and needy.”* Further, *“Heavens would not have fallen if one more opportunity is given for the petitioner”*.

24. This Tribunal has perused, analyzed and meditated upon the case at hand, the case laws and principles of law referred above. In view of the above facts and circumstances and keeping in view of the principle *“temper justice with mercy”* and to meet the ends of justice, this Tribunal is of the opinion that the punishment of removal from service imposed on the petitioner is disproportionate and shocks the conscience of this Tribunal and hence, it deserves to be modified appropriately. It appears from the record that the petitioner rendered very short service of less than 2-years in the respondents' company and he is out of employment ever since his dismissal from service. Hence, this Tribunal is of the considered view that that the petitioner/workman deserves to be reinstated into service as *“AFRESH BADLI FILLER”* only. The petitioner is not entitled to any back wages, continuity of service and any other attendant benefits. Hence, the punishment of dismissal from service imposed by the Respondents' Company is hereby modified. Accordingly, the Points 2 & 3 are answered.

25. **IN THE RESULT**, the petition is partly allowed. The dismissal order dt.24/26-04-1998 under Ex.M-4 issued by the Respondent No.2 is hereby modified. The respondents' company is directed to reinstate the petitioner into service as *“AFRESH BADLI FILLER”* only. The petitioner is not entitled to any back wages, continuity of service and any other attendant benefits. However, the petitioner is entitled to the salary only from the date of publication of the Award. Copy of the Award be sent to the appropriate Government for publication. Both parties shall bear their own costs.

*Typed to my dictation, corrected and pronounced by me in the open Court, on this the 12<sup>th</sup> day of February, 2026.*

Sri Dr. SRINIVASA RAO, Chairman-cum-Presiding Officer

## APPENDIX OF EVIDENCE

### WITNESSES EXAMINED

FOR WORKMAN:-

-Nil-

FOR MANAGEMENT:-

-Nil-

### EXHIBITS MARKED

FOR WORKMAN:-

|        |     |               |                                                        |
|--------|-----|---------------|--------------------------------------------------------|
| Ex.W-1 | Dt. | 24/26.04.1998 | Dismissal Order passed by the respondent No.2          |
| Ex.W-2 | Dt. | 15.09.2015    | O/c of demand letter with RP receipt and postal ack.,. |

FOR MANAGEMENT:-

|        |     |               |                                                                                   |
|--------|-----|---------------|-----------------------------------------------------------------------------------|
| Ex.M-1 | Dt. | 03.02.1998    | Attested Copy of Enquiry proceedings.                                             |
| Ex.M-2 | Dt. | 04.02.1998    | Attested Copy of Enquiry Report.                                                  |
| Ex.M-3 | Dt. | 19/20.03.1998 | Attested Copy of Notice to the petitioner vide Lr.No. P.RG.I/32/ 1444.            |
| Ex.M-4 | Dt. | 24/26.04.1998 | Attested copy of Dismissal Order of the Petitioner vide Lr.No. P.RG.I/32/ 2025.   |
| Ex.M-5 | Dt. | 29.04.1998    | Attested copy of Name Removal order of the petitioner vide Lr.No.GDK.2A/02-0/868. |

नई दिल्ली, 6 मार्च, 2026

**का.आ. 315.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय-सह- अतिरिक्त जिला. एवं सत्र न्यायालय, गोदावरीखानी के पंचाट (पहचान संख्या. 44/2025) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22013/01/2026-आई आर(सीएम- II)]

सलोनी, उप निदेशक

New Delhi, the 6th March, 2026

**S.O. 315.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 44/2025**) of the **INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.L.** and their workmen, received by the Central Government on 06/03/2026.

[No. L-22013/01/2026 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE**

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI.**

PRESENT:- **SRI Dr.T.SRINIVASA RAO,**

CHAIRMAN-CUM-PRESIDING OFFICER.

MONDAY, ON THIS THE 09<sup>th</sup> DAY OF FEBRUARY, 2026.**I.D.No.44 of 2025****Between:-**

Kanapaka Anvesh, S/o. Devdas, Age:35 Years, E.C.No.1602164, Ex.Badli Worker, ALP, APA, C/o. Javvaji Srinivas, Advocate, Markandeya Colony, Godavarikhani – 505209, District Peddapalli, Telangana State.

...Petitioner/Workman

A N D

1.

The Colliery Manager, Singareni Collieries Company Ltd.,  
Adriyala Longwall Project, Adriyala Project Area, RG-III,  
Centenary Colony, Ramagiri Mandal, District: Peddapalli (T.S).

2. The General Manager, Singareni Collieries Company Ltd.,  
Adriyala Longwall Project, Adriyala Project Area, RG-III,  
Centenary Colony, Ramagiri Mandal, District: Peddapalli (T.S).
3. The Director, (PA & W), Singareni Collieries Company Ltd.,  
Corporate Office, Kothagudem, District: Bhadradi Kothagudem (T.S).

...Respondents/Management

This case coming before me for final hearing in the presence of Sri Javvaji Srinivas, Advocate for the Petitioner and of Sri T. Ravinder Singh, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:

**-: AWARD :-**

This is a petition filed U/Sec.2-A (2) of I.D. Act, 1947 praying to set aside the dismissal order dt.18.05.2019 issued by Respondent No.2 and to direct the respondents'-company to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits and full back wages.

2. The alpha and omega of the case of the petitioner is as follows:-

2(a). The petitioner was appointed in the respondents' company during the year 2015 as Badli Worker and he discharged his duties to the utmost satisfaction of his superiors without any kind of adverse remarks. His mother Kanapaka Kamala Bahi was suffering from chronic ill-health and he imparted prolonged treatment to her at MGM Hospital, Regional Eye Hospital, Warangal and other hospitals. He is the only person to look after his mother and he faced severe financial crisis in connection with amounts payable to his sisters. He suffered from mental distress and ill-health, due to which he could not attend to his duties regularly and put-in (15) musters during the year 2016. As he continued to work in the underground on one hand and was imparting treatment frequently to his ailing mother and for himself on the other hand. But, the Respondent No.2 issued charge sheet dt.18.02.2017 to him alleging absentee during the year 2016:-

*"25.25: Habitual late attendance or habitual absence from duty without sufficient cause".*

*"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave".*

2(b). The petitioner submitted satisfactory explanation and participated in the domestic enquiry conducted on 16.09.2017. There is no deliberate absenteeism on his part and there is reasonable and sufficient cause for not attending to his duties during the charge sheet period of 2016. He improved his attendance during the years 2017 and 2018 and his performance during the above years is furnished here under:-

| Sl. No. | Particulars     | Total Musters       |
|---------|-----------------|---------------------|
| 1.      | Musters of 2017 | <b>(71) musters</b> |
| 2.      | Musters of 2018 | <b>(84) musters</b> |

The respondent No.1 served charge sheet and obtained written explanation from him, assuring that he will be allowed to duty. He participated in the enquiry proceedings on 16.09.2017, deposed the true facts of ill-health of his mother, himself and his family problems. But, the enquiry officer did not properly appreciate the documentary and oral evidence, his findings are very cryptic and he gave his vague findings, which are quite biased and perverse. The Respondent No.2 required him to make representation on the findings report of the Enquiry Officer by letter dt.01.02.2018, to which he submitted his satisfactory explanation on 13.02.2018. But, the Respondent No.2 unjustly dismissed him from service by Ref. dt.18.05.2019 with effect from 27.05.2019 straight away, without issuing any prior Show Cause Notice proposing the said capital punishment of dismissal from service.

2(c). The petitioner preferred Appeal and moved from pillar to post before the respondents. After more than (02) years, Respondent No.3 rejected his appeal vide Ref. dt.16.07.2021. Having lost his hopes, the petitioner approached this Court seeking justice. There is sufficient and reasonable cause for the petitioner for not attending to duties during the charge sheet period. As such, it cannot be termed as serious misconduct warranting the extreme punishment of dismissal from service. Imposing the capital punishment of dismissal from service without any prior show cause notice is against the settled Law and contrary to the principles of natural justice. Further, extremely harsh punishment of dismissal from service is highly excessive and shockingly disproportionate and it amounts to economic death of the

petitioner.

2(d). Ever since his unjust dismissal from service, the petitioner could not secure any other alternative job & remained unemployed. He lost lively hood and incurred huge debts for his medical and domestic expenses. He is facing lot of hard ship and misery to eke out lively hood for all his family members. This Court has got every jurisdiction to try the case U/Sec.2-(A) (2) of I.D. Act, as per the settled law declared by the Hon'ble High Court. Due to domestic and financial problems, the petitioner could not approach this Hon'ble Court earlier; and the delay if any in filing this case may please be condoned by this Hon'ble Court. Therefore, he prays to set aside the dismissal order issued by the Respondent No.2 and to direct the Respondents'-Company to reinstate him into service with continuity of service, all consequential attendant benefits and full back wages.

3. On the other side the Respondents/Management filed counter by admitting the employment of the Petitioner/Workman with the Respondents'-Company, however, inter-alia contended that the Respondent Company is a Government Company incorporated under the provisions of Companies Act, 1956 for carrying out the business of winning and selling the coal. Since the coal mining industry is a central subject, the Appropriate Government for this Respondent/Management is Central Government. The Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29.12.2000 for adjudication of industrial disputes and the Petitioner ought to have approached the said tribunal for the redressal of grievance, if any. But, he conveniently avoided filing his petition before the Tribunal established by the Central Government for the reasons best known to him and the petition is not maintainable under law and the same may be dismissed on this ground alone. The maintainability of the dispute before this Court may be decided as preliminary issue before proceeding with the trial. The Industrial Disputes (Amendment) Act 2010 was incorporated into parents Act i.e. in Industrial Disputes Act 1947 by inserting Sec.2 A (2) and (3) hence the Repealing and Amending Act No.23 of 2016 is not helpful to the petitioner as the same was incorporated in to the parents Act. Hence this petition is not maintainable and liable to be dismissed.

3(a). Further, without prejudice to its rights in respect of the preliminary objection raised as above, it is submitted that according to section 52(2) of the Mines Act 1952 an underground employee is required to put in minimum musters of 190 and surface employees is to put in 240 musters. The petitioner was initially appointed into the services of the Respondent Company Badli Worker on 19.05.2015 vide Office Order dt.10.02.2015 under Dependent Employment of his father Sri. K.Devadas. The petitioner worked as Badli worker at Adriyala Longwall Project, APA Area of the Respondent Company. He being an underground employee is expected to put in minimum of 190 Musters in a calendar year. But he did not put forth 190 musters from the date of his appointing year to till his dismissal from service. The following are the musters of the Petitioner and the action taken by the Respondent Company for his chronic absenteeism:

| Sl. No. | Year | No. of Musters | Penalty/Punishment details.                                              |
|---------|------|----------------|--------------------------------------------------------------------------|
| 1.      | 2015 | 41             | --                                                                       |
| 2.      | 2016 | 15             | --                                                                       |
| 3.      | 2017 | 71             | Kept under observation for a period of (03) months to improve attendance |
| 4.      | 2018 | 84             | Dismissed from the Company Services w.e.f., 27.05.2019.                  |

3(b). During the period from January 2016 to December 2016, the Petitioner has put in 15 musters. As the above act amounted to misconduct under Company Standing Orders No.25.25 & 25.31, Charge Sheet dt.18.02.2017 was issued to him and the relevant clause of Standing orders reads as under:

25.25: Habitual Late attendance or habitual absence from duty Without sufficient cause.

25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave,"

A written enquiry was conducted in which the petitioner has fully participated in the enquiry proceedings on 16.09.2017. He was given full and fair opportunity to defend his case and the charges leveled against the petitioner were proved. In his deposition before the Enquiry Officer, the petitioner admitted that he remained absent on the dates mentioned in the charge sheet and admitted his mistake and added that he remained absent due to family problems. However, he did not submit any documentary evidence about the alleged ill-health which prevented him from remaining absent from duties during the entire absenteeism period. The enquiry officer gave him opportunity to adduce evidence and to produce documentary evidence, witnesses in support of his claim, but he did not submit documentary evidence. The copies of enquiry report, proceedings etc., were sent to the Petitioner's address vide Ref.

dt.01.02.2018 to enable him to submit written representation against the findings contained in the enquiry report. He submitted his representation dt.13.02.2018 which was not satisfactory.

3(c). The petitioner was provided with another opportunity to improve his attendance vide Ref: dt.16.04.2018, disciplinary action on the charge sheet was kept in abeyance and he was kept under observation for a period of 3-months with effect from 01.05.2018 to 31.7.2018. He was informed that it was final and last opportunity, wherein the petitioner is required to put in 20 actual musters and above in every month during the observation period. But, he has put in only 27 musters in 3-months observation period and the respondent Company taking into account his misconduct which was being serious and grave in nature and the employee being chronic absentee was constrained to dismiss the petitioner from service with effect from 27.05.2019 vide Ref. dt.18.05.2019. If the petitioner was really suffering from ill-health, it becomes his primary responsibility to report sick in Colliery Hospital or should have informed his incapability to attend duties to unit authorities and got sanctioned leave or loss of pay leave. But he did not inform anything, without informing anything to his unit officers remained absent to the duties which amounts to un-authorized absenteeism. As the petitioner neither reported sick in Colliery Hospital nor improved his attendance inspite of giving many opportunities, the Respondent Company was constrained to dismiss him for his chronic absenteeism. The penalty of dismissal from service w.e.f., 27.05.2019 was confirmed by Competent authority vide Ref dt.16.06/07.2021.

3(d). As per Article-311 (1) of Constitution of India, issue of show cause notice proposing punishment is not a requirement of the principles of natural justice. The respondent company's standing orders do not speak about of issue of Show cause notice proposing the punishment to be imposed on the delinquent employee. There is no victimization and the punishment of dismissal is not harsh and the he was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties. But, he has failed to improve his attendance and resorted to unauthorizedly absent for duty. The petitioner's misconduct compelled the Respondent/Management to impose the penalty of dismissal which cannot be termed as unjust.

3(e). Further, the Respondents'-Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on other employees. The Respondent/ Management cannot be held responsible for the alleged debts and unemployment and the other allegations of the petition are denied and hence the Respondents prayed to dismiss the petition, without granting any relief to the petitioner.

4. In support of the claim of the Petitioner/Workman Ex.W-1 to Ex.W-3 were marked; and on the other side for the Respondents'-Company Ex.M-1 to Ex.M-9 were marked, with consent.

5. Arguments of the learned counsel for Petitioner/workman as well as the learned standing counsel for the Respondents/ Management heard. Perused the record produced before this Tribunal, their rival arguments and citations.

**6. Now the points for consideration are:-**

1. ***Whether this Tribunal has jurisdiction to entertain this I.D; and whether the domestic enquiry conducted by the respondents is held valid or not?***
2. ***Whether the charges leveled against the petitioner are proved basing on evidence or not?***
3. ***Whether the dismissal order dt.18.05.2019 is liable to be set aside, if so, the petitioner is entitled to reinstatement with continuity of service with all attendant benefits and full back wages?***

***If not to what relief is the worker entitled to?"***

7. From the pleadings of the Petitioner/Workman and Respondents' Company, these are the admitted facts that the petitioner/ workman worked as Badli Worker in the Respondents'-Company and he was dismissed from service. Now coming to the documentary evidence on both sides, on behalf of Respondents'/ Company, Ex.M-1 to Ex.M-9 were marked, wherein, Ex.M-1 is dismissal order and Ex.M-2 is Name Removal letter of the petitioner. Ex.M-3 is Attested Copy of Application submitted by the Petitioner for cancellation of Dismissal Order. Ex.M-4 is Attested Copy of charge sheet for absence for duty without sanctioned leave issued to petitioner. Ex.M-5 is enquiry notice served and duly signed by the petitioner and Ex.M-6 is Attested Copy of Disciplinary Action for Absenteeism to Petitioner. Ex.M-7 is Attested Copy of charge sheet for absenteeism issued to petitioner and Ex.M-8 is copy of enquiry Report. Ex.M-9 is Original/Attested copies of enquiry proceedings for the charge sheet dt.18.02.2017. On the other side, the petitioner got marked Ex.W-1 to Ex.W-3 on his behalf, wherein, Ex.W-1 is dismissal order and Ex.W-2 is name removal memo of the petitioner. Ex.W-3 is Demand Letter/Legal Notice with R.P receipts and postal ack., of respondents. The above documents of both sides are not in much dispute by either side.

8. Here, the learned standing counsel for the respondents'-company has strenuously argued and raised a Preliminary Objection in the Counter that since the coal mining industry is a central subject the Appropriate Government for Respondent/ Management is Central Government, which established Central Govt. Industrial Tribunal, at Hyderabad for adjudication of Industrial Disputes and the petitioner ought to have approached the said Tribunal for the redressal of grievance, if any. But, the Petitioner conveniently avoided filing his petition before the Tribunal established by the Central Government and approached this Tribunal; hence it is not maintainable under law and the same may be dismissed on this ground alone.

8(a). Further, the learned counsel for the respondents-company strenuously contended that the petitioner raised the dispute after long lapse of more than 6-years. The Industrial Disputes (Amendment) Act 2010 was incorporated into parents Act i.e., in Industrial Disputes Act 1947 by inserting Sec.2 A (2) and (3). Hence the repealing and Amending Act No.23 of 2016 is not helpful to the petitioner hence the petition filed by the Petitioner is not maintainable and liable to be dismissed. Therefore, he prayed to dismiss the petition on the ground of maintainability itself and not to grant any relief to the petitioner.

8(b). The learned standing counsel for the respondents'-company without prejudice to the above preliminary objection; has put forth and set forth that the petitioner was appointed as Badli Worker on 19.02.2015 and he being an underground employee is expected to put minimum (190) Musters in a calendar year. But, he was not regular to his duties and did not put-in (190) musters from the date of his appointing year to till his dismissal from the services. During the year 2016 the petitioner has put-in only (15) musters for which he was issued with charge sheet dt.18.02.2017. If he was really suffering from ill health, it becomes his primary responsibility to report sick in Colliery Hospital or he should have informed to unit officers about his incapability to attend duties and he would have got leave or loss of pay leave but he did not inform anything. The Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on the other employees.

8(c). The learned standing counsel for the respondents'-company further argued that enquiry into the charges leveled against the petitioner was conducted by the Enquiry Officer on 16.09.2017 in which the Petitioner has fully participated in the enquiry proceedings. He was given full and fair opportunity to defend his case. In his deposition before the Enquiry Officer, the petitioner admitted charges mentioned in the charge sheet. He accepted his mistake that he remained absent during the dates mentioned in the charge sheet due to his health problems. However, he did not submit any other documentary evidence about the alleged ill-health which prevented him from remaining absent from duties during entire absenteeism period. As the charges were proved against the petitioner, show cause notice was issued to submit his explanation within 7-days on the findings of the E.O.

8(d). The learned standing counsel for the respondents'-company further put forth and set forth that the petitioner was given number of opportunities to correct himself and he was kept under 3-months observation period requiring him to put-in 20 musters in every month. But, the Petitioner has failed to improve his attendance and put-in only 27 total musters during the entire observation period of 3-months. Even after giving opportunities to improve his attendance, the petitioner continued his absenteeism and there is no improvement in the attendance. The petitioner's misconduct has compelled the Respondent/Management to impose penalty of dismissal which cannot be termed as unjust. The petitioner not utilized the opportunities given by the company and not improved his attendance. Hence, the Respondent Company dismissed him from service vide order dt.18.05.2019, which is justified. Hence, he prayed to dismiss the petition, without granting any relief to the petitioner/workman.

9. Per contra, on the point of jurisdiction and preliminary objection, the learned counsel for the Petitioner/workman has strenuously put forth and set forth that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997(III) LLJ (Supp.)11, Between: U.Chinnappa Vs. Cotton Corporation of India, this Tribunal has jurisdiction over Singareni Collieries Company Ltd., to entertain the Industrial Dispute raised by the petitioner/workman though the appropriate Govt. is Central Govt., The petitioner need not raise the Industrial Dispute compulsorily before the Central Govt. Industrial Tribunal, Hyderabad alone, as contended by the respondents' company. Hence, this I.D petition filed by petitioner/ workman is well maintainable before this Tribunal for adjudication of the dispute on merits.

9(a). Further, regarding the above contention of learned counsel for the respondents'/company that this I.D. is not maintainable as barred by Limitation, the learned counsel for the petitioner/ workman strenuously contended that though the petitioner was dismissed from service by order dt.18.05.2019, his the appeal was dismissed after more than 2-years vide Ref dt.16.07.2021. There is continuation of cause of action, the delay of more than 6-years cannot be attributed to the petitioner and hence, the dispute is alive. Apart from the above, he contended that I.D. (Amendment) Act, 2010 as whole was repealed by the Central Government long back in the year 2016, vide the Gazette of India dated 09<sup>th</sup> May, 2016; and hence limitation period is not applicable to the provisions of Industrial Disputes Act.

Therefore, this petition is not barred by limitation and deserved to be adjudicated by this Tribunal on merits of the case.

9(b). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the Petitioner/Workman was appointed during the year 2015 as Badli Worker. He and his mother both have suffered from chronic ill-health and were imparted prolonged medical treatment. But, due to underground work his health was not cured completely. But, alleging absenteeism to duties during year 2016, the petitioner was dismissed from service vide Ref. dt.18.05.2019. There is sufficient and reasonable cause for the petitioner for not attending to duties during the above charge sheet period. But without considering the true facts, the respondent No.2 dismissed the petitioner from service, illegally.

9(c). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the petitioner participated in the enquiry, deposed the true facts of his own ill-health and of his mother. But, the enquiry officer did not properly appreciate the facts and he gave his vague findings, which are quite biased and perverse. But, respondent No.2 straight away dismissed him from service vide Ref. dt.18.05.2019. No prior Show Cause Notice was issued to the petitioner proposing the capital punishment of dismissal from service and he was not afforded an opportunity explain as to why the extreme punishment of dismissal shall not be imposed on him. The petitioner's health condition was badly deteriorated and he suffered from serious ill-health, during the charge sheeted period and there is sufficient and reasonable cause for not attending to duties during charge sheet period.

9(d). The learned counsel for the Petitioner/workman further put forth and set forth that imposing the capital punishment of dismissal from service without any prior show cause notice is against the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to economic death of the petitioner. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job in spite of his best efforts. He hails from a very poor family and has no other source of livelihood. Therefore, he prayed to set aside the dismissal order and to direct the Respondents'-Company to reinstate the petitioner/workman into service with continuity of service, all consequential attendant benefits and full back wages.

#### **POINT No.1:**

10. Here, on the point of territorial jurisdiction of this Tribunal, it is settled Law that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997 (III) LLJ (Supp.) 11, Between: U.Chinnappa Vs. Cotton Corporation of India, this Tribunal has got every jurisdiction to entertain the Industrial Dispute raised by the petitioner/workman who was an employee of Singareni Collieries Company Ltd., Even though, the Central Govt. is appropriate Govt., for the respondents'-Company, the petitioner need not compulsorily raise the Industrial Dispute before the Central Govt. Industrial Tribunal, Hyderabad, as contended by the respondents' company; and he can file this I.D. case before this Tribunal as well. Hence, the contentions of the respondents'-company on the point of jurisdiction of this Tribunal are not sustainable under Law.

10(a). Further, with regard to the contention of delay and barred by limitation, this Tribunal relied on a D.B. Judgment of the Hon'ble Supreme Court in Civil Appeal No.2157/1999, dt.08.04.1999 between Ajaib singh vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., & another, wherein their lordships held that:-

*“Article 137 of schedule of Limitation Act not applicable to the proceedings under I.D. Act. The object of Industrial Disputes Act was to give succor to weaker sections of the society. The emergence of the concept of Welfare State implies an end to exploitation of workman and as a corollary to that collective bargaining came into it own. The Legislature had intended to protect workmen against victimization and exploitation by the employer and to ensure termination of Industrial Disputes in a peaceful manner.*

*The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for Welfare State. To ensure industrial peace and pre-empt industrial tension, the Act further aims at enhancing the industrial production which is acknowledged to be life-blood of a developing society.*

*The Act provides a machinery for investigation and settlement of industrial dispute ignoring the legal technicalities with a view to avoid delays, by specially authorized Courts which are not supposed to deny the relief on account of the procedural wrangles”.*

10(b). Further, relied on a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships held that:-

*“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. Merely because workman approached to Labour Court with delay, relief cannot be denied. No indication in the Act that delay extinguishes right conferred on the workmen under Industrial Law. The Labour Court is conferred with very wide*

discretion U/Sec.11-A from considering the delay on part of workmen in granting relief.

Section 2-A (2) or Section 10(1) of the Act do not prescribe any period of limitation for raising industrial dispute. Articles 137 of the Limitation Act, 1963 has no application (*Ajaib Singh's case supra*). Merely because the workmen approached the Industrial Court with delay, the relief cannot be denied. The Act nowhere gives an indication that the delay extinguishes the right conferred on workmen under the Industrial Law. The Industrial Court conferred with very wide discretion U/Sec.11-A of the Act, is not precluded from considering the delay on the part of workman in granting relief”.

10(c). Further, the Hon'ble Gujarat High Court following the Hon'ble Supreme Court, in a judgment dt.15.02.2020 Between: Dharampur Nagarpalika Vs. Mahendrasinh Narsinh Padhiyar their Lordship have observed that:-

- (a) Law of limitation does not apply to the proceedings under the Industrial Disputes Act, 1947.
- (b) The words 'at any time' used in Section 10 would support that there is no period of limitation in making an order of reference
- (c) At the same time, the appropriate Government has to keep in mind as to whether the dispute is still existing or live dispute and has not become a stale claim and if that is so, the reference can be refused.
- (d) Whether dispute is alive or it has become stale/non-existent at the time when the workman approaches the appropriate Government is an aspect which would depend upon the facts and circumstances of each case and there cannot be any hard and fast rule regarding the time for making the order of reference.

Their Lordships have further held that: This Court shall need to regard, of course, the later decision which speaks of grant of back wages as if he was not illegally terminated. However, the period for which there is no initiative taken by him from the year 1995 to 2001, the same will have to be treated as dias-non. It is also not possible for a driver not to be working for all these years with his skill as a Driver and therefore, according to this Court, C/SCA/2404/2017 JUDGMENT the back wages shall have to be reduced to 80% from the date of filing of the reference as dias-non.

10(d). Apart from the above, their Lordships of the Division Bench of Hon'ble Rajasthan High Court in a recent decision Between: **Heera Ram Vs. Assistant Engineer, Irrigation and others, dt.08.02.2023**, wherein their lordships held that:-

...Law can be summarized that there is no prescribed time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is more so in view of the language used, namely, if any industrial dispute exists or is apprehended, the appropriate government “at any time” refer the dispute to a Board or Court for enquiry. The reference sought for by the workman cannot be said to be delayed or suffering from a lapse when law does not prescribe any period of limitation for raising a dispute under Section 10 of the Act. The real test for making a reference is whether at the time of the reference, dispute exists or not and when it is made it is presumed that the State Government is satisfied with the ingredients of the provision, hence, the Labour Court cannot go behind the reference. It is not open to the Government to go into the merit of the dispute concerned and once it is found that an industrial dispute exists then it is incumbent on the part of the Government to make reference. ... we do not think that the delay in the case on hand has been so culpable as to disentitle him any relief. We are also satisfied that in view of the details furnished and explanation offered, the workman cannot be blamed for the delay and he was all along hoping that one day his grievance would be considered by the Management or by the State Government.”

10(e). Here, it is not in dispute that in the present case on hand, the petitioner was dismissed from service by the Respondent No.2/ General Manager vide Ref.dt.18.05.2019 and his appeal was rejected by the Respondent No.3 vide Ref.dt.16.07.2021. Thus, there is continuation of cause of action and the dispute is alive. For about 3-years from 2021 to 2024, the petitioner kept quiet and he raised the dispute before this Tribunal during 2025. Hence, there is no abnormal delay on the part of the petitioner, the dispute cannot be said to be stale or non-existent and the dispute is alive and deserves to be adjudicated by this Tribunal judiciously.

11. Therefore, in view of the above cited decisions and facts and circumstances of the present case on hand, I am of the considered view that there is no force in the contention of the learned counsel for Respondents/Company with regard to delay. Further, it is a fact the whole I.D. (Amendment) Act, 2010 was repealed by the Central Government vide the Gazette of India dated 09<sup>th</sup> May 2016 and limitation period is not applicable to the provisions of Industrial Disputes Act. But, this Tribunal has to mould the relief by considering the facts and circumstances of each case. **Hence, the doubts raised by the learned counsel for the respondents are like that of a “Doubting Thomas”, which are not real and tangible doubts.** Accordingly, it is answered in favour of the petitioner and against the respondents' Singareni Collieries Company Limited.

12. Further in this matter, initially the petitioner/workman denied the validity and legality of the enquiry report. But on 23.01.2026, the learned counsel for petitioner filed Memo U/Sec.11-A of I.D Act by accepting the procedure of domestic enquiry to be fair and valid. Hence, it can be said the Enquiry Officer has followed the principles of

natural justice. Now the next question is, whether the misconduct is proved in the facts of the case and the findings are not perverse. So, this Tribunal is to re-appreciate the evidence and come to its own conclusion with regard to finding guilty or not based on evidence. Accordingly, the Point No.1 is answered.

**POINT No.2 & 3:**

13. In view of the pleadings of the Petitioner/Workman as well as Respondents/corporation as well as in view of the rival arguments of their respective counsel now this Court will go into the evidence on record. Admittedly, the petitioner was dismissed from service by Ref. dt.18.05.2019 wherein it is alleged that the petitioner was absent from duty without sanctioned leave or sufficient cause during the year 2016. From a perusal of the record, it shows that Charge Sheet dt.18.02.2017 was issued to the petitioner, which is marked as Ex.M-7. It is evident from the charge sheet that the petitioner absented to duties for 340-days and put-in only 15 actual musters during the year 2016. Domestic enquiry was conducted and the enquiry report and enquiry proceedings are marked as Ex.M-8 and Ex.M-9. Further, a perusal of these documents under Ex.M-8 and Ex.M-9 would go to show that the Petitioner participated in the domestic enquiry and deposed that he remained absent on the dates as mentioned in the charge sheet and it was his mistake. He admitted the charges framed against him and pleaded guilty and deposed that due to his family problems, he could not attend for his duties from 2015 onwards. He further admitted that he did not inform the Management in advance about his absence.

13(a). From the Enquiry Report which is also under Ex.M-8, it is evident that the petitioner absented to duty without sanctioned leave and he accepted the charge made under Company's standing order 25.25 & 25.31 (*Habitual late attendance or habitual absence from duty without sufficient cause & Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave*) mentioned in the charge sheet dt.18.02.2017 was held proved. The petitioner has not submitted any documents regarding his family problems or health problems in the enquiry to substantiate his claim. Further vide letter dt.16.04.2018, the petitioner was given another opportunity to improve his attendance by keeping the dismissal order pending and he was kept under observation for 3-months requiring him to put-in 20 actual musters and above in every month during observation period of 3-months. But, it appears from the dismissal order that the petitioner had put-in total 27-musters only during 3-months period and failed to improve his attendance. The dismissal order dt.18.05.2019 is marked as Ex.M-1 wherein it shows that considering the charges leveled and proved against the petitioner being grave and serious, he was dismissed from services of Company w.e.f., 27.05.2019.

13(b). It is clear that the petitioner has not attended to duties during the charge sheet period and the charges were amply proved against him. Therefore, it can be said that the respondents/ company has no axe to grind against the petitioner. Hence, this Tribunal has no hesitation to hold that the charge leveled against the petitioner/ workman is proved and misconduct of the workman is established basing on the evidence and the findings of enquiry officer are not perverse.

**14. Now the question is whether the punishment of removal from service is disproportionate or not?**

14(a). It is settled law that the object of I.D.Act is to give succor to weaker sections of the society and it is a social welfare legislation. Here, there is no "*Plumblin Precision*" for deciding the proportionality of punishment, which depends upon the facts and circumstances of each case. The Industrial Tribunal/Labour Court is empowered to exercise discretionary powers U/Sec.11-A of Industrial Disputes Act for judicious adjudication of the industrial disputes. Several factors like nature of duty, past service past conduct, previous penalties if any and the discipline required to maintain in the department, victimization and plea of the petitioner/workman and the punishment must be commensurate with the gravity of charges against the petitioner/ workman etc., by considering the relevant factors and mitigating circumstances of each case are to be taken into consideration so as to mould the relief appropriately and reduce the punishment imposed on the petitioner/workman.

15. Here, the learned counsel for the petitioner/workman submitted that the Petitioner was appointed in the year 2015 and rendered short service. Wide powers are vested in Labour Court or Tribunal. Labour Court can temper justice with mercy and give an opportunity to an erring workman to reform himself. The petitioner remained unemployed from the date of dismissal, he hails from a very poor family, he has got no other livelihood and facing untold financial problems, and prayed to consider the case U/Sec.11-A of I.D. Act., by granting another opportunity to serve the Company.

16. Here, this Tribunal relied on a Division Bench Judgment of the Hon'ble Supreme Court rendered in Civil Appeal No.2157/1999, dt.08.04.1999 between Ajaib Singh vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., & another, wherein their lordships held that:-

*"The object of Industrial Disputes Act was to give succor to weaker sections of the society. The emergence of the concept of Welfare State implies an end to exploitation of workman and as a corollary to that collective bargaining came into it own. The Legislature had intended to protect workmen against victimization and exploitation by the employer and to ensure termination of Industrial Disputes in a peaceful manner."*

*"The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for Welfare State. To ensure industrial peace and pre-empt industrial tension, the Act further aims at enhancing the*

*industrial production which is acknowledged to be life-blood of a developing society. The Act provides a machinery for investigation and settlement of industrial dispute ignoring the legal technicalities with a view to avoid delays, by specially authorized Courts which are not supposed to deny the relief on account of the procedural wrangles”.*

16(a). Further, in a decision of the Hon’ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships observed that:-

*“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. The Labour Court/Industrial Tribunal is conferred with very wide discretion U/Sec.11-A of the Act for granting appropriate relief”.*

17. Here, their Lordships of the Hon’ble Gujarat High Court in a case rendered on 04.05.1994, Between: Management of Glaxo India Ltd., Vs. State of Assam and 3 others categorically observed that **“a Labour Court is required to settle a dispute according to the principles of natural justice, equity and good conscience and law without attaching undue importance to legal technicalities”.**

18. Further, it is well settled law that if the Industrial Tribunal/ Labour Court is satisfied that the punishment imposed on the petitioner/workman is not justified, the Industrial Tribunal/ Labour Court **is clothed with the power to reappraise the evidence** in the domestic enquiry and satisfy itself whether the said evidence relied on by the Enquiry Officer or Respondents/ Management established the misconduct alleged against the workman. Further, Sec.11-A comes into effect only at the time when the Industrial Tribunal/Labour Court consider about the punishment to be imposed. While previously the Industrial Tribunal/Labour Court had no **power to interfere with the punishment, it is now clothed with such a power.** Apart from the above, Industrial Tribunal/Labour Court should temper justice with mercy and not flog the petitioner/workman to asset our might. The power of ocean does not lie in its tumultuous tides but in its meditative vastness”. My above view is fortified with the observation of their Lordships of Hon’ble Madras High Court in a case Between: **High Court of Madras Vs. R.D.Santhana Krishnan dt.21<sup>st</sup> December, 2021.**

19. Here, it is to be noted that the concept of Industrial Dispute is quite broad and with the passage of time its horizon is being expanded. Further, the disputes are required to be resolved for the purpose of establishing peaceful and cordial atmosphere in an industry. Peace and harmony are the quintessential aspects which are to be kept in view while dealing with the “lis” or “controversy” relating to any industry. Apart from the above, whether the impugned punishment is so disproportionate as to shock the conscience of the Court, has to be decided on the facts of each case, having due regard to the gravity of misconduct & nature of duties discharged by the delinquent employee.

20. Here, it is pertinent to note that the term “misconduct” is the intentional doing of something which the doer knows to be wrong, or which he does recklessly, not caring what the result may be. It includes negligence or want of proper care which an employee is to take. But, it is a fact that **“to err is human”** and **“to forgive is divine”**. Keeping the said spirit into consideration and in the interest of cause of justice, every errant conduct of an employee of an organization could not be treated as grave misconduct. Further, it is settled law that promoting empathy and understanding by encouraging forgiveness, which is a divine quality transcending human limitation, should be preferred to anything else in the given circumstances. My above view is fortified by observation of their Lordships of the Hon’ble Supreme Court in a judgment rendered Between: **Ratilal Jhaverbhai Parmar Vs State Of Gujarat dt.21<sup>st</sup> October, 2024.**

21. Further, the Hon’ble Madras High Court observed in a case rendered in Management of Hyudai Motor India Ltd Vs. T.Sudhakar ... on 31<sup>st</sup> January, 2022:

**“When scales of justice stands balanced in a given case, the tilt to be exercised should be in favour of the poor workmen rather than the mighty Managements.”**

22. Here, I am of the opinion that for promoting ethical behavior and integrity for Public Servants, the Latin Maxim (*Memento Mori: remember that you must die*) acts as a check against selfish to selfless service. It serves as a reminder that: *“when office is gone, only the legacy of their character remains”*. So, the old Adam or old Man or old-self of him or her must die. Otherwise, it will kill them. In summary, *Memento Mori* serves as a Sobering, yet empowering reminder that allows Public Servants to focus on leaving a positive, lasting impact rather than chasing, selfish and temporary goals.

23. Therefore, by taking a holistic view of the matter, I am of the considered view that the extreme punishment of removal imposed by the respondents/corporation against the petitioner/workman is harsh, disproportionate and shocks to conscience of this Tribunal, hence, deserves to be modified since the disciplinary authority cannot be permitted to act arbitrarily and work like a Roman Knight and it cannot be allowed a fight between David and Goliath as in the present case on hand. Moreover, facts of this case attracts the proverbial saying *“Every saint has a past and every sinner has a future”* and Biblical proverbs *“Speak up for those who cannot speak for themselves, for the rights of all who are destitute”* and *“Speak up and judge fairly; defend the rights of the poor and needy.”* Further, *“Heavens would not have fallen if one more opportunity is given for the petitioner”*.

24. This Tribunal has perused, analyzed and meditated upon the case at hand, the case laws and principles of law referred above. In view of the above facts and circumstances and keeping in view of the principle *“temper justice with mercy”* and to meet the ends of justice, this Tribunal is of the opinion that the punishment of dismissal from service imposed on the petitioner/workman is disproportionate and shocks the conscience of this Tribunal and hence, it deserves to be modified appropriately. It appears from the record that the petitioner rendered short service in the

respondents' company and he is out of employment ever since his dismissal from service in 2019. Hence, this Tribunal is of the considered view that that the petitioner/workman deserves to be reinstated into service as "AFRESH BADLI WORKER" only. Consequently, he is not entitled to any back wages, any continuity of service and any other attendant benefits. Hence, the punishment of dismissal from service imposed by the Respondents' Company is hereby modified. Accordingly, the Points 2 & 3 are answered.

25. **IN THE RESULT**, the petition is partly allowed. The dismissal order dt.18.05.2019 under Ex.M-1/Ex.W-1 issued by the Respondent No.2 is hereby modified. The respondents' company is directed to reinstate the petitioner into service as "AFRESH BADLI WORKER" only and he is not entitled to any back wages, any continuity of service and any other attendant benefits. However, the petitioner is entitled to salary only from the date of publication of the Award. Copy of the Award be sent to the appropriate Government for publication. Both parties shall bear their own costs.

*Typed to my dictation, corrected and pronounced by me in the open Court, on this the 09<sup>th</sup> day of February, 2026.*

Dr.T.SRINIVASA RAO, Chairman-cum-Presiding Officer,

## **APPENDIX OF EVIDENCE**

### **WITNESSES EXAMINED**

FOR WORKMAN:-

-Nil-

FOR MANAGEMENT:-

-Nil-

### **EXHIBITS MARKED**

FOR WORKMAN:-

|        |     |            |                                                                    |
|--------|-----|------------|--------------------------------------------------------------------|
| Ex.W-1 | Dt. | 18.05.2019 | Dismissal order issued by R-2.                                     |
| Ex.W-2 | Dt. | 27.05.2019 | Name removal memo issued by R-1.                                   |
| Ex.W-3 | Dt. | 20.10.2024 | O/c Demand letter/Legal Notice with R.P receipts and postal Acks., |

FOR MANAGEMENT:

|        |     |            |                                                                                                                                   |
|--------|-----|------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Ex.M-1 | Dt. | 18.05.2019 | Original/Attested copy of dismissal order of petitioner vide Lr.No. RG3/PER/IR/48/DA-848/1719.                                    |
| Ex.M-2 | Dt. | 27.05.2019 | Attested Copy of Name Removal letter of the petitioner vide Lr.No. APA/ALP/P22/1421.                                              |
| Ex.M-3 | Dt. | 14.06.2019 | Attested Copy of Application submitted by the Petitioner Sri K.Anvesh for cancellation of Dismissal Order.                        |
| Ex.M-4 | Dt. | 11.01.2018 | Attested Copy of charge sheet for Absent for duty without sanctioned leave issued to petitioner vide Lr.No.APA/ALP/R07(2017)/174. |
| Ex.M-5 | Dt. | 01.02.2018 | Original/Attested copy of enquiry notice served and duly signed by the petitioner vide Lr.No. RG3/PER/IR/DA-848/397.              |
| Ex.M-6 | Dt. | 16.04.2018 | Attested Copy of Disciplinary Action for Absenteeism to the Petitioner vide Lr.No.RG3/PER/IR/48/DA-848/ 1248.                     |
| Ex.M-7 | Dt. | 18.02.2017 | Attested Copy of charge sheet for Absenteeism issued to petitioner vide Lr.No.APA/ALP/R07(2016)/394                               |
| Ex.M-8 | Dt. | 16.09.2017 | Original/Attested copies of enquiry Report.                                                                                       |
| Ex.M-9 | Dt. | 16.09.2017 | Original/Attested copies of enquiry proceedings for the charge sheet dt. 18.02.2017                                               |

नई दिल्ली, 6 मार्च, 2026

**का.आ. 316.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.के प्रबंधन के संबंधित नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय-सह- अतिरिक्त जिला. एवं सत्र न्यायालय, गोदावरीखानी के पंचाट (पहचान संख्या. 92/2025) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22013/01/2026-आई आर(सीएम- II)]

सलोनी, उप निदेशक

New Delhi, the 6th March, 2026

**S.O. 316.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 92 / 2025**) of the **INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.L.** and their workmen, received by the Central Government on 06/03/2026.

[No. L-22013/01/2026 – IR (CM-II)]

SALONI, Dy. Director/Link officer

#### ANNEXURE

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI.**

**PRESENT:- SRI Dr.T.SRINIVASA RAO,**

**CHAIRMAN-CUM-PRESIDING OFFICER.**

**FRIDAY, ON THIS THE 06<sup>th</sup> DAY OF FEBRUARY, 2026.**

**I.D.No. 92 of 2025**

#### **Between:-**

Gunti Sadanandam, S/o. Sammaiah, Age: 40 Years, Ex-Fitter, E.C-137475, GDK-11 Incline, C/o S. Sanjay Kumar, Advocate, H. No. 19-1-103/4, Markandeya Colony, Godavarikhani - 505209, District: Peddapalli, (Telangana State).

...Petitioner/Workman

**A N D**

1. The Colliery Manager, Singareni Collieries Company Ltd.,

GDK No.11 Incline, RG-I Area,

Godavarikhani, District: Peddapalli (T.S).

2. The General Manager, Singareni Collieries Company Ltd.,

Ramagundam Area-I, Godavarikhani, District: Peddapalli (T.S).

3. The Chairman & Managing Director, Singareni Collieries

Company Ltd., P.O: Kothagudem, District: Khammam (T.S).

...Respondents/Management

This case coming before me for final hearing in the presence of Sri S.Sanjay Kumar, Advocate for the Petitioner and of Sri T. Ravinder Singh, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:

**:- AWARD :-**

This is a petition filed U/Sec.2-A (2) of I.D. Act, 1947 praying to set aside the dismissal order dt.29.08.2025 issued by Respondent No.2 and to direct the respondents' company to reinstate the petitioner into service with

continuity of service, all other consequential attendant benefits and full back wages.

2. The alpha and omega of the case of the petitioner is as follows:-

2(a). The petitioner was appointed was selected and appointed as Fitter in the respondents' company during the year 2015. Ever since his appointment, he discharged his duties to the satisfaction of his superiors without any kind of adverse remarks and put-in more than (100) required musters per year for initial two years. He suffered from chronic ill-health, Heart problem and a case of "*CAD with S/p CAG-Mild CAD with myocardial bridging with Moderate LV dysfunction on medical management with follow up in Neuro Surgery OPD i/v/o Cervical Spondylosis with degenerative disc disease and disc bulge*". He was imparted prolonged medical treatment in the respondents' Company Hospitals, Main Hospital, Kothagudem, NIMS hospital, Hyderabad and other referral hospitals. But, due to underground work his health was not cured and he was imparted treatment in the SCCL Hospitals, NIMS, PMSSY KMC & several other hospitals during the last (04) years and he was kept in the sick list. But, without considering the above facts, the respondent No.2 issued charge sheet dt.18.01.2023 to the petitioner alleging absenteeism during the year 2022:-

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause".

"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave".

2(b). There is no there is no deliberate absenteeism on his part; and there is reasonable and sufficient cause for his not attending to duties regularly during the charge sheet period of 2022. The respondents' company imparted treatment to the petitioner in the SCCL Area Hospital, Main Hospital and referred him to NIMS Hospital Hyderabad several times. He took treatment in Vasavi Chest & Psychiatric Clinic, Sri Sai Cardiac Centre, Vinayaka Neuro Multi Specialty Centre, Suman Gastro & Liver Centre, Purna Laxmi Nuero Centre, The Breath Clinic, Sahaja Chest & Surendra Nehru Hospital, MEDICOVER Hospital, PMSSY KMC & several other hospitals. He was imparted prolonged treatment from the years 2017 to 2025. Further, the Main Hospital, Kothagudem kept the petitioner under SICK LIST and review after months together. When the petitioner was under SICK LIST and without considering the true facts, the Respondent No.2 dismissed the petitioner from service vide Ref. dt.29.08.2025.

2(c). The petitioner suffered from severe ill-health, chronic ill-health, Heart problem and a case of "*CAD with S/p CAG-Mild CAD with myocardial bridging with Moderate LV dysfunction on medical management with follow up in Neuro Surgery OPD i/v/o Cervical Spondylosis with degenerative disc disease and disc bulge*". He underwent prolonged medical treatment in the respondents' Company Hospitals, NIMS hospital, Hyderabad and other referral hospitals. Medical documents, prescriptions and reference letters are filed under list of documents for favour kind consideration by this Court. The Respondent No.2 required the petitioner to make representation on the findings report of the Enquiry Officer by letter dt.17.10.2023 and his house was locked since (02) years, as he was undergoing prolonged treatment. As such, he could not submit any representation on the findings report of Enquiry Officer. But, the respondent No.2 dismissed him from service vide Ref. dt.29.08.2025 straight away, without issuing any prior Show Cause Notice proposing the said capital punishment of dismissal from service. The petitioner's health condition badly deteriorated and he suffered from serious ill-health, during the charge sheeted period and there is sufficient and reasonable cause for the petitioner for not attending to duties during charge sheet period and it cannot be termed as misconduct.

2(d). Further, imposing the capital punishment of dismissal from service on the petitioner without any prior show cause notice proposing the said capital punishment is against the settled Law and contrary to the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to his economic death. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job in spite of his best efforts. He hails from a very poor family and has no other source of livelihood. Therefore, he prays to set aside the dismissal order issued by the Respondent No.2 and to direct the Respondents'-Company to reinstate him into service with continuity of service, all consequential attendant benefits and full back wages.

3. On the other side the Respondents/Management filed counter by admitting the employment of the Petitioner/Workman with the Respondents'-Company, however, inter-alia contended that since the coal mining industry is a central subject the Appropriate Government for Respondent/Management is Central Government, which established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29.12.2000 for adjudication of industrial disputes and the Petitioner ought to have approached the said tribunal for the redressal of grievance, if any. But, the Petitioner conveniently avoided filing his petition before the Tribunal established by the Central Government and hence it is not maintainable under law and the same may be dismissed on this ground alone.

3(a). The Respondent Company without prejudice to its rights in respect of the objection raised as above submits that the petitioner was appointed into the services of the Respondent Company on 18.12.2015 and worked as Fitter at RG-I Area. He was dismissed from service on the ground of absenteeism with immediate effect vide letter dt.29.08.2025.

The Petitioner being an underground employee, he is expected to put minimum of (190) Musters in a calendar year. But, he did not put-in (190) musters from the date of his appointing year to till his dismissal from the service. The following are the musters of the petitioner and action taken for his chronic absenteeism:-

| Sl No. | Year | No. of Musters | Penalty/Punishment details                                          |
|--------|------|----------------|---------------------------------------------------------------------|
| 1.     | 2016 | 238            | --                                                                  |
| 2.     | 2017 | 160            | --                                                                  |
| 3.     | 2018 | 78             | --                                                                  |
| 4.     | 2019 | 16             | Stoppage of one increment without cumulative effect                 |
| 5.     | 2020 | 0              | Reversion to lower stage in a time scale by reducing two increments |
| 6.     | 2021 | 0              | Reversion to lower stage in a time scale by reducing two increments |
| 7.     | 2022 | 02             | Dismissed from service vide Lr. dt.29.08.2025.                      |
| 8.     | 2023 | 06             | --                                                                  |
| 9.     | 2024 | 0              | --                                                                  |
| 10.    | 2025 | 0              | --                                                                  |

3(b). In the year 2019, the petitioner has put-in only (16) musters and as such, he was issued charge sheet dt.05.03.2020, a written enquiry was conducted on 05.09.2020 and charges were proved against the petitioner. However, a lenient view was taken and he was imposed penalty of stoppage of one increment without cumulative effect. Further during 2020, he has put-in '0' musters for which charge sheet dt.20.03.2021 was issued and he submitted explanation on 08.11.2021 which was considered not satisfactory. Enquiry was conducted on 18.11.2021 and however, a lenient view was taken and he was imposed with a penalty of "Reversion to lower stage in a time scale by reducing two increments" was imposed. Again during 2021, he has put-in '0' musters for which charge sheet dt.20.03.2021 was issued and he submitted explanation on 08.11.2021 which was considered not satisfactory. Enquiry was conducted on 18.11.2021 and however, a lenient view was taken and he was imposed with a penalty of "Reversion to lower stage in a time scale by reducing two increments" was imposed. Again during 2022, he has put-in only 2-musters. Charge sheet dt.18.01.2023 was issued, he submitted explanation on 10.08.2023 and enquiry was conducted on 01.09.2023 and show cause notice was issued. But, the petitioner failed to submit any explanation to the show cause notice and as the charges were proved against the petitioner, the respondents' company was constrained to dismiss the petitioner from service vide Ref. dt.29.08.2025.

3(c). The Respondent Company is providing Medical facilities (as in and out patients) to its employees and their dependants through its Hospitals and if required the patients will be referred to higher centers for further treatment/diagnosis. In the same manner, the petitioner was also extended medical facilities by this Respondent Company for the ailments which he was suffering for. The petitioner has not reported sick in Company's Hospitals during the entire absenteeism period till September, 2023. The petitioner being a habitual and chronic absentee, the Respondents' Company was constrained to dismiss the Petitioner due to his misconduct. The petitioner was not kept in sick list and was examined by the main hospital and found fit for duty. The averments made by the petitioner in his petition are false and baseless. He was given full and fair opportunity and natural justice principles were followed during the enquiry proceedings. He accepted the charges leveled against him and pleaded guilty during enquiry proceedings. He did not submit any documentary evidence and not produced any witness and the charges were proved.

3(d). Further, the Petitioner admitted in the enquiry Proceedings that he has not reported sick in any company's Hospital during the absenteeism Period. The averments made at para 7 of the annexure to the Petition that the respondent No.2 unjustly dismissed him from Service vide ref 29.08.2025 straight away without issuing any prior show cause Notice are totally false hence denied. The dismissal of the petitioner was not done "straight away" or without a show cause notice proposing dismissal. The letters dt.19/25.03.2021, 10/11.02.2022, 25.07.2022 explicitly gave many opportunities to the petitioner. The petitioner's failure to attend (346) days of work during 2022 proved his unwillingness to improve, leaving dismissal as the only course of action. He was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties such as stoppage of one increment without cumulative effect during 2019, Reversion to lower stage in a time scale by reducing two (02) increments 2020 and 2021. But, he failed to improve his attendance and resorted to unauthorizedly absent for duty during the calendar years 2022, and as there was no change in his attendance, the Respondent Company was constrained to dismiss the Petitioner. The dismissal of petitioner/Gunti Sadanandam was justified and final disciplinary action following a long

history of habitual and unauthorized absenteeism. The management provided multiple opportunities to the petitioner to improve, including counseling with the employee, warnings, suspensions, stoppage of increments and reversion to lower grade by reducing (02) increments. Despite being found fit for duty by the company's medical staff, he failed to attend work during this final review period, demonstrating a complete lack of interest in his job.

3(e). The company has adhered to all procedural norms, including conducting a fair inquiry and processing his terminal benefits, such as his CMPF and gratuity payments. As the petitioner did not improve his attendance in spite of giving many opportunities, the Respondent Company was constrained to dismiss the petitioner for his chronic absenteeism. The respondent company's standing orders do not speak about of issue of Show cause notice proposing the punishment to be imposed on the delinquent employee. There is no victimization and the punishment of dismissal is not harsh and the petitioner was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties. But, he has failed to improve his attendance and resorted to unauthorizedly absent for duty. The petitioner's misconduct compelled the Respondent/Management to impose the penalty of dismissal which cannot be termed as unjust.

3(f). Further, the Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remain absent without prior sanction of leave or without any justified cause, the work to be performed get effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on other employees. The Respondent/Management cannot be held responsible for the alleged debts and unemployment and the other allegations of the petition are denied and hence the Respondents prayed to dismiss the petition, without granting any relief to the petitioner.

4. In support of the claim of the Petitioner/Workman Ex.W-1 to Ex.W-50 and on the other side for the Respondents'-Company Ex.M-1 to Ex.M-16 were marked, with consent.

5. Arguments of the learned counsel for Petitioner/workman as well as the learned standing counsel for the Respondents/ Management heard. Perused the record produced before this Tribunal, their rival arguments and citations.

**6. Now the points for consideration are:-**

1. ***Whether this Tribunal has jurisdiction to entertain this I.D; and whether the domestic enquiry conducted by the respondents is held valid or not?***
2. ***Whether the charges leveled against the petitioner are proved basing on evidence or not?***
3. ***Whether the dismissal order dt.29.08.2025 is liable to be set aside, if so, the petitioner is entitled to reinstatement with continuity of service with all attendant benefits and full back wages?***

***If not to what relief is the worker entitled to?"***

7. From the pleadings of the Petitioner/Workman and Respondents' Company, these are the admitted facts that the petitioner/ workman worked as Fitter in the Respondents'-Company and he was dismissed from service. Now coming to the documentary evidence on both sides, on behalf of Respondents'/Company, Ex.M-1 to Ex.M-16 were marked, wherein, Ex.M-1 is attested Copy of charge sheet issued to petitioner and Ex.M-2 is attested Copy of enquiry proceedings. Ex.M-3 is attested copy of show cause notice and Ex.M-4 is attested Copy of stoppage of one increment without cumulative effect. Ex.M-5 is attested Copy of charge sheet issued to the petitioner Ex.M-6 is attested Copy of enquiry proceedings. Ex.M-7 is attested copy show cause notice. Ex.M-8 is attested Copy of penalty of reversion to lower stage by reducing two increments. Ex.M-9 is attested copy of charge sheet issued to the petitioner and Ex.M-10 is attested copy Enquiry Proceedings. Ex.M-11 is attested copy of show cause notice and Ex.M-12 is attested copy of penalty of reversion to lower stage by reducing two increments. Ex.M-13 is attested copy of charge sheet issued to petitioner. Ex.M-14 is attested copy of enquiry proceedings and Ex.M-15 is attested copy show cause notice. Ex.M-16 is attested copy of dismissal from service order of petitioner.

7(a). On the other side, the petitioner got marked Ex.W-1 to W-50 on his behalf, wherein, Ex.W-1 is Provisional Offer of appointment order as Fitter trainee (external). Ex.W-2 is Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. Ex.W-3 is Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. Ex.W-4 is Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda and Ex.W-5 is Medical prescription of Sri Sai Cardiac Centre, Hanamkonda. Ex.W-6 to Ex.W-8 are Medical prescriptions of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. Ex.W-9 is Medical prescription of Sri Sai Cardiac Centre, Hanamkonda. Ex.W-10 is Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. Ex.W-11 is Medical prescription of Suman Gasto & Liver Centre, Karimnagar. Ex.W-12 is Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. Ex.W-13 is Medical prescription of Suman Gasto & Liver Centre, Karimnagar. Ex.W-14 is Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. Ex.W-15 is Medical prescription of Purna

Laxshi Neuro Centre, Karimnagar. Ex.W-16 is Medical prescription of Suman Gasto & Liver Centre, Karimnagar. Ex.W-17 is Medical prescription of The Breathe Clinic, Hanamkonda, Warangal. Ex.W-18 is Medical prescription of Sahaja Chest Hospital, Godavarikhani. Ex.W-19 and Ex.W-20 are Medical prescriptions of Surendra Nehru Hospital, Godavarikhani. Ex.W-21 is Medical prescription of Sri Sai Cardiac Centre, Hanamkonda and Ex.W-22 is Iskon Diagnostics, Hanamkonda Laboratory Report of petitioner. Ex.W-23 is PMSSY-Super specialty Warangal, Coronary Angiogram report of petitioner. Ex.W-24 is SCCL Reference letter of petitioner to NIMS Hospital, Hyderabad. Ex.W-25 and Ex.W-26 are NIMS Hospital medical prescriptions of petitioner. Ex.W-27 is SCCL Reference letter of petitioner to NIMS Hospital, Hyderabad. Ex.W-28 to Ex.W-30 are NIMS Hospital medical prescriptions of petitioner. Ex.W-31 is SCCL Hospital DISCHARGE CARD of petitioner and Ex.W-32 is SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem. Ex.W-33 is SCCL Main Hospital Kothagudem Final Diagnosis of petitioner showing CAD-S/P-CAG with Myocardial Bridging with LV Dysfunction with C-Spandylolysis with Cad-Usa Discharge summary of petitioner. Ex.W-34 is Show cause notice & enquiry proceedings to petitioner to make representation on the enquiry report. Ex.W-35 is SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem. Ex.W-36 is SCCL Main Hospital, Kothagudem to keep the petitioner in Sick List & review after two months. Ex.W-37 is SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem. Ex.W-38 is SCCL Area Hospital Reference letter of petitioner to NIMS Hospital. Ex.W-39 and Ex.W-40 are NIMS Hospital medical prescriptions of petitioner. Ex.W-41 and Ex.W-42 are SCCL Area Hospital, Ramagundam Reference letters to SCCL Main Hospital, Kothagudem. Ex.W-43 is Medical prescription of Sri Sai Cardiac Centre, Hanamkonda NEED for check CAG explained. Ex.W-44 and Ex.W-45 are Medical prescriptions of Sri Sai Cardiac Centre, Hanamkonda. Ex.W-46 is SCCL Area Hospital UNFIT of petitioner from 14.10.2023. Ex.W-47 is MEDICOVER Hospital, Cath Procedure of petitioner. Ex.W-48 is Dismissal Office Order of petitioner and Ex.W-49 is Name removal of petitioner Office Memo. Ex.W-50 is O/c of Demand letter with RP Receipt. The above documents of both sides are not in much dispute by either side.

8. Here, the learned standing counsel for the respondents'-company has strenuously argued and raised a Preliminary Objection in the Counter that since the coal mining industry is a central subject the Appropriate Government for Respondent/ Management is Central Government, which established Central Govt. Industrial Tribunal, at Hyderabad for adjudication of Industrial Disputes and the petitioner ought to have approached the said Tribunal for the redressal of grievance, if any. But, the Petitioner conveniently avoided filing his petition before the Tribunal established by the Central Government and approached this Tribunal; hence it is not maintainable under law and the same may be dismissed on this ground alone.

8(a). The learned standing counsel for the respondents'-company without prejudice to the above preliminary objection; has put forth and set forth that the petitioner was appointed as Fitter on 18.12.2015 and he being an underground employee is expected to put minimum (190) Musters in a calendar year. But, he was not regular to his duties and did not-in (190) musters from the date of his appointing year to till his dismissal from the services. During the year 2022 the petitioner has put-in only (02) musters for which he was issued with charge sheet dt.18.01.2023. If he was really suffering from ill health, it becomes his primary responsibility to report sick in Colliery Hospital or he should have informed to unit officers about his incapability to attend duties and he would have got leave or loss of pay leave but he did not inform anything. The Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remain absent without prior sanction of leave or without any justified cause, the work to be performed get effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on the other employees.

8(b). The learned standing counsel for the respondents'-company further argued that during the year 2019 the petitioner has put in 16 musters against (190) musters which is less than 10% of attendance, as such the Respondent Company was constrained to take action on him by issuing charge sheet for an unauthorized absenteeism under Company Standing Order. During the years 2020 and 2021, the Petitioner has put in (0) musters and he was charge-sheeted vide Charge sheets dt.20.03.2021 and 25.07.2022. Further, during the period from January, 2022 to December, 2022, the Petitioner has put in 02-musters only. As the above act amounted to misconduct under Company Standing Orders, he was issued charge sheet dt.18.01.2023 for absenteeism for the year 2022. Enquiry into the charges leveled against the petitioner was conducted by the Enquiry Officer on 01.09.2023 in which the Petitioner has fully participated in the enquiry proceedings. He was given full and fair opportunity to defend his case. In his deposition before the Enquiry Officer, the petitioner admitted charges mentioned in the charge sheet. He accepted his mistake that he remained absent during the dates mentioned in the charge sheet due to his health problems. However, he did not submit any other documentary evidence about the alleged ill-health which prevented him from remaining absent from duties during entire absenteeism period. He further admitted that he was imposed punishment of stoppage of increment for the year 2019; and reversion to lower stage in a time scale by reducing two increments for year 2020 and 2021. As the charges were proved against the petitioner, show cause notice was issued to submit his explanation within 7-days on the findings of the E.O. But, he has not submitted any explanation against enquiry findings. Hence, the respondents' company was constrained to impose capital punishment and dismissed from service vide office order

dt.29.08.2025.

8(c). The learned standing counsel for the respondents'-company further put forth and set forth that the petitioner was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties for 2019 to 2021. But, the Petitioner has failed to improve his attendance and resorted to unauthorizedly absent for duty during the calendar year 2022 also. He failed improve his attendance during the years 2023 to 2025; and even after giving opportunities to improve his attendance, the petitioner continued his absenteeism continuously and there is no improvement in the attendance. The petitioner's misconduct has compelled the Respondent/Management to impose penalty of dismissal which cannot be termed as unjust. The petitioner not utilized the opportunities given by the company and not improved his attendance. Hence, the Respondent Company dismissed him from service vide order dt.29.08.2025, which is justified. Hence, he prayed to dismiss the petition, without granting any relief to the petitioner/workman.

9. Per contra, on the point of jurisdiction and preliminary objection, the learned counsel for the Petitioner/workman has strenuously put forth and set forth that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997(III) LLJ (Supp.)11, Between: U. Chinnappa Vs. Cotton Corporation of India, this Tribunal has jurisdiction over Singareni Collieries Company Ltd., to entertain the Industrial Dispute raised by the petitioner/workman though the appropriate Govt. is Central Govt., The petitioner need not raise the Industrial Dispute compulsorily before the Central Govt. Industrial Tribunal, Hyderabad alone, as contended by the respondents' company. Hence, this I.D petition filed by petitioner/ workman is well maintainable before this Tribunal for adjudication of the dispute on merits.

9(a). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the Petitioner/Workman was appointed on 18.12.2015 as Fitter. He suffered from chronic ill-health, Heart problem and he was imparted prolonged medical treatment in the respondents' Company Hospitals, Main Hospital, Kothagudem, NIMS hospital, Hyderabad and other referral hospitals. But, due to underground work his health was not cured completely. He suffered from chronic ill-health, Heart problem and a case of "*CAD with S/p CAG-Mild CAD with myocardial bridging with Moderate LV dysfunction on medical management with follow up in Neuro Surgery OPD i/v/o Cervical Spondylosis with degenerative disc disease and disc bulge*". He was imparted prolonged medical treatment in the respondents' Company Hospitals, Main Hospital, Kothagudem, NIMS hospital, Hyderabad and other referral hospitals. But, due to underground work his health was not cured completely. But, alleging absenteeism to duties during year 2022, the petitioner was dismissed from service ante-date vide Ref. dt.29.08.2025. Thus, there is sufficient and reasonable cause for the petitioner for not attending to duties during the above charge sheet period. But without considering the true facts, the respondent No.2 dismissed the petitioner from service, illegally.

9(b). The learned counsel for the Petitioner/workman further strenuously put forth and set forth that the petitioner participated in the enquiry, deposed the true facts of his ill-health. But, the enquiry officer did not properly appreciate the facts and he gave his vague findings, which are quite biased and perverse. But, 2<sup>nd</sup> respondent straight away dismissed him from service vide Ref. dt.29.08.2025. No prior Show Cause Notice was issued to the petitioner proposing the capital punishment of dismissal from service and he was not afforded an opportunity explain as to why the extreme punishment of dismissal shall not be imposed on him. The petitioner's health condition was badly deteriorated and he suffered from serious ill health, during the charge sheeted period and there is sufficient and reasonable cause for the petitioner for not attending to duties during charge sheet period.

9(c). The learned counsel for the Petitioner/workman further put forth and set forth that imposing the capital punishment of dismissal from service without any prior show cause notice is against the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to economic death of the petitioner. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job in spite of his best efforts. He hails from a very poor family and has no other source of livelihood. Therefore, he prayed to set aside the dismissal order and to direct the Respondents'-Company to reinstate the petitioner/workman into service with continuity of service, all consequential attendant benefits and full back wages.

#### **POINT No.1:**

10. Here, on the point of territorial jurisdiction of this Tribunal, it is settled Law that as per the Division Bench Judgment of the Hon'ble High Court reported in 1997(III)LLJ(Supp.)11, Between: U. Chinnappa Vs. Cotton Corporation of India, this Tribunal has got every jurisdiction to entertain the Industrial Dispute raised by the petitioner/workman who was an employee of Singareni Collieries Company Ltd., Even though, the Central Govt. is appropriate Govt., for the respondents'-Company, the petitioner need not compulsorily raise the Industrial Dispute before the Central Govt. Industrial Tribunal, Hyderabad, as contended by the respondents' company; and he can file this I.D. case before this Tribunal as well. Hence, the contentions of the respondents'-company on the point of jurisdiction of this Tribunal are not sustainable under Law. Accordingly, it is answered in favour of the petitioner and against the respondents' Singareni Collieries Company Limited.

11. Further in this matter, initially the petitioner/workman denied the validity and legality of the enquiry report. But on 20.01.2026, the learned counsel for petitioner filed Memo U/Sec.11-A of I.D Act by accepting the procedure of domestic enquiry to be fair and valid. Hence, it can be said the Enquiry Officer has followed the principles of

natural justice. Now the next question is, whether the misconduct is proved in the facts of the case and the findings are not perverse. So, this Tribunal is to re-appreciate the evidence and come to its own conclusion with regard to finding guilty or not based on evidence. Accordingly, the Point No.1 is answered.

**POINT No.2 & 3:**

12. In view of the pleadings of the Petitioner/Workman as well as Respondents/corporation as well as in view of the rival arguments of their respective counsel now this Court will go into the evidence on record. Admittedly, the petitioner was dismissed from service by Proc. dt.29.08.2025 wherein it is alleged that the petitioner was absent from duty without sanctioned leave or sufficient cause during the year 2022. From a perusal of the record, it shows that Charge Sheet dt.18.01.2023 was issued to the petitioner, which is marked as Ex.M-13. It is evident from the charge sheet that the petitioner absented to duties for 346-days and put-in only 02 actual musters during the year 2022. Domestic enquiry was conducted and the enquiry proceedings are marked as Ex.M-14. Further, a perusal of Ex.M-14 proceedings of enquiry and enquiry report would go to show that the Petitioner participated in the domestic enquiry and deposed that he remained absent on the dates as mentioned in the charge sheet and it was his mistake. He admitted that charges and pleaded guilty and deposed that due to his own health problems, he did not attend to his duty. He accepted his mistake for remaining absent during the charge sheet year of 2022 and requested to take a lenient view for this time and excuse him. He assured that he will put up 20 musters per month and if not, to take action on him. He further admitted that he was punished with penalty of stoppage of one increment without cumulative effect for the year 2019; and reversion to a lower stage in a time scale by reducing two increments 2-times i.e., for the year 2020 and 2021.

12(a). From the Enquiry Report which is also under Ex.M-14, it is evident that the petitioner absented to duty without sanctioned leave and he accepted the charge made under Company's standing order 25.25 & 25.31 (*Habitual late attendance or habitual absence from duty without sufficient cause & Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave*) mentioned in the charge sheet dt.18.01.2023 was held proved. The petitioner has not submitted any documents regarding his health problems in the enquiry to substantiate his claim. Further, 7-days show cause notice dt.27.10.2023 was issued, which is marked as Ex.M-15 and it appears that he failed submit any explanation/representation to the respondents. The dismissal order dt.29.08.2025 is marked as Ex.M-16 wherein it shows that a show cause notice together with a copy of enquiry report and proceedings was issued to petitioner, so as to make representation against the findings of enquiry. He acknowledged the same and not submitted any representation to it. As the charges leveled and proved being grave and serious, the petitioner was dismissed from services of the Company with effect from 01.09.2025.

13. Apart from the above, the petitioner/workman got marked as many as 50 documents as Ex.W-1 to Ex.W-50, which include medical prescriptions, medical reports and treatment imparted to him. Most of the medical documents submitted by the petitioner/ workman were issued by the SCCL Hospitals, Vasavi Chest & Psychiatric Clinic, Sri Sai Cardiac Centre, Vinayaka Neuro Multi Specialty Centre, Suman Gastro & Liver Centre, Purna Laxmi Nuero Centre, The Breath Clinic, Sahaja Chest & Surendra Nehru Hospital, MEDICOVER Hospital, PMSSY KMC & several other hospitals, which prima-facie show that the petitioner/workman suffered from ill-health from 2017 to 2025. The petitioner explained that due to his ill-health problems, he absented to duties during the charge sheeted year of 2022 and prayed to consider his case sympathetically. Thus, it is evident from the enquiry proceedings and enquiry report under Ex.M-14 as well as the material on record that the petitioner had not put in minimum required musters of 190 during the year 2022. For which, he submitted that due to his ill-health, he was unable to perform duty regularly during the charge sheet period and submitted several medical prescriptions and reports of SCCL and other referral hospitals, which are marked as Ex.W-1 to Ex.W-50. Further, the above medical documents of the petitioner lend support to his enquiry statement under Ex.M-14 showing the ill-health suffered by him. These documents clearly show that the petitioner/ workman was imparted treatment during the charge sheet period. Hence, the defense put-forth by the petitioner is plausible and amount to mitigating circumstances.

13(a). However, it is clear that the petitioner has not attended to duties during the charge sheet period and the charges were amply proved against him. Therefore, it can be said that the respondents/ company has no axe to grind against the petitioner. Hence, this Tribunal has no hesitation to hold that the charges leveled against the petitioner/workman are proved and misconduct of the workman is established basing on the evidence and the findings of enquiry officer are not perverse. But, at the same time much gravity cannot be attributed to the petitioner since his ill-health and treatment imparted by SCCL and other referral hospitals is supported by the medical documents, which show reasonable cause for the petitioner's absence during the charge sheet period.

**14. Now the question is whether the punishment of removal from service is disproportionate or not?**

14(a). It is settled law that the object of I.D.Act is to give succor to weaker sections of the society and it is a social welfare legislation. Here, there is no "*Plumblin Precision*" for deciding the proportionality of punishment, which depends upon the facts and circumstances of each case. The Industrial Tribunal/Labour Court is empowered to exercise discretionary powers U/Sec.11-A of Industrial Disputes Act for judicious adjudication of the industrial disputes. Several factors like nature of duty, past service past conduct, previous penalties if any and the discipline required to maintain in the department, victimization and plea of the petitioner/workman and the punishment must be

commensurate with the gravity of charges against the petitioner/workman etc., by considering the relevant factors and mitigating circumstances of each case are to be taken into consideration so as to mould the relief appropriately and reduce the punishment imposed on the workman.

15. Here, the learned counsel for the petitioner/workman submitted that the Petitioner was appointed in the year 2015 as Fitter through notification. The petitioner submitted medical documents showing that respondents have referred the petitioner to SCCL Hospitals, Vasavi Chest & Psychiatric Clinic, Sri Sai Cardiac Centre, Vinayaka Neuro Multi Speciality Centre, Suman Gastro & Liver Centre, Purna Laxmi Nuro Centre, The Breath Clinic, Sahaja Chest & Surendra Nehru Hospital, MEDICOVER Hospital, PMSSY KMC & several other hospitals, during the years 2019-2025. It appears from the said medical documents submitted by the petitioner that he suffered from ill-health, Heart problem and a case of “*CAD with S/p CAG-Mild CAD with myocardial bridging with Moderate LV dysfunction on medical management with follow up in Neuro Surgery OPD i/v/o Cervical Spondylosis with degenerative disc disease and disc bulge*”. Further, the petitioner hails from a very poor family, he has got no other livelihood and facing untold financial problems, and prayed to consider the case U/Sec.11-A of I.D. Act. Here, the learned counsel for the petitioner relied upon the following citations:-

- 1) HON'BLE SUPREME COURT JUDGMENT REPORTED IN AIR 1988 SC 303 – Between: Scooter India Ltd, Labour Court, Lucknow & ors:

In this case, the Labour Court while holding that enquiry had conformed to statutory prescriptions and principles of natural justice, yet held that order of termination was not justified and ordered for reinstating employee with 75% back wages. Wide powers are vested in Labour Court or Tribunal. Labour Court can temper justice with mercy and give an opportunity to an erring workman to reform himself. Order of Labour Court granting relief of reinstatement with 75% back wages was upheld by Hon'ble Supreme Court.

- 2) HON'BLE HIGH COURT JUDGMENT IN W.A. No.1101/2008 and W.P.No.7671 of 2000, dt.07.04.2009 D.B. Judgment:

In this case, the Labour Court granted reinstatement with continuity of service and half-of back wages. The Hon'ble High Court held that since the petitioner remained unemployed from the date of removal, modified the award of Labour Court by granting full back wages.

- 3) Judgment of Hon'ble Supreme Court, dt.24-08-2009 in Civil Appeal No.5762 of 2009, Between: Coal India Ltd. & Anr Vs. Mukul Kumar Choudari and others.
- 4) Judgment of Hon'ble Supreme Court dt.14-05-2009 Between: Jagadish Singh Vs. Punjab Engineering College and others.

In the above Judgments of the Hon'ble Supreme Court at Sl.No.3 & 4 reveals that the punishment should be in commensurate with the gravity of the charges and it should not be shockingly disproportionate. Further, this Tribunal is adhering to the ratio laid down by their Lordships as applicable to the facts of the present case on hand, to the extent of reinstatement only.

16. Here, this Tribunal relied on a Division Bench Judgment of the Hon'ble Supreme Court rendered in Civil Appeal No.2157/1999, dt.08.04.1999 between Ajaib Singh vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., & another, wherein their lordships held that:-

*“The object of Industrial Disputes Act was to give succor to weaker sections of the society. The emergence of the concept of Welfare State implies an end to exploitation of workman and as a corollary to that collective bargaining came into it own. The Legislature had intended to protect workmen against victimization and exploitation by the employer and to ensure termination of Industrial Disputes in a peaceful manner.*

*“The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for Welfare State. To ensure industrial peace and pre-empt industrial tension, the Act further aims at enhancing the industrial production which is acknowledged to be life-blood of a developing society. The Act provides a machinery for investigation and settlement of industrial dispute ignoring the legal technicalities with a view to avoid delays, by specially authorized Courts which are not supposed to deny the relief on account of the procedural wrangles”.*

16(a). Further, in a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships observed that:-

*“The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. The Labour Court/Industrial Tribunal is conferred with very wide discretion U/Sec.11-A of the Act for granting appropriate relief”.*

17. Here, their Lordships of the Hon'ble Gujarat High Court in a case rendered on 04.05.1994, Between: Management of Glaxo India Ltd., Vs. State of Assam and 3 others categorically observed that **“a Labour Court is required to settle a dispute according to the principles of natural justice, equity and good conscience and law without attaching**

***undue importance to legal technicalities”.***

18. Further, it is well settled law that if the Industrial Tribunal/ Labour Court is satisfied that the punishment imposed on the petitioner/workman is not justified, the Industrial Tribunal/Labour Court ***is clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by the Enquiry Officer or Respondents/ Management established the misconduct alleged against the workman.*** Further, *Sec.11-A comes into effect only at the time when the Industrial Tribunal/Labour Court consider about the punishment to be imposed. While previously the Industrial Tribunal/Labour Court had no power to interfere with the punishment, it is now clothed with such a power.* Apart from the above, Industrial Tribunal/Labour Court should temper justice with mercy and not flog the petitioner/workman to asset our might. *The power of ocean does not lie in its tumultuous tides but in its meditative vastness”.* My above view is fortified with the observation of their Lordships of Hon’ble Madras High Court in a case Between: ***High Court of Madras Vs. R.D.Santhana Krishnan dt.21<sup>st</sup> December, 2021.***

19. Here, it is to be noted that the concept of Industrial Dispute is quite broad and with the passage of time its horizon is being expanded. Further, the disputes are required to be resolved for the purpose of establishing peaceful and cordial atmosphere in an industry. Peace and harmony are the quintessential aspects which are to be kept in view while dealing with the “*lis*” or “*controversy*” relating to any industry. Apart from the above, whether the impugned punishment is so disproportionate as to shock the conscience of the Court, has to be decided on the facts of each case, having due regard to the gravity of misconduct & nature of duties discharged by the delinquent employee.

20. Here, it is pertinent to note that the term “misconduct” is the intentional doing of something which the doer knows to be wrong, or which he does recklessly, not caring what the result may be. It includes negligence or want of proper care which an employee is to take. But, it is a fact that “*to err is human*” and “*to forgive is divine*”. Keeping the said spirit into consideration and in the interest of cause of justice, every errant conduct of an employee of an organization could not be treated as grave misconduct. Further, it is settled law that promoting empathy and understanding by encouraging forgiveness, which is a divine quality transcending human limitation, should be preferred to anything else in the given circumstances. My above view is fortified by observation of their Lordships of the Hon’ble Supreme Court in a judgment rendered Between: ***Ratilal Jhaverbhai Parmar Vs State Of Gujarat dt.21<sup>st</sup> October, 2024.***

21. Further, the Hon’ble Madras High Court observed in a case rendered in *Management of Hyudai Motor India Ltd Vs. T.Sudhakar ... on 31<sup>st</sup> January, 2022:*

***“When scales of justice stands balanced in a given case, the tilt to be exercised should be in favour of the poor workmen rather than the mighty Managements.”***

22. Here, I am of the opinion that for promoting ethical behavior and integrity for Public Servants, the Latin Maxim (*Memento Mori: remember that you must die*) acts as a check against selfish to selfless service. It serves as a reminder that: “*when office is gone, only the legacy of their character remains*”. So, the old Adam or old Man or old-self of him or her must die. Otherwise, it will kill them. In summary, *Memento Mori* serves as a Sobering, yet empowering reminder that allows Public Servants to focus on leaving a positive, lasting impact rather than chasing, selfish and temporary goals.

23. Therefore, by taking a holistic view of the matter, I am of the considered view that the extreme punishment of removal imposed by the respondents/corporation against the petitioner/workman is harsh, disproportionate and shocks to conscience of this Tribunal, hence, deserves to be modified since the disciplinary authority cannot be permitted to act arbitrarily and work like a Roman Knight and it cannot be allowed a fight between David and Goliath as in the present case on hand. Moreover, facts of this case attracts the proverbial saying “*Every saint has a past and every sinner has a future*” and Biblical proverbs “*Speak up for those who cannot speak for themselves, for the rights of all who are destitute*” and “*Speak up and judge fairly; defend the rights of the poor and needy.*” Further, “*Heavens would not have fallen if one more opportunity is given for the petitioner*”.

24. This Tribunal has perused, analyzed and meditated upon the case at hand, the case laws and principles of law referred above. In view of the above facts and circumstances and keeping in view of the principle “*temper justice with mercy*” and to meet the ends of justice, this Tribunal is of the opinion that the punishment of removal from service imposed on the petitioner is disproportionate and shocks the conscience of this Tribunal and hence, it deserves to be modified appropriately. It appears from the record that the petitioner rendered service of 8-years only in the respondents’ company and he is out of employment ever since his dismissal from service. Hence, this Tribunal is of the considered view that denial of entire back wages, continuity of service and all other attendant benefits during the intervening period from the date of his dismissal to till date and further “***Reduction of Pay by TWO Incremental stages with cumulative effect***” would be a deterrent punishment to the petitioner. However, the past service rendered by the petitioner shall be protected and counted for all purposes. Further, the petitioner shall be kept under observation for a period six (6) months and in case he commits any misconduct, the respondents’ company is at liberty to take stern disciplinary action against him. Hence, the punishment of dismissal from service imposed by the Respondents’

Company is hereby modified. Accordingly, the Points 2 & 3 are answered.

25. **IN THE RESULT**, the petition is partly allowed. The dismissal order dt.29.08.2025 under Ex.M-16 issued by the Respondent No.2 is hereby modified. The respondents' company is directed to reinstate the petitioner into service, but without any back wages, without any continuity of service and without any attendant benefits during the intervening period from removal till date and it shall be treated as "not on duty" for all purposes. However, the past service rendered by the petitioner shall be protected and counted for all purposes. **Further, his Pay shall be reduced by TWO Incremental stages with cumulative effect**". Further, the petitioner shall be kept under observation for a period six (6) months and in case he commits any misconduct, the respondents' company is at liberty to take stern disciplinary action against him. The petitioner is entitled to the salary only from the date of publication of the Award. Copy of the Award be sent to the appropriate Government for publication. Both parties shall bear their own costs.

*Typed to my dictation, corrected and pronounced by me in the open Court, on this the 06<sup>th</sup> day of February, 2026.*

Dr.T.SRINIVASA RAO, Chairman-cum-Presiding Officer,

## APPENDIX OF EVIDENCE

### WITNESSES EXAMINED

FOR WORKMAN:-

-Nil-

FOR MANAGEMENT:-

-Nil-

### EXHIBITS MARKED

FOR WORKMAN:-

|         |     |            |                                                                            |
|---------|-----|------------|----------------------------------------------------------------------------|
| Ex.W-1  | Dt. | 12.10.2015 | Provisional Offer of appointment order as Fitter trainee (external).       |
| Ex.W-2  | Dt. | 07.04.2017 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-3  | Dt. | 19.06.2017 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-4  | Dt. | 25.10.2017 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-5  | Dt. | 26.10.2017 | Medical prescription of Sri Sai Cardiac Centre, Hanamkonda.                |
| Ex.W-6  | Dt. | 15.12.2017 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-7  | Dt. | 19.02.2018 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-8  | Dt. | 04.06.2018 | Medical prescription of Sai Vasavi Chest & Psychiatric clinic, Hanamkonda. |
| Ex.W-9  | Dt. | 30.06.2018 | Medical prescription of Sri Sai Cardiac Centre, Hanamkonda.                |
| Ex.W-10 | Dt. | 03.07.2018 | Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. |
| Ex.W-11 | Dt. | 25.07.2018 | Medical prescription of Suman Gasto & Liver Centre, Karimnagar.            |
| Ex.W-12 | Dt. | 04.09.2018 | Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. |
| Ex.W-13 | Dt. | 10.10.2018 | Medical prescription of Suman Gasto & Liver Centre, Karimnagar.            |
| Ex.W-14 | Dt. | 29.10.2018 | Medical prescription of Vinayaka Neuro Multi Specialty Centre, Hanamkonda. |
| Ex.W-15 | Dt. | 01.12.2018 | Medical prescription of Purna Laxshi Neuro Centre, Karimnagar.             |
| Ex.W-16 | Dt. | 21.02.2019 | Medical prescription of Suman Gasto & Liver Centre, Karimnagar.            |
| Ex.W-17 | Dt. | 04.11.2020 | Medical prescription of The Breathe Clinic, Hanamkonda, Warangal.          |

|         |     |            |                                                                                                                                                                                   |
|---------|-----|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.W-18 | Dt. | 22.06.2021 | Medical prescription of Sahaja Chest Hospital, Godavarikhani.                                                                                                                     |
| Ex.W-19 | Dt. | 03.09.2022 | Medical prescription of Surendra Nehru Hospital, Godavarikhani.                                                                                                                   |
| Ex.W-20 | Dt. | -do-       | Medical prescription of Surendra Nehru Hospital, Godavarikhani.                                                                                                                   |
| Ex.W-21 | Dt. | 06.09.2022 | Medical prescription of Sri Sai Cardiac Centre, Hanamkonda.                                                                                                                       |
| Ex.W-22 | Dt. | -do-       | Iskon Diagnostics, Hanamkonda Laboratory Report of petitioner.                                                                                                                    |
| Ex.W-23 | Dt. | 12.09.2022 | PMSSY-Super specialty Warangal, Coronary Angiogram report of petitioner.                                                                                                          |
| Ex.W-24 | Dt. | 12.10.2022 | SCCL Reference letter of petitioner to NIMS Hospital, Hyderabad.                                                                                                                  |
| Ex.W-25 | Dt. | 18.10.2022 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-26 | Dt. | 20.10.2022 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-27 | Dt. | 08.09.2023 | SCCL Reference letter of petitioner to NIMS Hospital, Hyderabad.                                                                                                                  |
| Ex.W-28 | Dt. | 12.09.2022 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-29 | Dt. | 15.09.2023 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-30 | Dt. | 21.09.2023 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-31 | Dt. | 16.10.2023 | SCCL Hospital DISCHARGE CARD of petitioner.                                                                                                                                       |
| Ex.W-32 | Dt. | 19.10.2023 | SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem.                                                                                                |
| Ex.W-33 | Dt. | 26.10.2023 | SCCL Main Hospital Kothagudem Final Diagnosis of petitioner showing CAD-S/P-CAG with Myocardial Bridging with LV Dysfunction with C-Spandylolosis with Cad-Usa Discharge summary. |
| Ex.W-34 | Dt. | 26.10.2023 | Show cause notice & enquiry proceedings to petitioner to make representation on the enquiry report.                                                                               |
| Ex.W-35 | Dt. | 16.02.2024 | SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem.                                                                                                |
| Ex.W-36 | Dt. | 22.02.2024 | SCCL Main Hospital, Kothagudem to keep the petitioner in SICK LIST & review after two months.                                                                                     |
| Ex.W-37 | Dt. | 08.06.2024 | SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem.                                                                                                |
| Ex.W-38 | Dt. | 19.06.2024 | SCCL Area Hospital Reference letter of petitioner to NIMS Hospital.                                                                                                               |
| Ex.W-39 | Dt. | 25.06.2024 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-40 | Dt. | 27.06.2024 | NIMS Hospital medical prescription of petitioner.                                                                                                                                 |
| Ex.W-41 | Dt. | 03.07.2024 | SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem.                                                                                                |
| Ex.W-42 | Dt. | 18.10.2024 | SCCL Area Hospital, Ramagundam Reference letter to SCCL Main Hospital, Kothagudem.                                                                                                |
| Ex.W-43 | Dt. | 02.08.2025 | Medical prescription of Sri Sai Cardiac Centre, Hanumakonda<br>NEED for check CAG explained.                                                                                      |

|         |     |            |                                                             |
|---------|-----|------------|-------------------------------------------------------------|
| Ex.W-44 | Dt. | 02.09.2025 | Medical prescription of Sri Sai Cardiac Centre, Hanamkonda. |
| Ex.W-45 | Dt. | 09.09.2025 | Medical prescription of Sri Sai Cardiac Centre, Hanamkonda. |
| Ex.W-46 | Dt. | 07.09.2025 | SCCL Area Hospital UNFIT of petitioner from 14.10.2023.     |
| Ex.W-47 | Dt. | 10.09.2025 | MEDICOVER Hospital, Cath Procedure of petitioner.           |
| Ex.W-48 | Dt. | 29.08.2025 | Dismissal Office Order of petitioner.                       |
| Ex.W-49 | Dt. | 01.09.2025 | Name removal of petitioner Office Memo.                     |
| Ex.W-50 | Dt. | 22.09.2025 | O/c of Demand letter with RP Receipt.                       |

**FOR MANAGEMENT:-**

|         |     |                                 |                                                                                  |
|---------|-----|---------------------------------|----------------------------------------------------------------------------------|
| Ex.M-1  | Dt. | 05.03.2020                      | Attested Copy of charge sheet issued to petitioner.                              |
| Ex.M-2  | Dt. | 05.09.2020                      | Attested Copy of enquiry proceedings.                                            |
| Ex.M-3  | Dt. | 12.10.2020                      | Attested copy of show cause notice.                                              |
| Ex.M-4  | Dt. | <u>19.03.2021</u><br>25.03.2021 | Attested Copy of stoppage of one increment without cumulative effect.            |
| Ex.M-5  | Dt. | 20.03.2021                      | Attested Copy of charge sheet issued to the petitioner.                          |
| Ex.M-6  | Dt. | 18.11.2021                      | Attested Copy of enquiry proceedings.                                            |
| Ex.M-7  | Dt. | 12.01.2022                      | Attested copy show cause notice.                                                 |
| Ex.M-8  | Dt. | <u>10.02.2022</u><br>11.02.2022 | Attested Copy of penalty of reversion to lower stage by reducing two increments. |
| Ex.M-9  | Dt. | 12.02.2022                      | Attested copy of charge sheet issued to the petitioner.                          |
| Ex.M-10 | Dt. | 30.03.2022                      | Attested copy Enquiry Proceedings.                                               |
| Ex.M-11 | Dt. | 19.05.2022                      | Attested copy of show cause notice.                                              |
| Ex.M-12 | Dt. | 25.07.2022                      | Attested copy of penalty of reversion to lower stage by reducing two increments. |
| Ex.M-13 | Dt. | 18.01.2023                      | Attested copy of charge sheet issued to petitioner.                              |
| Ex.M-14 | Dt. | 01.09.2023                      | Attested copy of enquiry proceedings.                                            |
| Ex.M-15 | Dt. | 27.10.2023                      | Attested copy show cause notice.                                                 |
| Ex.M-16 | Dt. | 29.08.2025                      | Attested copy of dismissal from service order of petitioner.                     |

नई दिल्ली, 6 मार्च, 2026

**का.आ. 317.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट(संदर्भ संख्या -41/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/03/2026 को प्राप्त हुआ था।

[सं. एल-22012/78/2022-आई आर(सीएम- II)]

सलोनी, उप निदेशक

New Delhi, the 6th March, 2026

**S.O. 317.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference./41/2022**) of the **Central Government Industrial Tribunal-**

**cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on 03/03/2026.

[No. L-22012/78/2022 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 41 OF 2022**

**PARTIES:** Rajesh Ghosh  
(dependant son of Late Dulal Ghosh)

**Vs.**

Management of Central Kajora Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

**INDUSTRY:** Coal

**STATE:** West Bengal.

**Dated:** 11.04.2025

**AWARD**

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/78/2022-IR(CM-II)** dated 10.08.2022 has been pleased to refer the following dispute between the employer, that is the Management of Central Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“Whether the action of the management of Central Kajora Colliery, Kajora Area, M/s. E.C.Ltd. in not providing employment on compassionate ground to Sri Rajesh Ghosh dependent son of Late Dulal Ghosh, Ex- SDL Operator, UM NO. 116231 and in not paying monetary compensation to Smt. Rina Ghosh wife of Late Dulal Ghosh under the provisions of NCWA is fair, legal and justified? If not, what relief the dependent of deceased workman is entitled to? ”*

1. On receiving Order **No. L-22012/78/2022-IR(CM-II)** dated 10.08.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 10.08.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Rajesh Ghosh, dependant claiming employment and monetary compensation on account of Late Dulal Ghosh has appeared in person. Mr. Rakesh Kumar, union representative filed a petition on behalf of the union praying for withdrawing the case on the ground stated therein. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited is present.

3. It is submitted by Mr. Kumar that dependent of Late Dulal Ghosh had sought for compassionate employment on account of legal death of Dulal Ghosh. It is further submitted that prior to his disappearance in the year 2009, Dulal Ghosh was dismissed from service in the year 2006 on account of his unauthorized absence for a short period. In this Industrial Dispute dismissal of Dulal Ghosh has not been challenged as such it would not be appropriate for the dependent to proceed with his claim for compassionate employment in place of his father. Considered. No objection is

raised. It appears to me that claim made by the union for providing compassionate employment to Rajesh Ghosh is contingent upon findings as to whether Dulal Ghosh was terminated in a proper manner or not. Since no dispute has been raised relating to the manner of dismissal of Dulal Ghosh, present Industrial Dispute cannot find logical conclusion. Industrial Dispute is therefore dismissed for non-prosecution. Let a No Dispute Award be drawn up.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed for non-prosecution. A No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 6 मार्च, 2026

**का.आ. 318.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट(संदर्भ संख्या -43/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/03/2026 को प्राप्त हुआ था।

[सं. एल-22012/80/2022-आई आर(सीएम- II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 6th March, 2026

**S.O. 318.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference./43/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on 03/03/2026.

[No. L-22012/80/2022 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 43 OF 2022**

**PARTIES:** Utpal Chakraborty

**Vs.**

Management of Madhusudanpur Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Adv.

**INDUSTRY:** Coal

**STATE:** West Bengal.

**Dated:** 22.04.2025

**AWARD**

On failure of conciliation before the Assistant Labour Commissioner (Central), Raniganj at Durgapur on 02.08.2022 and in exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/80/2022-IR(CM-II)** dated 29.08.2022 has been pleased to refer the following dispute between the employer, that is the Management of Madhusudanpur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“Whether the demand of Koyla Mazdoor Congress (HMS) vide their letter dated 24.05.2019 against the action of the Management of Madhusudanpur Colliery, Kajora Area, M/s. E.C. Ltd. in not giving promotion to Sri Utpal Chakraborty, in Cat-V from Cat-IV as Electrician per cadre scheme is fair, legal and justified? If yes, what relief the workman concerned is entitled to? ”*

1. On receiving Order **No. L-22012/80/2022-IR(CM-II)** dated 29.08.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 29.08.2022 / 01.09.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Mr. P. K. Das, learned advocate appeared for the management of Eastern Coalfields Limited. Mr. Rakesh Kumar, union representative, appearing on behalf of Utpal Chakraborty and filed an application praying for closing the case on the ground that the concerned employee who raised this dispute for getting promotion from Category-IV to Category-V as an Electrician has superannuated from service. It is stated in the petition that he does not want to proceed further in this case. Copy served upon learned advocate for the management. On a perusal of record, it appears that the case is fixed up today for appearance of the workman and further evidence of workman witness.

3. On repeated calls at 12.50 PM Utpal Chakraborty is not found present. Mr. Kumar moved the application for disposing the case. Considered the application. It appears that the aggrieved workman has already retired from service and no purpose would be served by continuing the case before this Tribunal. The Industrial Dispute is accordingly disposed of for non-prosecution. Application filed by the union representative is disposed of. Let a No Dispute Award be drawn up in the light of my above findings.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on consent. Let a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 319.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट (29/2013) प्रकाशित करती

[सं. एल-12025/01/2026-आई आर(बी- I)-61]

सलोनी, उप निदेशक

New Delhi, the 9th March, 2026

**S.O. 319—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 29/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.**

[No. L-12025/01/2026- IR(B-I)-61]

SALONI, Dy. Director

**ANNEXURE**

BEFORE THE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 6<sup>th</sup> FEBRUARY 2026

PRESENT : **Smt. K P INDIRA B.A., LLB.**

Presiding Officer

**I D No. 29/2013****I Party**

Sri Susainathan G,  
S/o Late F George,  
R/a No. 9/1, S Street,  
Shantinagar,  
BANGALORE – 560 027.

**II Party**

The Deputy General Manager and CDO and Appellate  
Authority, State Bank of India, Local head Office, No.  
65, St. Mark's Road,  
BANGALORE – 560 001.

**Appearances**

I Party : **Sri B D Kuttappa**  
Advocate

II Party : **Sri Ramesh Upadhyaya**  
Advocate

1. The Petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the State Bank of India who was Discharged from Service with superannuation benefits.

'the Act') by the 1st Party workman / former employee of the State Bank of India who was Discharged from Service with superannuation benefits.

2. On receipt of records notice were issued to both the parties and they entered their appearance through their respective counsel.

3. The I Party filed Claim Statement stating that while working as Armed Guard in the II Party Local Head Office he was suffering from diabetes mellitus and Epilepsy from January 2011; that he was deputed to Gold Sales Department (Sona Ghat) from 16.05.2011; that he had excellent record of service; that he was issued with Charge Sheet on 11.04.2012 with two charges; that the charges leveled against is without any basis or material particulars and based on assumption and presumption and II Party was relying upon the discharge certificate issued by Bowring and Lady Curzon Hospital and the statement of the Security Officer; that the enquiry was held in utter violation of Principles of Natural Justice; that the Enquiry Officer has not given him reasonable opportunity to defend him in the enquiry; that the Enquiry Officer has not applied his mind to the facts of the case and that the Disciplinary Authority without going into the evidence, mechanically confirmed the findings given by the Enquiry Officer and dismissed him from service w.e.f. 11.10.2012; that the Appellate Authority modified the said dismissal order to discharge from service on 24.01.2013; that the charges leveled against him were totally disproportionate to the alleged misconduct; that a dispute CR No. 38/2011 was pending before this Tribunal in which the I Party is also a Union member and the II Party ought to have taken prior permission from this Hon'ble Tribunal under Section 33(2)(b) prior to issuance of order of discharge; that the order of discharge passed against him is nonest and invalid and the same is sought to be set aside with a further prayer to reinstate him to his original post with back wages from the date of discharge from service till reinstatement and all other consequential benefits and continuity of service.

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4. II Party in its counter statement contended that the I Party was employed as Armed Guard with the duty of guarding the premises; that he was found sleeping in the premises of the bank; that as he was found sleeping in the Bank premises, he was shifted to Bowring Hospital by the II Party thinking that he may need some medical attention; On medical examination he was found to be in a state of intoxication; based on the discharge summary issued by the Hospital reporting that the I Party was intoxicated, a full-fledged enquiry was conducted affording adequate opportunity to defend himself and the Enquiry Officer has submitted the Enquiry Report on 31.08.2012 consequent to which the Disciplinary Authority passed the order of Dismissal on 11.10.2012; that in his appeal the Appellate Authority has provided a personal hearing to the I party on 24.11.2012; while so the I Party raised the present dispute before the Assistant Labour Commissioner, Bangalore and the I Party addressed the Conciliation Officer that he is

withdrawing the petition and the conciliation officer closed the matter in pursuance of the letter dated 08.01.2013, then the Appellate Authority, based on the entire material placed before it modified the punishment of Dismissal to Discharge with Superannuation Benefits without disqualification from future employment; that the medical problem with which the I Party was said to be suffering has got no relationship with the incident alleged in the charge sheet, hence, the II Party prayed this Tribunal to reject the reference with exemplary costs.

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5. Based on the rival pleadings placed before this Tribunal my learned predecessor framed the following issues for trial on 09.09.2014 as follows :

*"1. Whether the Domestic Enquiry conducted by the Respondent against the Applicant is fair and proper?"*

*2. Whether the Order of discharge passed by the Respondent Management against the Applicant w.e.f. 24.01.2013 is void ab initio for not obtaining approval from this Tribunal in view of the pendency of CR 38/2011 on the file of this Tribunal?"*

*3. If not, whether the Applicant demonstrates the finding of the Domestic Enquiry is perverse necessitating due interference of this Tribunal?"*

*4. If not, whether the punishment imposed is disproportionate to the misconduct proved against the Applicant?"*

*5. What Order / Award?"*

6. Based on the above pleadings Issue No. 1 was treated as preliminary issue and the matter came to be posted for Evidence of II Party. Both sides adduced evidence and the preliminary issue stood answered in the affirmative on 08.08.2019 holding that the enquiry held against the I Party by the II Party is fair and proper and the matter was posted for Argument. On 07.02.2020 I party filed an application under Section 11 of ID Act seeking permission to adduce evidence and filed an affidavit in lieu of his examination in chief and sought permission to produce documents in support of the allegations made in the affidavit. While so it is reported before this Tribunal that the I Party workman Sri Susainathan expired and the matter was posted for taking steps to implead his legal representatives. Despite having afforded ample opportunities no legal representatives of the I Party workman did come on record, the matter was then heard on behalf of the management.

7. Eventually the Argument advanced by the II Party is heard in detail.

8. Issues No. 1 and 5: The history of the case narrated above clearly indicates that the I Party could not pursue the case subsequent to the submission of his claim statement due to his untimely death. Though he was represented by his counsel until then, subsequent to his death the learned counsel did not take any effective steps to bring the legal heirs of the deceased workman on record. So literally this Tribunal is incapacitated to put on record any valid case of the I Party workman to be controverted by the contesting II Party.

9. The factum of death of the I Party is seen recorded on 28.02.2025 as informed by the learned counsel for the I Party. Copy of the death certificate is not forthcoming from the side of the I Party. As already observed, no legal heirs have come on record to prosecute the case anymore. So much so, necessarily the claim stands abated as necessary steps have not been taken in time to implead the legal heirs / legal representative of the late workman or any steps to condone the delay in impleading the LRs and to set aside abatement of the claim. In this scenario this reference is to be answered as the claim stands abated as the I Party workman died long ago without the matter being pursued by any of the legal representatives. Hence, the following award.

#### AWARD

**Reference is recorded as abated. Transmit.**

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 5<sup>th</sup> February 2026)

K P INDIRA , Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 320.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल केपंचाट(संदर्भ संख्या -29/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22013/01/2026-आई आर(सीएम- II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 9th March, 2026

**S.O. 320.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. 29/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on 06/03/2026.

[No. L-22013/01/2026 – IR (CM-II)]

SALONI, Dy. Director/Link officer

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

#### **REFERENCE CASE NO. 29 OF 2023**

**PARTIES:** Manoj Kumar Pati  
**Vs.**  
Management of Madhusudanpur Colliery, Kajora Area of M/s. ECL

#### **REPRESENTATIVES:**

For the Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P.K. Das, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 10.12.2025

#### **AWARD**

The above named workman being represented by President, Koyala Mazdoor Congress raised an Industrial Dispute before the Dy. CLC(C), Asansol through Samadhan portal dated 01.01.2023. The contention of the union is that Manoj Kumar Pati, a General Mazdoor bearing U.M. No.102066 was posted at Madhusudanpur Colliery, Kajora Area. By order dated 09.08.2013, Manoj Kumar Pati was deployed to perform the duty of attendance clerk at Madhusudanpur Colliery but after rendering continuous service for a long period, the management of ECL refused to regularize his service as attendance clerk. A conciliation proceeding was held which resulted in failure. The Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol issued Order **No. 1(10)/2023/E.** dated 22.05.2023 whereby in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred the scheduled dispute for adjudication by this Tribunal.

#### **SCHEDULE**

*“ Whether the action of the management of Madhusudanpur Colliery, Kajora Area, M/s. ECL in not paying the amount of differential wages and not regularisation to the post of Attendance Clerk to Sri Manoj Kumar Pati is justified or no ? If not, what relief the workman is entitled to ”.*

1. On receiving Order **No. 1(10)/2023/E. dated 22.05.2023** from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute a Reference case was registered on 30.05.2023 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Manoj Kumar Pati filed written statement on 13.09.2023 through Koyala Mazdoor Congress. The facts which unfolded from the written statement is that Manoj Kumar Pati, a permanent employee of ECL was posted as General

Mazdoor. Subsequently he was deployed as attendance clerk against permanent vacancy for managing attendance of the employees at Madhusudanpur Colliery. He performed his duty continuously till initiating this Industrial Dispute. It is contended that the workman requested the management to pay him difference of wage of Clerk Grade-II and the amount which was being paid to him as a General Mazdoor in Cat-I. The aggrieved workman also requested the management for regularizing him in the post of Clerk but the management of ECL did not consider his request. Further case of union is that according to the Memorandum of Settlement dated 02.08.2013, Manoj Kumar Pati was deployed as attendance clerk but the management did not pay him the wages of Clerical Grade-II. It is asserted that the management regularized number of workers as Clerk without any test or examination. It is submitted that Ramakant Yadav, Sudip Mitra, Bhakta Das Badyakar, Ramawadh Bouri of the same colliery were regularized as clerk without undergoing any test or examination. Accordingly, Manoj Kumar Pati, who performs service in the capacity of clerk for ten years without any promotion should be regularized to the post of clerk as per the provision of Certified Standing Order of the company, which lays down that if a worker performed any particular job continuously for a period of three months or above, he should be regularized to that post. It is further ascertained that management of Madhusudanpur Colliery have the requirement of attendance clerk and Manoj Kumar Pati fulfills all the requirements for the post of clerk, as such he should be regularized to that post and should be paid difference of wages from the date of his working as a clerk.

3. Management of ECL contested the case by filing written statement on 13.09.2023. The version of the management is that the post of attendance clerk comes under Clerical Grade as it is a centralized post. Selection to clerical post is done by the ECL Headquarters and for this purpose notifications are issued from time to time for filling vacancy in the post. Candidates having requisite qualification are required to apply for this post and they are selected for clerical posts only after they qualify in the selection test conducted by the management. Therefore, the workman is not entitled to be regularized to the post of clerk unless he fulfills certain criteria. It is admitted by the management that the Manoj Kumar Pati has been placed to manage attendance work at colliery Pit No. 7 vide Office Order No. MSP/6/689 dated 09.08.2013. It is further stated that in case of encadrement/regularization of a workman from General Mazdoor Cat-I to Clerk Grade-III, no incremental benefit is given if the prevailing basic of the General Mazdoor is more than the minimum basic of Clerk Grade-III. If the prevailing basic of the concerned workman is less than the minimum basic of Clerk Grade-III, then the workman is given the benefit by fixing his pay at minimum basic of Clerk Grade-III. Displaying a chart, showing comparative basic pay of Manoj Kumar Pati and the minimum monthly basic of Clerk Grade-III from the year 2013 to 2023, Management claimed that basic pay of Manoj Kumar Pati since 2013 was already more than the minimum basic pay of Clerk Grade – III. As such no difference of wage is payable to the workman and the workman is not entitled to any outstanding dues. It is urged that Manoj Kumar Pati was never regularized to the post of Clerk Grade -III and he is not entitled to any benefit claimed.

4. The central point for consideration is whether Manoj Kumar Pati, a General Mazdoor, deployed as attendance Clerk should be regularized to the said post and whether he is entitled to payment of any difference of wages.

5. Union examined Manoj Kumar Pati as WW-1. He filed an affidavit-in-chief and claimed that in a Memorandum of Settlement dated 02.08.2013, management agreed to place him as attendance clerk along with other workman and Office Order No. MSP/6/689 dated 09.08.2013 was issued. The witness further averred that the management received the benefit of service rendered by him for several years but did not place him in Clerk Grade-II and did not pay him difference of wages between General Mazdoor and Clerk Grade-II. The workman claimed that he completed one year of service as attendance clerk on 01.09.2014 and should be paid the wage of Clerk Grade-II w.e.f. 01.09.2014. In respect of the comparative chart showing statement of wages from 2013 to August 2023, the workman claimed that he had been performing the job of Clerk Grade-II and the basic pay of Clerk Grade-II should have been taken into consideration instead of Clerk Grade-III. The workman witness further stated that the management of Kajora Area as well as other areas of ECL had sent the names of other employees of ECL for regularization who were deployed to work in clerical jobs and the competent authority of ECL approved the proposal of their regularization. It is urged that the regularization process should also be considered with consistency but the management adopted pick and choose policy according to their wish, ignoring legitimate claims.

During examination-in-chief, the workman produced the following documents:

- (i) Copy of identity card is produced as Exhibit W-1.
- (ii) Copy of Office Order dated 09.08.2013 produced as Exhibit W-2.
- (iii) Copy of Memorandum of Settlement in Form 'H' dated 02.08.2013 is produced as Exhibit W-3.
- (iv) Copy of application dated 19.05.2017 submitted to Personnel Manager for regularization as attendance clerk is produced as Exhibit W-4.
- (v) Copy of application dated 13.09.2021 for regularization as attendance clerk is produced as Exhibit W-5.
- (vi) Copy of Office Order dated 21.01.2011 is produced as Exhibit W-6.

- (vii) Copy of letter dated 14.01.2011 for regularizing some employees as Clerk Grade-III is produced as Exhibit W-7.
- (viii) Copy of Memorandum of Settlement dated 09.02.2023 is produced as Exhibit W-8.
- (ix) Copy of proposal dated 06.05.2019 initiated at Colliery level for regularization of Manoj Kumar Pati to the post of Attendance clerk is produced as Exhibit W-9.

It appears from his examination in chief that Manoj Kumar Pati was initially appointed at Kalidaspur Colliery, ECL and he came on transfer to Madhusudanpur Colliery in 2004. After he was placed as attendance clerk on the basis of a settlement dated 02.08.2013 (Exhibit W-3), the workman submitted an application dated 19.05.2017 before Personnel Manager for his regularization to the post of attendance clerk (Exhibit W-4). He submitted another application for his regularization as attendance clerk (Exhibit W-5). He produced a copy of Office Order dated 21.01.2011 whereby similarly placed workers were regularized in their respective posts where they were deputed to work. Copy of Office Order dated 21.01.2011 has been produced as Exhibit W-6. The workman produced a copy of Memorandum of Settlement where the management agreed to pay difference of wages on regularization (Exhibit W-8). Thereafter, a proposal dated 06.05.2019 was initiated at the Colliery level regarding regularization of Manoj Kumar Pati to the post of attendance clerk (Exhibit W-9). The workman claimed that at present he receives a daily wage of Rs. 2713.51 per day but could not state the difference of wages he would be entitled to if regularized. In cross-examination, the witness denied that in all cases before posting in clerical grade, a selection procedure has to be carried out. Workman denied that for regularization in clerical grade, the preconditions which have to be fulfilled are educational criteria and participation in the selection process. Witness deposed that in many cases, persons have been posted in clerical cadre without any selection test. It transpires from his testimony that he was not aware about the notifications of 05.06.2014, 11.02.2016 and 02.02.2018 issued by the management for holding written examination for the post of Clerical Grade-III. The witness was unable to state if other employees of the establishment applied for the post of clerical grade. The witness admitted that if his basic pay was computed on the basis of daily wage @ Rs. 2713.51 for twenty six days, his basic pay would be more than starting pay in the post of attendance clerk.

6. Mr. Proloy Dasgupta, management witness filed an affidavit-in-chief admitting the factual aspects. The witness has clearly stated in paragraph 4 of the affidavit that the post of attendance clerk is a centralized post and selection to clerical grade is carried out by ECL Headquarters. It is stated that notifications are issued from time to time according to vacancy in the post and candidates having requisite qualification apply for the post and their selection to the post of clerical grade is considered only after qualifying in the selection test. The aggrieved workman not having fulfilled such requirements do not qualify to be regularized to the post of clerk. The witness stated that in case of regularization from General Mazdoor Cat-I to Clerk Grade-III, no incremental benefit is given if the basic of the concerned workman aspiring for the post in Clerk Grade has a higher minimum pay than the basic pay of Clerk Grade-III. The witness further deposed that since 2013, Manoj Kumar Pati was already receiving more than the minimum basic of Clerk Grade-III, he is not entitled to any difference of wage or any outstanding dues.

In course of his examination-in-chief, the management witness produced the following documents:

- (i) Copies of notifications dated 05.06.2014, 11.02.2016 and 02.02.2018, inviting applications for Clerk Grade-III are produced as Exhibit M-1, Exhibit M-1/2 and Exhibit M-1/3 respectively.
- (ii) Copy of service book of Manoj Kumar Pati is produced as Exhibit M-2.
- (iii) Copy of Office Order dated 09.08.2013 is produced as Exhibit M-3.
- (iv) Copy of Memorandum of Settlement in Form-H is produced as Exhibit M-4.
- (v) Copy of letter dated 29.10.2017 informing Manoj Kumar Pati of vacancies in Clerical post is produced as Exhibit M-5.
- (vi) Copy of comparative salary chart of Manoj Kumar Pati as General Mazdoor Cat-I and Clerk Grade-III is produced as Exhibit M-6.
- (vii) Copies of payslips of Manoj Kumar Pati from 2013-2024 are produced as Exhibit M-7.
- (viii) Copies of Office Orders dated 16.06.2013 and 11.01.2020 granting SLP to Manoj Kumar Pati are produced as Exhibit M-8 and M-8/1.
- (ix) Copy of attendance statement of candidates appearing for Clerk Grade-III Exam is produced as Exhibit M-9.
- (x) Copy of cadre scheme is produced as Exhibit M-10.
- (xi) Copy of notification dated 02.02.2018, inviting applications for Clerk Grade-III is produced as Exhibit M-11.
- (xii) Copy of Office Order dated 25.04.2019 by which 12 candidates of ST, 22 candidates of SC and 117 candidates of general category were selected in the post of clerk grade-III is produced as

## Exhibit M-12.

During cross-examination, the management witness deposed that Ramakant Yadav and Ramawadh Bouri were regularized as Store Clerk Grade-III from their earlier post of Clerk Grade-III on the basis of recommendation of Departmental Promotion Committee. It transpires from further cross-examination of MW-1 that the aforesaid persons did not apply in response to any notification and their selection was not through any test. So far as circulation of notification is concerned, the witness stated that it was displayed on the Notice Board and no separate notice were issued to eligible candidates. It may be gathered from the cross-examination of management witness that Manoj Kumar Pati is functioning as attendance clerk from the year 2013 without interruption. The witness also admitted that Manoj Kumar Pati is matriculate and he served for more than three years in the post of attendance clerk. The witness admitted that apart from holding test there is process for selection by fulfillment of educational qualification as well as length of service of candidate and he is also required to undergo an examination held by the management. The witness deposed that Ramakant Yadav and Ramawadh Bouri were regularized to Clerk Grade-III in the year 2011 on the recommendation of departmental promotion committee/selection committee of ECL headquarters but the witness was unable to state if any test was held for their regularization to the post of Clerk Grade-III. A suggestion was put to management witness by the union representative that Ramakant Yadav and Ramawadh Bouri were regularized to the post of Clerk Grade-III without any examination or appearing in a test which the witness denied. No specific document was thereafter produced by the management to establish that examination was held for regularization of the two workmen in clerical grade.

7. Mr. Rakesh Kumar, union representative argued that Manoj Kumar Pati was placed as attendance clerk on the basis of a Memorandum of Settlement. He performed satisfactorily in the said capacity for several years, since August 2013 but the management of ECL did not considered his application for regularization to the post and no difference of pay has been granted in favour of the workman for the duties performed by him. It is argued that Manoj Kumar Pati is a matriculate. It is argued by the union representative that several other workmen from other Collieries have been deployed and then regularized as Clerk without undergoing any selection process or any examination. In the instant case, the workman has been functioning against a vacant post and the management should regularize him in the said post and paid his dues towards difference of pay for the work done by him as attendance clerk.

8. P.K. Das, learned advocate for the management strenuously argued that initially the workman was placed at Pit No. 7 of Madhusudanpur Colliery to manage the attendance work w.e.f. 09.08.2013 on the basis of Memorandum of Settlement but he was never posted as a clerk and he is not entitled to the benefit of being regularized or being granted the difference of pay between the post of Clerk Grade-III and General Mazdoor unless he applied against a notification issued from time to time to fill such post. Only after appearing in the selection test and on being recommended by the Departmental Promotion Committee, an employee can be posted in the clerical grade.

9. I have considered the rival arguments in the light of facts and circumstances of the case disclosed in the pleadings and evidence adduced by both parties. It is abundantly clear that Manoj Kumar Pati who was initially posted as a General Mazdoor on 09.01.2004 (Exhibit W-1), was deployed to function as an attendance clerk from 09.08.2013, on the basis of an Office Order produced as Exhibit W-2. It appears from the record that Memorandum of Settlement under section 12(3) of Industrial Disputes Act, 1947 was executed on 02.08.2013 by representatives of the union and the management wherein it was agreed before the Assistant Labour Commissioner (Central), Raniganj that Manoj Kumar Pati would be placed to manage attendance work at Madhusudanpur Colliery. Copy of Form 'H' has been produced as Exhibit W-3. Though Manoj Kumar Pati claimed that he was placed as attendance clerk, both the Memorandum of Settlement dated 02.08.2013 and Office Order dated 09.08.2013 disclose that he was placed to manage the attendance work at Madhusudanpur Colliery and certainly it was not any placement order as attendance clerk. The workman has been continuously rendered service in the capacity of attendance clerk since 09.08.2013. The concerned workman made several representations before the Manager (Personnel) and Agent, Madhusudanpur Colliery seeking his regularization to the post of attendance clerk. Copies of applications dated 19.05.2017 and 13.09.2021 have been produced as Exhibit W-4 and W-5 respectively. On 06.05.2019, a proposal was made for regularization/encadrement of two employees namely Manoj Kumar Pati and Subhas Sahana, Switch Board attendant to the post of Clerk Grade-III. A copy of the proposal signed by the Deputy Manager (Personnel) has been produced by the union as Exhibit W-9. From the aforesaid documents, it is affirmed that the management of ECL was fully conscious that Manoj Kumar Pati is functioning as Clerk Grade-III and that he proposed for his regularization. Workman has produced copy of Office Order dated 21.01.2011 at Exhibit W-6 which reveals that on recommendation of Departmental Promotion Committee constituted at the headquarter level, the competent authority upon recommendation of Departmental Promotion/Selection Committee constituted at headquarter level regularized Ramakant Yadav and Ramawadh Bouri as Clerk Grade-III. The management witness in his cross examination dated 06.11.2024 deposed that Ramakant Yadav and Ramawadh Bouri Clerk Grade-III were regularized as Clerk Grade-III on recommendation of Departmental Promotion Committee and further stated that their selection was not based on any test. It is therefore manifestly clear that management of ECL while regularizing some of its employees to the post of clerical cadre did not issue any prior notification and the concerned persons without applying against any notification and without appearing in any examination were recommended to fill up clerical posts.

10. Mr. Das has produced copies of notification dated 05.06.2014, 11.02.2016 and 02.02.2018 which are

notifications for the written examination for selection to Clerk Grade-III from eligible departmental candidates. Manoj Kumar Pati in his evidence stated that he was not informed about such circulars. According to the management, if a person from a lower cadre is placed to function as a clerk, he would not be entitled to any difference of pay if the basic pay of the person so deployed is more than the minimum basic pay of Clerk Grade-III. It has been argued that Manoj Kumar Pati was receiving higher pay than the minimum pay of Clerk Grade-III. Therefore, he is not entitled to get difference of pay. In the instant case, the aggrieved workman has rendered continuous service as attendance clerk for ten years without being regularized to the post. The management has relied upon a scheme for Ministerial Staff in the general Clerical Cadre which has been circulated vide II No. 34 dated 17.07.1984. For the purpose of being designated as Clerk Grade-III, the required minimum qualification is matriculation or any equivalent examination from any recognized Board of Examination and he would be eligible for promotion to the post of Clerk Grade-II by the recommendation of Departmental Promotion Committee. In the instant case, it would appear from the written statement and affidavit-in-chief of management witness that in the year 2013, Manoj Kumar Pati was receiving a higher basic pay as General Mazdoor than the minimum basic pay of Clerk Grade-III. Since 09.08.2013, the workman has rendered continuously served as attendance clerk of Madhusudanpur Colliery. Admittedly, the aggrieved workman is a matriculate. MW-1 in his cross-examination has admitted that Manoj Kumar Pati is a matriculate and he has served for more than three years as attendance clerk. By dint of such educational qualification and experience he is already receiving a basic pay higher than Clerk Grade-III. Manoj Kumar Pati is found eligible for his regularization to the post of Clerk Grade-III immediately on completion of three years in the clerical post. Therefore, he is entitled to be regularized to the post Clerk Grade-II w.e.f. 09.08.2016. There is preponderance of evidence to prove that regularization of subordinate staff members to clerical grade of the management were considered on the basis of their educational qualification and experience without holding any examination or separate selection process. The case of Ramakant Jadhav and Ram Awadh Bouri clearly indicate that they were regularized to the post of Clerk Grade-III without any selecting procedure. The management should certainly strive to bring about a parity in treatment of its employees. I therefore hold that Manoj Kumar Pati is entitled to be regularized to the post of Clerk Grade-II and is entitled to difference of wage between Clerk Grade-II and pay received by him w.e.f. 09.08.2016 and disburse the dues in respect of the difference of pay in the post of Clerk Grade-II w.e.f. 09.08.2016 within a period of three months from communication of this order.

Hence,

### **ORDERED**

The Industrial Dispute is allowed in part against the management of ECL. Manoj Kumar Pati be regularized to the post of Clerk Grade-II w.e.f. 09.08.2016 and he shall also be entitled to receive difference of pay for the post of Clerk Grade-II w.e.f. 09.08.2016. Management of ECL shall complete the entire procedure within three months of communication of this order. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

**ANANDA KUMAR MUKHERJEE**, Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 321.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल** के पंचाट (संदर्भ संख्या -39/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22012/76/2022-आई आर(सीएम- II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 9th March, 2026

**S.O. 321.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. 39/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen, received by the Central Government on 06/03/2026.

[No. L-22012/76/2022 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 39 OF 2022**

**PARTIES:** Rabilal Majhi

**Vs.**

Management of Khas Kajora Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 01.01.2026

**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/76/2022-IR(CM-II)** dated 03.08.2022 has been pleased to refer the following dispute between the employer, that is the Management of Khas Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“Whether the demand of the President, Koyala Mazdoor Congress (HMS), Asansol in his letter dated 26/6/2021 (copy enclosed) to reinstate in service to Sri Rabila! Majhi. U.G. Loader, who was dismissed vide letter No.KA:PM:C-6:10:3369/24 dated 9/01/1996(copy enclosed) against the action of the management of Khas Kajora Colliery, Kajora Area, M/s E.C.Ltd. in their letter No. KKC/P&IR/C-6/Re-State/331 dated 12/08/2011 (copy enclosed), is proper, legal and justified? If yes, what relief the workman concerned is entitled to? ”*

1. On receiving Order **No. L-22012/76/2022-IR(CM-II)** dated 03.08.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 10.08.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Rabilal Majhi, the dismissed workman filed written statement in this case on 27.03.2023 through Mr. Rakesh Kumar, President, Koyala Mazdoor Congress. In gist, the fact of the case as disclosed in their written statement is that Rabilal Majhi was a permanent employee and posted as an Underground Trammer, bearing U.M. No. 552834 at Khas Kajora Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL). Rabilal Majhi could not attend his duty w.e.f. December 1993 due to his illness. The management of ECL issued Charge Sheet against him on 23.05.1994. After recovery from illness the workman reported for his duty but he was not allowed to join. Management issued Charge Sheet bearing No. KKC/P&IR/C-6/19/94 dated 23.05.1994. The Charge Sheet was not served upon Rabilal Majhi as it was sent to his home address while he was residing at the Colliery. Management conducted ex-parte enquiry against the workman without service of Novice of enquiry and he was dismissed from service of the company on the basis of the order of dismissal bearing No. KA:PM:C-6:10:3369/211 dated 09.01.1996. It is contended that no second Show Cause Notice was served upon the workman and the management of ECL imposed a disproportionate and harsh punishment upon the workman without complying settled law laid down by the Hon'ble Supreme Court of India, which provides that a second Show Cause Notice should be issued to the workman before the final order of punishment is passed if the Enquiry Officer and Disciplinary Authority are not the same person. According to the workman the Enquiry Officer should have ensured service of Charge Sheet and Notice of enquiry before holding ex-parte enquiry and a second Show Cause Notice and Enquiry Proceeding with findings ought to have been served upon the workman before the order of dismissal was issued. Non-compliance of such procedure gives rise to breach of natural justice and a punishment of dismissal from service due to absence from duty for a period of five months and twenty-two days is disproportionate to the alleged misconduct. It is urged that the ex-parte order of dismissal is liable to be set aside and the workman should be reinstated in his service with full back wages since the date of his dismissal. The workman also submitted that according to the Memorandum of Settlement dated 22.05.2007 a dismissed workman had the right to submit mercy appeal which was to be forwarded

by the colliery and Area management to the ECL Headquarters for consideration and if the period of absence from duty was less than nine months and the age of the workman was below forty-five years, management had assured to consider the mercy appeal. Since the workman's representation in the form of mercy appeal was not considered the present Industrial Dispute had to be initiated, seeking reinstatement with back wages.

3. Management of ECL contested the case by filing written statement on 30.01.2023. Management admitted that Rabilal Majhi having U.M. No. 552834 was posted as an Underground Trammer and was a permanent employee of Kahs Kajora Colliery under Kajora Area of ECL. According to the management the workman was a habitual absentee. On several occasions he remained absent from duty and lastly, he remained absent from December 1993 without any information or authorization. After a long unauthorized absence, the management of ECL issued a Charge Sheet to the workman bearing No. KKK/P&IR/C-6/19/94 dated 23.05.1994 under Clause 17(i)(n) of the Model Standing Orders applicable to the Coal Mine Industries. A domestic enquiry was initiated and the Enquiry Officer issued two Notice of enquiry dated 25.11.1995 and 11.12.1995. The workman did not attend the enquiry nor did he send any information on any of the dates as such the enquiry was conducted ex-parte on 20.12.1995. In course of enquiry the charge of unauthorized absence was fully established against the charged employee. He was dismissed from his service by order of dismissal bearing No. KA:PM:C-6:10:3369/211 dated 09.01.1996, issued by the General Manager, Kajora Area, ECL. The past record of the workman relating to his attendance was not satisfactory and he attended duty only on 19 days out of 306 days in the year 1992, 148 days out of 305 days in the year 1993 and nil out of 305 days in the year 1994. According to the management absenteeism is a serious misconduct and it hampers the work and production process of the employer. According to the management ample opportunity was provided to the workman to improve his performance and attendance but he did not mend his conduct as a result he was dismissed from service on the charge of unauthorized and habitual absence. The management in support of their case relied upon a decision of the Hon'ble High Court at Calcutta in the case of **Dayanand Paswan Vs. Coal India Limited and Others [Writ Petition No. 874 of 2014]**, wherein the action of the management of ECL in dismissing the workman was held to be justified and in the said judgement the Hon'ble High Court emphasized that the employee must take his duty seriously and cannot take his employment for granted. He must follow the rules and regulation of the employer company and must conduct himself in a disciplined manner and perform his duties with responsibility not only for personal excellence but also for collective good of the organization which he serves. Management further asserted that the punishment of dismissal of the workman from service is proportionate to the nature of misconduct of long unauthorized absence. It is urged that the workman is not entitled to any relief and the Industrial Dispute is liable to be dismissed.

4. The moot point for consideration is whether the demand for reinstatement of Rabilal Majhi, Underground Loader in his service after his dismissal on 09.01.1996 is legal and justified.

5. The union examined Rabilal Majhi as Workman Witness No. 1 and filed his affidavit-in-chief. It is stated in the affidavit-in-chief that he could not attend his duty as he fell sick since December 1993. After his recovery he reported for duty but was not allowed to join. The management issued Charge Sheet bearing No. KKK/P&IR/C-6/19/94 dated 23.05.1994 which was sent to his home address. He did not receive the Charge Sheet as he was residing at the Colliery at the relevant time and the Notice was returned to the management undelivered. The workman further averred that he visited the colliery and met the Manager and requested him to allow him to join duty. It is further stated that the Enquiry Officer conducted enquiry and without ensuring service of Notice of enquiry concluded the enquiry proceeding. The General Manager of Kajora Area on the basis of recommendation made by the Agent awarded the punishment of dismissal against the workman and issued order bearing No. KA:PM:C-6:10:3369/211 dated 09.01.1996. It is also stated in the affidavit-in-chief that for absence from duty for five months and twenty-two days, from December 1993 to 22.05.1994 the management should not have awarded such harsh punishment of dismissal which is disproportionate to the nature of misconduct. According to the workman there has been violation of principles of natural justice by debarring him from appearing in the enquiry and by not issuing second Show Cause Notice. It is claimed that the order of dismissal is illegal and as he was below forty-five years at the relevant time and his period of absence was only five months and twenty-two days, he should have been reinstated in service in terms of Memorandum of Settlement dated 22.05.2007. During his examination-in-chief the workman produced the following documents :

- (i) Photocopy of Chargesheet dated 23.05.1994 issued against Rabilal Majhi is produced as Exhibit W-1).
- (ii) Photocopy of letter of dismissal dated 09.01.1996, as Exhibit W-2.
- (iii) photocopy of the application of Rabilal Majhi, praying for mercy and reinstatement of duty, as Exhibit W-3.
- (iv) Photocopy of another application of Rabilal Majhi for re-instatement, as Exhibit W-4.
- (v) Photocopy of the letter issued by the Personnel Manager, Kajora Area dated 21.01.2011, stating as Rabilal Majhi had absented for more than nine months, his case was not fit for recommendation for re-instatement, as Exhibit W-5.

The workman further deposed that he was suffering from jaundice and reeling of head but he was unable to produce any document relating to his medical treatment during the period of his absence from duty. He further deposed that he did not take part in the enquiry proceeding and he used to reside at Shyamla which is thirty kilometers from Beldanga.

6. In cross-examination the witness stated he did not submit any reply to the Charge Sheet and for the first time during evidence he stated that he could not attend his duty from December 1993. He admitted in his cross-examination that in his prayer for reinstatement submitted on 30.12.2010 the statement made by him in the prayer was correct. It appears from Exhibit W-3 that he was prevented from attending duty on being tortured by some money lenders. Suggestion was put to the witness that he intentionally remained absent from duty as he was not eager to work but the witness denied the same.

7. Management examined Mr. Proloy Dasgupta, Manager (Personnel), Khas Kajora Colliery, ECL as Management Witness No. 1. In his affidavit-in-chief he stated that Rabilal Majhi, ex-Underground Trammer was a habitual absentee for which he was previously reprimanded on several occasions. The workman again remained absent from December 1993 without any authorization or information to the appropriate authority. He was chargesheeted under Clause 17(i)(n) of the Model Standing Orders. The matter was referred for domestic enquiry and two Notice of enquiry were issued on 25.11.1995 and 11.12.1995. The workman did not attend the enquiry on any of the two dates and the domestic enquiry was proceeded ex-parte where the charge levelled against the workman was proved. The General Manager thereafter issued a letter dated 09.01.1996 dismissing the workman on the said charge. It is stated that the workman attended duty for only 19 days out of 306 days in the year 1992, 148 days out of 305 days in the year 1993 and nil out of 305 days in the year 1994. The management witness averred that absenteeism is a serious offence as it hampers the work of the employer and production process. Concerned workman was given several opportunities to improve his performance in respect of his physical attendance but he did not improve his conduct. The management therefore cannot maintain the name of the workman on roll for indefinite period. Accordingly, he was dismissed. Management claimed that the punishment meted out to the ex-workman is proportionate to the nature of his misconduct and claimed that the management is justified in dismissing the ex-workman from the service of the company and the workman is not entitled to any relief. In course of his evidence management witness produced the following documents:

- (i) Photocopy of the Charge Sheet dated 23.05.1994 issued to the workman is marked as Exhibit M-1.
- (ii) Photocopy of the letter of appointment of the Enquiry Officer dated 20.11.1995, as Exhibit M-2.
- (iii) Photocopies of two Notice of Enquiry dated 25.11.1995 and 11.12.1995 addressed to Rabilal Majhi, as Exhibit M-3 and M-4 respectively.
- (iv) Photocopy of the Enquiry Proceeding in which workman did not participate, as Exhibit M-5.
- (v) photocopy of Enquiry Report along with findings of the Enquiry Officer, as Exhibit M-6.
- (vi) Photocopy of letter of dismissal dated 09.01.1996 issued by the General Manager, Kajora Area, as Exhibit M-7.

The witness deposed that he has no document to show that the Notice of enquiry was served upon the workman. Management witness admitted that no second Show Cause Notice was issued to the workman nor any copy of the Enquiry Proceeding was supplied to him before dismissal.

8. In cross-examination management witness deposed that he was unable to state how Charge Sheet and Notice of enquiry was served upon the workman. He admitted that he is unable to state the mode of communication of Charge Sheet and Notice of enquiry to the workman before commencement of enquiry. It is also evident from the cross-examination that no second Show Cause Notice was served upon the workman before dismissal of the workman from service and denied that the punishment of dismissal is not proportionate to the misconduct. The management witness conceded the fact that the mercy petition of the workman was not considered.

9. Heard argument advanced by Mr. Rakesh Kumar, union representative who submitted that the management of ECL has dismissed the workman in violation of principles of natural justice and without complying the mandate of the Hon'ble Supreme Court of India in the case of **Union of India and Others Vs. Mohd. Ramzan Khan [AIR (1991) SC 471]** and the Circular issued by the Coal India Limited, where it is provided that a second Show Cause Notice is required to be served upon the workman giving him an opportunity to submit his explanation in respect of the findings against him, specifically in the case where the Enquiry Officer and Disciplinary Authority are different persons. Mr. Kumar further argued that the nature of punishment is harsh and disproportionate as the workman who was below forty-five years of age at the relevant time and absented only for a period of five months and twenty-two days was not reinstated on the basis of his representation and appeal though in the Memorandum of Settlement dated 22.05.2007 the management has agreed to consider the cases where the period of absence is less than nine months and the age of the charged employee is less than forty-five years. It is stated that the workman should be reinstated in service of the company and he should be paid full back wages.

10. Mr. P. K. Das, learned advocate for the management, in reply argued that the workman joined in service on

31.10.1991 and he was habitual absentee from the very beginning. From the records maintained by the employer company it would appear that since his joining he was a habitual absentee and he was reprimanded on several occasions for improving his attendance but he performed duty only for 219 days since his joining. The workman deliberately remained absent from December 1993 and did not return. Charge Sheet was issued to the workman which he was fully aware of but he has not participated in the enquiry after two Notice of enquiry were issued to him. The workman in course of adducing evidence in this Industrial Tribunal has admitted the fact that he remained absent from duty since December 1993 till Charge Sheet was issued to him and has deposed that at the relevant time, he used to reside at Shyamla which is thirty Kilometers from Beldanga. In his examination-in-chief the witness deposed that he was suffering from jaundice but he admitted that he has no medical treatment papers and did not lead evidence in support of his illness. Learned advocate referred to the cross-examination of Workman Witness No. 1 and argued that the witness admitted in his prayer for reinstatement submitted on 30.12.2010 (Exhibit W-3) that he was unable to attend duty on being harassed by money lenders. Therefore, it is urged that there was no treatment papers in support of workman that he was suffering from illness. Learned advocate strenuously argued that the workman deliberately remained absent without any reason and is not entitled to any relief.

11. I have perused the materials on record and considered the rival arguments. It appears to me that the workman did not perform his duty seriously and sincerely. It is an admitted fact that he remained absent for more than five months without any authorization. The workman failed to produce any medical papers in support of his plea of illness. In the affidavit-in-chief the workman stated that after recovery from illness he reported for duty but was not allowed to join. He did not mention any date when he reported for duty. The workman was fully aware about issuance of Charge Sheet and in paragraph no. (5) of the affidavit-in-chief he stated that when Charge Sheet was issued, he was in the Colliery and the Charge Sheet was sent to his native place. It can well be assumed that when a person is performing his duty, he will be available in the colliery and during his absence he would be at his registered address provided in the Service Record. Though the workman was fully aware that management had issued Charge Sheet against him which was sent to his native village during his long absence, he did not bother to find out the indictment in the Charge Sheet. Management witness produced a copy of Charge Sheet as Exhibit M-1 and copies of Notice of enquiry as Exhibit M-3 and M-4. Copy of the Enquiry Proceeding is produced as Exhibit M-5 and Report of the Enquiry Officer is produced as Exhibit M-6. The workman has been found guilty for his absence from duty from 19.11.1993 to 20.12.1995, which is more than two years which covers the entire period of his absence disclosed in the Charge Sheet from December 1993 to 23.05.1994. It is abundantly clear from the findings of the Enquiry Officer that the workman never showed up for duty for more than two years. It is true that the management of the employer company is duty bound to observe the principles of natural justice before dismissing its employee from the service of the company by issuing a Charge Sheet, Notice of enquiry and holding a proper enquiry proceeding. Management made best effort by issuing such Charge Sheet and Notice at his native place. However, this duty cast upon the management is not absolute in the absence of reciprocal responsibility of the employee to attend his place of work and either to inform the reason of absence or to seek authorization for leave on any acceptable ground. The duty of observing principles of natural justice by the employer has been complied and no prejudice is caused to the workman. In a case where the workman abandoned his duty for a long period without any information, he cannot be allowed to challenge the act of the management as violative of natural justice. In the instant case the management issued a Charge Sheet and appointed an Enquiry Officer. The Enquiry Officer in turn issued two Notice of enquiry and fixed two dates. The workman did not participate in the enquiry and remained absent on being chased by the money lenders, as disclosed in Exhibit W-3. The management after initiating a domestic enquiry on May 1994 ultimately issued the order of dismissal on 09.01.1996. On a perusal of the order of dismissal (Exhibit W2/M-7) it appears that two Notice of enquiry were served upon the workman at his home address under registered post and enquiry was held on 20.12.1996 but the workman did not participate. In my considered view no prejudice was caused to the workman by non-issuance of second Show Cause Notice. It further appears to me that after dismissal of the workman in January 1996 the workman raised the Industrial Dispute on 26.06.2021, before the Assistant Labour Commissioner (C), Raniganj, Durgapur. There has been a delay of more than twenty-five (25) years in raising the Industrial Dispute after dismissal of the workman. The circumstances revealed that the workman has not acted in a diligent manner and his prayer for reinstatement after such a long period of silence is of no merit. I therefore, hold that the demand made by the union for reinstatement of the dismissed workman is not legally tenable and the Industrial Dispute merits dismissal on contest.

Hence,

**ORDERED**

that the Industrial Dispute is dismissed on contest. Rabibal Majhi, the dismissed workman is not entitled to any relief of reinstatement and back wage. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 322.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल** के पंचाट(संदर्भ संख्या **-11/2023**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **06/03/2026** को प्राप्त हुआ था।

[सं. एल -22012/09/2023-आई आर सीएम-II]

सलोनी, उप निदेशक

New Delhi, the 9th March, 2026

**S.O. 322.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.11/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on **06/03/2026**.

[No. L-22012/09/2023 – IR (CM-II)]

SALONI, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 11 OF 2023**

**PARTIES:** Sunny Mejhan  
represented by Koyala Mazdoor Congress

**Vs.**

Management of Bhanora West Block Colliery, Sripur Area of M/s. ECL

**REPRESENTATIVES:**

For the Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress

For the Management of ECL: Mr. P.K. Das, Advocate

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 26.12.2025

**AWARD**

On failure of Conciliation the Government of India through the Ministry of Labour, in exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), vide its Order **No. L-22012/09/2023-IR(CM-II)** dated 01.02.2023 has referred the following dispute between the employer, that is the Management of Bhanora West Block Colliery, Sripur Area of M/s. Eastern Coalfields Limited (hereinafter referred as ECL) and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the demand of President, Koyala Mazdoor Congress (HMS), Asansol vide letter dated 24/07/2022 (copy enclosed) against the action of the management of M/s. Eastern Coalfields in relation to its Bhanora West Block Colliery under Sripur Area in regretting the claim of employment of Sunny Mejhan, dependent daughter of Late Binodi Mejhan, Ex-Earth Cutter, UM No. 20888 vide their letter No. ECL/CMD/C-6B/EMPL/WD-6698/20/233 dated 14/10/2020 (copy enclosed), is proper, legal and justified? If yes, what relief Sunny Mejhan, dependent daughter of the deceased workman concerned is entitled to and what directions are necessary to the Management in this respect? ”.*

1. On receiving Order **No. L-22012/09/2023-IR(CM-II) dated 01.02.2023** from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2023** was registered on 01.02.2023 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Union filed written statement on 17.05.2023 in support of the case of Sunny Mejhan, dependent daughter of Binodi Mejhan, ex-employee of ECL. The fact of the case in brief is that Binodi Mejhan was posted at Bhanora West Colliery as Earth Cutter. She died in harness on 30.08.2009 leaving behind Sunny Mejhan as her dependent and unmarried daughter. Sunny Mejhan gave death information to the management of Colliery on 09.11.2009 and submitted an application on 28.12.2009 praying for employment in place of her deceased mother. After receiving the death information, the employer company did not ask for any document required for processing her prayer for employment. After preparing various documents like Attestation Form, Relationship Certificate, No Objection Certificate of other family members, Indemnity Bond and affidavit, some time was taken for submitting those documents. The management of the employer company sent the proposal for her employment to the Area level for her screening and medical examination. The IME Board held examination and declared her fit for employment and also assessed her age as 35-40 years. Proposal for employment was forwarded to the Headquarter of ECL for approval. The Headquarter of ECL again sent Sunny Mejhan for her medical examination by Apex Medical Board, where her age was assessed as 40-45 years as on 31.08.2020 and she was declared unfit for employment due to over age. According to the union, Sunny Mejhan was below 35 years on the date of death of her mother. As per age assessed by the IME Board and also the second assessment of age, it is claimed that on the date of submitting her application, she was below 35 years of age. According to the union, the age of the dependent should be considered as on the date of application and not on the date of holding medical examination. Further contention of the union is that the management should not have assessed the age of Sunny Mejhan for the second time, as the age decided once by the IME Board should be taken as final if the same was not challenged by the claimant. Union asserted that the age of Sunny Mejhan was 28 years 11 months and 29 days on the date of death of Binodi Mejhan and if management accepted the result of second age assessment, her age would be 31 years 6 months and 2 days on the date of death of Binodi Mejhan. The dependent daughter it is urged is entitled to employment. The union has challenged the decision of ECL management which regretted the claim for employment of Sunny Mejhan describing the decision as wrongful and illegal. It has been prayed that Sunny Mejhan, the unmarried daughter of Binodi Mejhan should be provided employment as per the provisions of NCWA with all other consequential benefits.

3. Management of ECL contested the case by filing written statement on 04.04.2023 refuting the claim of the dependent daughter of ex-employee. It is disclosed that on the basis of application dated 24.05.2014 submitted by Sunny Mejhan, she was asked to appear before the IME for assessment of her fitness for work. Her IME was held on 31.03.2018 which assessed her age as 35-40 years and was declared medically fit for employment. According to the management, the Area authority conducted IME at the Area level which was contrary to Circular No. 994 dated 16.03.2017 which provides that if a proposal of employment is made after expiry of two years of death, the same should be sent to the Headquarter of the company. Accordingly, ECL Headquarter forwarded the case of Sunny Mejhan to CMS (IC), ECL Headquarter for determination of her age. After medical examination, the age of Sunny Mejhan was assessed to be 40-45 years on 31.08.2020. On the basis of medical examination, Chief Manager (Personnel), Sripur Area communicated the decision of the competent authority by his letter no. GM/SA/C-6D/7/2020/1241 dated 03.11.2020 that Sunny Mejhan is not eligible for employment as per provisions of NCWA and therefore, the competent authority regretted the claim of employment of Sunny Mejhan. In course of time, this decision was communicated to Sunny Mejhan by letter dated 27.11.2020. On 23.12.2020, the dependent daughter prayed for review of the decision. The Assistant Personnel Manager, Sripur Area, in response to the review application informed that as Sunny Mejhan was above 35 years on the date of her application for employment, the same was rejected. Management asserted that there is no merit in Industrial Dispute and the same is liable to be dismissed.

4. In order to substantiate their case, union examined Sunny Mejhan as WW-1. She filed her affidavit-in-chief stating that after death of her mother on 30.08.2009, she informed the management on 09.11.2009 and claimed employment as a dependent of her mother by submitting an application on 28.12.2009. She admitted that IME Board decided her age as 35-40 years on 31.03.2018 and later on 31.08.2020 the Apex Medical Board decided her age as 40-45 years and declared her unfit due to being over age. It is averred that once she accepted the age assessed by IME on 31.03.2018, her age should not have been assessed by the Apex Medical Board and the Medical Board could have

decided her physical fitness due to gap of 2 years from IME. It is claimed that according to the age assessed as 35-40 years on 31.03.2018, her age should be computed as 37.5 years on that date and she was 28 years 10 months 29 days on the date of death of her mother on 30.08.2009. She further claimed that as per assessment of her age by IME Board held at Sanctoria on 31.08.2020, her age should have been calculated as 31 years 06 months on the date of death of her mother and on the date of application, her age was 31 years 10 months which is within the qualifying age limit.

During examination-in-chief, the witness produced the following documents:

- (i) Copy of identity card of Binodi Mejhan is produced as Exhibit W-1.
- (ii) Copy of death certificate of Binodi Mejhan is produced as Exhibit W-2.
- (iii) Copy of death registration certificate of Binodi Mejhan is produced as Exhibit W-3.
- (iv) Copy of death certificate of father of Sunny Mejhan (husband of Binodi Mejhan) is produced as Exhibit W-4.
- (v) Copy of service excerpt of Binodi Mejhan is produced as Exhibit W-5.
- (vi) Copy of Office Order dated 19.02.2010 for deleting the name of Binodi Mejhan from the company's roll after being informed of her death by her daughter is produced as Exhibit W-6.
- (vii) Copy of letter dated 13.08.2020 calling Sunny Mejhan to appear before IME Board is produced as Exhibit W-7.
- (viii) Copy of IME report of Sunny Mejhan dated 31.08.2020 is produced as Exhibit W-8.
- (ix) Copy of letter dated 14.10.2020 regretting the prayer of employment of Sunny Mejhan is produced as Exhibit W-9.
- (x) Copy of letter dated 03.11.2020, informing Sunny that she was not found eligible for employment is produced as Exhibit W-10.
- (xi) Copy of application dated 23.12.2020 submitted by Sunny Mejhan for review of decision taken by management is produced as Exhibit W-11.
- (xii) Copy of letter dated 05/06.04.2021 wherein Area Personnel Manager rejected Sunny Mejhan's prayer for review is produced as Exhibit W-12.
- (xiii) Copy of Aadhar Card of Sunny Mejhan is produced as Exhibit W-13.

From her cross-examination, it transpires that Binodi Mejhan left behind two daughters, namely Sunny Mejhan and Malati Murmu and one son namely Jogindra Majhi. She further stated that her younger brother has expired. She denied the suggestion that she did not submit any application to the Manager, Bhanora West Block Colliery on 28.12.2009 claiming employment in place of her mother.

5. Mr. Ranveer Rathour has been examined as MW-1. He deposed that the competent authority found Sunny Mejhan was not eligible for employment as per the provision of NCWA for being over age and this decision has been communicated to her on 27.11.2020.

In course of his examination-in-chief, the management witness produced the following documents:

- (i) Copies of application dated 24.05.2014 submitted by Sunny Mejhan praying for compassionate employment, is produced as Exhibit M-1.
- (ii) Copy of IME report of Sunny Mejhan dated 31.03.2018, is produced as Exhibit M-2.
- (iii) Copy of letter dated 20/23.09.2019 furnishing clarifications and information sought by the Headquarter, is produced as Exhibit M-3.
- (iv) Copy of letter dated 03.11.2020 informing Sunny Mejhan that she was not found eligible for employment, is produced as Exhibit M-4.
- (v) Copy of second IME report of Sunny Mejhan dated 31.08.2020 is produced as Exhibit M-5.
- (vi) Copy of application dated 23.12.2020 submitted by Sunny Mejhan for review of decision taken by management is produced as Exhibit M-6.
- (vii) Copies of letter dated 02.01.2021 forwarding the application to competent authority for review is produced as Exhibit M-7.
- (viii) Copy of letter dated 05/06.04.2021 wherein Area Personnel Manager rejected Sunny Mejhan's prayer for review is produced as Exhibit M-8.

In course of his cross-examination, the management witness deposed that in Office Order dated 2010 it is mentioned that date of death of Binodi Mejhan was informed on 09.11.2009. The witness deposed that the management informed the dependents of their rights and entitlements in respect of the service of Binodi Mejhan. The witness also deposed that the age of Sunny Mejhan was assessed between 35 years to 40 years as on 31.03.2018 and she was less than 35

years on the date of submission of application.

6. The point of contention in this case is whether the management of ECL is justified in regretting Sunny Mejhan's claim for employment as dependent of her mother Binodi Mejhan.

7. Mr. Rakesh Kumar, union representative advancing his argument submitted that after the death of Binodi Mejhan, her daughter informed the management about the death of her mother by letter dated 09.11.2009, which will be evident from Office Order dated 19.02.2010 (Exhibit W-6). After deleting the name of Binodi Mejhan from the Roll of the company, management did not disclose the rights of the dependents in respect of the service of Binodi Mejhan. Initially, an application was submitted by the dependent daughter on 28.12.2009 claiming employment but it took some time to prepare some documents which were filed in 2014. Mr. Kumar argued that the management held IME of Sunny Mejhan on 31.03.2018 at the Area level where her age was decided as 35-40 years. On the basis of such age determined by the IME Board, the age of Sunny Mejhan was 31 years 06 months on 28.12.2009, the date of submitting her application for employment which was well within the upper age limit of 35 years. It is argued that though no dispute was raised by Sunny Mejhan against age assessed by the management a second age assessment was held on 31.08.2020 where her age was determined to be 40-45 years and according to such assessment, her age was 31 years 10 months on the date of death of her mother. The union representative strenuously argued that the dependent daughter is eligible for employment in place of her deceased mother as per provisions of NCWA.

8. Mr. P.K. Das, learned advocate for the management of ECL in reply argued that no claim for employment was made by the dependent daughter until 24.05.2014. The management of the company assessed the age on 31.03.2018 as 35-40 years and subsequently the Apex Medical Board on 31.08.2020 assessed the age as 40-45 years which implies that her age was more than 35 years on the date of submitting her application for employment on 24.05.2014. Learned advocate argued that management communicated the decision of the competent authority to the dependent daughter that she was not found fit for employment for being over age.

9. Considered the arguments in the light of the facts and circumstances of the case, pleadings submitted, evidence adduced and the guiding rules. Admittedly, Binodi Mejhan, the mother of Sunny Mejhan died in harness on 30.08.2009. According to the provisions of clause 9.3.4 of NCWA, the dependents to be considered for employment should be physically fit and suitable for employment and the age should not be more than 35 years. In the case of **Sukumoni Hembram alias Sukumoni Mejhan Vs. Union of India and Others [MAT 27 of 2024]** the Hon'ble Division Bench of High Court at Calcutta observed :

*“ NCWA is a negotiated agreement that has been arrived at between the employer and the employees. It is a settlement under section 2 (p) of the Industrial Disputes Act, 1947 and has binding effect on the parties thereto under section 18 (3) of the Act of 1947. NCWA has made provisions for compassionate appointment for the dependents of the deceased employee. ”*

Clause 9.3.2 of NCWA-VI provides that employment would be provided to one dependent of the workman who dies while in service. Furthermore, Clause 9.3.4 provides that the dependents to be considered for employment should be physically fit and suitable for employment and their age should not be more than thirty-five (35) years provided that the age limit for a female spouse would be forty-five (45) years as given in Clause 9.5.0. On a close reading of provisions of NCWA, there is no specified time for reckoning the age of dependent for considering him/her for the purpose of employment. In this matter, a Circular has been issued by the management of ECL bearing No. CIL/C-5B/JBCCI/9.4.3/163 dated 25.07.2003 wherein it has been provided that the age on the date of submitting the application would be considered for offering employment on compassionate ground. Union produced a copy of an application, said to have been submitted by Sunny Mejhan on 28.12.2009 addressed to the Manager, Bhanora West Block Colliery. The document has been marked 'X' for identification and it bears a receiving seal without mentioning the designation of the person who received it. The management of ECL claimed that application for employment was submitted by Sunny Mejhan for the first time on 24.05.2014. Therefore, it needs to be considered whether the dependent daughter was within the age limit of 35 years on 24.05.2014.

10. The process for considering the proposal for employment was initiated as per the guidelines of the company and medical examination of Sunny Mejhan by the IME at the Area level was held on 31.03.2018. The IME Board found her fit for employment and her age was assessed as 35-40 years on that date. Once again, she was examined by the Apex Medical Board on 31.08.2020 where her age was assessed as 40 to 45 years as on 31.08.2020. It has been contented on behalf of the management that as there was delay of more than two years in raising the claim for employment after the death of employee. As per circulars of ECL dated 16.03.2017, IME was to be held at Sanctoria Hospital. Therefore, the determination of age at the Area level is not to be taken into consideration. It is urged that age determined by the Apex Medical Board at Sanctoria Hospital had to be relied upon and on the basis of such determination, the age of Sunny Mejhan was 42 years, 6 months on 31.08.2020. Accordingly, her age on 24.05.2014 was 36 years, 3 months. The contrary argument of the union was that the age of Sunny Mejhan in the Service Excerpt report of her mother dated 01.04.1987 was recorded as 7 years. Therefore, on basis of such document, the age of daughter would be 34 years, 1 month and 24 days as on the date of submitting her application on 24.05.2014. It may be further gathered from the argument of the union that once the age of the dependent daughter was assessed at the

Area Level on 31.03.2018 and found her 35 to 40 years of age, by computing her age on the date of application, she would be 33 years and 8 months of age and well within the age limit for providing employment to her. I find that once the age was determined by the IME at the Area Level on 31.03.2018 and no complaint was raised against such findings by the candidate, management was estopped from reassessing the age of the candidate by another Medical Board by the Headquarter after a period of two years and five months only to disqualify her on the ground that she was over age. Management appears to have delayed the process to frustrate the cause. Management cannot approbate and reprobate their own act to disable a person from securing her right. Therefore, I am not inclined to accept the subsequent age assessment of Sunny Mejhan after a lapse of two and a half years only to contradict management's own finding on earlier occasion which was in favour of the candidate. Union has produced a copy of letter bearing No. ECL/CMD/C-6B/GM (P&IR)/2022/633 dated 12.05.2022 issued by the General Manager (P&IR), ECL addressed to the General Managers of Sripur and other Areas laying down guidelines for pre-employment medical examination, wherein it is stated that their earlier communication dated 16.03.2017 about holding IME at Sanctoria Hospital in respect of cases which are beyond two years from the date of death of ex-employee stood withdrawn and henceforth IME of all cases would be exclusively held at the Area according to its cluster as was done before, and therefore, there is no need to send any person to Sanctoria Hospital for holding their IME. On a perusal of the guidelines, I find that though it was issued in May 2022, much after holding the second IME at the Headquarters level, the management of ECL was possessed with the idea of holding all IME at the Area Level instead of at the Headquarters. In view of such guidelines dated 12.05.2022 which was issued during pendency of this Industrial Dispute, I am of the considered view that the age assessed by the IME Board at the Area Level on 31.03.2018 needs to be considered as the report determining the correct age of Sunny Mejhan. The decision of the competent authority relying upon the subsequent findings of the Apex Medical Board, contradicting the earlier assessment is found self-defeating and has no foundation. Thus, the same is not sustainable under the law.

11. This Industrial Dispute has been raised due to disqualifying Sunny Mejhan for her employment. It is found that the age of the dependent daughter according to the Service Excerpt of the employee and the first assessment by the IME brings her within the zone of consideration, so far as age is concerned. She was also found fit for employment. Therefore, the afterthought of the management followed by a second medical examination of the candidate two and a half years after her first IME is prejudicial, arbitrary, illegal and cannot be accepted. Under NCWA, there is no time limit for submitting application by the dependent of the deceased employee for employment and it is well settled in case of Sukumoni Hembram alias Sukumoni Mejhan Vs. Union of India and Others (supra). On the basis of my above discussion, Sunny Mejhan is entitled to employment under the management of ECL against the death of her mother, Binodi Mejhan. The management of ECL is directed to complete the procedural formalities for her employment within a period of two months from the date of communication of the Award.

Hence,

### **ORDERED**

The Industrial Dispute is allowed on contest against the management of Bhanora West Block Colliery, ECL. This Industrial Dispute is decided in favour of union with a direction to the management to provide employment to Sunny Mejhan, the dependent daughter of Binodi Mejhan under the employer company by completing all procedural formalities within two months from the date of communication of this Award. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer,

नई दिल्ली, 9 मार्च, 2026

**का.आ. 323.—** औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट(संदर्भ संख्या -19/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22012/45/2021-आई.आर. (सी.एम-II)]

सलोनी, उप निदेशक/लैंक अधिकारी

New Delhi, the 9th March, 2026

**S.O. 323.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.19/2021**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on 06/03/2026.

[No. L-22012/45/2021 – IR (CM-II)]

SALONI, Dy. Director/Link officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 19 OF 2021**

**PARTIES:** Guddu Rabidas  
(Dependent son of Late Dukhi Rabidas)  
**Vs.**  
Management of Parascole Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.  
For the Management of ECL: Mr. P. K. Das, Advocate.

**INDUSTRY:** Coal**STATE:** West Bengal.**Dated:** 06.01.2026**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/45/2021-IR(CM-II)** dated 01.10.2021 has been pleased to refer the following dispute between the employer, that is the Management of Parascole Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the action of the Management of Parascole Colliery under Kajora Area of M/s. Eastern Coalfields Ltd. in regretting the claim for employment of Shri Guddu Rabidas, dependent son of Late Dukhi Rabidas, Ex-Pump Operator of Parascole Colliery is just and legal? If not, to what relief the dependent son is entitled to? ”*

1. On receiving Order **No. L-22012/45/2021-IR(CM-II)** dated 01.10.2021 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 01.10.2021 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Koyala Mazdoor Congress, representing the dependents of the deceased employee, Dukhi Rabidas, filed written statement / claim statement on 29.12.2021. The facts disclosed in the written statement of the union is that Dukhi Rabidas was posted as a Pump Operator at Parascole Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL). He died in harness on 13.05.2015 at Central Hospital, Kalla. After his death Chunni Devi, the wife of the deceased employee, as head of the family of the deceased nominated Guddu Rabidas their younger son for providing employment by the ECL as a dependent. The management of the company issued a letter, asking for relevant documents and “No Objection” Certificate (hereinafter referred to as NOC) from the other legal heirs. The union disclosed in the written statement that Dukhi Rabidas died leaving behind his wife Chunni Devi, three sons namely, Umesh Rabidas, Ramavali Rabidas and Guddu Rabidas and four daughters. Chunni Devi submitted a NOC in favour of Guddu Rabidas by all other legal heirs of Dukhi Rabidas. Subsequently, Umesh Rabidas, the elder son changed his stand and raised objection against the prayer for employment of Guddu Rabidas. The management of ECL on the basis of such objection stopped processing the prayer for employment and proposed

to grant Monthly Monetary Cash Compensation (hereinafter referred to as MMCC) in favour of the widow of the deceased employee in lieu of employment. Chunni Devi did not accept the proposal. According to her, Umesh Rabidas, the eldest son is not a dependent and he is not even eligible for any employment as a dependent. The elder son lives separately therefore the objection raised by Umesh Rabidas cannot be a reason for the management not to provide employment to the younger son. The present dispute has been raised by the union, praying for providing employment to Guddu Rabidas according to the provision of National Coal Wage Agreement (hereinafter referred to as NCWA) and also to pay monetary compensation to the widow till employment is provided to Guddu Rabidas.

3. Management of ECL contested the case by filing written statement on 21.09.2022. It is asserted in the written statement of the management that Chunni Devi, the wife of Dukhi Rabidas, an employee at Parascole Colliery submitted an application on 03.08.2017, praying for providing employment to Guddu Rabidas, her younger son, whose name is not recorded in the Service Record of Dukhi Rabidas. In her letter she stated that Umesh Rabidas, the elder son did not take care of her and also harassed her. The management in their letter dated 11.10.2017 addressed to Chunni Devi, asked her to submit employment claim file with “No Objection” from all dependents of Late Dukhi Rabidas. After two years, on 15.01.2020 Chunni Devi submitted an application claiming employment with NOC from other family members including Umesh Rabidas. Management claimed that since the application for employment was submitted after a long period the management of ECL could not take any action. Management further stated that Umesh Rabidas and Ramavali Rabidas submitted another application on 20.03.2020 through registered post, raising objection against the claim for employment of Guddu Rabidas, the younger son and appealed to stop pension of Chunni Devi as well as to stop the process for providing employment to their younger brother Guddu Rabidas. Umesh Rabidas further claimed employment for himself as a dependent against the death of his father. Management categorically stated that in the Service Record of Dukhi Rabidas the names of Umesh Rabidas and Gouri Kumari appeared as son and daughter respectively and Dukhi Rabidas did not inform the management about Umesh Rabidas residing separately from his family. Moreover, name of Guddu Rabidas was not included in the Service Record of the employee. Due to such discrepancies in the Service Record the objection raised by Umesh Rabidas, management of ECL issued a letter addressed to Chunni Devi bearing No. PSC/P&IR/C-6/2020/509 dated 25.04.2020 to opt for MMCC on enhanced rate as per NCWA instead of laying claim for employment. According to the management in order to process the prayer for employment the General Manager (P&IR), ECL, in Circular dated 31.10.2009 clearly mentioned that no objection from all the family members of the deceased employee, appearing in the Service Record is essential. It is contended that the Industrial Dispute raised is misconceived and not maintainable.

oyee. Due to such discrepancies in the Service Record the objection raised by Umesh Rabidas, management of ECL issued a letter addressed to Chunni Devi bearing No. PSC/P&IR/C-6/2020/509 dated 25.04.2020 to opt for MMCC on enhanced rate as per NCWA instead of laying claim for employment. According to the management in order to process the prayer for employment the General Manager (P&IR), ECL, in Circular dated 31.10.2009 clearly mentioned that no objection from all the family members of the deceased employee, appearing in the Service Record is essential. It is contended that the Industrial Dispute raised is misconceived and not maintainable.

4. The question which arose for consideration is whether regretting the claim for employment of Guddu Rabidas, dependent son of Dukhi Rabidas by the management of Parascole Colliery is legal and justified? If not, what relief the dependent son is entitled to.

5. In the instant case the union examined Guddu Rabidas as Workman Witness (hereinafter referred to as W.W.) No. 1 Chunni Devi as W.W. No. 2 and four daughters of the deceased employee namely, Gouri Devi as W.W. No. 3, Pravila Devi as W.W. No. 4, Manita Devi as W.W. No. 5 and Kanchan Devi as W.W. No. 6. All these witnesses have filed their statements on affidavit-in-chiefs and faced cross-examination. Union produced the following documents in support of their case :

- (i) Copy of the Identity Card of Dukhi Rabidas issued by ECL is produced as Exhibit W-1.
- (ii) Copy of Death Registration Certificate of Dukhi Rabidas, as Exhibit W-2.
- (iii) Copy of the Application of Guddu Rabidas submitted on 06.07.2015 for providing employment, as Exhibit W-3.
- (iv) Copy of the Application submitted by Chunni Devi on 03.08.2017 for employment of Guddu Rabidas, as Exhibit W-4.
- (v) Copy of letter dated 09/11.10.2017 issued by Assistant Manager (Personnel) addressed to Chunni Devi, asking for production of documents is produced as Exhibit W-5.
- (vi) Copy of application submitted on 28.06.2019 regarding employment, as Exhibit W-6.
- (vii) Copy of application under which Guddu Rabidas submitted relevant documents before the Agent, Parascole Colliery on 15.01.2020, as Exhibit W-7.
- (viii) Copy of application submitted by Umesh Rabidas on 15.01.2020, claiming employment and death benefits of his father, as Exhibit W-8.

- (ix) Copy of letter dated 10.02.2020 issued by Assistant Manager (Personnel) addressed to Chunni Devi, regarding claims made by Umesh Rabidas, as Exhibit W-9.
- (x) Copy of reply submitted by Chunni Devi against the letter dated 10.02.2020, as Exhibit W-10.
- (xi) Copy of letter dated 19.02.2020 issued to Umesh Rabidas, as Exhibit W-11.
- (xii) Copy of the NOC submitted by the other legal heirs of Dukhi Rabidas, as Exhibit W-12).
- (xiii) Copy of Voter's Identity card of Guddu Rabidas, as Exhibit W-13.
- (xiv) Copy of Aadhar Card of Guddu Rabidas, as Exhibit-14.
- (xv) Copy of Birth Registration Certificate of Guddu Rabidas as, Exhibit-15.

6. Guddu Rabidas in his cross-examination admitted that his name did not appear in the Service Record of his father. He deposed that amongst three brothers and four sisters, Umesh Rabidas is the eldest son, Ramavali Rabidas is the second son and after submitting no objection in his favour Umesh Rabidas claimed employment. It further transpires from his cross-examination that management issued a letter to his mother on 25.04.2020, asking her to seek monetary compensation but she did not accept monetary compensation and submitted a letter in reply, which has been marked as Exhibit W-16.

7. Chunni Devi (Workman Witness No. 2) in her evidence deposed that her husband died on 13.05.2015 and she applied to provide employment to her younger son Guddu Rabidas by submitting necessary documents as requested by the management. She further stated that she along with her children submitted no objection in favour of Guddu Rabidas for his employment. Chunni Devi deposed that Umesh Rabidas is residing separately along with his family since the lifetime of her husband. She also stated that Umesh Rabidas was more than 35 years of age at the time of death of his father and according to the guidelines of NCWA he was not eligible to get employment under ECL. The wife of the deceased claimed herself to be the head of the family and guardian of her children, as such she has the right to nominate the claimant for employment and payment of dues in respect of Dukhi Rabidas. the widow of the deceased in her affidavit-in-chief further stated that her husband did not submit application for recording names of other children in the Service Record who were born after the year 1987, as a result management recorded her name along with the name of the elder son and one daughter in the Service Excerpt Form issued in 1987. She claimed that there is no dispute about the relationship between Guddu Rabidas and Dukhi Rabidas and the management can always verify the relationship.

8. In cross-examination Workman Witness No. 2 deposed that Guddu Rabidas was 25 to 26 years of age at the time she was adducing evidence. Witness admitted that Ramavali Rabidas is her second son and she applied for employment of Guddu Rabidas and her other two sons Umesh Rabidas and Ramavali Rabidas raised objection and claimed employment for themselves. It is clear from the trend of cross-examination that the management did not challenge the relationship between Guddu Rabidas and the deceased employee Dukhi Rabidas. It was only suggested that the management turn down the proposal for employment of Guddu Rabidas on proper ground which was denied by the witness.

9. The other workman witnesses are four daughters of the deceased employee who are all married and they have endorsed their no objection in favour of their brother Guddu Rabidas for employment.

10. Mr. Ashlam Shair, Assistant Manager (Personnel), Parascole Colliery is examined as Management Witness No. 1. He filed affidavit-in-chief, reiterating the management's case disclosed in the written statement. According to the management witness as no objection was not received from all the family members, whose names appeared in the Service Record of Dukhi Rabidas, the claim for employment of the younger son Guddu Rabidas was regretted. Management in support of their case produced the following documents :

- (i) Copy of Death Certificate of Dukhi Rabidas is produced as Exhibit M-1.
- (ii) Copy of application submitted by Chunni Devi on 03.08.2017 for the first time for providing employment to her son, as Exhibit M-2.
- (iii) Copy of letter dated 09/11.10.2017 issued by the Assistant Manager (Personnel), Parascole Colliery, asking Chunni Devi to submit NOC from the other legal heirs of Dukhi Rabidas, as Exhibit M-3.
- (iv) Copy of application under which Guddu Rabidas submitted relevant documents before the Agent, Parascole Colliery on 15.01.2020, as Exhibit M-4.
- (v) Copy of No Objection Certificate issued by the legal heirs of Dukhi Rabidas, as Exhibit M-5).
- (vi) Copy of objection of Umesh Rabidas, as Exhibit M-6.
- (vii) Copy of letter dated 19.02.2020 issued by Assistant Chief manager (M), Parascole Group of Mines, addressed to Umesh Rabidas, seeking clarification regarding contradictory stand in providing employment to Guddu Rabidas, as Exhibit M-7.

- (viii) Copy of Reply of Umesh Rabidas submitted on 20.03.2020, as Exhibit M-8.
- (ix) Copy of Service Record of Dukhi Rabidas, as Exhibit M-9.
- (x) Copy of letter dated 10.02.2020 issued by the management addressed to Chunni Devi, informing that the name of Guddu Rabidas does not figure in the Service Record of Dukhi Rabidas, as Exhibit M-10.
- (xi) Copy of reply submitted by Chunni Devi in respect of letter dated 10.02.2020, as Exhibit M-11.
- (xii) Copy of letter issued by the management to Chunni Devi, informing that she could claim for payment of monetary cash compensation in lieu of employment, as Exhibit M-12.

11. In the cross-examination the management witness deposed that after prayer for employment, the management did not ask the petitioner mother to submit any document. The management thereafter informed Chunni Devi to submit NOC of other dependents. It may be gathered from the cross-examination of Management Witness No. 1 that as one of the sons raised objection against the claim for employment by submitting application, the management did not arrange for Screening Test. The witness denied that there was any illegality or impropriety by denying employment to the dependent of Dukhi Rabidas.

12. Mr. Rakesh Kumar, union representative, arguing for the dependent son submitted that soon after the death of Dukhi Rabidas on 13.05.2015, Guddu Rabidas, the younger son submitted an application informing death of his father (Exhibit W-3) and Chunni Devi, the widow prayed for providing employment to Guddu Rabidas (Exhibit W-4). Referring to the Standard Operating Procedure of Coal India Limited dated 28.08.2023 which was duly approved in the 163<sup>rd</sup> CMDs meeting held on 18.08.2023, it is submitted that the time limit for submitting application for employment was relaxed by extending such time up to 31<sup>st</sup> December 2023 and thereafter from the year 2024 the time limit for submitting application was only for one year from the date of death. It is argued that in the instant case application has been filed on 03.08.2017, therefore there was no reason for not considering the application on the ground of delay in submission. Mr. Kumar further argued that Chunni Devi, the wife of the deceased employee being the head of the family had nominated Guddu Rabidas, the youngest son for employment in place of the deceased employee. According to the union representative the widow has the prerogative to decide as to who amongst the family members should get employment in place of her deceased husband. It is argued that if the widow had the right to decide the claim for employment of dependent, any objection raised by other siblings against the nominated dependent would be without force. It is urged that the management of ECL is under legal obligation to provide employment to Guddu Rabidas, the dependent and nominated son of the deceased employee as per the provisions of Clause 9.3.1 of NCWA.

13. Mr. P. K. Das, learned advocate for the management of ECL, in reply argued that Umesh Rabidas, the eldest son of the deceased employee raised objection against the proposal for employment to his younger brother, Guddu Rabidas. It is argued that according to the Circular dated 31.10.2009 issued by the General Manager (P&IR), ECL it is essential that all the dependent members of the deceased employee, whose names appeared in the Service Record must submit no objection in favour of the person seeking employment. In the instant case Umesh Rabidas raised objection against the nomination of Guddu Rabidas, as such the management offered to pay MMCC to the widow of the deceased. It is further argued that due to such objection raised by another son of the deceased employee the prayer for employment of Guddu Rabidas is not sustainable and the Industrial Dispute is liable to be dismissed.

14. Having considered the arguments advanced on behalf of both parties, the pleadings, evidence adduced and the provisions under Clause 9.3.1 of NCWA-IX, I find that employment has to be provided to one dependent of the employee who died while in service of the company. In Clause 9.3.3 of NCWA-IX a dependent has been described for this purpose as a wife or a husband as the case may be, son and legally adopted son. It does not specify that the eldest son of the deceased employee should be considered for employment. The other essential criteria for providing employment as per Clause 9.3.4 of NCWA-IX is that the dependent who is considered for employment should be physically fit, suitable for employment and aged not more than 35 years provided that the age limit in case of female spouse would be 45 years as given in Clause 9.5.0. There is no dispute over the fact that Dukhi Rabidas died in harness on 13.05.2015, leaving behind Chunni Devi, his widow, three sons namely, Umesh Rabidas, Ramavali Rabidas, and Guddu Rabidas and four daughters namely Gouri Devi, Pravila Devi, Manita Devi and Kanchan Devi. From the evidence on record, it is clear that Chunni Devi nominated her youngest son for employment as a dependent in place of her deceased husband. The application was initially submitted by her on 03.08.2017 (Exhibit W-4). The management in response to her letter issued letter No. 1096 dated 09/11.10.2017 (Exhibit W-5), requesting her to submit complete employment file with "No Objection" from all the dependent family members as per Clause 9.4.0 of NCWA-IX. It is admitted by the management that on 15.01.2020 Guddu Rabidas submitted all the documents along with application of Chunni Devi and "No Objection" from other family members (Exhibit W-7). The management of ECL having received such application should have acted upon the same by considering the prayer for employment. It has been argued on behalf of the management that Umesh Rabidas, the eldest son of the deceased employee submitted an objection against the prayer for employment (Exhibit W-8/M-6) due to which management was unable to consider

the prayer for employment. On a close reading of the provision of Clause 9.4.0 of NCWA-IX, I found that there is no mandatory requirement of submitting NOC by all the family members of the deceased employee in favour of the dependent claiming employment. In the instant case Chunni Devi, the principal dependent of the deceased employee has clearly stated in her affidavit-in-chief, supporting the case of the union in their written statement that Umesh Rabidas was not a dependent and was living separately from the family of the deceased employee. It is also gathered from the evidence of Guddu Rabidas that Umesh Rabidas was running a business in the style of General Store at his native place, which has been established. Such evidence has not been controverted. Therefore, the management is dutybound to consider the option exercised by the dependent of the deceased employee and not impose their view of providing alternative relief of MMCC, which is usually opted by the spouse when she is more than forty-five years of age and has no dependent to take up employment on behalf of the family of the deceased. In the instant case all four married daughters of the deceased employee as well as the widow have expressed their support in favour of Guddu Rabidas, seeking employment as a dependent of their deceased father. The management of Parascole Colliery is not in a position to dispute the claim on the ground of delayed submission of application for employment as there has been a relaxation of time limit up to 31.12.2023 for submission of application as per the Standard Operating Procedure under NCWA dated 18.08.2023. The evidence on record clearly brings out the fact that Guddu Rabidas, the younger son has been nominated by the widow of the deceased employee who is the principal dependent and reposed faith upon the dependent son as a person who would take care of family responsibilities and did not support the objection raised by the other two sons, namely Umesh Rabidas and Ramavali Rabidas. In view of the fact and circumstances of this case I hold that the management is under a legal obligation to consider the prayer for employment of Guddu Rabidas as a dependent son of Dukhi Rabidas as per the provisions of Clause 9.3.1 of NCWA-IX and complete the employment procedure within two (2) months from the date of communication of the Award.

Hence,

### **ORDERED**

that the Industrial Dispute is allowed on contest in favour of Guddu Rabidas, the dependent son of the deceased employee Dukhi Rabidas. The management of Parascole Colliery under Kajora Area of Eastern Coalfields Limited is directed to consider the prayer for employment of Guddu Rabidas and complete the employment procedure within two (2) months from the date of communication of the Award. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 324.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल कंपाउंड(संदर्भ संख्या -09/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/03/2026 को प्राप्त हुआ था।

[सं. एल-22012/08/2023 - आई.आर. (सी.एम-II)]

सलोनी, उप निदेशक/लिंक अधिकारी

New Delhi, the 9th March, 2026

**S.O. 324.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.09/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **ECL** and their workmen, received by the Central Government on 06/03/2026

[No. L-22012/08/2023 – IR (CM-II)]

SALONI, Dy. Director/Link Officer

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 09 OF 2023**

**PARTIES:** Dhapru Das  
(Dependent son of Late Ch. Jagu Das)  
**Vs.**  
Management of Lachipur Colliery, ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress  
For the Management of ECL: Mr. P. K. Das, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 12.01.2026

**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/08/2023-IR(CM-II)** dated 31.01.2023 has been pleased to refer the following dispute between the employer, that is the Management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the demand of President, Koyala Mozdoor Congress (HMS), Asansol vide letter dated 14/01/2022 (copy enclosed) against the action of the management of Lachipur Colliery, Kajora Area of M/s. Eastern Coalfields Ltd. over denial of employment on compassionate ground to Sri Dhapru Das dependent son of Late Ch. Jagu Das, Ex-U.G.Loader, U.M.No.568901, violating the provisions of NCWA vide Order No. ECL/CMD/C-6B/EMPL/ED-1016/21/29 dated 12.02.2021 and subsequent Order No. ECL/CKC/P&IR/C-6/2021/551 dated 25.02/06.03.2021 (copy enclosed) is proper, legal and justified? If yes, to what relief the dependent of the deceased workman concerned is entitle to and what directions are necessary to the said management in this respect? ”*

1. On receiving Order **No. L-22012/08/2023-IR(CM-II)** dated 31.01.2023 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 01.02.2023 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Dhapru Das, son of Late Ch. Jagu Das filed written statement on 05.04.2023 through Koyala Mazdoor Congress. The fact of the case in gist is that Ch. Jagu Das was a permanent employee under Eastern Coalfields Limited (hereinafter referred to as ECL) and posted as an Underground Loader at Lachipur Colliery under Kajora Area. He died in harness on 26.05.2003, leaving behind his three sons namely, Budhan Das, Dhapru Das, K. Das, and four daughters as Kausalla Das, Lila Das, Pudni Das, and Maina Das. His wife Jumni Devi predeceased her husband. Dhapru Das submitted an application before ECL on 21.07.2003, claiming employment in place of his deceased father as per provisions of Clause 9.3.1 of National Coal Wage Agreement (hereinafter referred to as NCWA). The management of ECL after a long time regretted his claim for employment on 12.02.2021, after 18 years on the ground that there has been a delay in processing the claim for employment. An Industrial Dispute was raised before the Assistant Labour Commissioner (C), Raniganj at Durgapur on 14.01.2022. After failure of the conciliation proceeding the Industrial Dispute has been referred to this Tribunal by order dated 31.01.2023 for adjudication. The union in their written statement has disclosed that on the basis of the application submitted by Dhapru Das within two months from the date of death of his father, management of ECL held screening at the Colliery and Area level. He appeared before the Screening Committee on 27.08.2004 on the basis of letter dated 23.08.2004. After screening at the Area level, the dependent son was referred before the Initial Medical Examination Board for his medical examination in September, 2004. Subsequently, the Manager of the Colliery informed the Dy. CPM, Kajora Area that one Latli Devi @ Tejani

Devi, claiming herself to be the second wife of Late Ch. Jagu Das, had submitted "No Objection" in favour of Dhapru Das for his employment. The employment proposal of Dhapru Das was sent to ECL Headquarters for approval. After completion of all formalities at Area level the Personnel Manager (Empl.), ECL Headquarters made some queries and sought for pointwise response to letter dated 29.07.2006. The Manager, Lachipur Area in turn called upon Dhapru Das for clarification by issuing a letter dated 26.08.2007 and all necessary information were furnished by Dhapru Das. The Agent, Lachipur Colliery again issued a letter bearing No.596 dated 02.07.2008 / 02.09.2008, seeking further information and Dhapru Das again replied the same regarding his claim for employment. Time was consumed due to delay in processing the claim by the management and the claim for employment was not approved by the Headquarters. On 17.01.2013 Sr. Manager (M), Lachipur Colliery issued a letter to Dhapru Das, informing that Tejani Devi, the second wife of Ch. Jagu Das had submitted a complaint before the management and requested for not processing the claim for employment of Dhapru Das. It was informed that Tejani Devi had filed a case against Dhapru Das before the Court of Learned Chief Judicial Magistrate, Giridih. On receiving such complaint, the management called upon Dhapru Das for some clarification. According to the dependent son of the deceased employee a criminal case was filed by Tejani Devi before at Giridih Court against the brother of Late Ch. Jagu Das on the ground that they are driving her out from the house of Ch. Jagu Das at their native place and also demanded money for allowing her to stay in the house and the same was not related to the claim for providing employment to Dhapru Das. It is asserted by the union that in spite of submitting clarification on various occasions, management of ECL did not approve the claim for employment on the ground that a criminal case was pending before the court at Giridih. The criminal case was finally disposed of on 31.03.2014 where Dhapru Das and others were acquitted. Dhapru Das submitted a copy of the judgement before the management, requesting them to process his prayer for employment. Management started processing his claim for employment after further screening at the Unit and Area level. The dependent son submitted a letter to General Manager (P&IR), ECL Headquarters on 30.12.2020 that he would resort to Hunger Strike if employment was not provided to him. The management informed him that the family members of the ex-employee were involved in a family Dispute for a long period for which no employment could not be provided to him and finally regretted the claim by his letter dated 26.02.2021 / 06.03.2021. It is claimed that the criminal case filed by Tejani Devi was not for restraining the management of ECL from providing employment to Dhapru Das in place of his father but it was regarding alleged torture of second wife of Ch. Jagu Das by him and other family members. It is urged that the management was never restrained by any court of law from providing employment to the son of the deceased. Furthermore, Tejani Devi's name was not recorded in the Service Records of Ch. Jagu Das, Form PS-3 and PS-4, nor did Ch. Jagu Das submitted any application for recording the name of Tejani Devi @ Latli Devi as his wife. It is further stated that at the instance of the management of the company Dhapru Das had submitted a "No Objection" in his favour issued by Tejani Devi for his employment only to satisfy the management of the employer company which was unnecessary. According to the union, the management has deliberately delayed and dragged the process of granting employment to the dependent son though he submitted application well within time and all the requirements were in order. It is urged that the management cannot defeat the claim for employment of the dependent son on the ground that it was a belated claim. The union claimed that Dhapru Das, son of Ch. Jagu Das should be provided with employment in place of his father.

3. Management contested the case and filed written statement on 01.05.2023. It is admitted that Ch. Jagu Das was a permanent employee of ECL and he died in harness on 26.05.2003. Dhapru Das, the son of the deceased employee claimed employment by submitting application on 21.07.2003. The proposal was forwarded to the higher authority but the claim was regretted by the Competent Authority of the company who issued letter bearing No. ECL/CMD/C-6B/EMPL/ED/1016/21/29 dated 12.02.2021. According to the management the Industrial Dispute has been raised before the Assistant Labour Commissioner (C) in the year 2022, after more than 19 years from the death of the employee and it was referred to this Tribunal in the year 2023, after more than 20 years. Therefore, the dispute which is stale in nature is liable to be dismissed. Management of ECL in their written statement relied upon a decision of the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [Civil Appeal No. 3597 of 2009]**, which disapproved granting employment on compassionate ground after passage of long years. The management claimed that there is no merit in the Industrial Dispute and the Tribunal may be pleased to hold that the action of the management is justified in not providing employment to son of the deceased employee.

4. The union has examined Dhapru Das as Workman Witness No. 1. In his affidavit-in-chief he has stated that after the death of his father on 26.05.2003 at Central Hospital, Kalla, he applied for providing employment as dependent son and filed required documents in support of his claim. Screening was held at Colliery and Area level and his medical examination was held by the Initial Medical Examination Board on the basis of letter dated 15.09.2004. Witness disclosed that management informed him that one Tejani Devi @ Latli Devi, claiming herself as the second wife of his father gave no objection for providing employment to him. It further transpires from his affidavit-in-chief that management at Kajora Area had sent his proposal for employment with recommendation to the ECL Headquarters. On two occasions i.e., on 29.07.2006 and 02.07.2008/02.09.2008 Management at the ECL Headquarters issued letters addressed to Dhapru Das seeking some clarifications and on both the occasion submitted his reply to the management and requested them to provide him employment. The witness further stated that management at Lachipur

Colliery issued letter dated 17.01.2013, informing that Tejani Devi, the second wife of Ch. Jagu Das has submitted a complaint and requested the management not to process the employment and also mentioned about a case was filed by her before the Court of Learned Chief Judicial Magistrate at Giridih. In the affidavit-in-chief it is stated that the case before the Giridih Court was not relate to the issue of providing employment and in spite of repeated requests the management did not pay heed to such fact. It is stated that the case was disposed by an order of acquittal on 31.03.2014, which was submitted before the management with a request to process the claim for employment. The management thereafter held screening and Initial Medical Examination once again which were forwarded to the ECL Headquarters. According to the witness the name of Tejani Devi was not recorded in the Service Record of the company and she had no legal claim as a dependent. Witness asserted that he submitted his claim for employment within time, just after the death of his father. According to the dependent son he has suffered immensely as management has delayed in providing him employment in spite of repeated requests. In course of his evidence the workman witness produced the following documents :

- (i) Copy of the Identity card of Ch. Jagu Das is produced as Exhibit W-1.
- (ii) Copy of the Death Certificate of Ch. Jagu Das issued by Central Hospital, Kalla, as Exhibit W-2.
- (iii) Copy of the Death Registration Certificate of Ch. Jagu Das, as Exhibit W-3.
- (iv) Copy of Service Record Excerpt of Ch. Jagu Das in which name of Dhapru Das appears as son, as Exhibit W-4.
- (v) Copy of Form PS-3, relating to family particulars of Ch. Jagu Das, as Exhibit W-5.
- (vi) Copy of Form PS-4, where name of wife Jumni Devi appears as nominee, as Exhibit W-6.
- (vii) Copy of Office Order dated 26.08.2004 issued by the Sr. Personnel Officer, Lachipur Colliery, whereby nominee / dependent of Ch. Jagu Das was called to appear before the Screening Committee, as Exhibit W-7.
- (viii) Copy of letter dated 15.09.2004 issued by the Manger, Lachipur Colliery for medical examination of Dhapru Das, as Exhibit W-8.
- (ix) Copy of letter dated 08.05.2006 issued by the Manager, Lachipur Colliery whereby it is mentioned that Latli Devi, second wife of Ch. Jagu Das has raised no objection against employment of Dhapru Das, as Exhibit W-9.
- (x) This is a copy of letter dated 29.07.2006 issued by the Dy. CPM, seeking some reply on certain points, as Exhibit W-10.
- (xi) This is a copy of Judgment dated 31.03.2014 passed in Criminal Appeal No. 46/2010 by the learned District and Additional Sessions Judge, Court No. III, Giridih.
- (xii) Copy of letter dated 29.01.2015 issued by the Assistant Manager (Personnel) addressed to the dependent of Late Ch. Jagu Das for appearing before the Screening Committee for employment on 31.01.2015 is produced as Exhibit W-12.
- (xiii) Copy of letter dated 26.02.2021 / 06.03.2021 issued by the Ch. Manager (Min)/Agent, Khas Kajora Group of Mines, whereby prayer for employment against death of Ch. Jagu Das has been regretted, as Exhibit W-13.

5. In his cross-examination the witness deposed that he used to reside with his father at Lachipur Colliery and he studied up to Class-VIII at Giridih. Witness further deposed that Ch. Jagu Das, his mother died in the year 1996 and his father never married Tejani Devi, who claimed to be the step mother (second wife). Witness denied the proposal that management regretted the proposal on the ground of delay or that he is not dependent on his father and not entitled to employment.

6. Mr. Proloy Dasgupta has been examined as Management Witness No.1. Admitting the facts relating to employment of Ch. Jagu Das and the claim made by Dhapru Das for employment, the witness stated in his affidavit-in-chief that this reference has been made after twenty years from the date of death of employee as such the Tribunal may be please to hold the action of management in not providing employment is totally justified. In course of his evidence management produced the following documents :

- (i) Copy of Application of Dhapru Das dated 21.07.2003, seeking employment as a dependent is produced as Exhibit M-1.
- (ii) Copy of the Identity Card of Ch. Jagu Das, as Exhibit M-2.

- (iii) Copy of the Death Certificate of Ch. Jagu Das issued by Central Hospital, Kalla, as Exhibit M-3.
- (iv) Copy of the Death Registration Certificate of Ch. Jagu Das, as Exhibit M-4.
- (v) Copy of letter dated 12.02.2021 issued by the Ch. Manager (Pers)/ Empl/Rectt, ECL whereby claim for employment of Dhapru Das was rejected, as Exhibit M-5.

The salient features of his evidence adduced is that the witness admitted that after submission of application for employment by Dhapru Das dated 21.07.2003 he was referred for his screening test on 13.09.2003. The Screening Committee recommended him for employment. The witness clearly admitted that he is not in a position to state why management stopped processing his claim for employment as dependent. The witness deposed that ultimately on 12.02.2021, management issued a letter that family members of ex-employee had some internal dispute and they were involved in a court litigation for 18 years for which the claim for employment on compassionate ground was defeated.

7. In course of cross-examination the witness deposed that he was unable to produce any document to show that the management had specific information about dispute amongst dependents of the deceased employee over compassionate appointment. He deposed that it took nearly 19 years for the management to regret the proposal for employment. It may be gathered from the cross-examination of Management Witness No. 1 that the management of ECL is not impleaded as a party in the case relating to dispute between the claimant and other legal heirs of the deceased and no Summons or other documents were received by the management from any court. It may also be gathered from the testimony that as per NCWA a dependent of the deceased is entitled to get compassionate appointment on death of the employee.

8. Mr. Rakesh Kumar, union representative, arguing for the dependent son of deceased employee submitted that the terms of NCWA is binding upon both the parties and as per Clause 9.3.1 of NCWA one dependent of the deceased employee is entitled to employment, if the employee dies in harness. In the instant case Ch. Jagu Das died on 26.05.2003 and within a very short period Dhapru Das, his elder son submitted a claim for employment on 21.07.2003. The management processed his prayer for employment and held Screening and medical examination and thereafter the proposal was forwarded for approval by the Competent Authority. It is asserted that necessary documents had been submitted by the claimant along with "No Objection" from other legal heirs. It is argued that Jumni Devi, the wife of Ch. Jagu Das is the nominee in respect of the service benefits of Ch. Jagu Das and her name is recorded in the PS-4 Form, which is produced as Exhibit W-6. Jumni Devi died in the year 1996 and till the death of Ch. Jagu Das did not contact a second marriage nor was the name of Tejani Devi recorded in the Service Record of the employee as the wife. It is argued that a criminal case filed by Tejani Devi at Giridih Court against the claimant and other family members of Ch. Jagu Das cannot be a ground for depriving Dhapru Das from his legitimate right of employment as a dependent. The union representative strenuously argued that the procedure was near to completion in the year 2004 but the management of ECL without any cogent reason stopped processing the prayer for employment on the basis of an unfounded complaint of Tejani Devi. Mr. Kumar further argued that the management of ECL has not been impleaded in any court case by Tejani Devi nor was the management restrained from processing the claim for employment of Dhapru Das. It is argued on behalf of the dependent son that delay has been caused at the instance of the officials of the management, resulting in immense hardship and suffering to the dependent son. Union reiterated the claimed for providing employment to the dependent son without further delay.

9. Mr. P. K. Das, learned advocate for the management of ECL, in reply argued that more than twenty years have lapsed since the death of the employee and this Industrial Dispute referred after twenty years is a stale one, without merit and the same is liable to be dismissed.

10. Heard arguments advanced on behalf of the union and management, considered the pleadings and evidence adduced by both parties. The admitted position in this case was that Ch. Jagu Das is a permanent employee of ECL, who died in harness on 26.05.2003 leaving behind Dhapru Das along with two other sons and four daughters. It may be gathered from the evidence on record that Jumni Devi, the wife of the ex-employee predeceased her husband. It is also undisputed that Dhapru Das, the dependent son claimed employment under ECL by submitting her application on 21.07.2003, which is within two months from the date of death of Ch. Jagu Das. The name of Dhapru Das has been recorded in the Service Record Excerpt of Ch. Jagu Das, which has been produced as Exhibit W-4 and in Form PS-3 (Exhibit W-5), which is a record regarding particulars of the family of the employee. The age of Dhapru Das was recorded as 4 years as on 01.04.1987. Therefore, on 26.05.2003 he was 20 years of age and he was within the eligible age for employment as required in NCWA. On the basis of letter dated 23.08.2004 issued by the Personnel Manager, Kajora Area, an Office Order was passed on 26.08.2004 (Exhibit W-7) whereby Dhapru Das was advised to appear before the Screening Committee at Kajora Area Office on 27.08.2004 along with original documents like Death Certificate, Death Registration Certificate, Identity Card, S.P.E. Form, Indemnity Bond and School Certificate of the nominee, if any. Subsequently, on 15.09.2004 a letter was issued by the Manager, Lachipur Colliery, whereby Dhapru Das was requested to attend Kajora Area Medical Hospital for his medical examination, along with photographs and original documents. Copy of the said letter has been produced as Exhibit W-8. It appears from the record that appropriate proceedings were initiated by the management and no adverse findings was there in respect of the claim of Dhapru Das. According to the management the dispute cropped up when they received a complaint from

one Latli Devi @ Tejani Devi claiming herself to be the second wife of Ch. Jagu Das. The management issued a letter to the Dy. Chief Personnel Manager, Kajora Area dated 08.05.2006 informing that Tejani Devi has raised objection against providing employment to Dhapru Das in place of Ch. Jagu Das. According to the workman witness Tejani Devi is not the second wife of Ch. Jagu Das and her name has not been recorded as his wife even after the death of his mother. It appears from Exhibit W-6, which is a copy of Form PS-4, relating to nomination in respect of service benefits of Ch. Jagu Das that the name of Jumni Devi has been recorded as nominee and described as the wife with hundred percent (100%) share. Therefore, the management of ECL should not have entertained the complaint of Tejani Devi to stop the employment process as her claim had no legal foundation and the documents in the custody of the management of ECL could not have accommodated such extraneous claim. To set the dispute at rest Dhapru Das submitted a copy of judgement of acquittal passed by the learned District and Additional Sessions Judge, Court No. III, Giridih in Criminal Appeal No. 46/2010 (Exhibit W-11) dated 31.03.2014, setting aside an order passed by the Sub-Divisional Judicial Magistrate, Giridih on 20.05.2010, where Dhapru Das had been held guilty under Section 498(A) of the Indian Penal Code. The management of ECL by any competent court was never impleaded in any civil suit nor was there any order of restraint against the management of ECL preventing it from providing employment to the son of deceased employee on the basis of the NCWA. The criminal case in which the petitioner son was entangled was finally disposed of in the year 2014 but the management remained silent for seven long years to add to the delay and did not carry out its solemn responsibility of honouring the provisions of NCWA in its true perspective. The manner in which the prayer of Dhapru Das was dealt with by different tiers of management of ECL only reveals their deliberate act of delaying the matter to frustrate and exhaust the claim for which the petitioner son is not responsible in any manner. It was only on 26.02.2021 the Chief Manager, Kajora Area, issued a letter bearing No. ECL/CKC/P&IR/C-6/2021/551 (Exhibit W-13) to Dhapru Das, informing that the employment proposal has been examined by the Competent Authority and observed as follows :

*“ The aforementioned employment proposal of Sri Dhapru das has been examined and it is found that the appointment of compassionate ground is given only to help a family to tide over the stringent financial crisis resulting from the sudden death of employee.*

*Whereas, in this case, family members of the ex- employee indulged themselves in to their internal dispute which was ultimately dragged themselves in to court and a substantial period of about 18 years is now over. Therefore, essence of compassionate appointment is defeated in this case.*

*Further, it is observed that, candidate is trying to procure employment as a matter of right.*

*Whereas, Honorable Court had held that appointment on compassionate ground cannot be claimed as matter of right.”*

It needs to be born in mind that there is a presumption of innocence in favour of a person even when he is facing a criminal charge in a trial. It is only after he is convicted, an inference can be drawn against him. In the present case simply by lodging a complaint against Dhapru Das cannot stall the proceeding for his employment as per provisions of NCWA. The legal right of a dependent which has arisen out of the provision of NCWA cannot be curtailed on the basis of a complaint before the Criminal Court. In order to bank upon a contention that a family dispute prevailed with counter claims in respect of the service claimed by one of the dependents of deceased employee, the management should be in a position to establish that a Civil dispute had been initiated against the claimant as well as the management of the company, raising objection against such claim. In the present case management has relied upon a decision of the Hon'ble Supreme Court of India in the case of **M/s. Eastern Coalfields Ltd Vs. Anil Badyakar and Others [Civil Appeal No. 3597 of 2009]**, wherein the Hon'ble Apex Court held :

*“..... the compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over. In the instant case the employee died in harness in the year 1981 and after a long squabble by the dependents of the deceased, they arrived at a settlement that the son-in-law of the second daughter who is unemployed may request for appointment on compassionate grounds. The request so made was accepted by the Personal Manager of the Company subject to the approval of the Director of the Company. The Director (P), who is the competent authority for post facto approval, keeping in view the object and purpose of providing compassionate appointment has cancelled the provisional appointment on the ground that nearly after 12 years from the date of death of the employee such an appointment could not have been offered to the so called dependent of the deceased employee. In our considered view, the decision of the employer was in consonance with Umesh Kumar Nagpal's case and the same should not have been interfered with by the High Court.”*

11. The facts of the present case is distinguishable from the facts of the case relied upon by the management of ECL. In the instant case Dhapru Das, the dependent son submitted his application claiming employment against the death of his father as per provisions of Clause 9.3.1 of NCWA. Such claim was made within two months from the date of death of his father. There is no dispute that he is a dependent of the deceased employee and his name appeared as son in the Service Record Excerpt and the family particulars of the deceased employee for which such documents are maintained. The screening and medical examination of the candidate was also carried out within a reasonable period and documents were submitted. The stage was set for final consideration of the claim for employment when on the

basis of a complaint submitted by Tejani Devi, management thought it wise not to proceed further in processing the claim for employment. Management representatives did not apply their mind that Tejani Devi did not figure in the Service Record of the deceased employee at any point of time. Therefore, management acted in a grossly illegal and arbitrary manner by entertaining the claim of Tejani Devi and thereby deprived the dependent son of the deceased employee from his rightful claim for employment for nearly 20 years. In the case of **Anil Badyakar and Others (Supra.)** there was a long dispute against the dependents of the deceased employee leading to delay in submitting claim for employment. The circumstances in this case is entirely different. Therefore, I hold that the ratio of the decision relied upon by the management does not apply to the facts and circumstances of this case.

12. In the case of **Sukumoni Hembram alias Sukumoni Mejhan Vs. Union of India and Others [MAT 27 of 2024]** the Hon'ble Division Bench of the Hon'ble High Court at Calcutta held :

“ NCWA is a negotiated agreement that has been arrived at between the employer and the employees. It is a settlement under section 2 (p) of the Industrial Disputes Act, 1947 and has binding effect on the parties thereto under section 18 (3) of the Act of 1947. NCWA has made provisions for compassionate appointment for the dependents of the deceased employee.” The Hon'ble High Court further held that none of the clauses 9.3.0 to 9.5.0 of NCWA provide any time limit for applying or prescribe any financial solvency of the family as a disqualification. It does not allow the employer to choose between the dependents as to who it would grant the employment or the MMCC. The position of law is clearly settled that a claim for employment under NCWA is not treated as a compassionate appointment, depending upon the financial status of the family of the deceased employee. Nowhere, in the NCWA it has been stated that such employment was been provided only to the dependents to tide over sudden crisis resulting due to sudden death of the bread-earner or only in cases where the family of the deceased is in a penury. The terms of providing employment have gone beyond such consideration and has only specified the eligible age and physical fitness of the candidate to be considered for the employment. In order to turn down the claim for employment of a dependent on the ground that there has been lapse of time and the sudden crisis due to the death of the employee is over, the provisions of NCWA needs to be revised and necessary changes should be incorporated before regretting the prayer for employment on the ground of delay. From the factual matrix of this case, I find that the delay has been caused at the instance of the management by stalling the proceeding on the basis of frivolous complaint from a person who does not figure as a family member of the deceased in the Service Record. Since the delay in finalizing the claim for employment can be attributed to the management, the dependent son is not liable to suffer the loss. Therefore, I hold that the decision of the management communicated through their letter dated 26.02.2021 / 06.03.2021 are not legally tenable. This is an appropriate case where the management of ECL shall be directed to provide employment to Dhapru Das after completing the process of employment within two months from the date of communication of the Award.

Hence,

### **ORDERED**

that the Industrial Dispute is allowed on contest against the management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited. The management of Eastern Coalfields Limited is directed to provide employment to Dhapru Das, the dependent son of Late Ch. Jagu Das, ex-employee of Eastern Coalfields Limited after completing the formalities related to employment within two months from the date of communication of the Award. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 9 मार्च, 2026

**का.आ. 325.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार कर्नाटक ग्रामीण बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट (10/2015) प्रकाशित करती है।

[सं. एल-12012/22/2015-आई आर(बी- I)]

सलोनी, उप निदेशक

New Delhi, the 9th March, 2026

**S.O. 325.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.10/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Karnataka Gramina Bank and their workmen.

[No. L-12012/22/2015- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

BEFORE THE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**DATED : 6<sup>th</sup> FEBRUARY 2026PRESENT : **Smt. K P INDIRA B.A., LLB.**

Presiding Officer

**C R No. 10/2015****I Party**

Sri Mallikarjuna Sangappa,  
No. 10-14, Gandhi Chowk,  
Shahpur,  
YADGIR DISTRICT 585 223

**II Party**

1. The General Manager, Karnataka Gramina Bank, H O  
Post box No. 4, Kusnoor Road, GULBARGA - 585  
103.
2. The Manager, Karnataka Gramina Bank, Shahpur,  
YADGIR DISTRICT – 585 223.

***Appearances***

I Party : **Sri Muralidhara**  
Advocate

II Party : **Sri B C Prabhakar**  
Advocate

1. The Government of India, Ministry of Labour vide Order No. L-12012/22/2015-IR(B-I) dated 12.02.2015 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

**SCHEDULE**

**“Whether the action of the management of Krishna Gramina Bank (now Pragati Krishna Gramina Bank), Shahpur Branch in awarding the punishment of dismissal w.e.f. 25.11.2009 against Sh. Mallikarjun Sangappa, who was working as messenger, is proper, legal and justified ?”**

2. After registering the case as CR No. 10/2015 notices were issues to both the parties. In response to the notice both parties entered appearance through their respective counsel.

3. The I Party filed Claim Statement stating that he has been working in the II Party since 1997-98 as Messenger on daily wage basis, he used to discharge all the jobs attached to regular Messenger-cum-Sweeper which was redesignated as “Attender” for a very low wages, he was not covered under any social welfare legislations and settlement benefits as applicable to regular and permanent workmen of the II Party; he continued to work in the II Party with the fond hope and expectation that his services would be confirmed and would get the status of a permanent worker with all concomitant benefits, he served the Bank with utmost loyalty, diligence and dedication; that the II party did not initiate any action to absorb him though several vacancies existed in the cadre of Messenger / Attender; that on 25.11.2009 the Branch Manager called and informed him that he was under instructions to be removed from service; that he filed Writ Petition No. 81888/2010 before Hon’ble High Court of Karnataka, Gulbarga and same was disposed of with observation to approach the Industrial Tribunal and there upon raised conciliation proceedings which ended up in failure; that the termination of his services w.e.f. 25.11.2009 is unjust, arbitrary and illegal and to direct the II Party to restore him into service with full back wages, continuity of service and all other consequential benefits.

4. II Party filed the counter statement and contested that the dispute raised by the I Party is not maintainable either in law or on facts; that the management is a separate entity with its own board of Management and Regulations; that the Government of India has issued detailed guidelines / norms for direct recruitment and promotion vide notification dated 13.07.2010; the management has to follow scrupulously the aforesaid guidelines / rules notified by the Government of India at the time of recruitment; sometimes it becomes necessary for the II Party to engage the services of a person occasionally as and when necessitated for doing the menial works when the regular attendants remain absent or if they proceed on leave and for excess work and in order to meet the exigencies of work; II party used to engage coolies for doing menial works, cleaning, sweeping, watering and were paying coolie charges; no works were entrusted to the coolies as being done by the Regular Attendants; I Party was engaged for such works and

he was taken on need basis, his engagement was not continuous but only intermittent; that it is not correct that the I Party was called upon by the Branch Manager and removed from service, just because he was not engaged from 25.11.2009, it cannot be said that there was refusal of work or termination; that subsequent to 25.11.2009 I party did not approach the II Party for work; that the for engagement of coolies to do menial works in the branches, no condition regarding educational qualification or age will be looked into, coolie charges will be paid proportionately depending upon the number of hours worked by the person; that as per the Government of India guidelines for appointment of regular attendants, the names should be sponsored by Employment Exchange and such engagement; the persons engaged on a particular day has a liberty to work elsewhere; that the court be pleased to reject the claims of the I Party and answer the reference in favour of the II party.

5. Based on the pleadings, the matter was adjourned for Evidence of II Party and MW 1 is examined on the side of the II Party. During his cross-examination certain documents were confronted to him by the learned counsel for I Party and the same were got marked as Ex W-1 to Ex W-6. Thenceforth though the case was repeatedly posted for I Party evidence, he did not tender himself as a witness at all, nor did he file any affidavit in lieu of his examination in chief. Accordingly, Evidence of the I party was held by this Tribunal as closed and the matter was posted for Argument.

6. The Argument advanced by the learned counsel for both the parties were heard in detail.

7. At the very threshold the learned counsel for II Party urged by placing reliance on the verdict of the **Hon'ble High Court of Allahabad in V K Raj industries vs. Labour Court and others (FJR Vol 59 Allahabad 304)** that as no evidence is produced by the I Party challenging the validity of his termination, he must fail in toto. In the ruling cited supra it is held :

*“if a party challenges the legality of an order the burden lies upon him to prove the illegality of the order, and if no evidence is produced the party invoking the jurisdiction of the court must fail. Therefore, whenever a workman raises a dispute challenging termination of his service, it is imperative for him to file a written statement before the Industrial Court setting out the grounds on which the Order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or to produce evidence, the dispute referred for adjudication cannot be answered in his favour and he would not be entitled to any relief and the court would be acting in excess of its jurisdiction if it gives an award in favour of the workman in such a case.”*

8. In the afore discussed para the manner how the case was dealt with by the I Party is well narrated. Though MW 1 is thoroughly cross-examined by the learned counsel for the I Party, the workman, when the matter was posted for leading his evidence irresponsibly remained absent without any positive instruction before this Tribunal. Ample opportunities were granted to him to adduce evidence so as to establish his case in consonance with the plea raised in the claim statement by bringing home the niceties relating to the claimed to have been rendered by him under the II Party. However, he unreasonably kept aloof from the trial for reasons best known to him alone. The failure / refusal of the I Party to adduce evidence has literally marked willful abandonment of the claim by the I Party or his absolute failure to put forth a valid and genuine case. The principle laid down in the ruling cited supra strictly speaks about the impact of the indifference on the part of the I Party on the merit of his case. Therefore, the only conclusion to be followed is that the I Party failed in proving a genuine cause or claim which leads to the total dismissal of the instant industrial dispute.

9. With this view, these issues are answered against the claimant I Party. Hence, the following award.

#### **AWARD**

**Reference is dismissed. Transmit.**

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 6<sup>th</sup> February 2026)

K P INDIRA, Presiding Officer

नई दिल्ली, 2 मार्च, 2026

**का.आ. 326—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट (01/2019) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई आर(बी- I)-62]

सलोनी, उप निदेशक

New Delhi, the 9th March, 2026

S.O. 326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.01/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2026- IR(B-I)-62]

SALONI, Dy. Director

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 6<sup>th</sup> February 2025

PRESENT : Smt. K P INDIRA B.A., LLB.

Presiding Officer

ID No. 01/2019

I Party

Sri Shivananda Penagonda,  
S/o Obalappa, Near Dattatreya Temple,  
Padadayyana hakkal, Indira Nagar, P B  
Road, HUBBALLI – 580 028.

II Party

The Assistant General Manager,  
State Bank of India, A O 7, TS Complex,  
Sholapur Road, Keshwapur,  
HUBBALLI – 580 023.

*Appearances*

I Party : Shri M Rama Rao  
Authorized Representative  
II Party : Shri Ramesh Upadhyaya  
Advocate

1. The Petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the State Bank of India who was Terminated from service.

2. The case of the I Party is that he had joined the services of the II Party on taking an application from him from 01.08.1992 after conducting interview; he served the Bank sincerely, honestly and diligently till the date of his retrenchment of services from 08.06.2018; that he has put 26 years continuously; that he was doing all the work of the permanent sub-staff and his salary was credited to his savings bank Account; that he was not credited with December 2017 salary, he was not paid with six months salary; that he was told to work under a Contractor w.e.f. 01.12.2017 for which he has not agreed and he was retrenched from service w.e.f. 08.06.2018 and the management did not follow Section 25F while retrenching his service and has not paid him bonus; that the II party has paid the minimum of pay scales of sub-staff; that the work of sub-staff is perennial in nature; that the retrenchment / termination of his services are malafide, illegal, null and void; the II Party officials have humiliated him purely on caste basis as it stood revealed in the conciliation meetings; that the abrupt termination of his services has caused him irreparable hardships, agony and unable to run his family requested for reinstatement with full back wages, continuity of services with regular pay scale, regularization, ancillary benefits from the date of his appointment i.e., 01.08.1992.

3. The II Party filed its statement of Objection interalia contending that the claim of the I Party is not maintainable on facts and in law; that the I Party is not a workman of the II Party and was engaged by Staff Welfare Committee of the Lunch Room of the Administrative Office which is not an industry within the scope; that the Non-registered Trade Union can no longer represent in an industrial dispute; that he being taken on clear vacancy of the sub-staff is false; that he has not worked for 26 years continuously; that Paragraph 20.8 of the Bipartite Settlement is not applicable, the question of regularization does not arise; that he was working in canteen which has been clarified in the year January 2015 itself; that the management has applied No work no pay principle to the I Party and the I Party himself abandoned his work on his will and the II Party did not

credit any wages to the Bank Account; that the Officer did not ask the I Party to submit his bio-data, Aadhar Card to pay his salary and to work under contractor as there is no contractor engaged for running lunch room service; that on 08.06.2018 the I Party himself did not come for work; that the II Party has not done any unfair labour practice, hence, granting retrenchment compensation does not arise under Section 25F of Bipartite Settlement, the cessation of service was on account of abandonment of service; the question of allowing the I party to continue to serve in canteen does not arise; that the wages and service conditions of the Employees of the II Party are governed by the provisions of Sastry Award, Desai Award and Bipartite Settlement, as the I party was engaged by Staff Welfare committee, he is not a workman as he was merely engaged on casual and on daily rated basis; that the work done by him is perennial in nature is false and denied as such; that the I Party has accepted the severance compensation of Rs. 1,10,400.00, he cannot claim reinstatement as a matter of right and seek permanent employment with the II Party; the I Party has refused to arrive at an amicable settlement with the II Party during the conciliation proceedings; that the allegations made against the Bank officials having adopted untouchability against the I party purely on caste basis is utterly false and mischievous and made with an intention to harass the representative of the II Party; that the relief claimed by the I Party seeking reinstatement is legally and factually untenable and not maintainable on facts or in law; that there is no liability for the II Party to make payment of Rs. 15,056.00 towards wages as claimed by the I Party and hence, the claim of the I Party is deserved to be dismissed in limine as he is not entitled for any relief or award as claimed by him in the claim statement with compensatory costs.

4. From the rival pleadings the following issues arise for consideration:

- (1) Whether the I Party is proved to have continuous service of 26 years under the II Party as claimed by him from 01.08.1992 till 08.06.2018?
- (2) Whether the I Party is illegally terminated from service on 08.06.2018 by the II Party as contended by the I Party?
- (3) Whether the II Party has violated the provisions of Section 25F of the ID Act?
- (4) Whether the I Party is entitled to get any of the reliefs prayed for?
- (5) What is the proper award to be passed?

5. The I Party got examined himself as WW 1 and got Ex W-1 to Ex W-23 series marked on his side. From the side of the II Party MW 1 is examined.

6. Issues No. 1 to 4 : All these issues are discussed together to avoid repetition as the points underlying in all these issues are closely intertwined and inter-related.

7. The I Party claims to be in service under the II Party as sub-staff in scavenger post at its Keshwapur Branch, Hubli right from 01.08.1992. He claims to have continued in service till the date of his alleged retrenchment from service on 08.06.2018 and thereby has completed 26 years of service continuously. He did further claim that though named as scavenger, the II party officials have made him to perform all the works of a permanent sub-staff. It is his further claim that his salary for the month of May 2018, just prior to his so called retrenchment was Rs. 15,060.00. From 2013 onwards he was paid wages at the minimum of pay scales of Sub-staff and credited every month to his Savings Bank account. Exhibits W-23 series are the four SB Account pass books in the name of the I party revealing remittance of Wages to his SB Account bearing No. 10467163914 from 08.07.2011 to 04.06.2013, 05.06.2013 to 27.05.2015, 01.06.2015 to 06.11.2017 and from 06.11.2017 with a last entry dated 25.03.2019. Ex W-23 Pass books are seen issued on 08.07.2011, 10.07.2013, 12.06.2015 and 27.11.2017 respectively. All along the wages of the I Party are seen credited to his aforementioned SB Account consistently.

8. Ex W-1 is shown to be the Photostat copy of the Statement revealing the Salary paid to the I Party since March 1993 till July 2005, mostly covering the entire months in the whole years except 1993. In the year 1993 the salary for six months alone are shown with breaks in between, in all the subsequent years salary is seen paid to the I Party for the entire twelve months. Ex W-1 also contains a list of arrears of salary on account of 8<sup>th</sup> Bipartite Settlement – salary paid particulars in respect of I Party bearing Employee No. 6001 showing gross total figure Rs. 1,25,994.24 and net amount of Rs. 1,24,614.24. How the I Party could secure Ex W-1 bearing the seal of the office remains as a mystery, though he claims to have received the same from one Mr. Maltesh Kulkarni, Official of the Zonal Office, more particularly when the Application for copy of the same is not forth coming from his side. Anyhow, since the document is seemingly bearing the seal of the office, I do not ponder much upon that than the contents it bears.

9. With similar zeal the I Party has produced a catena of Photostat copies of the internal official communications within the Bank with reference to his service, leaving the process of securing the same in mere assumption. Ex W-2 is the copy of the Note issued by the Chief Manager, Zonal Office, SBI to Deputy General Manager dated 08.08.1992 revealing that the I Party was working as temporary sweeper to clean the toilets of

Office in the morning from three hours on a lumpsum pay of Rs. 650.00 and it speaks about a request from the Staff Union during the Bipartite meeting held on 06.08.1992 to absorb him in the permanent vacancy as full time sweeper and the proposal of the Bank to ask him to work both in the forenoon and afternoon if he is absorbed in the permanent vacancy as full time sweeper and also to ask him to work full time from 10.08.1992 until the II Party absorbs him in the permanent vacancy and to pay him salary as applicable to permanent employees.

10. Ex W-3 is an internal letter from the Deputy General Manager to the Circle Development Officer, SBI, Personal Department, Local Head Office, Bangalore, dated 10.11.2001 referring to Ex W-2 which reveals that the recommendation for utilizing the service of the I Party for full day on payment of full salary was not approved and he has been paid three fourth wages and that he was granted annual increments as per the extant service rules governing award staff.

11. As per Ex W-4 dated 02.01.2003, the Chief Manager, Zonal Office has addressed a note to the Chief Manager (PER & HRD) dated 02.01.2003 furnishing the name of the I Party as the one and only temporary / daily wage employee who has completed 240 days of service in a calendar year continuously from 10.08.1992 and his aggregate qualifying temporary service / daily wage service as 10 years 01 month and 20 days as on 30.09.2002.

12. Ex W-5 copy of the statement of appointments made on daily wages for the month of January 2005 dated 02.02.2005 shows the name of the I Party under the designation scavenger with aggregate temporary service of 13 years 01 month and 22 days with date of appointment as 10.08.1992 for cleaning of toilets at Office and Bank House. This piece of evidence goes diametrically opposite to the oral testimony of MW 1 denying WW 1 having performed the work of scavenger in the II Party Bank.

13. Ex W-6 accompanied with Ex W-7 is an intimation from the Chief Manager (OA) to the Chief Manager (PER & HRD) dated 21.07.2005 revealing that the services of the I party continued to be used on payment of 3/4<sup>th</sup> wages by debit to charges A/c (Salaries and allowances).

14. Ex W-8 dated 16.08.2005 an internal communication from the Zonal Office to the Chief Manager (PER & HRD) is also on similar lines. Ex W-9 issued by the General Manager to the Deputy General Manager, Hubli, dated 11.05.2006 reveals that the I Party has completed more than 240 days of service during the year 1994 onwards and hence he becomes a protected employee in terms of the Industrial Dispute Act, however making the Bank's stand clear that there is no question of considering his permanent absorption and also requiring to some action against the Officials in retaining him as a temporary sweeper for such a long period. At no stretch of imagination it could be assumed that the I Party would be normally blessed with copy of such an internal communication at the instance of the officials of the II Party; instead procurement of Ex W-9 would only be by way of hooks and crooks by the I Party himself.

15. Ex W-10 is the application submitted by the I party before the ALC(C), Hubli, raising a dispute seeking conciliation dated 16.06.2018. In Ex W-11 statement submitted by the management before the ALC(C), Hubli, duration of the service of the I Party is confirmed till 13.03.2018 in the lunch room of the Administrative Office of the Respondent Bank with reference to the Attendance marked by him. Under Ex W-11 dated 15.11.2018, the management expressed its agreement to pay wages approved to him from 01.12.2017 to 13.03.2018 and the same is sought to be recorded in the proceedings of settlement. Ex W-12 is the proceedings before the ALC(C) dated 15.11.2018 advising the management to make payments to the I Party as per Payment of Wages Act and Payment of Bonus Act on or before 22.11.2018 under intimation to the said office. Eventual consequence is reflected in Ex W-13 report submitted by the II Party management revealing credit of Rs. 89,400.00 towards the total wages of I Party for the period from 01.12.2017 to 07.06.2018 and Rs. 21,000.00 towards the bonus for the period 01.04.2015 to 31.03.2016, 01.04.2016 to 31.03.2017 and from 01.04.2017 to 31.03.2018, totaling to Rs. 1,10,400.00 towards his SB Account bearing No. 10467163914 with the II Party bank at Hubli Main Branch. The said payment is illustrated in Ex W-23 passbook for the relevant period.

16. As per Ex W-17, the management offered a sum of Rs. 78,095.00 as retrenchment compensation and Rs. 14,544.00 as one month's notice period wages to the I Party without prejudice to its contention in the conciliation proceedings and requested the Conciliation Officer to conclude the conciliation proceedings and to record settlement for a total amount of Rs. 2,03,039.00 along with tables of calculation under the respective heads. None of the records produced in evidence reveal that the said amount offered by the management has been blissfully accepted by the I Party ever during the conciliation proceedings. In the light of the documentary evidence discussed above, there is no basis for the stand of denial adopted by MW 1 relating to the continuous services proved to have been rendered by the I Party in the II Party Bank.

17. Ex W-18 is the proceedings before the ALC(C), Hubli, the Conciliation Officer recording failure of conciliation and issuance of certificate accordingly as per the request of the I Party.

18. Eventually this petition is filed under Section 2(a)2 by the I Party. The documents referred to and discussed above evidently indicate continuous service of the I party for a pretty good period of duration commencing from 1992. Apparently his service under the II Party came to a standstill in the year 2018. Entire

wage arrears, as already observed, stood cleared off under Ex W-13 in addition to the bonus upto then. So ample evidence is there on record establishing that the I Party workman has performed continuous service under the II Party for years together while the mandatory requisite obliging the II Party to perform its statutory duties towards the workman is only 240 days of service of the workman. Therefore it can be safely inferred that the termination of the I Party from service in early June 2018 without giving notice of retrenchment, one month notice pay and retrenchment compensation is strictly in violation of the provisions of Section 25F of the Act. It is profitable to extract Section 25F from the statute in this context. It reads:

**Section 25F:**

Conditions precedent to retrenchment of workmen.

- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;[\* \* \*] [ Proviso omitted by Act 49 of 1984, Section 32 (w.e.f. 18.8.1984).]

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days 'average pay [for every completed year of continuous service] [ Substituted by Act 36 of 1964, Section 14, for " for every completed year of service" (w.e.f. 19.12.1964).] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette.] [ Inserted by Act 36 of 1964, Section 14 (w.e.f. 19.12.1964).]

It is equally clear that retrenchment / termination of the I Party did occur not on account of any fault on its part as no such contention rather allegation is put forth against him by the II Party but purely a unilateral decision of the Employer. In the afore discussed factual scenario, such unilateral action by the II Party does not stand justified by any reason.

19. As on the date of examination of the I Party as WW 1, his age is shown to be 55 years before this Tribunal. Necessarily he stood superannuated in the year 2024. One of the reliefs sought in the claim petition is reinstatement to service with full backwages, continuity of service, regular pay scales, regularization and ancillary benefits from the date of his appointment. Since the I Party has already superannuated as he attained 60 years in the year 2024, no question of his reinstatement into service does arise. All the same the law stands in guard to protect his rights prescribing that the workman who has attained the age of superannuation can be awarded backwages if his termination or dismissal is found to be illegal, wrongful or unjustified. In the aforesaid discussion it is amply found that the termination of the I Party from the service is illegal, wrongful and unjustified. So much so, while reinstatement is not feasible in respect of him as he has already reached the retirement age, this tribunal can award backwages with continuity of service for the purpose of calculating his consequential benefits viz., Bonus and Gratuity, from the date of termination till the date of superannuation.

20. Since the termination of the I Party is found illegal, unfair and inoperative since the provisions of Section 25F are violated by the Employer, and not on the fault of the I Party, he is entitled for full backwages. Since Ex W-17 shows the one month's notice period wage as Rs. 14,544.00 payable to the I Party, the backwages found payable by the Employer to the I Party is to be counted at Rs. 14,544.00 per month from the date of his termination till the date of superannuation. Along with full backwages, the I Party is entitled for getting the benefit of continuity of service for the purpose of calculating his consequential benefits viz., Bonus for the rest of the period i.e., from 01/04/2018 and Gratuity as well. Such continuity of service is countable for calculating PF also if found eligible in a proceeding if any initiated there on. Since full backwages is counted for the duration of his deemed service w.e.f. the date of his termination, I am not inclined to grant him a further amount of retrenchment compensation, just to prevent an unjust enrichment or double benefit for the same period.

21. With this view the discussions on this issue are concluded drawing the finding indicated above and the following Award is passed.

**AWARD**

The Petition is allowed in part granting full backwages to the I Party @ Rs. 14,544.00 (Rupees Fourteen Thousand Five Hundred Forty Four only) per month from the date of his termination till the date of superannuation on attaining 60 years of age with continuity of service for the purpose of :

- (i) Calculating consequential benefits of Bonus from 01.04.2018 to the date of superannuation;
- (ii) Calculating Gratuity from August 1992 till the date of his superannuation, if not already paid by the II Party and;
- (iii) for calculating Provident Fund as well, if found eligible in a proceeding if any, initiated there on.

**No order as to costs. Transmit.**

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 06.02.2026)

K P INDIRA, Presiding Officer

नई दिल्ली, 10 मार्च, 2026

**का.आ. 327.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब ग्रामीण बैंक, बठिंडा के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़-I** के पंचाट (35/2025) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई आर(बी- I)-63]

सलोनी, उप निदेशक

New Delhi, the 10th March, 2026

**S.O. 327.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 35/2025) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I* as shown in the Annexure, in the industrial dispute between the management of Punjab Gramin Bank Bathinda and their workmen.

[No. L-12025/01/2026- IR(B-I)-63]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,  
CHANDIGARH**

(Presided over by Mr. Kamal Kant Presiding-cum-Link Officer).

ID No.35/2025

Registered on:-05.12.2025

All Punjab Gramin Bank Employees Union, V.P.O Khai PHEME Ki, Ferozepur, Punjab 152003.

----- Union

Versus

Regional Manager, Punjab Gramin Bank Bathinda.

----Management

Present:- Sh. Parvinder Singh (General Secretary) along with  
Sh. Neetan Kumar (President) for Union.  
None for Management.

**Award :16.02.2026**

1. Central Government Vide Notification No.JAL/07(36) 2025/ALC dated 02.12.2025, under sub-Section (5) of Section 12 read with sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

*“Whether the transfer of workmen was arbitrary and whether it was in violation of the transfer policy of the Bank, if yes what relief can be given to the workmen as per law.”*

2. The case is fixed for appearance of the parties. Today, AR for union appeared and moved an application for withdrawal of the case and also made the following statement:-

*“Stated that I withdraw the present Industrial Dispute.”*

3. In view of the application for withdrawal and statement of AR for union, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference.

4. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer