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भारत का राजपत्र
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No. 21] NEW DELHI, MAY 31—JUNE 6, 2026, SATURDAY/JYAISHTHA 10—JYAISHTHA 16, 1948

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

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 13 मई, 2026

का.आ. 1070.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, सुश्री शालिनी पंडित के स्थान पर श्री देबाशीष पृष्टी (अपर सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, भारतीय बीमा विनियामक और विकास प्राधिकरण में अंशकालिक सदस्य के रूप में नामित करती है।

[ई फा.सं. 6/2(i)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 13th May, 2026

S.O. 1070.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby nominates Shri Debasish Prusty (Additional Secretary, Government of India, Ministry of Finance, Department of Financial Services) as part-time member of the Insurance Regulatory and Development Authority of India, with immediate effect and until further orders, *vice* Ms. Shalini Pandit.

[eF. No. 6/2(i)/2022-BO.I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1071.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री प्रशांत कुमार गोयल के स्थान पर सुश्री शालिनी पंडित (संयुक्त सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, केनरा बैंक के बोर्ड में निदेशक नामित करती है।

[ई फा. सं. 6/2(ii)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1071.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Ms. Shalini Pandit (Joint Secretary, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of Canara Bank, with immediate effect and until further orders, *vice* Shri Parshant Kumar Goyal.

[eF. No. 6/2(ii)/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1072.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री आलोक पांडे के स्थान पर श्री समीर कुमार (आर्थिक सलाहकार, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, इंडियन बैंक के बोर्ड में निदेशक नामित करती है।

[ई फा. सं. 6/2(iii)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1072.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Shri Samir Kumar (Economic Adviser, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of Indian Bank, with immediate effect and until further orders, *vice* Shri Alok Pande.

[eF. No. 6/2(iii)/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1073.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री सुधीर श्याम के स्थान पर श्री हरि हर मिश्रा (अपर सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, यूको बैंक के बोर्ड में निदेशक नामित करती है।

[ई फा. सं. 6/2(iv)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1073.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Shri Hari Har Mishra (Additional Secretary, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of UCO Bank, with immediate effect and until further orders, *vice* Shri Sudhir Shyam.

[eF. No. 6/2(iv)/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1074.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री रोहन चंद ठाकुर के स्थान पर श्री देबाशीष पृष्टी (अपर सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, यूनियन बैंक आफ इंडिया के बोर्ड में निदेशक नामित करती है।

[ई फा. सं. 6/2(v)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1074.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Shri Debasish Prusty (Additional Secretary, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of Union Bank of India, with immediate effect and until further orders, *vice* Shri Rohan Chand Thakur.

[eF. No. 6/2(v)/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1075.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4(2)(घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, सुश्री शालिनी पंडित के स्थान पर श्री संजय लोहिया (विशेष सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से और अगले आदेशों तक, भारतीय जीवन बीमा निगम के बोर्ड में निदेशक नामित करती है।

[ई फा. सं. 6/2(vi/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1075.—In exercise of the powers conferred by Section 4(2)(d) of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby nominates Shri Sanjay Lohiya (Special Secretary, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of the Life Insurance Corporation of India, with immediate effect and until further orders, *vice* Ms. Shalini Pandit.

[eF. No. 6/2(vi)/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

नई दिल्ली, 13 मई, 2026

का.आ. 1076.—राष्ट्रीय अवसंरचना वित्तपोषण और विकास बैंक अधिनियम, 2021 (2021 का 17) की धारा 6 की उपधारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सुश्री मानसा गंगोत्री काटा के स्थान पर सुश्री शालिनी पंडित, संयुक्त सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक, राष्ट्रीय अवसंरचना वित्तपोषण और विकास बैंक के निदेशक मंडल में निदेशक नामित करती है।

[ई फा. सं. 6/2(x)/2022-बीओ-I]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 13th May, 2026

S.O. 1076.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 6 of the National Bank for Financing Infrastructure and Development Act, 2021 (17 of 2021), the Central Government hereby nominates Ms. Shalini Pandit, Joint Secretary, Department of Financial Services, as Director on the Board of Directors of National Bank for Financing Infrastructure and Development, with immediate effect and until further orders, *vice* Ms. Manasa Gangotri Kata.

[eF. No. 6/2(x/2022-BO-I]

SANJAY KUMAR MISHRA, Under Secy.

(राजस्व विभाग)

(हिन्दी-2)

नई दिल्ली, 1 जून, 2026

का.आ. 1077.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में राजस्व विभाग के केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक अधिकारियों एवं कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती हैः

क्रम सं.	कार्यालय का नाम
1.	केन्द्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, मंडल-I, लखनऊ
2.	केन्द्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, मंडल-II, लखनऊ
3.	केन्द्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, मंडल-III, लखनऊ
4.	केन्द्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, मंडल-IV (बाराबंकी), लखनऊ
5.	केन्द्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, मंडल-सीतापुर, लखनऊ

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

प्रीति सेलारे, उप निदेशक (रा.भा.)

(Department of Revenue)

(Hindi-2)

New Delhi, the 1st June, 2026

S.O. 1077.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976 Central Government, hereby, notifies the following offices under Central Board of Indirect Taxes and Customs, Department of Revenue where more than 80% staff have acquired the working knowledge of official language Hindi:

S.No.	Name of the Office
1.	Central Goods and Service Tax & Central Excise, Division-I, Lucknow
2.	Central Goods and Service Tax & Central Excise, Division-II, Lucknow
3.	Central Goods and Service Tax & Central Excise, Division-III, Lucknow
4.	Central Goods and Service Tax & Central Excise, Division-IV (Barabanki), Lucknow
5.	Central Goods and Service Tax & Central Excise, Division-Sitapur, Lucknow

[F.No. E-11017/3/2017- Hindi-2-Notification]

PREETI SELLARE, Dy. Director (OL)

इस्पात मंत्रालय

(शुद्धिपत्र)

नई दिल्ली, 29 मई, 2026

का.आ. 1078.—केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, इस्पात मंत्रालय में भारत सरकार की उस अधिसूचना में, जो का. आ. 1097(अ) दिनांक 25 फरवरी, 2026 के तहत प्रकाशित हुई थी और जो भारत के असाधारण राजपत्र अंक संख्या 1046 दिनांक 27 फरवरी, 2026 में प्रकाशित हुई थी, एतद्वारानिम्नलिखित शुद्धिपत्र जारी करती है, जो इस प्रकार है.

उक्त अधिसूचना में

क) हिंदी अधिसूचना के पृष्ठ संख्या 130 और अंग्रेजी अधिसूचना के पृष्ठ संख्या 149 में, गुंडुपाला गाँव को जहाँ नरसीपटनम मंडल के अंतर्गत दर्शाया गया है, उसे बदलकर गोलुगोंडा मंडल किया जाना चाहिए।

[फा. सं. एस-28030/4/2024-आरएम (19852)]

अरिंदम चौधरी, उप सचिव

MINISTRY OF STEEL

(CORRIGENDUM)

New Delhi, the 29th May, 2026

S.O. 1078—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following Corrigendum in the notification of the Government of India in the Ministry of Steel published vide S.O. No. 1097(E) Dated 25 February, 2026, published in the Extraordinary Gazette of India Issue No. 1046 Dated 27 February, 2026, as under.

In the Said Notification at

a) In Hindi Notification Page No.130 and in English Notification Page No.149 the Gundupala Village noted on Narsipatnam Mandal it should be replaced as Golugondamandal.

[F. No. S-28030/4/2024-RM (19852)]

ARINDAM CHAUDHARY, Dy. Secy.

नई दिल्ली, 29 मई, 2026

का.आ. 1079.—चूंकि केन्द्र सरकार को यह प्रतीत होता है कि जनहित में यह आवश्यक है कि किरंदुल से विशाखापट्टनम तक स्लरी के रूप में लौह अयस्क के परिवहन के लिए आर्सेलर मित्तल निप्पोन स्टील इंडिया प्राइवेट लिमिटेड द्वारा छत्तीसगढ़, ओडिशा और आंध्र प्रदेश राज्य से गुजरते हुए पाइपलाइनें बिछाई जाए।

और चूँकि ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के उद्देश्य से, संलग्न अनुसूची में वर्णित भूमि पर उपयोग का अधिकार प्राप्त करना आवश्यक है।

इसलिए, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम-1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार इसके द्वारा उसमें उपयोग के अधिकार को अर्जन करने के अपने इरादे की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में रुचि रखने वाला कोई भी व्यक्ति, इस अधिसूचना के प्रकाशन की तारीख से इक्कीस दिनों के भीतर, भूमि के नीचे पाइपलाइन बिछाने के संबंध में भारत सरकार के इस्पात मंत्रालय की अधिसूचना संख्या का.आ. 1874, दिनांक 29 सितंबर, 2025 में अधिसूचित सक्षम प्राधिकारी अर्थात, भूमि पर अधिकारिता रखने वाले सक्षम प्राधिकारी और विशेष उप कलेक्टर (एलए) एपीआईआईसी, औद्योगिक एस्टेट, विशाखापत्तनम को आपत्ति दर्ज करा सकता है।

ऐसी आपत्ति करने वाले प्रत्येक व्यक्ति को यह भी स्पष्ट रूप से बताना होगा कि क्या वह व्यक्तिगत रूप से या विधि व्यवसायी द्वारा सुनवाई चाहता है।

"अनुसूची"

मंडल: बुचाय्यापेटा		**जिला : अनकापल्ली**		**राज्य : आंध्र प्रदेश**	
क्र.सं.	**गाँव का नाम**	**सर्वे सं.**	**क्षेत्रफल**		**वर्गीकरण**
			एकड़-सेंट	**वर्ग-मीटर**	**सरकारी/निजी भूमि**
1	**2**	**3**	**4**	**5**	**6**
1	ताईपुरम	625	2-31	9349	सरकारीभूमि
2	राजम	2951	0-01	40	सरकारीभूमि
3	नीलकंठपुरम	1228	0-21	850	सरकारीभूमि

[फा. सं. एस-28030/4/2024-आरएम (19852)]

अरिंदम चौधरी, उप सचिव

New Delhi, the 29th May, 2026

S.O. 1079.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of iron ore in the form of slurry from Kirandul to Visakhapatnam, pipelines should be laid, passing through the state of Chhattisgarh, Odisha and Andhra Pradesh, by the ArcelorMittal Nippon Steel India Private Limited.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act-1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said schedule may, within twenty-one days from the date of publication of this notification object to the laying of the pipelines under the land to the Competent Authority notified in the notification of the Government of India in the Ministry of Steel No. S.O.1874 dated the 29th September, 2025 that is to say, Competent Authority & Special Deputy Collector (LA) APIIC, Industrial Estate, Visakhapatnam having Jurisdiction over the land.

Every person making such an objection shall also state specially whether he wishes to be heard in person or by legal practitioner.

"SCHEDULE"

Mandal: Butchayyapeta		**District: Anakapalli**		**State: Andhra Pradesh**	
Sl. No.	**Name of the Village**	**Survey No.**	**Extent**		**Classification**
			Acre-Cents	**Sq. Mts**	**Govt./Pvt Land**
1	**2**	**3**	**4**	**5**	**6**
1	Typuram	625	2-31	9349	Govt. Land
2	Rajam	2951	0-01	40	Govt. Land
3	Neelakantapuram	1228	0-21	850	Govt. Land

[F. No. S-28030/4/2024-RM (19852]

ARINDAM CHAUDHARY, Dy. Secy.

नई दिल्ली, 29 मई, 2026

का.आ. 1080.—चूंकि केन्द्र सरकार को यह प्रतीत होता है कि जनहित में यह आवश्यक है कि किरंदुल से विशाखापट्टनम तक स्लरी के रूप में लौह अयस्क के परिवहन के लिए आर्सेलर मित्तल निप्पोन स्टील इंडिया प्राइवेट लिमिटेड द्वारा छत्तीसगढ़, ओडिशा और आंध्र प्रदेश राज्य से गुजरते हुए पाइपलाइनें बिछाई जाए।

जहाँ तक यह और आवश्यक है कि लौह अयस्क स्लरी के परिवहन हेतु पाइपलाइन बिछाई जाए, जिसे मौजूदा कॉरिडोर से कोय्यरू मंडल के कोठगडाबापालेम गांव की सीमा से नक्कापल्ली मंडल के डोनिवनिलक्ष्मीपुरम तक मोड़कर आगामी एकीकृत इस्पात संयत्र को कच्चे माल की आपूर्ति के लिए उपयोग किया जाएगा।

और चूँकि ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के उद्देश्य, संलग्न अनुसूची में वर्णित भूमि पर उपयोग का अधिकार प्राप्त करना आवश्यक है।

इसलिए, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम-1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार इसके द्वारा उसमें उपयोग के अधिकार को अर्जन करने के अपने इरादे की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में रुचि रखने वाला कोई भी व्यक्ति, इस अधिसूचना के प्रकाशन की तारीख से इक्कीस दिनों के भीतर, भूमि के नीचे पाइपलाइन बिछाने के संबंध में भारत सरकार के इस्पात मंत्रालय की अधिसूचना संख्या का.आ. 1874, दिनांक 29 सितंबर, 2025 में अधिसूचित सक्षम प्राधिकारी अर्थात, भूमि पर अधिकार रखने वाले सक्षम प्राधिकारी और विशेष उप कलेक्टर (एलए) एपीआईआईसी, औद्योगिक एस्टेट, विशाखापट्टनम को आपत्ति दर्ज करा सकता है।

ऐसी आपत्ति करने वाले हर व्यक्ति को यह भी स्पष्ट रूप से बताना होगा कि क्या वह व्यक्तिगत रूप से या विधि व्यवसायी द्वारा सुनवाई चाहता है।

" अनुसूची "

मंडल : गोलूगोंडा		जिला : अनकापल्ली		राज्य : आंध्र प्रदेश	
क्र.सं.	गाँव का नाम	सर्वे नंबर	क्षेत्रफल		वर्गीकरण
			एकड़ - सेंट	वर्ग-मीटर	सरकारी /निजी भूमि
1	2	3	4	5	6
1	पाकलापाडु	994	0-01	40	निजीभूमि
		2029	0-01	40	निजीभूमि
2	चीडीगुम्माला	195	0-09	364	निजीभूमि
		198	0-13	526	निजीभूमि
		971	0-15	607	निजीभूमि
		1010	0-16	648	निजीभूमि
		1002	0-16	648	निजीभूमि
		746	0-29	1174	निजीभूमि
		745	0-05	202	निजीभूमि
		760	0-17	688	निजीभूमि
3	गुंडुपाला	14	0-07	283	सरकारीभूमि
		15	0-61	2469	निजीभूमि
		16	0-09	364	निजीभूमि
		24	0-06	243	निजीभूमि
मंडल: नरसीपट्टनम					
1	गब्बाडा	39	0-03	121	निजीभूमि
		349	0-01	40	निजीभूमि
2	बलीघट्टम	288	0-04	162	सरकारीभूमि
		647	0-10	405	निजीभूमि
		648	0-45	1821	निजीभूमि
		658	0-05	202	निजीभूमि

		667	0-06	243	सरकारीभूमि
		212	0-02	81	निजीभूमि
		707	1-11	4492	निजीभूमि
मंडल: कोटाउरटला					
1	पामुलावाका	54	0-01	40	निजीभूमि
		68-9	0-01	40	निजीभूमि
मंडल: नक्कापल्ली					
1	रेबाका	131	1-10	4452	निजीभूमि
		88	0-03	121	सरकारीभूमि
		70	0-01	40	सरकारीभूमि
		69	0-01	40	सरकारीभूमि
2	गुल्लीपाडु	52	0-01	40	निजीभूमि
		163	0-43	1740	निजीभूमि
		165	0-41	1659	निजीभूमि
		164	0-66	2671	निजीभूमि
		167	0-16	648	निजीभूमि
		160	0-54	2185	निजीभूमि
		157	0-31	1255	निजीभूमि
		135	0-20	809	निजीभूमि
		136	0-82	3319	निजीभूमि
		137	0-20	809	निजीभूमि
		152	0-84	3399	निजीभूमि
		151	0-02	81	निजीभूमि
		139	0-49	1983	निजीभूमि
		150	0-11	445	सरकारीभूमि
		149	0-61	2469	निजीभूमि
		75	0-51	2064	निजीभूमि

		76	0-77	3116	निजीभूमि
		92	0-10	405	निजीभूमि
		91	0-01	40	निजीभूमि

[फा. सं. एस-28030/4/2024-आरएम (19852)]

अरिंदम चौधरी, उप सचिव

New Delhi, the 29th May, 2026

S.O. 1080.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of iron ore in the form of slurry from Kirandul to Visakhapatnam, pipelines should be laid, passing through the state of Chhattisgarh, Odisha and Andhra Pradesh, by the ArcelorMittal Nippon Steel India Private Limited.

Whereas it is further necessary that pipelines should be laid for transport of iron ore slurry, by diverting from existing corridor from the village limits of Kothagadabapalem of Koyyuru Mandal, up to Donivanilakshmipuram of Nakkapalli Mandal, for supply of raw material to the upcoming Integrated Steel Plant.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act-1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said schedule may, within twenty-one days from the date of publication of this notification object to the laying of the pipelines under the land to the Competent Authority notified in the notification of the Government of India in the Ministry of Steel No. S.O.1874 dated the 29th September, 2025 that is to say, Competent Authority & Special Deputy Collector (LA) APIIC, Industrial Estate, Visakhapatnam having Jurisdiction over the land.

Every person making such an objection shall also state specially whether he wishes to be heard in person or by legal practitioner.

"SCHEDULE"

Mandal: Golugonda		**District: Anakapalli**		**State: Andhra Pradesh**	
Sl. No.	**Name of the Village**	**Survey No.**	**Extent**		**Classification**
			Acre-Cents	**Sq. Mts**	**Govt./Pvt Land**
1	**2**	**3**	**4**	**5**	**6**
1	Pakalapadu	994	0-01	40	Private Land
		2029	0-01	40	Private Land
2	Cheedigummala	195	0-09	364	Private Land
		198	0-13	526	Private Land
		971	0-15	607	Private Land
		1010	0-16	648	Private Land
		1002	0-16	648	Private Land
		746	0-29	1174	Private Land
		745	0-05	202	Private Land
		760	0-17	688	Private Land

3	Gundupala	14	0-07	283	Govt. Land
		15	0-61	2469	Private Land
		16	0-09	364	Private Land
		24	0-06	243	Private Land
Mandal: Narsipatnam					
1	Gabbada	39	0-03	121	Private Land
		349	0-01	40	Private Land
2	Balighattam	288	0-04	162	Govt. Land
		647	0-10	405	Private Land
		648	0-45	1821	Private Land
		658	0-05	202	Private Land
		667	0-06	243	Govt. Land
		212	0-02	81	Private Land
		707	1-11	4492	Private Land
Mandal: Kotauratla					
1	Pamulavaka	54	0-01	40	Private Land
		68-9	0-01	40	Private Land
Mandal: Nakkapalli					
1	Rebaka	131	1-10	4452	Private Land
		88	0-03	121	Govt. Land
		70	0-01	40	Govt. Land
		69	0-01	40	Govt. Land
2	Gullipadu	52	0-01	40	Private Land
		163	0-43	1740	Private Land
		165	0-41	1659	Private Land
		164	0-66	2671	Private Land
		167	0-16	648	Private Land
		160	0-54	2185	Private Land
		157	0-31	1255	Private Land
		135	0-20	809	Private Land
		136	0-82	3319	Private Land
		137	0-20	809	Private Land
		152	0-84	3399	Private Land
		151	0-02	81	Private Land
		139	0-49	1983	Private Land

		150	0-11	445	Govt. Land
		149	0-61	2469	Private Land
		75	0-51	2064	Private Land
		76	0-77	3116	Private Land
		92	0-10	405	Private Land
		91	0-01	40	Private Land

[F. No S-28030/4/2024-RM (19852)]

ARINDAM CHAUDHARY, Dy. Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 22 मई, 2026

का.आ. 1081.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम, 1976 के नियम-10 के उप-नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के अंतर्गत भारतीय विमानपत्तन प्राधिकरण के अधीनस्थ कार्यालय सिविल एन्क्लेव हिंडन, सिकंदरपुर रोड, साहिबाबाद, गाजियाबाद, उत्तर प्रदेश- 201005, जिसके 80 प्रतिशत कार्मिकों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[फा. सं. ई. 11014/2/2023-रा.भा.)]

अमित राय, वरिष्ठ आर्थिक सलाहकार

MINISTRY OF CIVIL AVIATION

New Delhi, the 22nd May, 2026

S.O. 1081.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notifies that the subordinate office of Airports Authority of India, Civil Enclave Hindon, Sikandarpur Road, Sahibabad, Ghaziabad, Uttar Pradesh- 201005 under Ministry of Civil Aviation, whereof 80% staff have acquired the working knowledge of Hindi.

[F. No.E-11014/2/2023-OL)]

AMIT RAY, Senior Economic Advisor

श्रम और रोजगार मंत्रालय

नई दिल्ली, 26 मई , 2026

का.आ. 1082.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मैसर्स यूनाइटेड इंडिया इंश्योरेंस कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **भारतीय बीमा कर्मचारी सेना** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई, पंचाट (रिफरेन्स न.-51/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. एल-17011/3/2018-आईआर(एम)]

सलोनी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 26th May, 2026

S.O. 1082.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 51/2018)** of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s United India Insurance Co. Ltd** and **Bhartiya Vima Karmachari Sena** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. L-17011/3/2018-IR(M)]

SALONI, Dy. Director

ANNEXURE

BEFORE JUSTICE RETIRED SHIV SHANKER PRASAD

PRESIDING OFFICER/LINK OFFICER

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

JUSTICE RETIRED SHIV SHANKER PRASAD

Presiding Officer/Link Officer

REFERENCE NO. CGIT-2/51 of 2018

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

First Party No.1. M/s. United India Insurance Co. Ltd., Chennai

The Chairman & Managing Director,

M/s. United India Insurance Co. Ltd.,

Head Office,

24 Whites Road,

Chennai – 600 014,

State: Tamil Nadu.

First Party No.2. The Chief Regional Manager.

M/s. United India Insurance Co. Ltd.,

Ambica House,

190, Dharampeth Extention,

Nagpur (MS) – 440 010,

State: Maharashtra.

AND

THEIR WORKMEN.

Party No.2 (Bhartiya Vima Karmachari Sena)

The President,

Bhartiya Vima Karmachari Sena

"Ganraj" Sambhappa Colony,

Chitod Road,

At/Post & Tal. Dhul – 424 001,

State: Maharashtra.

APPEARANCES:

Management No.1&2 : Ms. Nandini G. Menon.
Advocate

Workmen/union : No appearance.

AWARD

(Delivered on 11-03-2026)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L- 17011/3/2018-IR(M) dated 29.10.2018. The terms of reference given in the schedule are as follows:

"Whether the action of the Management of United India Insurance Co. Ltd., Chennai/Nagpur in:-

1) Not offering Gr.1 Post to Shri S. K. Khairnar since 1992 though he was eligible;

2) Not giving him promotion as Adm. Officer in Class-I category with effect from 1999; and

3) Not paying him revised entertainment allowance, leave encashment for 2007 and LTS for 2003 and 2005;

is justified? If not, what relief Shri S. K. Khairnar is entitled to and from what date?"

2. The case is called out today. Both parties are absent on repeated calls. From perusal of record, it is apparent that, both parties are not responding and attending the Court since 23.11.2020 long back. Although Statement of Claim has been filed by the petitioner but no Written Statement has been filed by the respondent till today. No other evidence has been filed by the petitioner till today to prove the contents of his Statement of Claim. The petitioner/union is not coming to the court since long back. It appears that, the petitioner/union is not interested to contest the case furthermore. The claim of the petitioner/union is not proved. So, the case is closed.

Hence, it is ordered.

ORDER

The action of the Management of United India Insurance Co. Ltd., Chennai/Nagpur in:-

1) Not offering Gr.1 Post to Shri S. K. Khairnar since 1992 though he was eligible;

2) Not giving him promotion as Adm. Officer in Class-I category with effect from 1999; and

3) Not paying him revised entertainment allowance, leave encashment for 2007 and LTS for 2003 and 2005;

is justified. Shri S. K. Khairnar is not entitled to any relief.

Date: 11-03-2026

Justice SHIV SHANKER PRASAD, Presiding Officer/Link Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1083.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आदित्य बिड़ला सन लाइफ इंश्योरेंस कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राम कृपाल सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद, पंचाट (रिफरेन्स न.- 2/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. जेड-16025/04/2026-आईआर(एम)-50]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1083.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 2/2018)** of the **Central Government Industrial Tribunal cum Labour Court-1 Dhanbad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Aditya Birla Sun Life Insurance Company Limited** and **Sri Ram Kripal Singh** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. Z-16025/04/2026-(IR(M)-50)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

ID Case No. 02/2018

Ram Kripal Singh

S/o Umesh Prasad Singh

Ex-Employee of Birla Sun Life Insurance Co. Ltd.…….……Applicant

Vs.

1. C.M.D., Aditya Birla Sun Life Insurance Co. ltd.

2. C.E.O., Aditya Birla Sun Life Insurance Co. ltd., Mumbai

V.P. & Head-Sales HR, Aditya Birla Sun Life Insurance Co. ltd., Mumbai

3. Regional Manager, Aditya Birla Sun Life Insurance Co. ltd., Patna

4. Zonal H.R. Manager, Aditya Birla Sun Life Insurance Co. ltd., Kolkata …….Opp. Parties

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For Applicant :- None.

For Opp. Party :- Sri D.K. Verma, Ld. Advocate

State : Jharkhand. Industry:-Insurance

Dated 24/03/2026

AWARD

2. This case has been filed under section 2A of the I.D Act, 1947 by the applicant/workman namely Ram Kripal Singh on 18.05.2018.

3. After receipt of this ID case on 18.05.2018 regd. notice was issued to Opp. Party and both parties appeared previously after that applicant failed to appear before this Tribunal. Thereafter on 08.10.2025 Sri D.K. Verma, Advocate on behalf of the Opp. Party appeared and submitted that applicant is not present since 2021 so case may be closed.

4. On perusal of the entire case record it transpires that the applicant has lost his interest in this case and therefore, for the ends of justice, this case deserves to be dismissed.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above ID case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1084.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स सेल-बोकारो स्टील प्लांट** के प्रबंधतंत्र के संबद्ध नियोजकों और **उनके कर्मचारी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद, पंचाट (रिफरेन्स न.- 39/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. एल-29011/42/2013-आईआर(एम)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1084.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 39/2013)** of the **Central Government Industrial Tribunal cum Labour Court-1 Dhanbad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. SAIL-Bokaro Steel Plant** and **Their Workmen** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. L-29011/42/2013-IR(M)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947

Reference Case No. 39/2013

Parties:

Employers in relation to the management of M/s. SAIL-Bokaro Steel

Plant, B.S. City, Bokaro

AND

Their Workmen

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :-Sri D.K. Verma, Ld. Advocate

For the workmen :-Sri K.K. Mishra, Ld. Advocate

State : Jharkhand. Industry:-Steel

Dated 23/03/2026

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) Government Of India through the Ministry of Labour, vide its Order No.L-29011/42/2013-IR(M) dated 26/08/2013 has been pleased to refer the following dispute between the employer i.e. management of SAIL-Bokaro Steel Plant, B.S. City, Bokaro and their workman through General Secretary, Bokaro Steel Worker's Union, B.S. City, Bokaro for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Bokaro Steel Plant SAIL in not paying 20% special allowance to the workers, working in Bokaro General Hospital is legal and justified? What relief the workmen are entitled to?"

LIST OF NEXE IN SERVICE RULE (filed by the union)

SN	STNO	NAME	GRADE	CLS	DESDESCP	APTT_DT	SEN_DT	RET_DT
1	280107	SHASHI KANT KUMAR SINHA	S11	D	CHIEF PHARMACIST	11-08-73	31-12-04	31-08-14
2	325416	VIDYA SAGAR KUMAR	S11	D	CHIEF PHARMACIST	26-08-74	31-12-04	31-08-14
3	338211	YADU NANDAN PRASAD	S11	D	CHIEF PHARMACIST	14-02-75	31-12-04	31-08-14
4	381210	SHAUKAT ALI	S11	D	CHIEF PHARMACIST	09-11-77	31-12-04	30-11-14
5	392093	UPENDRA NARAYAN SINGH	S10	C	MULTI SKLD TECH	19-06-78	30-06-11	31-07-16

6	401224	MS PRATIMA ROY	S11	C	NURSING SISTER	10-11-78	31-12-07	31-03-15
7	410746	ADITYA KUMAR	S10	D	DRESSER	15-01-79	31-12-13	31-01-15
8	414342	BLANDINA TUDU	S11	C	NURSING SISTER	04-01-80	31-12-07	30-11-14
9	439499	JAI KANT SINGH	S11	D	CHIEF PHARMACIST	26-07-80	31-12-04	31-01-16
10	453522	JWALA PRASAD	S11	D	SR PHARMACIST	24-07-80	30-06-05	31-01-17
11	453530	SATISH KUMAR PRASAD	S11	D	SR PHARMACIST	03-11-80	30-06-05	31-03-17
12	459778	YADU NANDAN PRASAD	S11	X	STENOGRAPHER	06-04-81	30-06-05	30-11-15
13	467276	K. S. N. NAIR	S11	D	SR X-RAY TECHN	30-04-81	31-12-10	31-01-16
14	469892	MD PHOOL HASSAN	S11	D	LAB TECHNICIAN	28-10-81	31-12-10	31-01-15
15	484965	KAUSHAL KISHOR MISHRA	S9	C	DRESSER	12-12-81	31-12-10	30-11-17
16	491514	USHA RAJ MOHAN	S11	C	NURSING SISTER	12-12-81	31-12-09	31-03-16
17	491522	MEENA SINHA	S11	C	NURSING SISTER	12-12-81	31-12-09	31-10-18
18	491564	FLORENCE KISKU	S11	C	NURSING SISTER	12-12-81	31-12-09	28-02-17
19	491697	THRESIAMMA RAJAN	S11	C	NURSING SISTER	12-12-81	31-12-09	31-08-17
20	491762	ROSHAN CHAKRABORTY	S11	C	NURSING SISTER	05-11-75	31-12-09	31-01-15
21	502220	RADHE SHYAM SINHA	S11	D	CHIEF PHARMACIST	16-08-82	31-12-04	31-05-16
22	606642	MAHBOOB ANSARI	S7	A	MESS/JR TECH	15-10-82	30-06-12	28-02-17
23	611104	SUSARI GURIA	S11	C	NURSING SISTER	30-12-82	31-12-09	30-06-18
24	620337	LAKSHMI BHATTACHARYA	S11	C	NURSING SISTER	30-12-82	31-12-09	31-08-19
25	620353	TAPTI DAS	S11	C	NURSING SISTER	30-12-82	31-12-09	28-02-18
26	620379	PRABHAWATI BARLA	S11	C	NURSING SISTER	30-12-82	31-12-09	30-11-17
27	620387	REMONY MATHEW	S11	C	NURSING SISTER	30-12-82	31-12-09	31-03-20
28	620402	RASHMI MATHAI	S11	C	NURSING SISTER	30-12-82	31-12-09	30-11-17
29	620444	SARAMMA SAMUEL	S11	C	NURSING SISTER	30-12-82	31-12-09	31-05-21

30	620460	JAYANTI SATYAM	S11	C	NURSING SISTER	30-12-82	31-12-09	31-10-19
31	620478	KOCHUTHRESIA GEORGE	S11	C	NURSING SISTER	26-08-83	31-12-09	31-05-20
32	642753	SUSHILA GAGRAI	S11	C	NURSING SISTER	01-11-83	31-12-09	31-10-16
33	644048	SAMIRENDRA NATH BHATTACHARJEE	S11	C	S/MED SOCL W/C	24-10-83	31-12-09	31-05-14
34	644220	SARAMMA BABY	S11	C	NURSING SISTER	24-10-83	31-12-09	31-01-20
35	644337	NANDITA ROY	S11	C	NURSING SISTER	24-10-83	31-12-09	30-11-15
36	644353	ESRAN MALWA	S11	C	NURSING SISTER	24-10-83	31-12-09	31-12-16
37	644379	REGINA VINCENTIA KERKETTA	S11	C	NURSING SISTER	24-10-83	31-12-09	31-05-15
38	644395	DIPALI CHOWDHURY	S11	C	NURSING SISTER	25-10-83	31-12-09	30-09-19
39	644410	SAROJ KUJUR	S11	C	NURSING SISTER	02-12-83	31-12-09	31-12-18
40	644741	ASHA VENUGOPAL	S11	C	NURSING SISTER	02-12-83	31-12-09	31-05-17
41	644759	SANTHAMMA KAITHAKUZHYIL GOPAL	S11	C	NURSING SISTER	06-12-83	31-12-09	31-01-15
42	644808	RAMAWATAR PRASAD	S11	D	CHIEF PHARMACIST	15-12-83	31-12-05	31-10-14
43	644832	NELI BARLA	S11	C	NURSING SISTER	05-12-83	31-12-09	31-10-17
44	644866	NILMANI TIRU	S11	C	NURSING SISTER	20-02-84	31-12-09	30-04-20
45	647092	SALY SEBASTIAN	S11	C	NURSING SISTER	20-02-84	30-06-10	30-06-22
46	647117	MARIAMMA VARGHESE	S11	C	NURSING SISTER	20-02-84	30-06-10	30-06-19
47	647125	KALPANA GHOSH	S11	C	NURSING SISTER	20-02-84	30-06-10	30-04-18
48	647133	KRISHNA GHOSH	S11	C	NURSING SISTER	20-02-84	30-06-10	30-11-18
49	647167	AGNESIA LINDA	S11	C	NURSING SISTER	20-02-84	30-06-10	30-04-20
50	647183	SHEELA SRIDHARAN NAIR	S11	C	NURSING SISTER	20-02-84	30-06-10	31-01-22
51	647216	KUMUDINI KERKETTA	S11	C	NURSING SISTER	20-02-84	30-06-10	30-06-19
52	647240	SUNITA TIWARI	S11	C	NURSING SISTER	20-02-84	30-06-10	28-02-22
53	647258	BINITA THAKUR	S11	C	NURSING SISTER	20-02-84	30-06-10	31-05-17

54	647414	FRANCISCA KUJUR	S11	C	NURSING SISTER	27-02-84	30-06-10	30-11-15
55	647836	THRESIAMMA JOSE	S11	C	NURSING SISTER	27-02-84	30-06-10	28-02-17
56	647844	MARY JOSEPH	S11	C	NURSING SISTER	29-02-84	30-06-10	31-03-20
57	647860	ANNA MATILDA SURIN	S11	C	NURSING SISTER	06-04-84	30-06-10	30-06-17
58	648454	RAMASWAMY LATA	S11	C	NURSING SISTER	26-09-84	30-06-10	31-07-21
59	650037	NILIMA BANDOPADHYAY	S11	C	NURSING SISTER	26-09-84	31-12-10	31-01-19
60	650045	ROUSHAN JAHAN ANSARI	S11	C	NURSING SISTER	26-09-84	31-12-10	31-03-19
61	650053	INDIRA KONCHAKUZHYIL PRAVAKARAN	S11	C	NURSING SISTER	28-05-85	31-12-10	31-07-20
62	655582	RAMA RANI BANERJEE	S11	C	NURSING SISTER	28-05-85	30-06-11	30-11-22
63	655615	LILLY SUSHANTI SURESH	S11	C	NURSING SISTER	28-05-85	30-06-11	30-11-19
64	655623	ALEYAMMA JOSEPH	S11	C	NURSING SISTER	28-05-85	30-06-11	28-02-22
65	655631	USHA KIRAN PRASAD	S11	C	NURSING SISTER	28-05-85	30-06-11	30-04-23
66	655657	ROSAMMA JAMES	S11	C	NURSING SISTER	28-05-85	30-06-11	31-07-22
67	655665	ALCY KUTTY THOMAS	S11	C	NURSING SISTER	28-05-85	30-06-11	31-10-19
68	655673	ROSHNI KHALKHO	S11	C	NURSING SISTER	28-05-85	30-06-11	31-01-23
69	655681	SUSAN MATHAIKUTTY	S11	C	NURSING SISTER	16-04-86	30-06-11	28-02-22
70	661167	ASHA SHARMA	S11	C	NURSING SISTER	16-04-86	31-12-11	31-12-19
71	661175	PUSH PAMMA TOMY	S11	C	NURSING SISTER	16-04-86	31-12-11	30-09-23
72	661208	SANGITA CHATTERJEE	S11	C	NURSING SISTER	16-04-86	31-12-11	31-03-23
73	661224	CELINE KOSHY VARGHESE	S11	C	NURSING SISTER	16-04-86	31-12-11	31-05-23
74	661240	SUBHRA MANNA	S11	C	NURSING SISTER	16-04-86	31-12-11	31-10-19
75	661307	ANNA SASIDHARAN SAM	S11	C	NURSING SISTER	11-11-86	31-12-11	31-12-19
76	664020	UPENDRA KUMAR	S11	C	SR PHARMACIST	11-11-86	31-12-07	28-02-17
77	664038	HEM CHANDRA SINGH	S11	C	SR PHARMACIST	11-11-86	31-12-07	31-10-17

78	664046	SURESH KUMAR	S11	C	WARD KEEPER	13-11-86	31-12-07	30-09-21
79	664062	SATYA DEO PRASAD	S10	D	LAB TECHNICIAN	13-11-86	31-12-09	31-05-17
80	664070	BINODA NAND SINHA	S10	D	LAB TECHNICIAN	25-05-87	31-12-09	31-01-23
81	665755	BIJAY KUMAR	S11	C	SR PHARMACIST	19-05-87	30-06-08	31-12-22
82	665763	NARESH PRASAD MAHTO	S11	C	SR PHARMACIST	15-06-87	30-06-08	31-03-23
83	665888	LYSAMMA GEORGE	S11	C	NURSING SISTER	15-06-87	30-06-12	31-05-25
84	665929	LIZY VARGHESE	S11	C	NURSING SISTER	17-06-87	30-06-12	31-01-23
85	665937	CHANDESHWAR SAH	S11	C	SR PHARMACIST	10-06-87	30-06-08	31-10-21
86	665987	NILMADHAB SEN	S11	C	SR PHARMACIST	24-06-87	30-06-08	31-12-19
87	666000	MANJU MAZUMDAR	S11	C	NURSING SISTER	22-06-87	30-06-12	30-11-22
88	666018	BANANI SAHA	S11	C	TUTOR	22-06-87	30-06-12	30-11-20
89	666026	SAMPA MALLICK	S11	C	NURSING SISTER	06-11-87	30-06-12	31-05-24
90	673203	VIJAYAM RAMACHANDRAN	S11	C	NURSING SISTER	07-04-88	31-12-12	30-06-24
91	674946	KABITA BANERJEE	S11	C	NURSING SISTER	07-04-88	30-06-13	31-01-23
92	674954	SUMITA DAS	S11	C	NURSING SISTER	07-04-88	30-06-13	31-05-25
93	674996	LEELEMMA JOHN	S11	C	NURSING SISTER	07-04-88	30-06-13	28-02-23
94	675001	BHARATI GANGULY	S11	C	TUTOR	07-04-88	30-06-13	30-09-22
95	675019	CHANDRA GHOSH	S11	C	NURSING SISTER	07-04-88	30-06-13	28-02-26
96	675043	ALEYAMMA VIJAY	S11	C	NURSING SISTER	07-04-88	30-06-13	31-01-21
97	675051	SWAPNA MANDAL	S11	C	NURSING SISTER	07-04-88	30-06-13	30-09-21
98	675069	REKHA SAHA	S11	C	NURSING SISTER	07-04-88	30-06-13	30-09-22
99	675077	ANJALI MISHRA	S11	C	NURSING SISTER	07-04-88	30-06-13	31-01-22
100	675085	SHEEKHA RANI DEY	S11	C	NURSING SISTER	07-04-88	30-06-13	31-03-24
101	675100	REBA ROY	S11	C	NURSING SISTER	07-04-88	30-06-13	31-03-25
102	675118	VALSALA THULASIDHARAN PILLAI	S11	C	NURSING SISTER	07-04-88	30-06-13	31-12-22
103	675134	SUKLA SINHA	S11	C	NURSING	07-04-88	30-06-13	30-11-24

					SISTER			
104	675142	UMA MONDAL	S11	C	NURSING SISTER	07-04-88	30-06-13	31-05-25
105	675150	SOSAMMA ALEX	S11	C	NURSING SISTER	03-11-88	30-06-13	30-11-21
106	675598	BABY ACHARYA	S11	C	NURSING SISTER	30-08-89	31-12-13	31-03-24
107	676827	CELINE JOHN	S11	C	NURSING SISTER	30-08-89	31-12-13	31-03-26
108	676877	DIPA SARKAR	S11	C	NURSING SISTER	30-08-89	31-12-13	30-04-24
109	676885	MARY VARGHESE	S11	C	NURSING SISTER	30-08-89	31-12-13	28-02-27
110	676900	DAISY JOY	S11	C	NURSING SISTER	30-08-89	31-12-13	31-03-24
111	676918	NEETA SHEE	S11	C	NURSING SISTER	24-10-90	31-12-13	31-01-25
112	677023	RAJAMMA VISWANATHAN	S11	C	NURSING SISTER	24-10-90	30-06-10	31-12-23
113	679045	SHIBANI MUKHERJEE	S10	C	NURSING SISTER	24-10-90	31-12-09	31-03-27
114	679053	ANUSHREE ROY	S10	C	NURSING SISTER	24-10-90	31-12-09	30-06-25
115	679087	LATHA MADHU	S10	C	NURSING SISTER	24-10-90	31-12-09	30-09-24
116	679095	SHIKHA CHAKRABORTY	S10	C	NURSING SISTER	24-10-90	31-12-09	31-05-24
117	679110	KANAK DURGA MAHAPATRA	S10	C	NURSING SISTER	24-10-90	31-12-09	30-11-25
118	679128	MANI AMMA ROY	S10	C	NURSING SISTER	24-10-90	31-12-09	31-07-26
119	679136	ALIAMMA PHILIPOSE	S10	C	NURSING SISTER	24-10-90	31-12-09	31-03-27
120	679178	DEEPTY RAY	S10	C	NURSING SISTER	24-10-90	31-12-09	31-10-25
121	679201	JAYA RAJU	S10	C	NURSING SISTER	24-10-90	31-12-09	31-08-23
122	679219	SUBHRA ROY	S10	C	NURSING SISTER	14-11-90	31-12-09	31-12-27
123	679227	MARY PHILIP	S10	C	NURSING SISTER	13-11-90	31-12-09	31-01-27
124	680282	SWAPANA JAISWAL	S10	C	NURSING SISTER	12-12-90	31-12-11	30-06-24
125	680290	AJIT KUMAR SINHA	S11	C	SR PHARMACIST	09-01-91	30-06-12	30-04-27
126	681941	GHAN SHYAM SHARMA	S10	D	SR X-RAY TECHN	09-01-91	30-06-12	31-12-24
127	682428	KRISHNA YADAV	S11	C	SR PHARMACIST	10-01-91	31-12-10	31-05-20
128	682444	TANUJA CHOUDHARY	S10	C	NURSING SISTER	14-01-91	30-06-10	30-09-18

129	682519	MARIAM SURIN	S10	C	NURSING SISTER	14-01-91	30-06-10	31-03-23
130	682527	SUSMITA SINGO MURMU	S10	C	NURSING SISTER	23-01-91	30-06-12	31-05-18
131	682569	LALAN KUMAR SINHA	S11	C	SR PHARMACIST	30-01-91	30-06-12	31-05-23
132	682650	RASH BIHARI PRASAD SINHA	S11	C	SR PHARMACIST	12-02-91	30-06-10	31-01-18
133	682767	SHAILA MANORMA KHALKHO	S10	C	NURSING SISTER	20-02-91	30-06-10	30-04-18
134	682866	EDITH BARWA	S10	C	NURSING SISTER	22-03-91	30-06-10	31-01-25
135	682907	RENU J MINZ	S10	C	NURSING SISTER	29-03-91	30-06-12	31-10-28
136	683179	PANNA LAL PRASAD	S10	D	SR LAB TECHN	23-04-91	30-06-12	30-04-25
137	683187	BIBEKANANDA MUKHERJEE	S10	D	SR LAB TECHN	30-04-91	30-06-10	28-02-17
138	683492	FULMANI TOPPO	S10	C	NURSING SISTER	29-04-91	30-06-12	30-09-16
139	683898	ASHIS KUMAR CHAKRABORTY	S11	X	SR MASTER(SG)	02-05-91	30-06-10	30-11-20
140	683939	ASIYAN BAHALEN TOPNO	S10	C	NURSING SISTER	15-04-91	30-06-10	31-08-22
141	683955	JIRAN PAUL PARDHIYA	S10	C	NURSING SISTER	29-05-91	30-06-10	31-10-22
142	684432	BERONICA KHESS	S10	C	NURSING SISTER	16-06-91	30-06-10	31-01-22
143	684599	STELLA TIRKEY	S10	C	NURSING SISTER	13-06-91	30-06-12	31-01-20
144	684680	RAYMOND PASCHAL	S10	D	SR X-RAY TECHN	20-11-93	30-06-10	31-01-27
145	684698	EMERENCIA KIRO	S10	C	NURSING SISTER	20-11-93	31-12-11	30-09-30
146	688278	KAULESHWAR CHAUDHARY	S9	C	LAB TECHNICIAN	20-11-93	31-12-11	30-06-32
147	688286	MANOJ KUMAR OJHA	S9	C	LAB TECHNICIAN	14-05-92	31-12-11	31-12-25
148	688294	JAGAR NATH RAJAK	S9	C	LAB TECHNICIAN	14-05-92	30-06-11	30-09-25
149	691156	SANGEETA MUNDA	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-25
150	691164	AMBIKA BALACHANDRAN	S10	C	NURSING SISTER	14-05-92	30-06-11	29-02-28
151	691180	MARYAMMA BABU	S10	C	NURSING SISTER	14-05-92	30-06-11	30-09-28
152	691213	SHAILA JOHNSON	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-29
153	691255	BEENA SABU	S10	C	NURSING	14-05-92	30-06-11	31-05-24

					SISTER			
154	691263	ALEYAMMA JESTO	S10	C	NURSING SISTER	14-05-92	30-06-11	30-06-27
155	691271	THRESIAMMA EZHUTHUPURAYIL JOSE	S10	C	NURSING SISTER	14-05-92	30-06-11	30-06-25
156	691289	PRATIMA TOPPO	S10	C	NURSING SISTER	14-05-92	30-06-11	30-06-24
157	691297	ANITA TOPPO	S10	C	NURSING SISTER	14-05-92	30-06-11	31-12-24
158	691304	PUSPA KANTI KINDO	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-24
159	691312	MEWA PUSHPA	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-25
160	691320	NEERA SATISH KUMAR	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-28
161	691346	UMA DEVI UNNIKRISHNAN	S10	C	NURSING SISTER	14-05-92	30-06-11	31-01-26
162	691354	RAJESHWARI SURESH	S10	C	NURSING SISTER	14-05-92	30-06-13	31-12-24
163	691362	ABHA KUJUR	S10	C	NURSING SISTER	14-05-92	30-06-11	31-01-25
164	691370	KABITA DESHMUKH	S10	C	NURSING SISTER	14-05-92	30-06-11	31-05-29
165	691396	NUTAN AMRIT	S10	C	NURSING SISTER	27-05-92	30-06-11	30-04-28
166	691403	RAJALAKSHMI SURESH	S10	C	NURSING SISTER	30-06-94	30-06-11	30-09-25
167	G91883	JAYASHRI	S10	C	NURSING SISTER	30-06-94	31-12-11	31-01-26
168	752742	NUTAN RUNDA	S9	C	NURSING SISTER	30-06-94	30-06-13	30-11-26
169	752776	MEETA SARKAR	S10	C	NURSING SISTER	30-06-94	30-06-13	30-06-29
170	752817	ILLA BAXLA	S10	C	NURSING SISTER	30-06-94	30-06-13	28-02-29
171	752825	TANDRA BOSE	S10	C	NURSING SISTER	30-06-94	30-06-13	30-09-29
172	752833	CECILIA TIRKEY	S10	C	NURSING SISTER	30-06-94	30-06-13	31-08-27
173	752859	MOUSUMI GHOSH	S10	C	NURSING SISTER	30-06-94	30-06-13	31-12-28
174	752867	LALITA KUMARI	S10	C	NURSING SISTER	30-06-94	30-06-13	31-03-26
175	752883	ANITHA VINAY	S10	C	NURSING SISTER	30-06-94	30-06-13	30-04-27
176	752916	RETNAMMA S RAJAN	S10	C	NURSING SISTER	30-06-94	30-06-13	31-01-25
177	752924	VALSALA JOSEPH	S10	C	NURSING SISTER	19-08-94	30-06-13	31-05-30
178	752966	BIRSI TIGGA	S10	C	NURSING SISTER	19-08-94	31-12-13	28-02-29

179	753188	SHEEBA SURESH	S10	C	NURSING SISTER	26-10-94	31-12-13	31-01-16
180	753287	PURNIMA SINGH	S10	C	NURSING SISTER	26-12-95	31-12-10	30-04-31
181	753641	NIHAR KANTI SINGH	S10	C	RADIO THERA/TEC	26-12-95	31-12-10	31-01-30
182	754920	MOYNA MONDAL	S9	C	NURSING SISTER	26-12-95	31-12-10	31-10-28
183	754946	SHIRANJEET KAUR CHADHA	S9	C	NURSING SISTER	26-12-95	31-12-10	31-01-28
184	754954	MOW SINGH	S9	C	NURSING SISTER	26-12-95	31-12-10	30-06-29
185	754962	ARCHANA S KUMAR	S9	C	NURSING SISTER	26-12-95	31-12-10	31-01-29
186	754988	MADHU SINGH	S9	C	NURSING SISTER	26-12-95	31-12-10	31-01-29
187	754996	SUMAN PANDIT	S9	C	NURSING SISTER	26-12-95	31-12-10	30-04-30
188	755027	JILANTI MINZ	S9	C	NURSING SISTER	26-12-95	31-12-10	30-04-30
189	755051	USHA RANI MOHANTY	S9	C	NURSING SISTER	26-12-95	31-12-10	31-05-30
190	755069	SUDHA GIRI	S9	C	NURSING SISTER	26-12-95	31-12-10	31-05-29
191	755077	SRI DEVI	S9	C	NURSING SISTER	26-12-95	31-12-10	31-12-28
192	755093	SUSHILA PASWAN	S9	C	NURSING SISTER	26-12-95	31-12-10	31-01-31
193	755100	SHUBHA PRAKASH	S9	C	NURSING SISTER	26-12-95	31-12-10	31-12-24
194	755118	RAJITA EKKA	S9	C	NURSING SISTER	08-10-97	31-12-10	31-01-24
195	755134	MADHU BANI MINZ	S9	C	NURSING SISTER	17-10-97	31-12-12	31-05-26
196	759566	SUSHMA KUMARI	S9	C	NURSING SISTER	18-10-97	31-12-12	31-07-31
197	759615	NILAM KUMARI	S9	C	NURSING SISTER	18-10-97	31-12-12	30-09-33
198	759623	KANCHAN KUMARI	S9	C	NURSING SISTER	20-10-97	31-12-12	28-02-27
199	759631	SWAMYNATHAN SREEJA VENUGOPAL	S9	C	NURSING SISTER	23-10-97	31-12-12	31-03-28
200	759649	GOPA DEY	S9	C	NURSING SISTER	17-12-97	31-12-12	30-06-22
201	759681	MONIKA TIGGA	S9	C	NURSING SISTER	29-06-98	31-12-13	31-07-25
202	759847	VIKASH KUMAR KATIYAR	S10	C	ORTHOPIST	10-08-98	30-06-12	31-03-26
203	760208	JAYANTA GHOSH	S8	C	TECHN/X-RAY	08-12-98	31-12-12	31-01-29
204	760448	LAKSHMI	S8	C	TECHN/X-RAY	08-12-98	31-12-13	31-05-27

		KANTA DIAN						
205	760860	TERESA MINJ	S9	C	NURSING SISTER	08-12-98	31-12-13	31-01-30
206	760878	MARIAM BHENGRA	S9	C	NURSING SISTER	08-12-98	31-12-13	30-06-32
207	760886	KISHORI PRABHA KUJUR	S9	C	NURSING SISTER	08-12-98	31-12-13	31-12-30
208	760894	SITA KUMARI	S9	C	NURSING SISTER	08-12-98	31-12-13	30-09-30
209	760901	PRASAN KUJUR	S9	C	NURSING SISTER	08-12-98	31-12-13	31-10-30
210	760919	ANU VERMA	S9	C	NURSING SISTER	08-12-98	31-12-13	31-05-31
211	760927	GITALI MALLICK	S9	C	NURSING SISTER	08-12-98	31-12-13	31-07-29
212	760935	MANJU KUMARI	S9	C	NURSING SISTER	08-12-98	31-12-13	31-03-31
213	760943	MANJIT RANI	S9	C	NURSING SISTER	08-12-98	31-12-13	29-02-32
214	760951	BABITA KUMARI	S9	C	NURSING SISTER	08-12-98	31-12-13	30-11-30
215	760969	URMILA PRASAD	S9	C	NURSING SISTER	08-12-98	31-12-13	30-06-33
216	760993	SARASWATI DEEP	S9	C	NURSING SISTER	08-12-98	31-12-13	31-08-30
217	761008	RENU KUMARI	S9	C	NURSING SISTER	—	31-12-13	—
218	761032	ANITA DEVI	S9	C	NURSING SISTER	—	31-12-13	—

2. It is relevant to mention that previously this Reference Case No. 39/2013 was decided vide Award dated 20.04.2017 passed by this Tribunal and the same was confirmed by the Single Bench of the Hon'ble Jharkhand High Court in a W.P. (L) No. 4675 of 2017 but in L.P.A. No. 737 of 2023 the Hon'ble Jharkhand High Court were pleased to set aside the Award passed by this Tribunal as well as order of the Hon'ble Single Bench and the case was remanded to this Industrial Tribunal to decide the matter afresh on the basis of the materials already on the record.

3. The case of the workman is that Bokaro Steel Plant (BSP) is one of the units of Steel Authority of India Limited and engaged in manufacture of iron and steel. It is a public sector undertaking and its employees are governed and guided by Service Rules, Standing Orders and Executive Orders issued from time to time. Bokaro Steel Worker's Union is a registered union and is espousing for the cause of the workers from time to time and has entered into several agreements with the Management of Bokaro Steel Plant for betterment and improvement of working conditions of the workmen of Bokaro Steel Plant. The employees of BSP working in Bokaro General Hospital, particularly Nursing and Para Medical Staff are governed by the Service Rules of BSP. It has been admitted by the Management of Bokaro Steel Plant during conciliation proceedings dated 21.11.2012 that the employees of Bokaro Steel Plant working in Bokaro General Hospital are governed by Service Rules and these employees have been getting all the benefits under the same. It is submitted that the non-executive employees of Bokaro Steel Plant who are covered under the Service Rules are required to perform duties from Monday to Friday from 09:30 A.M. to 5:00 P.M. with one hour lunch break and on Saturdays from 09:30 A.M. to 01:00 P.M. So the duty hours of employees of BSP who are governed by Service Rules is 36 hours in a week. This can be further seen from the circular no. GM (P&A)/2008-7267 dated 12.12.2008 issued by GM (P&A) of BSP categorically clarifying the working hours of the non-executive employees governed by Standing Orders and Service Rules as follows:

Standing Orders : 8:30 a.m. to 5:00 p.m.

(with half an hour lunch break)

Service Rules : Monday to Friday : 9:30 a.m. to 5:00 p.m.

(with one hour lunch break)

: Saturday 9:30 a.m. to 1:00 p.m.

Although the Nursing and Para Medical Staff of Bokaro General Hospital are covered under Service Rules, they are working for 48 hours in a week and are also performing shift-wise duties. Thus it is very much clear that the Nursing and Para Medical Staff of Bokaro General Hospital are performing 12 hours additional duty every week compared to other employees who are also governed by the Service Rules of Bokaro Steel Plant. Similarly placed employees i.e. employees who are governed by Service Rules and working in the Sales Accounts (Invoice Group) and EDP centre of Bokaro Steel Plant and who are required to work for 48 hours in a week in shifts are paid 20% of their Basic Pay and D.A. as special allowance to compensate for the extension/change in working hours from 36 to 48 hours. They are also getting incentive and reward in addition to the aforesaid allowance of 20% of Basic Pay and D.A. Nursing and Para Medical Staff of Bokaro General Hospital are not compensated for the additional work of 12 hours in a week which they are doing whereas similarly placed employees who are working in the Sales Accounts (Invoice Group) and EDP Centre of BSP governed by Service Rules and who are required to work for 48 hours in a week in shifts are paid 20% of their Basic Pay and D.A. as special allowance to compensate for the extension/change in working hours from 36 to 48 hours. Bokaro Steel Plant had frozen the special allowance which was paid to these employees working in the Sales Accounts (Invoice Group) and EDP Centre of BSP by issuing an Inter Office Correspondence dated 20.12.1991 resulting in an Industrial Dispute between the management of BSP and the employees which was adjudicated by the Presiding Officer, Industrial Tribunal, Ranchi vide Reference Case No. 04/1998 by passing an award in favour of the affected employees. The employees of SAIL/Bokaro Steel Plant are governed by the provisions of standing order and service rules. There are differences of benefits between the employees governed under the Service Rules and Standing Order which are as follows:-

Sl. No.	**Service Rule**	**Standing Order**
Leave		
a) Earned Leave	30 days per year	20 days per year
b) Casual Leave	15 days per year	10 days per year
c) Restricted Holidays	09 days per year	05 days per year
d) Close Holiday	6+1 days per year	03 days per year
e) Leave encashment against Earned Leave after retirement having maximum limit	300 days	190 days
f) Half Pay Leave after retirement	240 days	120 days
g) Incentive/Reward	36% to 50%	50% to 90%

Nursing and Para Medical Staff of Bokaro General Hospital are deprived of their genuine legal rights for a long time and are exploited through unfair labour practice by the management company in violation of Article 14 of the Constitution. The Nursing and Para Medical Staff of B.G.H. are getting all the benefits of service rules but they have been deliberately deprived of their right of 20% of their basic pay and D.A. as special allowance to compensate their working hours from 36 to 48 hours and also for working in shift wise duty and at last it was submitted to pass an award directing the management of BSP to pay special allowance of 20% of the basic pay and D.A. to the Nursing and Para Medical Staff of B.G.H. at par with similarly placed workmen working in the Sales Accounts (Invoice Group) and EDP Centre from the date of their joining.

4. On the other hand the case of the management as per written statement filed on 26.11.2014 is that the reference is not maintainable. The names of the workmen concerned are not incorporated along with the order of reference and in the absence of the same the present reference is indefinite and vague and is not valid for adjudication. Since the inception of Bokaro General Hospital and introduction of shift wise duty the employees of B.G.H. whose service conditions are governed by Service Rules have been performing 48 hours duty in a week. The employees working at B.G.H. have been performing 48 hours duty in a week i.e. 8 hours duty per shift since the date of joining in B.G.H. of Bokaro Steel Plant. The workmen of Bokaro Steel Plant who have been working 48 hours duty in a week are entitled to get enhanced incentive and reward of 50%. The workmen working at B.G.H. are also getting enhanced incentive and reward of 50% whereas the workmen working less than 48 hours in a week are getting 36% of incentive and reward. The management never changed the service conditions of the workmen who are working at B.G.H. from Service Rule to Standing Order as such there has not been any violation of the provisions of Section 9A of the I.D. Act, 1947. The employees of Bokaro General Hospital whose services are governed by the provisions of service rules are enjoying all facilities including leave applicable to Service Rules. It is evident that employees of B.G.H. governed by Service Rules have been getting all the benefits of Service Rules. They have also been getting enhanced incentive and reward of 50% which is applicable for the employees working for 48 hours in a week for several years. The

demand made by the sponsoring union for payment of 20% special allowance to the workers working in Bokaro General Hospital is neither legal nor justified and therefore it was prayed to hold that the action of the management of Bokaro Steel Plant, SAIL in not paying 20% special allowance to the workers working in Bokaro General Hospital is legal and justified and that the workmen concerned are not entitled to get any relief. By way of rejoinder the management has stated that the statement made in Para 1 and 2 of the W/S of union is matter of record and the statement of Para-3 is not relevant. The statement made in Para-4 of the W/S is not correct. Majority non-executive employees working in B.G.H. are governed by Standing Orders. Few old employees are governed by Service Rules. It is relevant to mention that the names of workmen is not mentioned either before Conciliation Office nor the Ministry referred the names of the workmen concerned along with the order of reference and therefore the question referred by the Ministry is vague and indefinite. The statement of Para-5, 6 and 8 of the W/S are not correct. Circular dated 12.12.2008 was specifically applicable to executives/non-executives posted in Ispat Bhawan Complex, T&D Centre, Nagar Sewa Bhawan and its allied offices other than those in shifts. Since the inception of B.G.H. and introduction of shift wise duty, the employees of B.G.H. have been performing 48 hours duty in a week i.e. 8 hours duty per shift and accordingly they have been getting enhanced incentive and reward of 50%. The statements made in Para-7 and Para-9 of the W/S are not relevant. The fact of the reference no. 4 of 1998 is different and more over the finding of the State Industrial Tribunal is not binding to this Tribunal as the facts of both the cases are different. The statement made in Para-10 of the W/S of union is matter of record and that of Para-11 and 12 are not correct and there is no merit in the W/S of the union so prayed to reject the same.

5. A rejoinder has also been filed on behalf of the workmen to the W/S of the management in which they have denied all the claims and stand taken by the management and further repeated the stand taken by them in their statement of claim.

6. In support of their case the workmen have examined WW-1 Ghanshyam Sharma, WW-2 Baby Acharya and WW-3 Badrinath Upadhyay.

7. The workmen have also adduced the following documentary evidence:-

Exhibit W, W-1/1 to W-1/3 – Offer of appointment

Exhibit W-2 – Office Order of G.M. dated 12.12.2008.

Exhibit W-3 – Copy of Gate Passes

Exhibit W-4 – Office order dated 20.07.1978

Exhibit W-5 – Letter of Union dated 13.12.2012

Exhibit W-6 –Copy of Award dated 29.08.2003 passed by Presiding Officer, Industrial Tribunal, Ranchi in Ref.4/98

Exhibit W-7 – Copy of Award dated 23.06.2004 passed by Presiding Officer, Industrial Tribunal, Ranchi in Ref.4/93

Exhibit W-8 - Circular dated 25.05.1990

Exhibit W-9 – Letter dated 21.06.1966 of Dy. Personnel Manager to the Secretary of Union.

Exhibit W-10 – Letter dated 21.11.2012 of the management.

Exhibit W-11 – Letter dated 08.02.2013 of the management.

Exhibit W-12 Series – Duty Roster of the employees of B.G.H

Exhibit W-13 Series/‘X’ for Identification – Letter of General Secretary as well as List of workmen

8. On the other hand the management has examined MW-1 Sushma Sahay.

9. The management has adduced the following documentary evidence as Exhibit M-1 Series – Monthly Salary Statement of Staffs.

10. Heard both sides and perused the materials on record.

11. The Ld. Counsel on behalf of the workman has submitted that the employees of B.S.P. working in B.G.H. in Nursing and Para Medical Services are governed by the Service Rules of B.S.P. and they are governed by the Service Rules, Standing Orders and Executive Orders issued from time to time and accordingly they performed duties from Monday to Friday from 09:30 a.m. to 5:00 p.m. with one hour lunch break and the duty hours of the employees of Bokaro Steel Plant who are governed by the Service Rules, is 36 hours per week. Although the Nursing and Para Medical Staff of B.G.H. are covered under the Service Rules and they worked for 48 hours in a week and are performing shift wise duties and similarly placed employees who are governed by Service Rules and working in the Sales Accounts (Invoice Group) and EDP Centre of Bokaro Steel Plant also worked for 48 hours in a week in shifts are paid 20% of their Basic Pay and D.A. as special allowance to compensate for their extension/change in working hours from 36 to 48 hours but the employees of Bokaro General Hospital particularly Nursing and Para Medical Staff are not paid 20% special allowance of their basic pay and D.A. which is discriminatory and prayed to allow the same.

12. On the other hand the Ld. Counsel on behalf of the management has submitted that the workmen of B.S.P. who have been performing 48 hours duty in a week are entitled to get enhanced incentive and rewards of 50% and the employees of B.S.P. are getting 20% special allowance as machine allowance but the concerned workmen who are the employees of Nursing and Para Medical Staff are not concerned with the machine and therefore they are not entitled to 20% extra special allowances/machine allowances and prayed to reject the reference.

13. **Issue**

Whether the action of the management of Bokaro Steel Plant SAIL in not paying 20% special allowance to the workers, working in Bokaro General Hospital is legal and justified? What relief the workmen are entitled to?"

14. Now as regards the oral evidence of the workmen, WW-1 Ghanshyam Sharma who is also one of the concerned workmen and is posted as Senior Technician X-Ray in B.G.H. X-Ray department, has deposed that he is working there since 12.12.1990 and his name has been displayed on serial no. 126 of the list of employees that has been filed by the union on 20.06.2014. This list contains 218 employees. All the Employees/Para Medical Staff are governed by the Service conduct rules and discipline and appeal rules. He has also submitted his offer of appointment. Except Saturday all the employees governed by Service Rules working for six and half hours and on Saturday they work for three and half hours only. He has further deposed that under the service conditions the employees who are daily working for 8 hours in shifts, are paid 20% special allowances for their additional duty which is 20% of their Basic and D.A. and in this regard he has submitted the office order issued by Bokaro Steel Management. As they are also governed by the same service rules and conditions, they are entitled for 20% special allowance. In cross-examination he has admitted that he is deposing on behalf of all the workmen of this reference case. He has admitted that in the appointment letter the working hour was not mentioned. They are working in shifts.

WW-2 BabyAcharya is also one of the concerned workmen and she is working as Nurse in Eye Department in B.S.P. General Hospital since 02.11.1988. She has also repeated the same facts as stated by WW-1 in his examination- in- chief. She has stated that the lists in hand are of the Nursing Staff and Ministerial Staff and they obtained the list from Personnel Department. In cross examination she has admitted that in their appointment letter the duty hours was not mentioned. She has also stated that it is not a fact that the circular is not meant for hospital staff. They are getting production bonus. She has denied that their claims are different from other workmen. She has also denied that the others who use machines get extra machine allowance.

WW-3 Badrinath Upadhyay is the Joint General Secretary of Bokaro Steel Workers Union and he has deposed that the special allowance/machine allowance are applicable from 1978. As per Service Rules who work for more than six and half hours a day are entitled to get the 20% allowance. Ministerial officials are also getting 20% allowances. He has proved the list under his signature that he prepared from personnel department of BSL. In cross examination he has stated that it is not a fact that he has not any genuine union to contest the claim of the workmen. He has denied that Exhibit W-13 is after thought list.

15. Now as regards the documentary evidence adduced from the side of the workmen, **Exhibit W-1 to W-1/3** are the offer of appointment for the concerned employees issued from Bokaro Steel Plant, Personnel Department, Bokaro Steel City on different dates in the names of different employees. **Exhibit W-2** is the office order of G.M. (P&A) dated 12.12.2008 issued to G.M. (Proj.), B.S.P. Bokaro regarding Discipline Management and on its perusal it is evident that the duty hours of the employees posted in Ispat Bhavan Complex, T&D Centre, Nagar Sewa Bhavan and its allied offices has been given as follows:

i. Executives : 9.00 a.m. to 5:30 p.m. (with half an hour lunch break)

ii. Non-executives:

- Standing Orders : 08:30 a.m. to 05:00 p.m. (with half an hour lunch break)
- Service Rules : Monday to Friday : 09:30 a.m. to 05:00 p.m. (with one hour lunch break)

Saturday : 09:30 a.m. to 01:00 p.m.

Exhibit W-3 Series are the copy of Gate Passes. **Exhibit W-4** is the Office order dated 20.07.1978 issued under the signature of the Secretary of Steel Authority of India Limited, Bokaro Steel Plant regarding the shift working in Sales Account Section (Invoicing Group) and EDP Centre (Input/Output section) in which it has been mentioned that the approval of the Managing Director is hereby conveyed to the grant of special/machine allowance @ 20% of Basic Pay and D.A. to the under-mentioned categories of staff of Sales Accounts Section (Invoicing Group) and EDP Centre (Input/Output Section) who would be working for 48 hours a week in three shifts 8 hours per day and would be allowed weekly holiday in a staggered manner that is on any day in the week and in second paragraph it has been mentioned that in the event of either withdrawal of shift work from these areas as a result of management policy or in the event of transfer of any of the staff to other section where shift working and the working hours of 48 hours per week are not in force, the payment of this special/machine allowance shall be dis-continued w.e.f. the date of such withdrawal/transfer and thus it is clear that the shift working and the working hour of 48 hours per week are the central/core part of this office order meaning thereby so long as these employees are working in the sections were

shift working and working hour of 48 hours are applicable they are entitled to special/machine allowance @ 20% of their Basic Pay and D.A.and this office order also shows that even messengers and Daftary are being provided the benefit of these allowances in Sales Accounts Section who have nothing to take with the operation of machines. **Exhibit W-5** is the letter dated 13.12.2012 written by the Union to the Assistant Labour Commissioner (Central) regarding raising of Industrial Dispute for Nursing Sisters and Para Medical Staff of Bokaro General Hospital. **Exhibit W-6** is the Award dated 29.08.2003 passed in Reference Case No. 4 of 1998 by the Presiding Officer of Industrial Tribunal Ranchi in case between the management of M/s. Bokaro Steel Plant, Bokaro Steel City and their workmen represented by General Secretary of the Union in which the Award was passed in favour of the workmen holding that to freeze the admissible 20% special allowance to the workmen of the Sales Accounts (Invoicing Group) of Bokaro Steel Plant for work beyond working period by the management is not proper and allowed arrears of the same. **Exhibit W-7** is the Award dated 23.06.2004 passed in Reference Case No. 4 of 1993 by the Presiding Officer of Industrial Tribunal Ranchi in case between the management of M/s. Bokaro Steel Plant, Bokaro Steel City and their workmen represented by General Secretary of the Union in which it was held that the management can not reduce the benefit of the workers ignoring the provisions of Company's conduct Rules and Discipline and Appeal Rules in the Company's Standing Orders regarding leave and other benefits. **Exhibit W-8** is the Circular dated 25.05.1990 of Steel Authority of India Ltd., B.S.P. by which it was stated that it was decided to extend the check-off facility to the members of BSMU at Bokaro Steel Plant and its various Units/Deptts/Sections. **Exhibit W-9** is the letter of Dy. Personnel Manager against the recognition of Union dated 21.06.1966 by which the union of Bokaro Steel Workers was accorded recognition under the code of discipline by the Deputy Personnel Manager. **Exhibit W-10** is the letter of Sr. Manager (Pers-IR) to A.L.C. (C) dated 21.11.2012 regarding the Industrial Dispute raised by Bokaro Steel Workers Union over deliberate change in service conditions of the employees of Bokaro General Hospital, Bokaro Steel Plant by which it has been intimated that the Award of Ld. Presiding Officer, Industrial Tribunal, Ranchi in Ref. Case No. 4 of 1998 is not related with the employees of B.G.H. This award is related with the employees of Sales Accounts (Invoicing Group) who used to get special allowance @ 20% of Basic Pay and D.A. **Exhibit W-11** is the letter dated 08.02.2013 written by the Sr. Manager (Pers-IR) to the A.L.C.(C) informing that there is not a single employee in B.G.H. whose service condition has been changed from Service Rules to Standing Orders as such there has not been any violation of provisions of section 9A of the I.D. Act, 1947. **Exhibit W-12** is duty roster of the employees of B.G.H. **Exhibit W-13** is the letter of General Secretary of the union along with list of 218 employees of B.G.H., the concerned workmen.

16**.** Now as regards the oral evidence of the management, MW-1 Sushma Sahay is the Assistant Manager (Personnel) at Bokaro Steel Plant and she has deposed that the union has not mentioned the name of the workmen on whose behalf they have raised industrial dispute before conciliation officer and the conciliation officer has not submitted the names of the workmen concerned in the Ministry and so the Ministry has not incorporated the names of the workmen in the order of reference. She has further deposed that Bokaro General Hospital of Bokaro Steel City is covered under the Factories Act, 1948 and according to chapter VI, the working hour of an adult workman is 48 hours in a week and all the workers of B.G.H. are working for 48 hours in a week from its inception and introduction of shift wise duty and they are also entitled to get enhanced incentive and reward of 50% whereas the workmen who are working less than 48 hours in a week are getting 36% of incentive and rewards and the management never changed the service conditions of the workmen who are working at B.G.H. The employees of B.G.H. whose services are governed by the provisions of service rules are enjoying all facilities including leave applicable to the Service Rules. The wages is being paid to the employees of the B.S.P. according to the recommendation of National Joint Committee for the Steel Industry and the NJCS agreement does not recognize the payments of 20% of special allowance to any workman and so the demand made by the sponsoring union for payment of 20% special allowance to the workers working in B.G.H. is neither legal nor justified. In cross- examination she has admitted that she can not say whether the B.G.H. is registered under the Factories Act. She has no documents to support the facts of Para-3 of her examination- in- chief. She also can not say truthfulness of the facts of Para-4 of her examination- in- chief and she has admitted that after attending the monthly production the employees are entitled to get incentive and reward. She has also admitted that the concerned workmen are not getting 20% extra wages but many persons in BSL get the same which is called Special Machine Allowance and she has also admitted the suggestion saying that it is not a fact that the workmen are not entitled to get 20% extra allowance.

17. Now as regards the documentary evidence of the management, **Exhibit M-1 Series** are the monthly salary statements of staffs.

18. Admittedly all the employees of Bokaro Steel Plant are governed by the Service Rules, Standing Orders and Executive Orders issued from time to time. This is also admitted fact that all the concerned workmen who are working in B.G.H. particularly Nursing and Para Medical Staff are also working for 48 hours a week in shifts and that is why they are claiming 20% special allowance of their Basic Pay and D.A. on the ground of parity contending that the employees of Bokaro Steel Plant who are working in Sales Accounts Section (Invoicing Group) and EDP centre (Input/Output Section) of BSP are also working for 48 hours a week in shifts and they are getting 20% of Basic Pay and D.A. as special allowances. Now this Tribunal has to see and examine as to what extent the claims of the concerned employees are sustainable in the eyes of law?

19. In this regard **Exhibit W-4** is the most important document that provides force to the claim of the concerned

employees because on its perusal it is crystal clear that this is an office order dated 20th July 1978 issued from the Office of Steel Authority of India Ltd., Bokaro Steel Plant for shift working in Sales Accounts Section (Invoicing Group) and EDP Centre (Input/Output section) by which approval for the payment of grant of special/machine allowance @20% of Basic Pay and D.A. to the categorized staff of Sales Accounts Section (Invoicing Group) and EDP Centre have been accorded by the Managing Director and on its perusal it further transpires that this is applicable to the workers of the Sales Accounts Section (Invoicing Group) and EDP Centre (Input/Output section) who are working for 48 hours a week in 3 shifts and 8 hours per day and this category also includes the Messengers and Daftary who do not appear to have any connection with the machine operation and most importantly, on perusal of Para-2 of this office order it is crystal clear that in the event of either withdrawal of shift works from these areas as a result of Management Policy or in the event of transfer of any of the staff to other section where shift working and the working hours of 48 hours per week are not in force, payment of this special/machine allowance shall be discontinued with effect from the date of such withdrawal/transfer **and thus it leaves no doubt that the shift working and working hour for 48 hours per week are the central/core part of this office order** and needless to say that the concerned employees who are working in Nursing and Para Medical Staff of Bokaro General Hospital of Bokaro Steel Plant who are also working in shift and their working hours are of 48 hours per week are equally entitled to this special allowance @ 20% of their Basic Pay and D.A.on the ground of parity and depriving them of this benefit is out and out discriminatory on the part of the management of Bokaro Steel Plant. Not only this, on perusal of Exhibit W-1/4 it transpires that this is an offer of appointment to the employee Sri Ghanshyam Sharma for the appointment in the post of Technician (X-Ray) Grade-II in the Bokaro Steel Plant and thus such employees are also operating machine and when Messengers and Daftaries of the Sales Accounts Section can be extended the benefit of 20% Special Allowance/machine allowance of their Basic and D.A. why not these similarly situated employees.

20. So in addition to the admission of MW-1 in the last portion of her cross-examination, the concerned employees have been able to prove their case by means of Exhibit W-4 also that on parity ground they are entitled to 20% special/machine allowance and the office order dated 20th July 1978 also equally applies to them being on similarly situated footing.

21. Thus on the basis of the above discussions of facts, circumstances and materials on record this Tribunal finds and holds that the action of the management of Bokaro Steel Plant, SAIL in not paying 20% special allowance to the workers working in Bokaro General Hospital is neither legal nor justified and all the concerned employees of this Reference Case are held entitled to the 20% Special Allowance of their Basic Pay and D.A. from the date of their respective joining and the management is directed to take steps for the payment of the same within a period of 3 months from the date of publication of this Award. The reference is answered accordingly.

Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1085.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एलआईसी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **उनके कर्मचारी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद, पंचाट (रिफरेन्स न.- 35/2012)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. एल-17012/1/2012-आईआर(एम)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1085.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 35/2012)** of the **Central Government Industrial Tribunal cum Labour Court-2 Dhanbad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **LIC of India** and **Their Workmen** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. L-17012/1/2012 – IR (M)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNALNO.2 , DHANBAD

In the matter of reference U/S 10 (1) (d) & (2A) of I.D. Act,1947.

Ref. Case No.- 35/2012

Parties :

Employer in relation to the management of LIC of India, Divisional

Office, Begusarai.

AND

Their Workman

Present : Shri Sachindra Kumar Pandey

Presiding Officer/Link Officer

Appearances:

For the Employers :- None

For Workman :- None

State : Jharkhand Industry :- Financial

Dated:17/03/2026

AWARD

1. In the present case, a Reference was received from the appropriate Government vide later no. L-17012/1/2012 (IR (M)) dated 22/05/2012 under clause (d) of sub-section (1) and sub-section (2A) of section 10 of the I.D. Act. 1947 for adjudication of a dispute, terms of which are as under:-

SCHEDULE

"Whether the action of the Management of Life Insurance Corporation of India, Divisional Office, Begusarai in retrenching Shri Vinay Kumar raj who worked in the management since March 1991 to 19/3/2005 is legal and justified? If not, to what relief workman is entitled?"

2. In the endorsement made in reference order, the appropriate Government directed the parties raising the dispute to file statement of claim, complete with relevant document, list of reliance and witness which this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claims to the opposite parties involved in the dispute.

3. On receipt of the above reference, notice was sent to the workman as well as the management and accordingly statement of claim and WS and rejoinder was filed by the parties and evidence was also led by the workman but the case record shows that the case is running at the stage of recording evidence on behalf of the management but it further appears that after 30/07/2019 this case record was put up after a long gap on 3/02/2026 and regd. notices were sent to both parties but the notice of workman was returned with endorsement " इस नाम के व्यक्ति का मृत्यु हो चुका है।".And thereafter none has appeared on behalf of the woarkman and therefore there is no need to continue the proceeding on this case.

4. In these circumstances, this Tribunal is left with no choice, except to pass a "No Dispute /claim" award . Let this award be sent to the appropriate Government for publication as required u/s 17 of the Industrial Dispute Act, 1947.

SACHINDRA KUMAR PANDEY, Presiding Officer/Link Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1086.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **श्री सुब्रतो दत्ता** के प्रबंधतंत्र के संबद्ध नियोजकों और **उनके कर्मचारी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद, पंचाट (रिफरेन्स न.- 49/2005)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था ।

[सं. एल-29011/8/2005-आईआर(एम)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1086.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 49/2005)** of the **Central Government Industrial Tribunal cum Labour Court-2 Dhanbad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Shri Subrato Dutta** and **Their Workmen** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. L-29011/8/2005– IR (M)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNALNO.2, DHANBAD

In the matter of reference U/S 10 (1) (d) & (2A) of I.D. Act,1947.

Ref. Case No.-49/2005

Parties : Employer in relation to the management of
Shri Subrato Dutta, Mine Owner

AND

Their Workmen

Present : Shri Sachindar Kumar Pandey

Presiding Officer/Link Officer

Appearances:

For the Employers :- Shri D.K. Verma Ld. Advocate

For Workman :- None

State : Jharkhand Industry :- Coal

Dated 17/03/2026

AWARD.

1. In the present case, a Reference was received from the appropriate Government vide letter no. L-29011/8/2005- IR(M) dated 27/04/2005 under clause (d) of sub-section (1) and sub-section(2A) of section 10 of the I.D. Act. 1947 for adjudication of a dispute, terms of which are as under:-

SCHEDULE

"***Whether the action of the Management of Shri Subrato Dutta, Mine Owner, S/o Shri Dinesh Kumar Dutta, At& P.O. Rampur Hat, PS Rapur Hat, Distt. Birbhum (W.B.) in terminating the services of S/Shri Pahlam Mia and 13 others(as per list enclosed) without complying Section 25-F of I.D. Act is legal and or justified? If not, to what relief theabove workmaen are entitled?.***

2. In the endorsement made in reference order, the appropriate Government directed the parties raising the dispute to file statement of claim, complete with relevant document, list of reliance and witness which this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claims to the opposite parties involved in the dispute .

3. On receipt of the above reference, notice was sent to the workman as well as the management and accordingly statement of claim and WS and rejoinder was filed by the parties and but the case record shows that the record is running at the stage of filing documents by the parties for more than 10 years and in the meantime the workman absented himself since 29/02/2014 and the registered notice was also issued to the Union/workman but the notice was returned with endorsement dated 16/03/2026 "No such person in this address" and none appeared on his side to take steps which makes it clear that the workman/Union has lost interest in this case.

4. In these circumstances, this Tribunal is left with no choice, except to pass a "No Dispute /claim "Award . Let this award be sent to the appropriate Government for publication as required u/s 17 of the Industrial Dispute Act,1947.

SACHINDRA KUMAR PANDEY, Presiding Officer/Link Officer

नई दिल्ली, 26 मई, 2026

का.आ. 1087.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एलआईसी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अनबरासु शनमुगम** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई, पंचाट (रिफरेन्स न.- 77/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. जेड-16025/04/2026-आईआर(एम)-29]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1087.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 77/2025)** of the **Central Government Industrial Tribunal cum Labour Court, Chennai** as shown in the Annexure, in the Industrial dispute between the employers in relation to **LIC of India** and **Shri Anbarasu Shanmugam** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. Z-16025/04/2026-IR(M)-29]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 77/2025

Present: SUSHIL KUMAR, PRESIDING OFFICER

Date: 27-02-2026

Sh. Anbarasu Shanmugam,

No.1/51, Big Street,

Melveeranam,

Sholingur Taluk,

Ranipet District – 632 505 . : 1st Party/Petitioner

AND

The Senior Divisional Manager,

LIC of India,

Vellore Division, Division Office,

Jeevan Prakash, Arcot Road,

Vellore – 632 004 : 2nd Party / Respondent

Appearance:

For the 1st Party / Petitioner : Party in person

For the 2nd Party / Respondent : Representative of the Respondent

AWARD

This petition u/s.2A of the Industrial Disputes Act, 1947 is directly filed by the Petitioner Mr. Anbarasu Shanmugam who held the office of development officers in the office of Respondent seeking the following relief from the Respondent/Management of LIC of India, Vellore:-

a) Issue a writ / order / direction quashing and setting aside the impugned Termination Order dated 29.09.2022 issued by Respondents.

b) Direct the Respondents to reinstate the Applicant forthwith in service as Development Officer with continuity of service, full back wages, and all consequential benefits including seniority, increments and promotions from the date of termination

c) Award costs of the Application to the Applicant &

d) Pass such other and further orders as this Hon'ble Tribunal cum Labour Court may deem fit and proper in the interest of justice.

2. ID called out. Heard of maintainability. Having gone through the record and after hearing the petitioner in person and representative of the Respondent / Management,the question that arises to consider at this stage is whether the petitioner / claimant comes under the category of workman.

3. The Respondent filed a clear case law on the subject is Chauharya Tripathi & Ors Vs LIC of India &Ors wherein the Hon'ble Supreme Court held that the Development Officers working in LIC are not workmen under Section 2(s) of the Industrial Dispute Act.

4. In view of the judgment rendered by the Hon'ble Supreme Court, the claimant is not a workman, and therefore, this Tribunal has no jurisdiction to decide the lis.

5. ID is dismissed in for want of jurisdiction and the application filed u/s 2A by the Petitioner is answered accordingly.

6. The Petitioner / Claimant may file a petition before the competent authority, if so advised.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1088.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सेंट्रल वेयरहाउसिंग कॉर्पोरेशन** के प्रबंधतंत्र के संबद्ध नियोजकों और **भारतीय कामगार सेना** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई, पंचाट (रिफरेन्स न.- 34/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2026 को प्राप्त हुआ था।

[सं. जेड-16025/04/2026-आईआर(एम)-46]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1088.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 34/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Central Warehousing Corporation** and **Bhartiya Kamgar Sena** which was received along with soft copy of the award by the Central Government on 26.05.2026.

[No. Z-16025/04/2026-IR(M)-46]

SALONI, Dy. Director

ANNEXURE

BEFORE JUSTICE RETIRED SHIV SHANKER PRASAD

PRESIDING OFFICER/LINK OFFICER

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

JUSTICE RETIRED SHIV SHANKER PRASAD

Presiding Officer/Link Officer

REFERENCE NO. CGIT-2/34 of 2023

EMPLOYERS IN RELATION TO THE MANAGEMENT

OF

Party No.1. Central Warehousing Corporation,

CFS Dronagiri,
Node Pagote,
Uran,
Raigad– 410 206,
State: Maharashtra.

AND

THEIR WORKMEN.

Party No.2 (Bhartiya Kamgar Sena)

Prafullaben Society,
R. K. Vaidya Road,
Dadar (W),
Mumbai,
Mumbai– 400 028,
State: Maharashtra.

APPEARANCES:

Management : Mr. Anand D. Gugale.
Advocate.

Workmen : No appearance.

AWARD

(Delivered on 10-03-2026)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. B.ALC(C)-II/8(90)/2019 B3 dated 01.10.2023. The terms of reference given in the schedule are as follows:

"Whether the demand Bhartiya Kamgar Sena for permanent absorption of services of Shri Moreshwar Nathuram Patil and 279 others by CWC at Dronagiri Node is fair, legal and justified? If yes, what relief these workmen are entitled to?"

2. Case called out today. Both parties are absent on repeated calls. From perusal of record, it is apparent that, both parties are not responding and attending the Court since 19.01.2024 despite service of notices. No Statement of Claim and Written Statements have been filed by the parties respectively till today. No other evidence has been filed by the petitioner/union till today to prove his case. The petitioner/union is not coming to the court since long back. It appears that, the petitioner/union is not interested to contest the case furthermore. The claim of the petitioner/union is not proved. So, the case is closed.

Hence, it is ordered.

ORDER

The demand Bhartiya Kamgar Sena for permanent absorption of services of Shri Moreshwar Nathuram Patil and 279 others by CWC at Dronagiri Node is not fair, not legal and not justified. These workmen are not entitled to any relief.

Date: 10-03-2026

Justice SHIV SHANKER PRASAD, Presiding Officer/Link Officer

नई दिल्ली, 26 मई , 2026

का.आ. 1089.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (177/2001) प्रकाशित करती है।

[सं. एल-12012/29/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1089.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 177/2001*)* 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-12012/29/2001- 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 27th day of April, 2026

INDUSTRIAL DISPUTE No. 177/2001

Between:

Sri G. Venkatesh,

C/o V. Venkata Ramana,

D.No.34/84, Mahaboob hash Street,

Ravachoty,

Cuddapah – 516001. … 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 Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/29/2001-IR(B.I) dated 10.8.2001 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, Tirupati, Rayachoty Main branch in terminating the services of Sri G. Venkatesh, Messenger, is justified? If not, what relief the workman is

entitled?"

After receipt of the reference, it was numbered as ID No. 177/2001 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 af 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 singe 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 31.12.1996, 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 memo of marks of X class. Ex.W2 is the transfer certificate. Ex.W3 is the service certificate cum introduction letter. Ex.W4 is the service certificate. Ex.W5 is the panel list.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Rayachoti branch in terminating the services of Workman Sri G. Venkatesh, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular selection process before my engagement as temporary messenger in the branch.."

"I did not work for 240 days in any year in my entire service in the bank 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 1989…. 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 the 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri G. Venkatesh, 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 27th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri G. Venkatesh	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1: Photocopy of memo of marks

Ex.W2: Photocopy of transfer certificate

Ex.W3: Photocopy of service certificate

Ex.W4: Photocopy of Service certificate

Ex.W5: Photocopy of Panel list

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, 26 मई , 2026

का.आ. 1090.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (178/2001) प्रकाशित करती है।

[सं. एल-12012/40/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1090.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 178/2001*)* 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-12012/40/2001- 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 27th day of April, 2026

INDUSTRIAL DISPUTE No. 178/2001

Between:

Sri J. Arun Kumar,

S/o Yellaiah,

H.No.11-24-584,

Post: Pochamma Maidan,

Warangal – 506367. … Petitioner

And

The Asst. / Chief General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/40/2001-IR(B.I) dated 10.8.2001 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, Local Head Office, Hyderabad in terminating the services of Sri J. Arun Kumar, S/o Yellaiah, Temporary Messenger, S8BI, Battala Bazar branch Warangal Dist. (A.P.) 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. 178/2001 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 af 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 singe 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 1986 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W14. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the caste certificate. Further Ex.W2 is the transfer certificate. Ex.W3 is the service certificate. Ex.W4 is the service certificate. Ex.W5 is the letter from Respondent for submission of documents. Ex.W6 is the panel list. Ex.W7 is the service certificate. Ex.W8 is the service certificate. Ex.W9 to Ex.W12 are the service certificates. Ex.W13 is the notice for conciliation. Ex.W14 is the failure report.

21. On the other hand, Respondent has examined witness MW1 Sri Aluru Rama Rao / 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Battala bazar branch in terminating the services of Workman Sri J. Arun Kumar, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular selection process required for appointment as a temporary attender.."

"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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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

5th 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, *"The panel was prepared depending upon the number of days of service put in by the temporary employees . Some of the employees were given regular appointment as per settlements in order of their seniority….* Further witness states, *I am not having any document 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri J. Arun Kumar, 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 27th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri J. Arun Kumar	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of caste certificate

Ex.W2: Photocopy of transfer certificate

Ex.W3: Photocopy of Service certificate

Ex.W4: Photocopy of Service certificate

Ex.W5: Photocopy of letter from Respondent for submission of documents

Ex.W6: Photocopy of Panel list

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

Ex.W13: Photocopy of notice for conciliation

Ex.W14:Photocopy of is the failure report

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, 26 मई , 2026

का.आ. 1091.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (173/2001) प्रकाशित करती है।

[सं. एल-12012/23/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1091.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 173/2001*)* 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-12012/23/2001- 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 27th day of April, 2026

INDUSTRIAL DISPUTE No. 173/2001

Between:

Sri T. Venkata Subbaiah,

Pragati Nagar, Nandyal Road,

Mydukur,

Distt. Cuddapah – 516 001. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi 517 501. …..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-12012/23/2001-IR(B.I) dated 1.8.2001 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, Proddutur ADB branch in terminating the services of Sri T. Venkata Subbaiah, Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 173/2001 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 af 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 offiiciation 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 singe 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 1988 to 1997, 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 notification. Further Ex.W2 is the interview call letter. Ex.W3 is the panel list.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, branch in terminating the services of Workman Sri T. Venkata Subbaiah, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process of selection before my appointment in the bank.."

"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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 in terms of settlement. .... Further, witness states, *my name was included in the panel. Some of the persons whose names were included in the panel were given regular employment in the bank in order of their seniority of number of days....* Further witness states, *I am not having any papers to show that any of my juniors who worked less number of days was given 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri T. Venkata Subbaiah, 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 27th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri T. Venkata Subbaiah	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of News paper advertisement/ notification

Ex.W3: Photocopy of Panel list

Ex.W4: Photocopy of absorption letter

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 lr. to employment exchange

Ex.W11:Photocopy of audit report

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, 26 मई, 2026

का.आ. 1092.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (167/2001) प्रकाशित करती है।

[सं. एल-12012/17/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1092.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 167/2001*)* 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-12012/17/2001- 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 27th day of April, 2026

INDUSTRIAL DISPUTE No. 167/2001

Between:

Sri B. Srinivas,

S/o B. Venkataram,

Ramannagudem, Dhansingh Thanda,

Mangimadugu (P.O.),

Narasimlapet (M).

Warangal Distt..-506324. … Petitioner

And

The Asst. General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/17/2001-IR(B.I) dated 16.8.2001 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, Local Head Office, Hyderabad in terminating the services of Sri B. Srinivas, S/o B. Venktaram, Non-Messenger, SBI, Narsimlapet, Warangal Dist.(A.P.) w.e.f. 31.3.1997 is justified or not? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 167/2001 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 af 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 singe 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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 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 panel list. Ex.W4 is the letter of absorption. Ex.W5 to Ex.W9 are the service certificates. Ex.W10 is the letter to employment exchange. Ex.W11 is the audit report.

21. On the other hand, Respondent has examined witness MW1 Sri Aluru Rama Rao / 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Narasimulapet branch in terminating the services of Workman Sri B. Srinivas, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process of selection before my engagement as a temporary non-messenger 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 temporary Non-Messenger, in response to the advertisement issued by the bank in terms of the settlements entered into 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri B. Srinivas, 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 27th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri B. Srinivas	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 Panel list

Ex.W4: Photocopy of absorption letter

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 lr. to employment exchange

Ex.W11:Photocopy of audit report

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, 26 मई , 2026

का.आ. 1093.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (166/2001) प्रकाशित करती है।

[सं. एल-12012/16/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th May, 2026

S.O. 1093.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 166/2001*)* 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-12012/16/2001- 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 24th day of April, 2026

INDUSTRIAL DISPUTE No. 166 /2001

Between:

Sri Gadamalla Lingaiah,

S/o Laxmaiah,

H.No.1/92, R/o Velair,

Kaminipeta, Warangal-506142. … Petitioner

And

The Asst. / Chief General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Rathang Phani Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/16/2001-IR(B.I) dated 16.8.2001 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, Local Head Office, Hyderabad in terminating the services of Sri Gadamalla Lingaiah, S/o Laxmaiah, Non-Messenger, Velair Branch, Warangal Dist., (A.P.)., w.e.f. 31.3.1997 is justified or not? If not, what relief the applicant is entitled for?"

After receipt of the reference, it was numbered as ID No. 166 /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 af 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 singe 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 1988 to 1997, 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 1st

settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 birth certificate. Further Ex.W2 is the SSC marks memo. Ex.W3 is the residential certificate. Ex.W4 is the caste certificate. Ex.W5 is the interview call letter. Ex.W6 is the absorption letter. Ex.W7 is the service certificate.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Velair branch in terminating the services of Workman Sri Gadamalla Lingaiah, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process of selection before my engagement as a temporary Non-messenger in the branch.."

" It is true that I did not work for 240 days in any year in my entire service in a single 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 in the year 1989…. 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 the 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Gadamalla Lingaiah, 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 24th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Gadamalla Lingaiah	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of birth certificate

Ex.W2: Photocopy of SSC marks memo

Ex.W3: Photocopy of residential certificate

Ex.W4: Photocopy of caste certificate

Ex.W5: Photocopy of interview call letter

Ex.W6: Photocopy of absorption letter

Ex.W7: Photocopy of is the 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, 27 मई, 2026

का.आ. 1094.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (74/2001) प्रकाशित करती है।

[सं. एल-12012/518/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1094.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 74/2001*)* 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-12012/518/2000- 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 22nd day of April, 2026

INDUSTRIAL DISPUTE No. 74/2001

Between:

Sri P. Seshagiri Rao,

H.No. 12-11-728,

Warasiguda,

Secunderabad- 500 003. … Petitioner

And

The Asst. / Chief General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/518/2000-IR(B.I) dated 13.6.2001 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, Local Head office, Hyderabad in terminating the services of Sri P. Seshagiri Rao, 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. 74/2001 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 af 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. AIl 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 singe 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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 transfer certificate. Further Ex.W2 is the service certificate. Ex.W3 is the application of Petitioner. Ex.W4 is the interview call letter. Ex.W5 is the service certificate. Ex.W6 is the service certificate.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Secunderabad main branch in terminating the services of Workman Sri P. Seshagiri Rao, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process required for appointment as a temporary attendar.."

"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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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, *The panel was prepared basing on the number of days of service put in by the temporary employees . Some of the employees were given regular appointment as per the settlements in order of their seniority….* Further witness states, *I am not having any document 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri P. Seshagiri Rao, 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 22nd day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri P. Seshagiri Rao	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of transfer certificate

Ex.W2: Photocopy of service certificate

Ex.W3: Photocopy of application made by Petitioner

Ex.W4: Photocopy of interview call letter

Ex.W5: Photocopy of Service certificate

Ex.W6: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, 27 मई , 2026

का.आ. 1095.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (20/2001) प्रकाशित करती है।

[सं. एल-12012/323/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1095.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 20/2001*)* 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-12012/323/2000- 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 20th day of April, 2026

INDUSTRIAL DISPUTE No. 20/2001

Between:

Sri T. Shanthi Kumar,

C/o B. Prabhakar,

H.No. 12-1-1230,

Shanthinagarnuth,

Lalaguda,

Secunderabad. … Petitioner

And

The Asst.. General Manager,

(Personnel & HDR Deptt.

State Bank of India,

Local Head Office,

Hyderabad. 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-12012/323/2000-IR(B.I) dated 19.04.2001 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, Local Head Office Hyderabad in terminating the services of Sri T. Shanthi Kumar, 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. 20/2001 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 af 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. AIl 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 singe 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 1985 to 1997 and has rendered unblemished service spreading over a period of about 517 days. 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W13. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the service certificate dated 8.8.1988. Further Ex.W2 is the transfer Certificate. Ex.W3 is the caste Certificate. Ex.W4 is the residential Certificate. Ex.W5 is the letter dated 8.07.1992. Ex.W6 is the panel list. Ex. W7 is the service certificate 30.7.1992. Ex.W8 is the Certificate issued by ECIL Branch of the Respondent Bank dt.3.6.94. Ex.W9 is the service Certificate. Ex. W10 service certificate. Ex.W11 is the service certificate dt. 19.3.97. Ex.W12 is the requisition to employment exchange. Ex.W13 is the audit report/circular dt.2.5.97

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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 T. Shanthi Kumar, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 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. Although the petitioner has also examined WW2 Sri K.R. Ramachandran Pillai to corroborate his claim, but this witness in his cross examination has stated that he cannot say on what date he worked along with the petitioner in the bank and during which month they have worked together in the branch. Further, witness added that he is not having any proof to show that he along with the petitioner was terminated from service. Further, witness added that he had no proof to show that any of their juniors are working and there are any vacancies in the bank. Thus, from the statement of WW2, the claim of the petitioner is not corroborated in material.

32. 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.

33. 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.

34. 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.

35. 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.

36. **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.

37. 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 5th settlement for brevity, is also filed as a material paper. The 5th 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.

38. 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 5th 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 5th 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 5th 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.

39. 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.

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

"I did not make any application pursuant to any employment notification. It is true that messenger vacancies filled up on regular basis with temporary messengers who were empanelled in order of their seniority. I am not having the details of any candidates who were even permanent absorption and who had worked for less number of days than me."

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.

41. 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.

42. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 5th 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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.

48. 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.

49. **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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the

services of Sri T. Shanthi Kumar, 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 20th day of April, 2026.

IRFAN QAMAR,, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri T. Shanthi Kumar	MW1: Sri Aluru Rama Rao
WW2: Sri K. R. Ramachandran Pillai	

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate dated 8.8.1988
Ex.W2:	Photocopy of the transfer Certificate
Ex.W3:	Photocopy of the caste Certificate
Ex.W4:	Photocopy of the nativity Certificate
Ex.W5:	Photocopy of letter dated 8.07.1992.
Ex.W6:	Photocopy of the panel list
Ex.W7:	Photocopy of service certificate 30.7.1992
Ex.W8:	Photocopy of Certificate issued by ECIL Branch of the Respondent Bank dt.3.6.94
Ex.W9:	Photocopy of the service Certificate
Ex.W10:	Photocopy of service certificate
Ex.W11:	Photocopy of the service certificate dt. 19.3.97
Ex.W12:	Photocopy of the requisition to employment exchange
Ex.W13:	Photocopy of the audit report/circular dt.2.5.97

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, 27 मई , 2026

का.आ. 1096.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (104/2001) प्रकाशित करती है।

[सं. एल-12012/459/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1096.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.104/2001*)* 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-12012/459/2000- 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 23rd day of April, 2026

INDUSTRIAL DISPUTE No. 104/2001

Between:

Sri K. Subbanarasaiah,

Morammeedhapalli,

Guntur (V & P),

Rajampet,

Distt. Cuddapah – 516001. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi-517 501. …..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-12012/459/2000-IR(B.I) dated 27.6.2001/23.7.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Is the State Bank of India, Nandalaur branch justified in terminating Sri K. Subbanarasaiah, 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. 104/2001 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 af 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 singe 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 1988 to 1997, and has rendered unblemished service spreading over a period of about 8 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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. Further Ex.W2 is the notification. Ex.W3 is the service certificate. Ex.W4 is the service certificate. Ex.W5 is the service certificate. Ex.W6 is the letter to employment exchange. Ex.W7 is the audit report dt. 14.7.99.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Nanadalur branch in terminating the services of Workman Sri K. Subbanarasaiah, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular selection process required for appointment as a temporary attendar.."

"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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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, *"The panel was prepared depending upon the number of days of service put in by the temporary employees . Some of the employees were given regular appointment as per settlements in order of their seniority….* Further witness states, *I am not having any document 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri K. Subbanarasaiah, 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 23rd day of Ap

IRFAN QAMAR,, Presiding Officer

Witnesses examined for the Petitioner	**Witnesses examined for the Respondent**
WW1: Sri K. Subbanarasaiah	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of News paper advertisement/ notification
Ex.W3:	Photocopy of service certificate
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of Service certificate
Ex.W6:	Photocopy of lr. to employment exchange
Ex.W7:	Photocopy of audit report 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, 27 मई , 2026

का.आ. 1097.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (76/2001) प्रकाशित करती है।

[सं. एल-12012/520/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1097.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 76/2001*)* 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-12012/520/2000- 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 23rd day of April, 2026

INDUSTRIAL DISPUTE No. 76/2001

Between:

Sri R.S. Srinivas,

Raptadu (Mandal & Post),

Raptadu, Dist. Anantapur. … Petitioner

And

The Asst. General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/520/2000-IR(B.I) dated 20.6.2000 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, Local Head Office, Hyderabad in terminating the services of Sri R.S. Srinivas, 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. 76/2001 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 af 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. AIl 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 singe 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 Tribuna!;

(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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W11. 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 certificate. Ex.W4 is the service certificate. Ex.W5 is the service certificate. Ex.W6 is the service certificate. Ex.W7 is the service certificate. Ex.W8 is the service certificate. Ex.W9 is the service certificate. Ex.W10 is the letter to employment exchange. Ex.W11 is the audit report dt.14.7.99

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Main branch, Secunderabad in terminating the services of Workman Sri R.S. Srinivas, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular selection process required for appointment as a temporary employees.."

"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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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, the panel was prepared basing on the number of days of service put in by the temporary employees. Some of the employees were given regular appointment as per the settlements in order of their seniority…. Further witness states, "I am not having any document 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri R.S. Srinivas, 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 23rd day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Witnesses examined for the

Petitioner	Respondent
WW1: Sri R.S. Srinivas	MW1: Sri Aluru Rama Rao

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 the service certificate
Ex.W8:	Photocopy of the service certificate
Ex.W9:	Photocopy of the service certificate
Ex.W10:	Photocopy of the letter to employment exchange
Ex.W11:	Photocopy of the audit report 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, 27 मई , 2026

का.आ. 1098.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (162/2001) प्रकाशित करती है।

[सं. एल-12012/12/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1098.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.v 162/2001*)* 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-12012/12/2001- 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 24th day of April, 2026

INDUSTRIAL DISPUTE No. 162/2001

Between:
Sri Madipally Levi,
S/o M. Ishac,
H.No.11-4-273, Christian
Colony, Warangal – 506013. … Petitioner
And
The Asst. / Chief General Manager,
(Personnel & HRD))
State Bank of India,
Local Head Office, Bank Street,
Hyderabad-500 095. …..Respondent

Appearances:
For the Petitioner : Sri Macherla Rangaiah, Advocate
For the Respondent: Sri K. Rathang Phani Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/12/2001-IR(B.I) dated 16.8.2001 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, Local Head Office, Hyderabad in terminating the services of Sri Madipally Levi, S/o M. Ishac, Non-Messenger, Enumamula branch, Hanamkonda, Warangal Dist (A.P.), 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. 162/2001 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 af 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 singe 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 1989 to 1993, and has rendered unblemished service spreading over a period of about 5 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 service certificate. Ex.W3 is the absorption letter. Ex.W4 is the service certificate. Ex.W5 is the service certificate. Ex.W6 is the letter to employment exchange. Ex.W7 is the 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Enumamula branch in terminating the services of Workman Sri Madipally Levi, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 for engagement as a temporary non-messenger. I did not undergo the selection process before my engagement as a temporary non-messenger.."

"I did not work for 240 days in any year in my entire 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 settlement entered into by the union with the bank…. Further, witness states, *it is true that the vacancies were filled up following the order of their seniority in the panel ….* Further witness states, *I am not having any document to show that any person having less no.of days of service 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Madipally Levi, 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 24th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined for the

Petitioner	Respondent
WW1: Sri Madipally Levi	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of News paper advertisement/ notification
Ex.W2:	Photocopy of service certificate
Ex.W3:	Photocopy of absorption letter
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of Service certificate
Ex.W6:	Photocopy of letter to employment exchange
Ex.W7:	Photocopy of is the 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, 27 मई , 2026

का.आ. 1099.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (152/2001) प्रकाशित करती है।

[सं. एल-12012/415/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1099.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 152/2001*)* 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-12012/415/2000- 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 24th day of April, 2026

INDUSTRIAL DISPUTE No. 152/2001

Between:

Sri B. Bhaskar,

P. Bommepalli,

Post & Vill: Jammalamadugu,

Distt. Cuddapah-516434. … 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 Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/415/2000-IR(B.I) dated 22.5.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether action of the management of State Bank of India, Kamalapuram branch justified in terminating the services of Sri B. Bhaskar, 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. 152/2001 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 af 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 singe 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 1986 to 1996, 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 18.12.96. 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd

settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 transfer certificate. Further Ex.W2 is the memo of marks. Ex.W3 is the caste certificate. Ex.W4 is the service certificate. Ex.W5 is the interview call letter. service certificate. Ex.W6 is the panel list. Ex.W7 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Kamalapuram branch in terminating the services of Workman Sri B. Bhaskar, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 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."

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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 temporary Messenger, in response to the advertisement issued by the bank in the year 1992…. 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri B. Bhaskar, 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 24th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri B. Bhaskar	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1:	Photocopy of transfer certificate
Ex.W2:	Photocopy of memo of marks
Ex.W3:	Photocopy of caste certificate
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of interview call letter
Ex.W6:	Photocopy of Panel list
Ex.W7:	Photocopy of the 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, 27 मई , 2026

का.आ. 1100.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकोु और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (111/2001) प्रकाशित करती है।

[सं. एल-12012/473/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 111/2001*)* 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-12012/473/2000- 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 23rd day of April, 2026

INDUSTRIAL DISPUTE No. 111/2001

Between:

Sri C. Subbarayudu,

1/213, Giddinr Street,

Kamalapuram

Distt. Cuddapah – 516001. … 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 Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/473/2000-IR(B.I) dated 17.7.2001

referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

" Is the State Bank of India, Kamalapuram branch justified in terminating the services of Sri C. Subbarayudu, 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. 111/2001 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 af 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 singe 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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 transfer certificate. Ex.W2 is the memo of marks. Ex.W3 is the service certificate. Ex.W4 is the service certificate. Ex.W5 is interview call letter. Ex.W6 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Kamalapuram branch in terminating the services of Workman Sri C. Subbarayudu, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 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 a single 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 temporary -Messenger, in response to the advertisement issued by the bank in the year 1989…. 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 the 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri C. Subbarayudu, 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 23rd day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri C. Subbarayudu	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1:	Photocopy of transfer certificate
Ex.W2:	Photocopy of memo of marks
Ex.W3:	Photocopy of Service certificate
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of interview call letter
Ex.W6:	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, 27 मई , 2026

का.आ. 1101.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (163/2001) प्रकाशित करती है।

सं. एल-12012/13/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 163/2001*)* 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-12012/13/2000- 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 24th day of April, 2026

INDUSTRIAL DISPUTE No. 163/2001

Between:

Sri Koduri Karunakar,

S/o Pochaiah,

P.O. & Vill: Velair

(M) Dharmasagar (Via)

Madikonda,

Warangal Distt. – 506142. … Petitioner

And

The Asst. / Chief General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Rathang Phani Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/13/2000-IR(B.I) dated 16.8.2001 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, Local Head Office, Hyderabad in terminating the services of Sri Koduri Karunakar, S/o Pochaiah, Non-Messenger, SBI, Velair branch, Warangal dist. 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. 163/2001 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 af 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 singe 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 1978 to 1997, and has rendered unblemished service spreading over a period of about 19 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 caste certificate. Further Ex.W2 is the residential certificate. Ex.W3 is the residential certificate. Ex.W4 is the memo of marks. Ex.W5 is the employment card. Ex.W6 is the service certificate.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Velair branch in terminating the services of Workman Sri Koduri Karunakar, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process of selection before my engagement as a 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 and the union in the year 1989…. 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 the 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Koduri Karunakar, 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 24th day of April, 2026.

IRFAN QAMAR,. Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined for the

Petitioner	Respondent
WW1: Sri Koduri Karunakar	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of caste certificate
Ex.W2:	Photocopy of residential certificate
Ex.W3:	Photocopy of birth certificate
Ex.W4:	Photocopy of marks memo
Ex.W5:	Photocopy of employment card
Ex.W6:	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, 27 मई , 2026

का.आ. 1102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (110/2001) प्रकाशित करती है।

[सं. एल-12012/474/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 110/2001*)* 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-12012/474/2000- 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 28th day of April, 2026

INDUSTRIAL DISPUTE No. 110/2001

Between:
Sri K. Prakash,

S/o K. Malloji,
R/o Sri Rangavaram,
Air Force Academy Colony,
Hyderabad – 500 043. … Petitioner

And

The Asst. General Manager,
(Personnel & HRD))
State Bank of India,
Local Head Office, Bank Street,
Hyderabad-500 095. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate
For the Respondent: Sri T.Koteswara Rao, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/474/2000-IR(B.I) dated 17.7.2001 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, Local Head Office, Hyderabad in terminating the services of Sri K. Prakash, Temporary/Non-Messenger, SBI, w.e.f. 31.3.1997 is justified or not? If not, to what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 110/2001 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 af 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 singe 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 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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 absorption letter. Ex.W3 is the marks memo of X class. Ex.W4 is the panel list. Ex.W5 is the service certificate. Ex.W6 is the caste certificate.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Air Force Academy branch in terminating the services of Workman Sri K. Prakash, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 any selection process before my engagement as temporary messenger.."

"It is true that I did not work for 240 days in any year during 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 a paper notification issued by the bank as per the settlements entered into by the union with the Management of SBI…. Further, witness states*, "The panel was prepared depending upon the number of days of service put in by the employees in the bank. The vacancies of messengers was filled up with the temporary messengers whose names were in the panel. It is true that the vacancies of messengers were filled up on permanent basis as per the settlements entered into by the union with the management. I am not having any proof to show that any person who has less no. of days 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri K. Prakash, 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 28th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Prakash	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of News paper advertisement/ notification
Ex.W2:	Photocopy of absorption letter
Ex.W3:	Photocopy of marks memo
Ex.W4:	Photocopy of Panel list
Ex.W5:	Photocopy of Service certificate
Ex.W6:	Photocopy of caste 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, 27 मई , 2026

का.आ. 1103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (239/2001) प्रकाशित करती है।

[सं. एल-12012/161/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th May, 2026

S.O. 1103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 239/2001*)* 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-12012/161/2001- 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 27th day of April, 2026

INDUSTRIAL DISPUTE No. 239/2001

Between:

Sri E. Nagaraju,

S/o Asguaga,

H.No.9-278/48/1, Balajinagar,

Nr. Ramanagar,

Hyderabad. … Petitioner

And

The Asst. General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/161/2001-IR(B.I) dated 3.10.2001 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, Local Head Office, Hyderabad in terminating the services of Sri E. Nagaraju, 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. 239/2001 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 af 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 singe 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd

settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 marks memo. Ex.W2 is the interview call letter. Ex.W3 is the service certificate. Ex.W4 to Ex.W6

are appointment orders. Ex.W7 to W12 are the service certificates.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, in terminating the services of Workman Sri E. Nagaraju, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 the regular process of selection before my appointment as a temporary Non-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."

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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th

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 5th 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 5th 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 settlements entered between the bank and the union .... 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 bank 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."*

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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri E. Nagaraju, 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 27th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri E. Nagaraju	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of memo of marks
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of Panel list
Ex.W4:	Photocopy of appointment order
Ex.W5:	Photocopy of appointment order
Ex.W6:	Photocopy of appointment order
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, 29 मई , 2026

का.आ. 1104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **कानपुर** के पंचाट (35/2008) प्रकाशित करती है।

[सं. एल-12011/24/2008-आईआर(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 35/2008*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12011/24/2008- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

ID Case No. 35 of 2008

Present Shri Rajendra Prasad Srivastava, H.J.S. (Retd.)

Shri R.P.Pandey

2-KDA Colony, Galla Mandi

Kanpur (UP) …….Workman

Vs.

The Senior Regional Manager,

Punjab National Bank, Regional Office: Birhana Road

Kanpur (UP)- 208001. ……..Management

(JUDGMENT)

(Passed on this 06th Day of February, 2026)

As per reference letter dated 06/06/2008 by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-12011/24/2008-IR(B-II) dt. 06.06.2008. The dispute under reference relates to:

> *" Whether the action of the management of Punjab National Bank, Kanpur in deleting the name of Shri. R.P.Pandey, Daftary from the Pension option list after a period of 11 years is legal and justified ? if not to what relief the concerned workman is entitled ?"*

Claimant/workman Shri R.P.Pandey (hereinafter stated as the claimant) has filed the statement of claim with averments which may be concisely stated as hereunder:

1. That the Applicant had duly filled and submitted the Pension Option Form to the Respondent Bank on 06.01.1996. The Respondent Bank acknowledged receipt of the said form by affixing its official stamp and the signature of the receiving officer of respondent bank. A copy of the acknowledged form is annexed therewith as Annexure-3.

2. That thereafter, the Applicant was asked by the Respondent Bank to submit a separate application. In compliance thereof, the Applicant duly filled and submitted the said application within the prescribed time. The copy of the said application is already placed on record before this Hon'ble Court.

3. That the Applicant had filled and submitted all requisite forms, including the Pension Option Form, within the stipulated time. However, the Respondent Bank did not provide a copy of the Pension Option Form to the Applicant.

The Applicant had no reason to suspect any irregularity or wrongdoing on the part of the Respondent Bank at the relevant time.

4. That along with the application, the Applicant had also submitted the Pension Option Scheme Form to the Respondent Bank. Since no copy of the said form was provided to the Applicant, the same could not be produced before this Hon'ble Court.

5. That the Respondent Bank duly received and retained the Pension Option Form submitted by the Applicant. Due to the demise of the Applicant's wife, the names of his children were mentioned as nominees in the said form. It is emphatically denied that the Pension Option Scheme Form was not submitted within the prescribed last date i.e., 27.01.1996. The allegation that the Applicant submitted the Pension Option Form on 10.02.1996, and that on such basis the Respondent Bank is justified in rejecting the Applicant's claim for pension, which is wholly false and incorrect.

Respondent had submitted the written statement with averments which may be summarized as stated below:

1. That the alleged dispute has been referred for adjudication for this Hon'ble Tribunal by the appropriate Court with the terms of reference stated therein. However, it is reiterated that having regard to the submissions made in the aforesaid preliminary objection, what has been referred by the appropriate Govt to this Tribunal can not be termed as industrial dispute under the provisions of section 2(K) of the ID Act, 1947.

2. That the content of para-2 as stated are wrong and denied it is categorically denied that any pension option was exercised and given by the applicant on 06.01.1996 as alleged. It is reiterated that the applicant gave his pension option for the first time on 10.02.1996 i.e. much beyond the statutorily prescribed period of 120 days and accordingly his said option was rightly not accepted having regard to the provisions of PNB (Employees) Pension regulation 1995.

3. That the applicant never exercised the option of pension within the stipulated period in terms of PD Circular No. 1520 dated 15.11.1995 and accordingly his name was rightly included in the list of those employees who had not exercised the option of pension.

4. The applicant is not entitled to any relief whatsoever as prayed for or otherwise in the present reference.

After filing of above written statement filed by opposite party, rejoinder is also filed by applicant. In rejoinder, the applicant denied the averments of the written statement are stated as:

The statements in paragraphs 1,2,3 and 4 of the preliminary objections in the defendant's written statement are false, baseless, and flawed, and therefore unacceptable to the applicant. That the Applicant had duly filled and submitted the Pension Option Form to the Respondent Bank on 06.01.1996 which is within the stipulated time thereafter as per verbal instruction. The Applicant had filled and submitted all requisite forms and Pension Option Form, within the stipulated time which is duly received and retained by the Respondent Bank.The copies of all the requisite form and documents were also produced before the conciliation officer, ALC© Kanpur. The respondent bank itself accepted that the applicant has been declared as pension optee's. The applicant prayed that issue an order to the respondent bank to pay the pension to the applicant after his retirement.

After that applicant filed some documents which is read as under:

1.Photocopy of Letter dated 27.01.1996 of Manager of respondent addressed to his head office (Pension Department).

2. Photocopy of Letter dated 06.1.1996 Manager of respondent bank (submission of pension form).

3. Photocopy of the ledger of PF Account No. 036604 for period from April-1996 to Sept.2006

4. Photocopy of letter dated 02.1.2007 applicant addressed to Manager of respondent bank.

5. Photocopy of letter dated 18.01.2007 of applicant addressed to Manager of respondent bank.

In rebuttal opposite party filed documents which are read as under:

1. Personnel Division Circular No. 1520 dated 19.11.1995.

2. Pension option dated 10.02.1996 submitted by applicant Sh. R.P.Pandey

3. Letter dated 22.02.1996 of Manager, BO Bidhnu addressed to Regional Manager, Kanpur i.e. forwarding pension option of the applicant.

As per reference the main question is whether the action of the management of Punjab National Bank, Kanpur in deleting the name of Shri R.P.Pandey, Daftary from the Pension option list after a period of 11 years is legal and justified ? if not , to what relief the concerned workman is entitled ?"

The claimant, vide claim statement dated 15.06.2008, prayed that his name be included and reflected in the list of pension optee's and pension be granted to him accordingly. It was alleged that his name had been deleted from the list of pension optee's, and raised an industrial dispute. It is further on record that the claimant retired from the services of the respondent bank in the year 2011.

The case was taken up in the Special Camp organized by this Court on 06.02.2026. Despite repeated calls, none appeared on behalf of the workman/claimant. The authorized representative of the respondent bank appeared and produced a copy of the Pension Payment Order (PPO) issued in the name of the claimant. It was submitted that the

PPO clearly reveals that the claimant has been receiving pension from the date it became payable to him. The respondent bank further submitted that it had nothing further to add or produce in the matter.The matter was examined in light of the claim statement, written statement, rejoinder, documents placed on record by both parties, and the evidence adduced. The record also reveals that the claimant has been absent from proceedings for a considerable period and has failed to defend his claim diligently.

In view of the documentary evidence placed on record, particularly the PPO evidencing grant and payment of pension to the claimant, the primary grievance raised in the present reference does not survive. The relief sought in the claim petition stands satisfied. Furthermore, the continued non-appearance and non-prosecution of the claim by the claimant disentitle him to any further adjudication on merits.

Accordingly, in the facts and circumstances of the case, this Court finds that the claimant is not entitled to any relief under the present claim petition. The reference is hereby answered against the claimant and in favour of the respondent bank as **"NIL"** award.

Answered accordingly.

Date: 06th Feb-2026

RAJENDRA PRASAD SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 मई , 2026

का.आ. 1105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (109/2002) प्रकाशित करती है।

[सं. एल-12012/37/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 109/2002*)* 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-12012/37/2000- 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 22nd day of April, 2026

INDUSTRIAL DISPUTE No. 109/2002

[Old ID No. 29/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri K. Venkatesulu,

23-212, Gandhi street,

Old Guntakal,

Guntakal,

Anantpur, Dist(A.P).

… Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi.

…..Respondent

Appearances:

For the Petitioner : Sri Macharla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/37/2000-IR(B.I) dated 11.07.2000 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. 29/2000, 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 State Bank of India, Guntakal Branch in terminating Sri K. Venkatesulu, Messenger, from the services of the Bank by way of oral orders w.e.f 31.03.1997 is justified? If not, what relief he is entitled to?"

After receipt of the reference, it was numbered as ID No. 109/2002 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 af 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. AIl 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 singe 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 Tribuna!;

(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 he joined the service of the Respondent Bank at the workman joined in the services of the Management Institution as Messenger 1986 to 1997 and rendered unblemished service spreading over a period of about 11 years, and by dint of hard work till his services where terminated by oral orders with till his services where terminated by oral orders with effect from 1.04.1997. 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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. Ex. W2 is the Service Certificate. Ex. W3 is the Service Certificate. Ex. W4 is the Service Certificate. Ex. W5 is the letter to employment exchange by Respondent. Ex. W6 is the circular letter dated 14.7.1999. Ex. W7 is the employment registration card.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Guntakal branch in terminating the services of Workman Sri K. Venkatesulu, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 provision contained under 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,

" My name was not sponsored by any employment exchange. I did not undergo the selection process required for

appointment as a Messenger."

" It is true that I did not work for 240 days in any year, in my entire 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 to the bank in response to the advertisement issued by the bank as per the settlements between the Union and management. Further witness states that the "panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the persons whose names were included in the panel were given appointment on regular basis in the bank." Further, witness states that "I am not having any document 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri K. Venkatesulu, 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 22nd day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Venkatesulu	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1:	Photocopy of Notification
Ex.W2:	Photocopy of Service Certificate
Ex.W3:	Photocopy of Service Certificate
Ex.W4:	Photocopy of Service Certificate
Ex.W5:	Photocopy of letter to employment exchange by Respondent
Ex.W6:	Photocopy of circular letter dated 14.7.1999
Ex.W7:	Photocopy of employment registration card

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, 29 मई, 2026

का.आ. 1106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (18/2002) प्रकाशित करती है।

[सं. एल-12012/325/2001-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/2002*)* 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-12012/325/2001- 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 17th day of April, 2026

INDUSTRIAL DISPUTE No. 18/2002

Between:

Sri K. Chandrasekhara Rao,

S/o Nageswara Rao,

R/o Mubark Nagar,

1st Cross road,

Ponnur V & M

Guntur District. … Petitioner

And

1. The Asst. General Manager,
   Zonal Office,
   State Bank of India
   Vijayawada.
2. The Branch Manager,
   State Bank of India,
   Ponnur Village & Mandalam,
   Guntur District. …..Respondents

Appearances:

For the Petitioner : M/s. M. Murali Krishna, D. Sudarshan, Surya balu Mahendra, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/325/2001-IR(B.I) dated 11.12.2001 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 services of Sri K. Chandrasekhara Rao, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 18/2002 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 af 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. AIl 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 singe 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 is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1986 to 1997 and rendered unblemished service spreading over a period of about 11 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

4. The Respondent Bank contends that the reference made is untenable under the Industrial Disputes Act, 1947 as the Bank temporarily engaged subordinate staff—messengers, sweepers, etc.—strictly on a need-based, ad hoc basis to ensure uninterrupted operations to address staff shortages due to leave vacancies and constraints imposed by the Government of India and RBI on hiring.

5. 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. Various discussions were held to resolve the said issue, resulting in five settlement agreements between the Bank and the Workmen.

6. The first settlement dated 17.11.1987 (under Sec. 2(p) r/w Sec. 18(1) of the ID Act) categorized temporary employees and provided for consideration of permanent absorption against vacancies between 1987–1991. The second settlement dated 16.07.1988 extended this period to 1987–1992. The third settlement dated 27.10.1988 reaffirmed consideration of vacancies arising from 1988–1992. Following these, the Government of India issued recruitment guidelines on 16.08.1990, recommending settlement-based absorption for temporary employees with more than 240 days of service in a 12-month block. For those with fewer days, the guidelines allowed for discretion-based conciliation.

7. Despite this, the Bank, in a liberal approach, considered even those with less than 90 days' service and those employed since 1975. However, para 6(k) of the approach paper clarified that this would be a one-time exercise resolving all past claims. Subsequently, the fourth settlement dated 09.01.1991 extended panel validity to 1994, with daily wagers considered for 1995–1996 vacancies. It is submitted that Zone-wise panels (1989 for temporary employees and 1992 for daily wagers) were also created, listing candidates in descending order of service from 01.07.1975 to 31.07.1988.

8. The Federation also sought implementation through the Regional Labour Commissioner (Central), resulting in a conciliation agreement on 09.02.1995. This led to the fifth settlement dated 30.07.1996. Finally, on 27.02.1997, a Memorandum of Understanding recorded that 403 messengerial vacancies were identified and would be filled from the 1989 panel. Both panels were agreed to lapse on 31.03.1997. Thus, the Workman, who served less than 240 days in any 12-month block during the reference period, has no legal claim outside these settlements.

9. It is further argued that the Workman's case has already been considered under the five settlements. The settlements were time-bound and binding on both parties, hence, the Bank was not obligated to absorb all empanelled candidates. Sustaining panels beyond 31.03.1997 would contradict the settlements and constitutional principles (Articles 14 & 16), amounting to backdoor regularization.

10. The Hon'ble High Court in WP No.12964/94 has affirmed that such settlements are binding and temporary service does not create a right to regularization unless the Workman can show violation of a specific settlement term, which is not the case here. 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."*

11. Hence, the Workman's claim was held misconceived. Furthermore, if the panels were not allowed to lapse, it would undermine open recruitment processes, violating constitutional rights of other eligible candidates under Articles 14 and 16 of the Constitution as well as contrary to the settlements.

12. Similarly placed ex-temporary employees approached the High Court via WP No. 9206/1995. Though allowed by the Single Judge, the Division Bench reversed the decision in WA No. 86/1998. The Supreme Court subsequently dismissed SLP Nos. 11886-11888/1998, making the original judgment irrelevant.

13. The Workman (WW1) filed and relied on documents Ex.W1 to W4, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Rupakula Prakash Babu, and produced 12 documents (Ex.M1–M12), including all five settlements, panel details, and judgments of the Hon'ble High Court and Supreme Court, conclusively supporting the Bank's position.

14. The Workman also cited various judicial precedents which shall be addressed in the relevant portion of this Award.

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri K. Chandrasekhara Rao, a Temporary/Messenger with effect from 31.3.1997 is justified?

II. To what relief if any the Workman is entitled for?

Findings:-

17. **Issue No.I**:-The Workman alleged that 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 illegally. Further, he alleges that he has been terminated from service in violation of provision contained under Section 25 F of I.D. Act, 1947 and same is liable to be set aside.

18. On the other hand, Respondent counsel contended that Workman has not worked continuously for 240 days in any preceding calendar year and reference of the industrial dispute is not maintainable. Before examining the

claim of the Workman on merit it would be apposite to have a glance on the relevant provision pertaining to retrenchment of workman under I.D. Act, 1947.

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;"

In view of the definition of retrenchment, perused the record. The Workman claims that he had been terminated from the service of the Respondent in contravention of the provision of ID Act. The case of the Workman does not fall in any exclusive clause of section 2(oo). Therefore, he is included in the category of retrenchment as defined under section 2(oo) of the I.D.Act, 1947.

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;

Thus, in view of the above provision, Workman has to prove that he had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of his termination i.e., 31.3.1997. It is settled law that the initial burden of proof to prove the fact of 240 days of service in the 12 months of a calendar year just preceding from the date of termination, lies upon the Workman and he is duty bound to prove this factum by adducing oral as well as documentary evidence in support of his claim.

As regard burden of proof and calculation of 240 continuous working days, following decisions of Hon'ble Supreme Court are relevant as discussed here under:-

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."

19. Thus, in view of the law laid down by Hon'ble Apex Court as discussed above in respect of calculating the 240 days continuous service by workman as per provision under Section 25-F read with Section 25-B of the I.D. Act, 1947, we have to examine whether Workman herein 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 by his evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined himself as WW1 and in his oral testimony WW1 has stated that he joined the service of Respondent at Ponnur Branch, on 1.4.1986 as a Messenger and worked continuously in various branches depending upon the availability of work and also as per the orders of bank officers till 31.3.1997. WW1 states that the Respondent has not given any advance notice to him before his termination and has not obtained prior permission from central government for his retrenchment and Respondent has not given him any order of termination. Further, WW1 states that he had worked Ponnur branch of the Respondent and Ex.W3 is the Service certificate for 1182 days for the period of from 1990 to 1997 dated 18.9.1999. Ex. W1 is the marks memo. Ex. W2 is the Service Certificate dated 1.7.96. Ex.W4 is the particulars of temporary employees engaged from 1.4.87 to 31.3.97.

21. Further WW1 states that he worked for more than 240 days continuously in different spells in one year period of time and he worked for 257 days continuously during the period from April, 1996 to February, 1997 Ex.W3 is the certificate in this regard. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary

basis in the year 1986 for a period of 74 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
April,1996	30
May, 1996	23
June, 1996	30
July, 1996	21
August, 1996	30
September, 1996	11
October, 1996	31
November, 1996	07
December, 1996	31
January, 1997	16
February, 1997	27
Total	257

Thus, sum of working days as shown in the above table is 257 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

22. However, Learned Counsel for Respondent bank has contended that the Petitioner has not worked continuously for 240 days in a calendar year with the Respondent and protection from termination is not available to Petitioner as per provision under section 25 F of I.D. Act, 1947. On going oral and documentary evidence available on record it manifest that Respondent had engaged the Petitioner as a temporary messenger in different spells as mentioned in his appointment letter during the total period of about 10 years. We may conclude from the documents filed in evidence on record, that the Respondent has created artificial breaks in the working days of the Petitioner in order to deprive him from completing 240 days of continuous service and in order to defeat social security provision under the I.D. Act, 1947. Moreover, Petitioner has been regularly engaged during the long period of 10 years by the Respondent as a temporary messenger and has created artificial breaks of few days or more in his engagement as employee. The conduct of Respondent in creating artificial breaks in engagement of workers is nothing but unfair labour practice adopted by Respondent in order to deprive the Petitioner from entitlement of any benefits of social security under the provision of I.D. Act, 1947. Thus, it can safely be concluded that Respondent with malafide intention has deliberately created artificial break in the employment of the Petitioner as a temporary messenger.

23. Thus, in view of the fore gone discussion and on going documentary and oral evidence on record I am of the view that the Workman had worked for 240 days continuously in 12 months of calendar year just preceding from the date of his termination i.e., 31.3.1997. Undisputedly, Respondent has not filed any document pertaining to the fact that 3 months notice was issued to the Petitioner as per provision contained under section 25N of the ID Act before termination of Petitioner for service by oral order w.e.f.1.4.1997. Further, there is no evidence on record to the fact that Respondent has paid any amount toward compensation. Therefore, oral termination order of the Petitioner from employment issued by Respondent with effect from 1.4.1997 is in contravention of provision contained under section 25N of the I.D. Act, 1947 and hence not sustainable in the eye of law.

In the case of **Shankar Bhimrao Kadam and others Vs. Tata Mototrs Limited, Bombay High Court in its** decision dated 28.2.2022 in Writ Petition No.5588 of 2017 have held:-

"52. I have independently assessed the entire oral and documentary evidence adduced before the Labour Court in these cases and upon analysis of the same, I have come to a firm conclusion that in hundreds of cases, the present Respondent has created a farcical picture by posing that the work allotted to the temporaries was limited only to the maximum extent of 7 months. As discussed above, the dedicated department for engagement of temporary workers, apparently kept a close watch on the duration of employment of these Petitioners and in a case like Balu Bapuji Shelke, who had put in 232 days in his first round and 238 days in his third round, his service was abruptly intercepted and he was disengaged. He had almost reached the figure of 240 days and was thrown out, after completing 238 days. This indicates that the Respondent-management has created an eye-wash and paper-work with

the intention of creating evidence that no worker had completed 240 days. Even in Sunil Pralhad Khomane (supra), the learned judge of this court, after analyzing the entire evidence before him, concluded that the company has apparently misused Section 2(oo)(bb). For the reasons assigned by me and my esteemed brother in Sunil (supra), I find that the said conclusion was justified and in all these cases in hands, Section 2(oo)(bb) will not be applicable. To hold otherwise, would create a mockery of Section 2(oo)(bb).

58. It cannot be ignored from the various rounds of temporary employments of these temporaries that after one disengagement, they used to look forward for the next appointment order. As expected, they used to receive such appointment orders. They used to perform their duties not only till the tenure mentioned in the appointment order was completed, but even upto reaching any duration between 225 days to 238 days in one single stint of temporary employment. None of the temporaries in such cases, ever received an appointment order that a particular temporary would work for 238 days or 236 days, etc. The maximum tenure was an appointment for 7 months. This was not the pattern followed in *Mahindra & Mahindra Ltd., Nagpur* (supra), inasmuch, as it was noticed by this court in the said case that the workers used to work in other factories during their disengagement and had actually approached the Industrial Court after about 9 to 23 years."

Similarly, in the present case Respondent has issued number of appointment letters to engage the Workman for the work in different spells for his employment in its branches. The practice of Respondent management of issuance of the appointment letters in different spells for this engagement of the Petitioner Workman during the whole period for more than ten years clearly manifest that Respondent management has adopted unfair labour practice in order to deprive the Workman from availing social security benefits accruing to him under the provision of Industrial Disputes Act, 1947.

24. Perused the record. Petitioner witness WW1 in his statement in chief has categorically stated that he had worked for more than 240 days continuously in different spells in a period of one year. He worked for 257 days continuously during the period from April, 1996 to February, 1997 at Ponnur branch. Ex.W3 is the certificate in this regard. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1986 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 10 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

Respondent has cited number of decisions of Hon'ble Apex Court and Hon'ble High Courts which are being discussed as hereunder:-

In the case of **Bholaram vs. PO, Labour Court Ambala & ors CWP No.4784/2010** dated 2.6.2011, of Hon'ble High Court of Punjab & Haryana, wherein Hon'ble High Court have held that Petitioner is directed to be reinstated in the service with 50% of back wages.

Further, in the case of **Kuldeep Singh vs. G.M., Instrument Design D & F., DOD, dated 3.12.2010,** the facts of the case are that the Petitioner Kuldeep, the workman was appointed as a Data Entry Operator on daily wages on 8.10.1990 and he worked as such till 28.11.1991 and thereafter on adhoc basis and worked upto 26.5.1992 without any break when his services were terminated by the employer. The Respondent management, according to Petitioner, no notice or compensation in lieu thereof, was given for terminating his services though he had worked for 240 days in the preceding 12 months. In that case Hon'ble Supreme Court have held that the management has terminated the services of the Petitioner workman without complying the provision of Sec.25F of the I.D.Act, 1947 and the said order is illegal, null and void deserves to be set aside, and ordered reinstatement of the Appellant workman with consequential service benefits without back wages within a period of eight weeks.

Further, in the case of **State of Karnataka vs. Uma Devi Civil Appeal No.3595-3612 of 1990 dated 10.4.2006,** therein Constitutional Bench of Hon'ble Supreme Court have held,

"15. We have already indicated the constitutional scheme of public employment in this country, and the executive, or for that matter the Court, in appropriate cases, would have only the right to regularize an appointment made after following the due procedure, even though a non-fundamental element of that process or procedure has not been followed. This right of the executive and that of the court, would not extend to the executive or the court being in a

position to direct that an appointment made in clear violation of the constitutional scheme, and the statutory rules made in that behalf, can be treated as permanent or can be directed to be treated as permanent.

……..

44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Thus, in the above cited decision Hon'ble Apex Court has laid down guidelines for deciding the question of regularization of the services of the employees. Further, as regard other decisions of Hon'ble Court filed by the Petitioner in support of his argument, therein, the Hon'ble Supreme Court has laid down the principle that the termination of the employee in contravention of the provision of Sec.25F of I.D. Act, 1947 is illegal and null and void and liable to be set aside.

Moreover, Hon'ble Supreme Court in the case of **Anoop Sharma vs. Exec. Engineer Public Health Division dated 9.4.2010, Civil Appeal No.3478 of 2010** have held**:-**

"15. In State Bank of India v. N. Sundara Money (supra), the Court emphasised that the workman cannot be retrenched without payment, at the time of retrenchment, compensation computed in terms of *Section 25-F(b)*.

16. The legal position has been beautifully summed up in Pramod Jha v. State of Bihar (supra) in the following words:

"The underlying object of Section 25-F is twofold. Firstly, a retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding retrenchment compensation and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment. Section 25-F nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice; on the contrary, clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment or tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind it would result in nullifying the retrenchment.

17. If the workman is retrenched by an oral order or communication or he is simply asked not to come for duty, the employer will be required to lead tangible and substantive evidence to prove compliance of Clauses (a) and (b) of Section 25-F of the Act."

Thus, in view of the fore gone discussion and principle laid down by the Hon'ble Apex Court as discussed above, we arrive at conclusion that services of workman has been terminated by the Respondent in violation of provision of I.D. Act, 1947 and hence not sustainable in the eye of law.

Therefore, Issue No.I is answered in favour of the Workman and against the Respondent.

25. **Issue No.II:**- In view of the discussion and finding given at Issue No.I, it is established that the Workman had worked for more than 240 days in a calendar year just preceding from the date of termination. Respondent has not issued any notice under Sec.25 N of I.D.Act, 1947 before termination of workman and has not paid any compensation as per provision contained under Sec.25 F of the I.D.Act, 1947. Therefore, the termination of Petitioner from service vide oral order dated 31.3.1997 by the Respondent is in contravention of the provision contained under Section 25-F of the I.D. Act, 1947 and is illegal and not justified and liable to be set aside.

26. Now, let us see whether workman is entitled for reinstatement in the service or for any other relief.

In this context the reference of decision of Hon'ble Supreme Court is relevant. In **Ashok Kumar Sharma Vs. Oberoi flight Services AIR 2010 SCC page 502** Hon'ble Supreme Court have held:-

8. In the case of Sita Ram V. Moti Lal Nehru Farmers Training Institute2 this Court considered the matter thus:

"21. The question, which, however, falls for our consideration is as to whether the Labour Court was justified in awarding reinstatement of the appellants in service.

22. Keeping in view the period during which the services were rendered by the Respondent (sic appellants); the fact that the Respondent had stopped its operation of bee farming, and the services of the appellants were terminated in December 1996, we are of the opinion that it is not a fit case where the appellants could have been directed to be reinstated in service.

23. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of appointment, the period of appointment, the availability of the job, etc. should weigh with the court for determination of such an issue.

24. This Court in a large number of decisions opined that payment of adequate amount of compensation in place of a direction to be reinstated in service in cases of this nature would subserve the ends of justice. (See Jaipur Development Authority v. Ramsahai [(2006) 11 SCC 684], M.P. Admn. v. Tribhuban [(2007) 9 SCC 748] and Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353])

25. Having regard to the facts and circumstances of this case, we are of the opinion that payment of a sum of Rs. 1,00,000 to each of the appellants, would meet the ends of justice. This appeal is allowed to the aforementioned extent. In the facts and circumstances of this case, there shall be no order as to costs."

9. The afore-referred two decisions of this Court and few more decisions were considered by us in the case of Jagbir JT 2008 (3)SC622 Singh V. Haryana State Agriculture Marketing Board3 albeit in the context of retrenchment of a daily wager in violation of section 25F of Industrial Disputes Act who had worked for more than 240 days in a year and we observed thus:

"7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."

Further, in the case of **State of Himachal Pradesh vs. Suresh Kumar Verma & anr. 1996 AIR 1565, three Judge Bench of Hon'ble Apex Court** have held**:-**

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments shall be made accordingly. From the date of discharging the duties attached to the post the incumbent becomes a member of the services. Appointment on daily wage basis is not an appointment to a post according to the Rules.

It is seen that the project in which the Respondents were engaged had come to an end and that, therefore, they have necessarily been terminated for want of work. The Court cannot give any directions to re-engage them in any other work or appoint them against existing vacancies. Otherwise, the judicial process would become other mode of recruitment de hors the rules.

Mr. Mahabir Singh, learned counsel for the Respondents contended that there was an admission in the counter affidavit filed in the High Court that there were vacancies and that, therefore, the Respondents are entitled to be continued in service. We do not agree with the contention. The vacancies require to be filled up in accordance with the rules and all the candidates who would otherwise eligible are entitled to apply for when recruitment is made and seek consideration of their claims on merit according to the Rules for direct recruitment along with all the eligible candidates. The appointment on daily wages cannot be a conduct pipe for regular appointments which would be a back-door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for Class IV employees recruitment according to rules is a pre-condition. Only work-charged employees who perform the duties of transitory nature are appointed not to a post but are required to perform the work of transitory and urgent nature so long as the work exists. One temporary employee cannot be replaced by another temporary employee."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 10 years i.e., from 1986 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the

nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

27. Now question arises how much compensation would meet ends of justice. In view of the circumstances of the case, Workman has served in the service of the Respondent management from 1986 to 1997 in different spells and has also gone under physical and mental agony during long period of litigation for more than 24 years at different levels. In the opinion of the court payment of a sum of Rs.2,00,000/- as lumpsum compensation to the Workman would meet the ends of justice. Therefore, the claim statement is partly allowed.

28. However, the learned counsel for Petitioner has also argued that the Petitioner Workman is entitled for regularization in the employment of the Respondent management on the basis of his empanelment in the waiting list for regularization. Therefore, the Petitioner is entitled for regularization in the service of the management.

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the Respondent bank in different spells from 1.4.86 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

"To set aside the termination order dated 1.4.97 passed against the Petitioner and to direct the Respondents to reinstate the Petitioner into service with continuity of service together with back wages and all attendant benefits etc.,"

Thus, in the absence of any pleading and evidence in support of Petitioner's claim of regularization in the employment of Respondent, the plea in respect of regularization is not maintainable.

In this context I would like to make reference of the decision of Supreme Court in the case of **Ram Sarup Gupta(dead) by LRs v. Bishun Narain Inter College and others 1987 AIR 1242**. In this case Hon'ble Supreme Court have held:-

"It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case setup by it. The object and purpose of pleading is to enable the advisory party to know the case it has to meet. In order to have a fair trial it is imperative that the party should state the essential material facts so that other party may not be taken by surprise."

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri K. Chandrasekhara Rao, Temporary Messenger, with effect from 31.3.1997 is held not justified. Therefore, termination order dated 31.3.1997 is hereby set aside. Respondent is directed to pay compensation of Rs.2,00,000/- (Rupees two lakhs) to the workman within two months from the date of receipt of this award. 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 17th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent

WW1: Sri K. Chandrasekhara Rao MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of marks memo
Ex.W2:	Photocopy of Service Certificate dated 1.7.96
Ex.W3:	Photocopy of Service certificate dated 18.9.1999
Ex.W4:	Photocopy of Service particulars from 1.4.1987 to 31.3.1997

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, 29 मई , 2026

का.आ. 1107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (108/2002) प्रकाशित करती है।

[सं. एल-12012/228/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 108/2002*)* 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-12012/228/2000- 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 22nd day of April, 2026

INDUSTRIAL DISPUTE No. 108/2002

[Old ID No. 129/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri V. Ramesh Babu,

Kothapeta,

Gooty Dist,

Anantapur(A.P) -515001.

… Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi-517501. …....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-12012/228/2000-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. 129/2000, 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 State Bank of India, Main Branch, Anantapur is justified in terminating Sri V. Ramesh Babu, 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. 108/2002 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 af 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. AIl 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 singe 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."

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 1989 to 1996, and has rendered unblemished service spreading over a period of about 8 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd

settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 Service Certificate. Ex. W2 is the call letter for interview. Ex. W3 is the panel list. Ex. W4 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Anatapur Main Branch in terminating the services of Workman Sri V. Ramesh 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 5th 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 5th 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 5th 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 unhold 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 5th 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 provision contained Under 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 the regular process of selection before my engagement as temporary attender."

"I did not work for 240 days in any year in my entire 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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."

Further, witness states that, "It is true that some of the employees who were included in the panel were given regular appointment in the bank, as per their seniority in number of days." Further, witness states that, "I am not having any papers to show that any of my juniors are working 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri V. Ramesh Babu, 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, 22nd day of April 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri V. Ramesh Babu	MW1: Sri K. Bala Kotaiah

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate
Ex.W2:	Photocopy of call letter for interview
Ex.W3:	Photocopy of panel list
Ex.W4:	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, 29 मई , 2026

का.आ. 1108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (142/2002) प्रकाशित करती है।

[सं. एल-12012/66/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 142/2002*)* 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-12012/66/2000- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 25th day of March, 2026

INDUSTRIAL DISPUTE No. 142/2002

[Old ID No.44/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri D. Redya,

S/o Megya,

R/o 2-36/1,

Rahamathnagar,

Mandal Bheemgal,

Nizamabad Distt

… Petitioner

And

The Assistant General Manager,

(Personnel & HRD Deptt.),

State Bank of India,

Local Head Office,

Bank Street, Koti,

Hyderabad-500 095. …..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-12012/66/2000-IR(B.I) dated 14.07.2000 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.44/2000, 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, Local Head Office, Hyderabad in terminating the services of Sri D. Redya, Ex-Temporary Messenger 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. 142/2002 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 af 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. AIl 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 singe 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 Tribuna!;

(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 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W8. 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 Service certificate. Ex.W5 is the service certificate. Ex.W6 is the service certificate. Ex. W7 is the letter to Employment Exchange by Respondent. Ex. W8 is the circular letter 14.07.1999.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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 branch in terminating the services of Workman Sri D. Redya, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 provision contained Under 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 the regular process of selection before my engagement as temporary Non-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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 1989,.... 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri D. Redya, 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 25th day of March, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri D. Redya	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 Service certificate
Ex.W5:	Photocopy of Service certificate
Ex.W6:	Photocopy of service certificate
Ex.W7:	Photocopy of letter to employment exchange by the Respondent
Ex.W8:	Photocopy of circular letter 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, 29 मई , 2026

का.आ. 1109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (141/2002) प्रकाशित करती है।

[सं. एल-12012/65/2000-आईआर(बी-I)]

सलोनी, उप निदेशक\

New Delhi, the 29th May, 2026

S.O. 1109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 141/2002*)* 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-12012/65/2000- 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 25/4 day of March, 2026

INDUSTRIAL DISPUTE No. 141/2002

[Old ID No.43/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri S. Muthaiah,

S/o Laxmaiah,

Thotapalli(V),

Jangapalli (PO)

Bejjanki (M),

Karimnagar Dist. – 505 536. … Petitioner

And

The Asst. General Manager,

(Personnel & HRD Department),

State Bank of India,

Local Head Office,

Bank Street, Koti,

Hyderabad – 500095(A.P).

…..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-12012/65/2000-IR(B.I) dated 14.07.2000 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.43/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring th**is 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 S. Muthaiah, Ex. Temporary Messenger, 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. 141/2002 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 af 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. AIl 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 singe 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 Tribuna!;

(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 1985 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W8. 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 is the service certificate. Ex.W6 is the service certificate. Ex. W7 is the letter to Employment Exchange by Respondent. Ex. W8 is the circular letter 14.07.1999.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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 branch in terminating the services of Workman Sri S. Muthaiah, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 provision contained Under 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 1989,.... 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri S. Muthaiah, 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 Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 25th day of March, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri S. Muthaiah	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 letter to employment exchange by the Respondent

Ex.W8:Photocopy of circular letter 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, 29 मई , 2026

का.आ. 1110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (59/2002) प्रकाशित करती है।

[सं. एल-12012/263/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 59/2002*)* 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-12012/263/2000- 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 28th day of April, 2026

INDUSTRIAL DISPUTE No. 59/2002

[Old ID No. 151/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri P. Ravikanth,
S/o Sri P. Sambasiva Rao,
H.No/2-10, Medipally Post,
Respondent Dist. Hyderabad – 500 039. … Petitioner

And

The Asst. General Manager,

(Personnel & HRD))

State Bank of India,

Local Head Office, Bank Street,

Hyderabad-500 095. …..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-12012/263/2000-IR(B.I) dated 16.10.2000 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. 151/2000, 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, Local Head Office, Hyderabad in terminating the services of Sri P. Ravikanth, Temporary/-Messenger, by way of oral orders with effect from 31.3.1997 is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 59/2002 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 af 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 singe 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 W11. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 and W1 A are the service certificates. Ex.W2 is the notification. Ex.W3 is the interview call letter. Ex.W4 is the panel list. Ex.W5 to Ex.W9 are the service certificates. Ex.W10 is the lr. to employment exchange. Ex.W11 is the audit report.

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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, main branch in terminating the services of Workman Sri P. Ravikanth, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 have not been sponsored by any employment exchange. I did not undergo the regular process of selection before my engagement as temporary attender in the branch.."

"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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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..... 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 the 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 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri P. Ravikanth, 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 28th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri P. Ravikanth	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1 &

Ex.W1A:Photocopies of service certificates

Ex.W2: Photocopy of News paper advertisement/ 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 lr. to employment exchange

Ex.W11:Photocopy of audit report

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, 29 मई , 2026

का.आ. 1111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (146/2002) प्रकाशित करती है।

[सं. एल-12012/34/2000-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th May, 2026

S.O. 1111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 146/2002*)* 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-12012/34/2000- 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 24th day of March, 2026

INDUSTRIAL DISPUTE No. 146/2002

[Old ID No.27/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri Y. Ramanjini,

Ragulapudu(P&V),

Vajrakarur,

Dist. Anantapur,

Andhra Pradesh.

…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 Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/34/2000-IR(B.I) dated 06.07.2000 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.27/2000, 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

" Is the state Bank of India, Vajrakarur Branch justified in terminating Sri Y. Ramanjini, Messenger by way of oral orders w.e.f. 31.3.1997 from the service of the Bank? If so, what relief he is entitled to?"

After receipt of the reference, it was numbered as ID No. 146/2002 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 af 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. AIl 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 singe 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 Tribuna!;

(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 1984 to 1997, and has rendered unblemished service spreading over a period of about 13 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 1st settlement (Ex M1), settlement dated 16.7.88 is 2nd settlement (Ex M2), settlement dated 27.10.88 is the 3rd settlement (Ex M3), then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th 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 owning 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 3rd 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 5th 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 Notification. Further Ex.W2 is the Interview call letter. Ex.W3 is the service certificate. Ex.W4 is the service certificate. Ex.W5 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 1st settlement dated 17.11.1987, 2nd settlement dated 16.7.1988, 3rd settlement dated 27.10.1988, 4th settlement dated 9.1.1991 and 5th 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, Vajrakarur Branch in terminating the services of Workman Sri Y. Ramanjini, 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 5th 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 5th 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 5th 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 unhold 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 5th 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 provision contained Under 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 the regular selection process required for appointment in the Bank."

"I did not work for 240 days in any year in my entire 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 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 5th settlement for brevity, is also filed as a material paper. The 5th 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 5th 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 5th 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 5th 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 given by the Bank and I was called for the interview and my name was included in the panel in the year 1992,…. Further, witness states, *the panel was prepared depending upon the number of days of service of the temporary employees. Some of the employees whose names were included in the panel were given appointment on regular basis….* Further witness states, *I am not having any proof 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 5th 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 2nd respondent contends, supporting the award that it was a permanent vacancy and even though the 2nd 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 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.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri Y. Ramanjini, 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 24th day of March, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Y. Ramanjini	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 Service certificate

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, 1 जून, 2026

का.आ. 1112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (21/2004) प्रकाशित करती है।

[सं. एल-12025/01/2026-आईआर(बी-I)-141]

सलोनी, उप निदेशक

New Delhi, the 1st June, 2026

S.O. 1112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 21/2004*)* 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)-141]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 16th day of April, 2026

INDUSTRIAL DISPUTE L.C.No. 21/2004

Between:

Sri A. Siddappa,

S/o A. Krishna Murthy,

R/o 22/373, Yadava Street,

Dharmavaram,

Anantapur Dist. … Petitioner

And

1. The Chief General Manager,
   Local Head Office,
   State Bank of India, Koti,
   Bank Street,
   Hyderabad.
2. The Asst. General Manager,
   State Bank of India,
   Zonal office, Tirupathi.
   Chittoor Dist. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri A. Siddappa, 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 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. The dispute has been registered and numbered in this Tribunal as LC No.21/2004.

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 af 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. AIl 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 singe 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 is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1990 to 1997 and rendered unblemished service spreading over a period of about 8 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

4. The Respondent Bank contends that the reference made is untenable under the Industrial Disputes Act, 1947 as the Bank temporarily engaged subordinate staff—messengers, sweepers, etc.—strictly on a need-based, ad hoc basis to ensure uninterrupted operations to address staff shortages due to leave vacancies and constraints imposed by the Government of India and RBI on hiring.

5. 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. Various discussions were held to resolve the said issue, resulting in five settlement agreements between the Bank and the Workmen.

6. The first settlement dated 17.11.1987 (under Sec. 2(p) r/w Sec. 18(1) of the ID Act) categorized temporary employees and provided for consideration of permanent absorption against vacancies between 1987–1991. The second settlement dated 16.07.1990 extended this period to 1987–1992. The third settlement dated 27.10.1990 reaffirmed consideration of vacancies arising from 1990–1992. Following these, the Government of India issued recruitment guidelines on 16.08.1990, recommending settlement-based absorption for temporary employees with more than 240 days of service in a 12-month block. For those with fewer days, the guidelines allowed for discretion-based conciliation.

7. Despite this, the Bank, in a liberal approach, considered even those with less than 90 days' service and those employed since 1975. However, para 6(k) of the approach paper clarified that this would be a one-time exercise resolving all past claims. Subsequently, the fourth settlement dated 09.01.1991 extended panel validity to 1994, with daily wagers considered for 1995–1996 vacancies. It is submitted that Zone-wise panels (1989 for temporary employees and 1992 for daily wagers) were also created, listing candidates in descending order of service from 01.07.1975 to 31.07.1990.

8. The Federation also sought implementation through the Regional Labour Commissioner (Central), resulting in a conciliation agreement on 09.02.1995. This led to the fifth settlement dated 30.07.1996. Finally, on 27.02.1997, a Memorandum of Understanding recorded that 403 messengerial vacancies were identified and would be filled from the 1989 panel. Both panels were agreed to lapse on 31.03.1997. Thus, the Workman, who served less than 240 days in any 12-month block during the reference period, has no legal claim outside these settlements.

9. It is further argued that the Workman's case has already been considered under the five settlements. The settlements were time-bound and binding on both parties, hence, the Bank was not obligated to absorb all empanelled

candidates. Sustaining panels beyond 31.03.1997 would contradict the settlements and constitutional principles (Articles 14 & 16), amounting to backdoor regularization.

10. The Hon'ble High Court in WP No.12964/94 has affirmed that such settlements are binding and temporary service does not create a right to regularization unless the Workman can show violation of a specific settlement term, which is not the case here. 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."

11. Hence, the Workman's claim was held misconceived. Furthermore, if the panels were not allowed to lapse, it would undermine open recruitment processes, violating constitutional rights of other eligible candidates under Articles 14 and 16 of the Constitution as well as contrary to the settlements.

12. Similarly placed ex-temporary employees approached the High Court via WP No. 9206/1995. Though allowed by the Single Judge, the Division Bench reversed the decision in WA No. 86/1998. The Supreme Court subsequently dismissed SLP Nos. 11886-11888/1998, making the original judgment irrelevant.

13. The Workman (WW1) filed and relied on documents Ex.W1 to W11, including appointment letters, interview letters, and service certificates showing employment across various periods. However, Respondent has failed to controvert the claim and evidence of the Petitioner by adducing any oral or documentary evidence. Therefore, the claim of the Petitioner that he was terminated illegally and in contravention of the provision of Sec.25F is proved.

14. The Workman also cited various judicial precedents which shall be addressed in the relevant portion of this Award.

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri A. Siddappa, a Temporary/Messenger with effect from 31.3.1997 is justified?

II. To what relief if any the Workman is entitled for?

Findings:-

17. Issue No.I:- The Workman alleged that 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 illegally. Further, he alleges that he has been terminated from service in violation of provision contained under Section 25 F of I.D. Act, 1947 and same is liable to be set aside.

18. On the other hand, Respondent counsel contended that Workman has not worked continuously for 240 days in any preceding calendar year and reference of the industrial dispute is not maintainable. Before examining the claim of the Workman on merit it would be apposite to have a glance on the relevant provision pertaining to retrenchment of workman under I.D. Act, 1947.

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;"

In view of the definition of retrenchment, perused the record. The Workman claims that he had been terminated from the service of the Respondent in contravention of the provision of ID Act. The case of the Workman does not fall in any exclusive clause of section 2(oo). Therefore, he is included in the category of retrenchment as defined under section 2(oo) of the I.D.Act, 1947.

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;

Thus, in view of the above provision, Workman has to prove that he had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of his termination i.e., 31.3.1997. It is settled law that the initial burden of proof to prove the fact of 240 days of service in the 12 months of a calendar year just preceding from the date of termination, lies upon the Workman and he is duty bound to prove this factum by adducing oral as well as documentary evidence in support of his claim.

As regard burden of proof and calculation of 240 continuous working days, following decisions of Hon'ble Supreme Court are relevant as discussed here under:-

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."

19. Thus, in view of the law laid down by Hon'ble Apex Court as discussed above in respect of calculating the 240 days continuous service by workman as per provision under Section 25-F read with Section 25-B of the I.D. Act, 1947, we have to examine whether Workman herein 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 by his evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined himself as WW1 and in his oral testimony WW1 has stated that he joined the service of Respondent at Dharmavaram Branch, from 1990 to 31.3.1997 for 831 days as a temporary Messenger and worked continuously in that branch depending upon the availability of work and also as per the orders of bank officers till 31.3.1997. WW1 states that the Respondent has not given any advance notice to him before his termination and has not obtained prior permission from central government for his retrenchment and Respondent has not given him any order of termination. Further, WW1 states that he had worked Dharmavaram branch of the Respondent and Ex.W1 is the Service certificate dt. 17.7.91 for 96 days in the year 1991 prior to interview. Ex.W2 is the service certificate dt. 30.11.96 showing that Petitioner worked for 741 days during 1991 to 1997. Ex.W3 is the service certificate dated 10.4.97 showing that he worked for 831 days. Ex.W4 to W7 are the service certificates for 264 days work. Ex.W8 is fail memo of SSC. Ex.W9 is notification. Ex.W10 is the certificate dt.27.10.93 empanelling Petitioner at Roll.No.5073. Ex.W11 is the service certificate sowing that his working days as 264 days from 24.1.96 to 31.12.96.

21. Further WW1 states that he worked for more than 240 days continuously in different spells in one year period of time and he worked for 264 days continuously during the period from January, 1996 to December, 1996, Ex.W2 is the certificate in this regard. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis in the year 1990. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

The workman's working days during 1996-1997 is as follows:-

Month	Working days

April,1996	30
May, 1996	26
June, 1996	30
July, 1996	29
August, 1996	24
September, 1996	12
October, 1996	15
November, 1996	25
December, 1996	25
January, 1997	29
February, 1997	28
March, 1997	17
Total	290

Thus, sum of working days as shown in the above table is 290 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

22. However, Learned Counsel for Respondent bank has contended that the Petitioner has not worked continuously for 240 days in a calendar year with the Respondent and protection from termination is not available to Petitioner as per provision under section 25 F of I.D. Act, 1947. On going oral and documentary evidence available on record it manifest that Respondent had engaged the Petitioner as a temporary messenger in different spells as mentioned in his appointment letter during the total period of about 8 years. We may conclude from the documents filed in evidence on record, that the Respondent has created artificial breaks in the working days of the Petitioner in order to deprive him from completing 240 days of continuous service and in order to defeat social security provision under the I.D. Act, 1947. Moreover, Petitioner has been regularly engaged during the long period of 10 years by the Respondent as a temporary messenger and has created artificial breaks of few days or more in his engagement as employee. The conduct of Respondent in creating artificial breaks in engagement of workers is nothing but unfair labour practice adopted by Respondent in order to deprive the Petitioner from entitlement of any benefits of social security under the provision of I.D. Act, 1947. Thus, it can safely be concluded that Respondent with malafide intention has deliberately created artificial break in the employment of the Petitioner as a temporary messenger.

23. Thus, in view of the fore gone discussion and on going documentary and oral evidence on record I am of the view that the Workman had worked for 240 days continuously in 12 months of calendar year just preceding from the date of his termination i.e., 31.3.1997. Undisputedly, Respondent has not filed any document pertaining to the fact that 3 months notice was issued to the Petitioner as per provision contained under section 25N of the ID Act before termination of Petitioner for service by oral order w.e.f.1.4.1997. Further, there is no evidence on record to the fact that Respondent has paid any amount toward compensation. Therefore, oral termination order of the Petitioner from employment issued by Respondent with effect from 1.4.1997 is in contravention of provision contained under section 25N of the I.D. Act, 1947 and hence not sustainable in the eye of law.

In the case of **Shankar Bhimrao Kadam and others Vs. Tata Mototrs Limited, Bombay High Court in its** decision dated 28.2.2022 in Writ Petition No.5588 of 2017 have held:-

"52. I have independently assessed the entire oral and documentary evidence adduced before the Labour Court in these cases and upon analysis of the same, I have come to a firm conclusion that in hundreds of cases, the present Respondent has created a farcical picture by posing that the work allotted to the temporaries was limited only to the maximum extent of 7 months. As discussed above, the dedicated department for engagement of temporary workers, apparently kept a close watch on the duration of employment of these Petitioners and in a case like Balu Bapuji Shelke, who had put in 232 days in his first round and 238 days in his third round, his service was abruptly intercepted and he was disengaged. He had almost reached the figure of 240 days and was thrown out, after completing 238 days. This indicates that the Respondent-management has created an eye-wash and paper-work with the intention of creating evidence that no worker had completed 240 days. Even in Sunil Pralhad Khomane (supra), the learned judge of this court, after analyzing the entire evidence before him, concluded that the company has

apparently misused Section 2(oo)(bb). For the reasons assigned by me and my esteemed brother in Sunil (supra), I find that the said conclusion was justified and in all these cases in hands, Section 2(oo)(bb) will not be applicable. To hold otherwise, would create a mockery of Section 2(oo)(bb).

58. It cannot be ignored from the various rounds of temporary employments of these temporaries that after one disengagement, they used to look forward for the next appointment order. As expected, they used to receive such appointment orders. They used to perform their duties not only till the tenure mentioned in the appointment order was completed, but even upto reaching any duration between 225 days to 238 days in one single stint of temporary employment. None of the temporaries in such cases, ever received an appointment order that a particular temporary would work for 238 days or 236 days, etc. The maximum tenure was an appointment for 7 months. This was not the pattern followed in *Mahindra & Mahindra Ltd., Nagpur* (supra), inasmuch, as it was noticed by this court in the said case that the workers used to work in other factories during their disengagement and had actually approached the Industrial Court after about 9 to 23 years."

Similarly, in the present case Respondent has issued number of appointment letters to engage the Workman for the work in different spells for his employment in its branches. The practice of Respondent management of issuance of the appointment letters in different spells for this engagement of the Petitioner Workman during the whole period for more than 8 years clearly manifest that Respondent management has adopted unfair labour practice in order to deprive the Workman from availing social security benefits accruing to him under the provision of Industrial Disputes Act, 1947.

24. Perused the record. Petitioner witness WW1 in his statement in chief has categorically stated that he had worked for more than 240 days continuously in different spells in a period of one year. He worked for 264 days continuously during the period from January to November, 1996 at Dharmavaram branch. Ex.W2 is the certificate in this regard. Lastly, he worked for 90 days from December, 1996 to March, 1997, Ex.W3 is the certificate in this regard. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1990 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 8 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

Respondent has cited number of decisions of Hon'ble Apex Court and Hon'ble High Courts which are being discussed as hereunder:-

In the case of **Bholaram vs. PO, Labour Court Ambala & ors CWP No.4784/2010** dated 2.6.2011, of Hon'ble High Court of Punjab & Haryana, wherein Hon'ble High Court have held that Petitioner is directed to be reinstated in the service with 50% of back wages.

Further, in the case of **Kuldeep Singh vs. G.M., Instrument Design D & F., DOD, dated 3.12.2010,** the facts of the case are that the Petitioner Kuldeep, the workman was appointed as a Data Entry Operator on daily wages on 8.10.1990 and he worked as such till 28.11.1991 and thereafter on adhoc basis and worked upto 26.5.1992 without any break when his services were terminated by the employer. The Respondent management, according to Petitioner, no notice or compensation in lieu thereof, was given for terminating his services though he had worked for 240 days in the preceding 12 months. In that case Hon'ble Supreme Court have held that the management has terminated the services of the Petitioner workman without complying the provision of Sec.25F of the I.D.Act, 1947 and the said order is illegal, null and void deserves to be set aside, and ordered reinstatement of the Appellant workman with consequential service benefits without back wages within a period of eight weeks.

Further, in the case of **State of Karnataka vs. Uma Devi Civil Appeal No.3595-3612 of 1990 dated 10.4.2006,** therein Constitutional Bench of Hon'ble Supreme Court have held,

"15. We have already indicated the constitutional scheme of public employment in this country, and the executive, or for that matter the Court, in appropriate cases, would have only the right to regularize an appointment made after following the due procedure, even though a non-fundamental element of that process or procedure has not been followed. This right of the executive and that of the court, would not extend to the executive or the court being in a position to direct that an appointment made in clear violation of the constitutional scheme, and the statutory rules

made in that behalf, can be treated as permanent or can be directed to be treated as permanent.

…….

44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Thus, in the above cited decision Hon'ble Apex Court has laid down guidelines for deciding the question of regularization of the services of the employees. Further, as regard other decisions of Hon'ble Court filed by the Petitioner in support of his argument, therein, the Hon'ble Supreme Court has laid down the principle that the termination of the employee in contravention of the provision of Sec.25F of I.D. Act, 1947 is illegal and null and void and liable to be set aside.

Moreover, Hon'ble Supreme Court in the case of **Anoop Sharma vs. Exec. Engineer Public Health Division dated 9.4.2010, Civil Appeal No.3478 of 2010** have held**:-**

"15. In State Bank of India v. N. Sundara Money (supra), the Court emphasised that the workman cannot be retrenched without payment, at the time of retrenchment, compensation computed in terms of *Section 25-F(b)*.

16. The legal position has been beautifully summed up in Pramod Jha v. State of Bihar (supra) in the following words:

"The underlying object of Section 25-F is twofold. Firstly, a retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding retrenchment compensation and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment. Section 25-F nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice; on the contrary, clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment or tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind it would result in nullifying the retrenchment.

17. If the workman is retrenched by an oral order or communication or he is simply asked not to come for duty, the employer will be required to lead tangible and substantive evidence to prove compliance of Clauses (a) and (b) of Section 25-F of the Act."

Thus, in view of the fore gone discussion and principle laid down by the Hon'ble Apex Court as discussed above, we arrive at conclusion that services of workman has been terminated by the Respondent in violation of provision of I.D. Act, 1947 and hence not sustainable in the eye of law.

Therefore, Issue No.I is answered in favour of the Workman and against the Respondent.

25. **Issue No.II:**- In view of the discussion and finding given at Issue No.I, it is established that the Workman had worked for more than 240 days in a calendar year just preceding from the date of termination. Respondent has not issued any notice under Sec.25 N of I.D.Act, 1947 before termination of workman and has not paid any compensation as per provision contained under Sec.25 F of the I.D.Act, 1947. Therefore, the termination of Petitioner from service vide oral order dated 31.3.1997 by the Respondent is in contravention of the provision contained under Section 25-F of the I.D. Act, 1947 and is illegal and not justified and liable to be set aside.

26. Now, let us see whether workman is entitled for reinstatement in the service or for any other relief.

In this context the reference of decision of Hon'ble Supreme Court is relevant. In **Ashok Kumar Sharma Vs. Oberoi flight Services AIR 2010 SCC page 502** Hon'ble Supreme Court have held:-

8. In the case of Sita Ram V. Moti Lal Nehru Farmers Training Institute2 this Court considered the matter thus:

"21. The question, which, however, falls for our consideration is as to whether the Labour Court was justified in awarding reinstatement of the appellants in service.

22. Keeping in view the period during which the services were rendered by the Respondent (sic appellants); the fact that the Respondent had stopped its operation of bee farming, and the services of the appellants were terminated in December 1996, we are of the opinion that it is not a fit case where the appellants could have been directed to be reinstated in service.

23. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of appointment, the period of appointment, the availability of the job, etc. should weigh with the court for determination of such an issue.

24. This Court in a large number of decisions opined that payment of adequate amount of compensation in place of a direction to be reinstated in service in cases of this nature would subserve the ends of justice. (See Jaipur Development Authority v. Ramsahai [(2006) 11 SCC 684], M.P. Admn. v. Tribhuban [(2007) 9 SCC 748] and Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353])

25. Having regard to the facts and circumstances of this case, we are of the opinion that payment of a sum of Rs. 1,00,000 to each of the appellants, would meet the ends of justice. This appeal is allowed to the aforementioned extent. In the facts and circumstances of this case, there shall be no order as to costs."

9. The afore-referred two decisions of this Court and few more decisions were considered by us in the case of Jagbir JT 2008 (3)SC622 Singh V. Haryana State Agriculture Marketing Board3 albeit in the context of retrenchment of a daily wager in violation of section 25F of Industrial Disputes Act who had worked for more than 240 days in a year and we observed thus:

"7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."

Further, in the case of **State of Himachal Pradesh vs. Suresh Kumar Verma & anr. 1996 AIR 1565, three Judge Bench of Hon'ble Apex Court** have held**:-**

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments shall be made accordingly. From the date of discharging the duties attached to the post the incumbent becomes a member of the services. Appointment on daily wage basis is not an appointment to a post according to the Rules.

It is seen that the project in which the Respondents were engaged had come to an end and that, therefore, they have necessarily been terminated for want of work. The Court cannot give any directions to re-engage them in any other work or appoint them against existing vacancies. Otherwise, the judicial process would become other mode of recruitment de hors the rules.

Mr. Mahabir Singh, learned counsel for the Respondents contended that there was an admission in the counter affidavit filed in the High Court that there were vacancies and that, therefore, the Respondents are entitled to be continued in service. We do not agree with the contention. The vacancies require to be filled up in accordance with the rules and all the candidates who would otherwise eligible are entitled to apply for when recruitment is made and seek consideration of their claims on merit according to the Rules for direct recruitment along with all the eligible candidates. The appointment on daily wages cannot be a conduct pipe for regular appointments which would be a back-door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for Class IV employees recruitment according to rules is a pre-condition. Only work-charged employees who perform the duties of transitory nature are appointed not to a post but are required to perform the work of transitory and urgent nature so long as the work exists. One temporary employee cannot be replaced by another temporary employee."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 8 years i.e., from 1990 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the

nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

27. Now question arises how much compensation would meet ends of justice. In view of the circumstances of the case, Workman has served in the service of the Respondent management from 1990 to 1997 in different spells and has also gone under physical and mental agony during long period of litigation for more than 24 years at different levels. In the opinion of the court payment of a sum of Rs.2,00,000/- as lumpsum compensation to the Workman would meet the ends of justice. Therefore, the claim statement is partly allowed.

28. However, the learned counsel for Petitioner has also argued that the Petitioner Workman is entitled for regularization in the employment of the Respondent management on the basis of his empanelment in the waiting list for regularization. Therefore, the Petitioner is entitled for regularization in the service of the management.

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the Respondent bank in different spells from 1990 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

"to direct the Management to reinstate and absorb the workman in the service of the bank and grant all incidental and consequential benefits of reinstatement, back wages and continuity of service, etc.,"

Thus, in the absence of any pleading and evidence in support of Petitioner's claim of regularization in the employment of Respondent, the plea in respect of regularization is not maintainable.

In this context I would like to make reference of the decision of Supreme Court in the case of **Ram Sarup Gupta(dead) by LRs v. Bishun Narain Inter College and others 1987 AIR 1242**. In this case Hon'ble Supreme Court have held:-

"It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case setup by it. The object and purpose of pleading is to enable the advisory party to know the case it has to meet. In order to have a fair trial it is imperative that the party should state the essential material facts so that other party may not be taken by surprise."

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri A. Siddappa, Temporary Messenger, with effect from 31.3.1997 is held not justified. Therefore, termination order dated 31.3.1997 is hereby set aside. Respondent is directed to pay compensation of Rs.2,00,000/- (Rupees two lakhs) to the workman within two months from the date of receipt of this award. 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 16th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri A. Siddappa	MW1: NIL

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate dated dt. 17.7.91 for 96 days in the year 1991
Ex.W2:	Photocopy of service certificate dt. 30.11.96 showing that Petitioner worked for 741 days during 1991 to 1997
Ex.W3:	Photocopy of is the service certificate dated 10.4.97 showing that he worked for 831 days
Ex.W4 to W7:	Photocopies of service certificates for 264 days work
Ex.W8:	Photocopy of fail memo of SSC
Ex.W9:	Photocopy of is notification
Ex.W10:	Photocopy of is the certificate dt.27.10.93 empanelling Petitioner at Roll.No.5073
Ex.W11:	Photocopy of service certificate sowing that his working days as 264 days from 24.1.96 to 31.12.96.

Documents marked for the Respondent

NIL

नई दिल्ली, 1 जून, 2026

का.आ. 1113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (22/2004) प्रकाशित करती है।

[सं. एल-12025/01/2026-आईआर(बी-I)-140]

सलोनी, उप निदेशक

New Delhi, the 1st June, 2026

S.O. 1113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 22/2004*)* 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)-140]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 16th day of April, 2026

INDUSTRIAL DISPUTE L.C.No. 22/2004

Between:

Sri M. Zilani Basha,

S/o Sri M.Alla Baksh,

R/o 22/531, Yadava Street,

Dharmavaram,

Anantapur Dist. … Petitioner

And

1. The Chief General Manager,

Local Head Office,

State Bank of India, Koti,

Bank Street,

Hyderabad.

2. The Asst. General Manager,

State Bank of India,

Zonal office, Tirupathi.

Chittoor Dist. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri M. Zilani Basha, 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 duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. 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 af 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. AIl 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 singe 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 is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1987 to 1997 and rendered unblemished service spreading over a period of about 10 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

4. The Respondent Bank contends that the reference made is untenable under the Industrial Disputes Act, 1947 as the Bank temporarily engaged subordinate staff—messengers, sweepers, etc.—strictly on a need-based, ad hoc basis to ensure uninterrupted operations to address staff shortages due to leave vacancies and constraints imposed by the Government of India and RBI on hiring.

5. 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. Various discussions were held to resolve the said issue, resulting in five settlement agreements between the Bank and the Workmen.

6. The first settlement dated 17.11.1987 (under Sec. 2(p) r/w Sec. 18(1) of the ID Act) categorized temporary employees and provided for consideration of permanent absorption against vacancies between 1987–1991. The second settlement dated 16.07.1990 extended this period to 1987–1992. The third settlement dated 27.10.1990 reaffirmed consideration of vacancies arising from 1990–1992. Following these, the Government of India issued recruitment guidelines on 16.08.1990, recommending settlement-based absorption for temporary employees with more than 240 days of service in a 12-month block. For those with fewer days, the guidelines allowed for discretion-based conciliation.

7. Despite this, the Bank, in a liberal approach, considered even those with less than 90 days' service and those employed since 1975. However, para 6(k) of the approach paper clarified that this would be a one-time exercise resolving all past claims. Subsequently, the fourth settlement dated 09.01.1991 extended panel validity to 1994, with daily wagers considered for 1995–1996 vacancies. It is submitted that Zone-wise panels (1989 for temporary employees and 1992 for daily wagers) were also created, listing candidates in descending order of service from 01.07.1975 to 31.07.1990.

8. The Federation also sought implementation through the Regional Labour Commissioner (Central), resulting in a conciliation agreement on 09.02.1995. This led to the fifth settlement dated 30.07.1996. Finally, on 27.02.1997, a Memorandum of Understanding recorded that 403 messengerial vacancies were identified and would be filled from the 1989 panel. Both panels were agreed to lapse on 31.03.1997. Thus, the Workman, who served less than 240 days in any 12-month block during the reference period, has no legal claim outside these settlements.

9. It is further argued that the Workman's case has already been considered under the five settlements. The settlements were time-bound and binding on both parties, hence, the Bank was not obligated to absorb all empanelled candidates. Sustaining panels beyond 31.03.1997 would contradict the settlements and constitutional principles (Articles 14 & 16), amounting to backdoor regularization.

10. The Hon'ble High Court in WP No.12964/94 has affirmed that such settlements are binding and temporary service does not create a right to regularization unless the Workman can show violation of a specific settlement term, which is not the case here. 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."

11. Hence, the Workman's claim was held misconceived. Furthermore, if the panels were not allowed to lapse, it would undermine open recruitment processes, violating constitutional rights of other eligible candidates under Articles 14 and 16 of the Constitution as well as contrary to the settlements.

12. Similarly placed ex-temporary employees approached the High Court via WP No. 9206/1995. Though allowed by the Single Judge, the Division Bench reversed the decision in WA No. 86/1998. The Supreme Court subsequently dismissed SLP Nos. 11886-11888/1998, making the original judgment irrelevant.

13. The Workman (WW1) filed and relied on documents Ex.W1 to W9, including appointment letters, interview letters, and service certificates showing employment across various periods. However, Respondent has failed to controvert the claim and evidence of the Petitioner by adducing any oral or documentary evidence. Therefore, the claim of the Petitioner that he was terminated illegally and in contravention of the provision of Sec.25F is proved.

14. The Workman also cited various judicial precedents which shall be addressed in the relevant portion of this Award.

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri M. Zilani Basha, a Temporary/Messenger with effect from 31.3.1997 is justified?

II. To what relief if any the Workman is entitled for?

Findings:-

17. Issue No.I:-The Workman alleged that 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 illegally. Further, he alleges that he has been terminated from service in violation of provision contained under Section 25 F of I.D. Act, 1947 and same is liable to be set aside.

18. On the other hand, Respondent counsel contended that Workman has not worked continuously for 240 days in any preceding calendar year and reference of the industrial dispute is not maintainable. Before examining the claim of the Workman on merit it would be apposite to have a glance on the relevant provision pertaining to retrenchment of workman under I.D. Act, 1947.

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;"

In view of the definition of retrenchment, perused the record. The Workman claims that he had been terminated from the service of the Respondent in contravention of the provision of ID Act. The case of the Workman does not fall in any exclusive clause of section 2(oo). Therefore, he is included in the category of retrenchment as defined under section 2(oo) of the I.D.Act, 1947.

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;

Thus, in view of the above provision, Workman has to prove that he had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of his termination i.e., 31.3.1997. It is settled law that the initial burden of proof to prove the fact of 240 days of service in the 12 months of a calendar year just preceding from the date of termination, lies upon the Workman and he is duty bound to prove this factum by adducing oral as well as documentary evidence in support of his claim.

As regard burden of proof and calculation of 240 continuous working days, following decisions of Hon'ble Supreme Court are relevant as discussed here under:-

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."

19. Thus, in view of the law laid down by Hon'ble Apex Court as discussed above in respect of calculating the 240 days continuous service by workman as per provision under Section 25-F read with Section 25-B of the I.D. Act, 1947, we have to examine whether Workman herein 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 by his evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined himself as WW1 and in his oral testimony WW1 has stated that he joined the service of Respondent at Dharmavaram Branch, from 1987 to 31.3.1997 for 1397 days as a temporary Messenger and worked continuously in that branch depending upon the availability of work and also as per the orders of bank officers till 31.3.1997. WW1 states that the Respondent has not given any advance notice to him before his termination and has not obtained prior permission from central government for his retrenchment and Respondent has not given him any order of termination. Further, WW1 states that he had worked Dharmavaram branch of the Respondent. WW1 further states that Ex.W1 is the letter dt. 28.5.2001 of the zonal office. Ex.W2 is the service certificate dt. 24.7.2002 showing that Petitioner worked for 260 days during 1992. Ex.W3 is the service certificate dt. 26.7.2002 showing that Petitioner worked for 260 days during 1992. Ex.W4 is the service certificate dt. 31.3.97 showing that Petitioner worked for 260 days and 271 days. Ex.W5 is service certificate dated 4.8.88. Ex.W6 is service certificate dated 30.11.96 showing his total service as 1332 days. Ex.W7 is service certificate for 65 days work dated 10.4.97. Ex.W8 is marks memo of SSC. Ex.W9 is notification.

21. Further WW1 states that he worked for more than 240 days continuously in different spells in one year period of time and he worked for 187 days continuously during the period from April, 1996 to November, 1996, Ex.W6 is the certificate in this regard. Lastly, Petitioner worked for 65 days from December, 1996 to February, 1997, Ex.W7 is the certificate in this regard. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis in the year 1987. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

The workman's working days during 1996-1997 is as follows:-

Month	Working days
April,1996	25
May, 1996	00
June, 1996	29
July, 1996	31
August, 1996	29
September, 1996	26

October, 1996	26
November, 1996	21
December, 1996	22
January, 1997	22
February, 1997	21
Total	252

Thus, sum of working days as shown in the above table is 252 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

22. However, Learned Counsel for Respondent bank has contended that the Petitioner has not worked continuously for 240 days in a calendar year with the Respondent and protection from termination is not available to Petitioner as per provision under section 25 F of I.D. Act, 1947. On going oral and documentary evidence available on record it manifest that Respondent had engaged the Petitioner as a temporary messenger in different spells as mentioned in his appointment letter during the total period of about 10 years. We may conclude from the documents filed in evidence on record, that the Respondent has created artificial breaks in the working days of the Petitioner in order to deprive him from completing 240 days of continuous service and in order to defeat social security provision under the I.D. Act, 1947. Moreover, Petitioner has been regularly engaged during the long period of 10 years by the Respondent as a temporary messenger and has created artificial breaks of few days or more in his engagement as employee. The conduct of Respondent in creating artificial breaks in engagement of workers is nothing but unfair labour practice adopted by Respondent in order to deprive the Petitioner from entitlement of any benefits of social security under the provision of I.D. Act, 1947. Thus, it can safely be concluded that Respondent with malafide intention has deliberately created artificial break in the employment of the Petitioner as a temporary messenger.

23. Thus, in view of the fore gone discussion and on going documentary and oral evidence on record I am of the view that the Workman had worked for 240 days continuously in 12 months of calendar year just preceding from the date of his termination i.e., 31.3.1997. Undisputedly, Respondent has not filed any document pertaining to the fact that 3 months notice was issued to the Petitioner as per provision contained under section 25N of the ID Act before termination of Petitioner for service by oral order w.e.f.1.4.1997. Further, there is no evidence on record to the fact that Respondent has paid any amount toward compensation. Therefore, oral termination order of the Petitioner from employment issued by Respondent with effect from 1.4.1997 is in contravention of provision contained under section 25N of the I.D. Act, 1947 and hence not sustainable in the eye of law.

In the case of **Shankar Bhimrao Kadam and others Vs. Tata Mototrs Limited, Bombay High Court in its** decision dated 28.2.2022 in Writ Petition No.5588 of 2017 have held:-

"52. I have independently assessed the entire oral and documentary evidence adduced before the Labour Court in these cases and upon analysis of the same, I have come to a firm conclusion that in hundreds of cases, the present Respondent has created a farcical picture by posing that the work allotted to the temporaries was limited only to the maximum extent of 7 months. As discussed above, the dedicated department for engagement of temporary workers, apparently kept a close watch on the duration of employment of these Petitioners and in a case like Balu Bapuji Shelke, who had put in 232 days in his first round and 238 days in his third round, his service was abruptly intercepted and he was disengaged. He had almost reached the figure of 240 days and was thrown out, after completing 238 days. This indicates that the Respondent-management has created an eye-wash and paper-work with the intention of creating evidence that no worker had completed 240 days. Even in Sunil Pralhad Khomane (supra), the learned judge of this court, after analyzing the entire evidence before him, concluded that the company has apparently misused Section 2(oo)(bb). For the reasons assigned by me and my esteemed brother in Sunil (supra), I find that the said conclusion was justified and in all these cases in hands, Section 2(oo)(bb) will not be applicable. To hold otherwise, would create a mockery of Section 2(oo)(bb).

58. It cannot be ignored from the various rounds of temporary employments of these temporaries that after one disengagement, they used to look forward for the next appointment order. As expected, they used to receive such appointment orders. They used to perform their duties not only till the tenure mentioned in the appointment order was completed, but even upto reaching any duration between 225 days to 238 days in one single stint of temporary employment. None of the temporaries in such cases, ever received an appointment order that a particular temporary would work for 238 days or 236 days, etc. The maximum tenure was an appointment for 7 months. This was not the pattern followed in *Mahindra & Mahindra Ltd., Nagpur* (supra), inasmuch, as it was noticed by this court in the said case that the workers used to work in other factories during their disengagement and had actually approached the

Industrial Court after about 9 to 23 years."

Similarly, in the present case Respondent has issued number of appointment letters to engage the Workman for the work in different spells for his employment in its branches. The practice of Respondent management of issuance of the appointment letters in different spells for this engagement of the Petitioner Workman during the whole period for more than 10 years clearly manifest that Respondent management has adopted unfair labour practice in order to deprive the Workman from availing social security benefits accruing to him under the provision of Industrial Disputes Act, 1947.

24. Perused the record. Petitioner witness WW1 in his statement in chief has categorically stated that he had worked for more than 240 days continuously in different spells in a period of one year. He worked for 187 days continuously during the period from April to November, 1996 at Dharmavaram branch. Ex.W6 is the certificate in this regard. Lastly, he worked for 65 days from December, 1996 to February, 1997, Ex.W7 is the certificate in this regard. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1987 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 10 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

Respondent has cited number of decisions of Hon'ble Apex Court and Hon'ble High Courts which are being discussed as hereunder:-

In the case of **Bholaram vs. PO, Labour Court Ambala & ors CWP No.4784/2010** dated 2.6.2011, of Hon'ble High Court of Punjab & Haryana, wherein Hon'ble High Court have held that Petitioner is directed to be reinstated in the service with 50% of back wages.

Further, in the case of **Kuldeep Singh vs. G.M., Instrument Design D & F., DOD, dated 3.12.2010,** the facts of the case are that the Petitioner Kuldeep, the workman was appointed as a Data Entry Operator on daily wages on 8.10.1990 and he worked as such till 28.11.1991 and thereafter on adhoc basis and worked upto 26.5.1992 without any break when his services were terminated by the employer. The Respondent management, according to Petitioner, no notice or compensation in lieu thereof, was given for terminating his services though he had worked for 240 days in the preceding 12 months. In that case Hon'ble Supreme Court have held that the management has terminated the services of the Petitioner workman without complying the provision of Sec.25F of the I.D.Act, 1947 and the said order is illegal, null and void deserves to be set aside, and ordered reinstatement of the Appellant workman with consequential service benefits without back wages within a period of eight weeks.

Further, in the case of **State of Karnataka vs. Uma Devi Civil Appeal No.3595-3612 of 1990 dated 10.4.2006,** therein Constitutional Bench of Hon'ble Supreme Court have held,

"15. We have already indicated the constitutional scheme of public employment in this country, and the executive, or for that matter the Court, in appropriate cases, would have only the right to regularize an appointment made after following the due procedure, even though a non-fundamental element of that process or procedure has not been followed. This right of the executive and that of the court, would not extend to the executive or the court being in a position to direct that an appointment made in clear violation of the constitutional scheme, and the statutory rules made in that behalf, can be treated as permanent or can be directed to be treated as permanent.

44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or

daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Thus, in the above cited decision Hon'ble Apex Court has laid down guidelines for deciding the question of regularization of the services of the employees. Further, as regard other decisions of Hon'ble Court filed by the Petitioner in support of his argument, therein, the Hon'ble Supreme Court has laid down the principle that the termination of the employee in contravention of the provision of Sec.25F of I.D. Act, 1947 is illegal and null and void and liable to be set aside.

Moreover, Hon'ble Supreme Court in the case of **Anoop Sharma vs. Exec. Engineer Public Health Division dated 9.4.2010, Civil Appeal No.3478 of 2010** have held**:-**

"15. In State Bank of India v. N. Sundara Money (supra), the Court emphasised that the workman cannot be retrenched without payment, at the time of retrenchment, compensation computed in terms of *Section 25-F(b)*.

16. The legal position has been beautifully summed up in Pramod Jha v. State of Bihar (supra) in the following words:

"The underlying object of Section 25-F is twofold. Firstly, a retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding retrenchment compensation and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment. Section 25-F nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice; on the contrary, clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment or tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind it would result in nullifying the retrenchment.

17. If the workman is retrenched by an oral order or communication or he is simply asked not to come for duty, the employer will be required to lead tangible and substantive evidence to prove compliance of Clauses (a) and (b) of Section 25-F of the Act."

Thus, in view of the fore gone discussion and principle laid down by the Hon'ble Apex Court as discussed above, we arrive at conclusion that services of workman has been terminated by the Respondent in violation of provision of I.D. Act, 1947 and hence not sustainable in the eye of law.

Therefore, Issue No.I is answered in favour of the Workman and against the Respondent.

25. **Issue No.II:-** In view of the discussion and finding given at Issue No.I, it is established that the Workman had worked for more than 240 days in a calendar year just preceding from the date of termination. Respondent has not issued any notice under Sec.25 N of I.D.Act, 1947 before termination of workman and has not paid any compensation as per provision contained under Sec.25 F of the I.D.Act, 1947. Therefore, the termination of Petitioner from service vide oral order dated 31.3.1997 by the Respondent is in contravention of the provision contained under Section 25-F of the I.D. Act, 1947 and is illegal and not justified and liable to be set aside.

26. Now, let us see whether workman is entitled for reinstatement in the service or for any other relief.

In this context the reference of decision of Hon'ble Supreme Court is relevant. In **Ashok Kumar Sharma Vs. Oberoi flight Services AIR 2010 SCC page 502** Hon'ble Supreme Court have held:-

8. In the case of Sita Ram V. Moti Lal Nehru Farmers Training Institute2 this Court considered the matter thus:

"21. The question, which, however, falls for our consideration is as to whether the Labour Court was justified in awarding reinstatement of the appellants in service.

22. Keeping in view the period during which the services were rendered by the Respondent (sic appellants); the fact that the Respondent had stopped its operation of bee farming, and the services of the appellants were terminated in December 1996, we are of the opinion that it is not a fit case where the appellants could have been directed to be reinstated in service.

23. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of appointment, the period of appointment, the availability of the job, etc. should weigh with the court for determination of such an issue.

24. This Court in a large number of decisions opined that payment of adequate amount of compensation in place of a direction to be reinstated in service in cases of this nature would subserve the ends of justice. (See Jaipur Development Authority v. Ramsahai [(2006) 11 SCC 684], M.P. Admn. v. Tribhuban [(2007) 9 SCC 748] and Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353])

25. Having regard to the facts and circumstances of this case, we are of the opinion that payment of a sum of Rs. 1,00,000 to each of the appellants, would meet the ends of justice. This appeal is allowed to the aforementioned extent. In the facts and circumstances of this case, there shall be no order as to costs."

9. The afore-referred two decisions of this Court and few more decisions were considered by us in the case of Jagbir JT 2008 (3)SC622 Singh V. Haryana State Agriculture Marketing Board3 albeit in the context of retrenchment of a daily wager in violation of section 25F of Industrial Disputes Act who had worked for more than 240 days in a year and we observed thus:

"7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."

Further, in the case of **State of Himachal Pradesh vs. Suresh Kumar Verma & anr. 1996 AIR 1565, three Judge Bench of Hon'ble Apex Court** have held**:-**

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments shall be made accordingly. From the date of discharging the duties attached to the post the incumbent becomes a member of the services. Appointment on daily wage basis is not an appointment to a post according to the Rules.

It is seen that the project in which the Respondents were engaged had come to an end and that, therefore, they have necessarily been terminated for want of work. The Court cannot give any directions to re-engage them in any other work or appoint them against existing vacancies. Otherwise, the judicial process would become other mode of recruitment de hors the rules.

Mr. Mahabir Singh, learned counsel for the Respondents contended that there was an admission in the counter affidavit filed in the High Court that there were vacancies and that, therefore, the Respondents are entitled to be continued in service. We do not agree with the contention. The vacancies require to be filled up in accordance with the rules and all the candidates who would otherwise eligible are entitled to apply for when recruitment is made and seek consideration of their claims on merit according to the Rules for direct recruitment along with all the eligible candidates. The appointment on daily wages cannot be a conduct pipe for regular appointments which would be a back-door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for Class IV employees recruitment according to rules is a pre-condition. Only work-charged employees who perform the duties of transitory nature are appointed not to a post but are required to perform the work of transitory and urgent nature so long as the work exists. One temporary employee cannot be replaced by another temporary employee."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 10 years i.e., from 1987 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

27. Now question arises how much compensation would meet ends of justice. In view of the circumstances of the case, Workman has served in the service of the Respondent management from 1987 to 1997 in different spells and has also gone under physical and mental agony during long period of litigation for more than 24 years at different levels. In the opinion of the court payment of a sum of Rs.2,00,000/- as lumpsum compensation to the Workman would meet the ends of justice. Therefore, the claim statement is partly allowed.

28. However, the learned counsel for Petitioner has also argued that the Petitioner Workman is entitled for

regularization in the employment of the Respondent management on the basis of his empanelment in the waiting list for regularization. Therefore, the Petitioner is entitled for regularization in the service of the management.

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the Respondent bank in different spells from 1987 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

"to direct the Management to reinstate and absorb the workman in the service of the bank and grant all incidental and consequential benefits of reinstatement, back wages and continuity of service, etc.,"

Thus, in the absence of any pleading and evidence in support of Petitioner's claim of regularization in the employment of Respondent, the plea in respect of regularization is not maintainable.

In this context I would like to make reference of the decision of Supreme Court in the case of **Ram Sarup Gupta(dead) by LRs v. Bishun Narain Inter College and others 1987 AIR 1242**. In this case Hon'ble Supreme Court have held:-

"It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case setup by it. The object and purpose of pleading is to enable the advisory party to know the case it has to meet. In order to have a fair trial it is imperative that the party should state the essential material facts so that other party may not be taken by surprise."

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri M. Zilani Basha, Temporary Messenger, with effect from 31.3.1997 is held not justified. Therefore, termination order dated 31.3.1997 is hereby set aside. Respondent is directed to pay compensation of Rs.2,00,000/- (Rupees two lakhs) to the workman within two months from the date of receipt of this award. 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 16th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri M. Zilani Basha	MW1: NIL

Documents marked for the Petitioner

Ex.W1:	Photocopy of the letter dt. 28.5.2001 of the zonal office
Ex.W2:	Photocopy of service certificate dt. 24.7.2002 showing that Petitioner worked for 260 days during 1992
Ex.W3:	Photocopy of the service certificate dt. 26.7.2002 showing that Petitioner worked for 260 days during 1992
Ex.W4:	Photocopy of the service certificate dt. 31.3.97 showing that Petitioner worked for 260 days and 271 days
Ex.W5:	Photocopy of service certificate dated 4.8.88

Ex.W6: Photocopy of service certificate dated 30.11.96 showing his total service as 1332 days.

Ex.W7: Photocopy of service certificate for 65 days work dated 10.4.97

Ex.W8: Photocopy of marks memo of SSC

Ex.W9: Photocopy of is notification

Documents marked for the Respondent

NIL

नई दिल्ली, 1 जून, 2026

का.आ. 1114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (20/2004) प्रकाशित करती है।

[सं. एल-12025/01/2026-आईआर(बी-I)-144]

सलोनी, उप निदेशक

New Delhi, the 1st June, 2026

S.O. 1114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 20/2004*)* 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)-144]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 16th day of April, 2026

INDUSTRIAL DISPUTE L.C.No. 20/2004

Between:

Sri Mekala Nalappa,

S/o Sri M. peddakullayappa,

R/o 15/94, State Bank of India colony,

Dharmavaram,

Anantapur Dist. … Petitioner

And

1. The Chief General Manager,
   Local Head Office,
   State Bank of India, Koti,

Bank Street,

Hyderabad.

2. The Asst. General Manager,

State Bank of India,

Zonal office, Tirupathi.

Chittoor Dist. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Mekala Nalappa, 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 duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. 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 af 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. AIl 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 singe 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 is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1989 to 1997 and rendered unblemished service spreading over a period of about 8 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

4. The Respondent Bank contends that the reference made is untenable under the Industrial Disputes Act, 1947 as the Bank temporarily engaged subordinate staff—messengers, sweepers, etc.—strictly on a need-based, ad hoc basis to ensure uninterrupted operations to address staff shortages due to leave vacancies and constraints imposed by the Government of India and RBI on hiring.

5. 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. Various discussions were held to resolve the said issue, resulting in five settlement agreements between the Bank and the Workmen.

6. The first settlement dated 17.11.1987 (under Sec. 2(p) r/w Sec. 18(1) of the ID Act) categorized temporary employees and provided for consideration of permanent absorption against vacancies between 1987–1991. The second settlement dated 16.07.1990 extended this period to 1987–1992. The third settlement dated 27.10.1990 reaffirmed consideration of vacancies arising from 1990–1992. Following these, the Government of India issued recruitment guidelines on 16.08.1990, recommending settlement-based absorption for temporary employees with more than 240 days of service in a 12-month block. For those with fewer days, the guidelines allowed for discretion-based conciliation.

7. Despite this, the Bank, in a liberal approach, considered even those with less than 90 days' service and those employed since 1975. However, para 6(k) of the approach paper clarified that this would be a one-time exercise resolving all past claims. Subsequently, the fourth settlement dated 09.01.1991 extended panel validity to 1994, with daily wagers considered for 1995–1996 vacancies. It is submitted that Zone-wise panels (1989 for temporary employees and 1992 for daily wagers) were also created, listing candidates in descending order of service from 01.07.1975 to 31.07.1990.

8. The Federation also sought implementation through the Regional Labour Commissioner (Central), resulting in a conciliation agreement on 09.02.1995. This led to the fifth settlement dated 30.07.1996. Finally, on 27.02.1997, a Memorandum of Understanding recorded that 403 messengerial vacancies were identified and would be filled from the 1989 panel. Both panels were agreed to lapse on 31.03.1997. Thus, the Workman, who served less than 240 days in any 12-month block during the reference period, has no legal claim outside these settlements.

9. It is further argued that the Workman's case has already been considered under the five settlements. The settlements were time-bound and binding on both parties, hence, the Bank was not obligated to absorb all empanelled candidates. Sustaining panels beyond 31.03.1997 would contradict the settlements and constitutional principles (Articles 14 & 16), amounting to backdoor regularization.

10. The Hon'ble High Court in WP No.12964/94 has affirmed that such settlements are binding and temporary service does not create a right to regularization unless the Workman can show violation of a specific settlement term, which is not the case here. 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."

11. Hence, the Workman's claim was held misconceived. Furthermore, if the panels were not allowed to lapse, it would undermine open recruitment processes, violating constitutional rights of other eligible candidates under Articles 14 and 16 of the Constitution as well as contrary to the settlements.

12. Similarly placed ex-temporary employees approached the High Court via WP No. 9206/1995. Though allowed by the Single Judge, the Division Bench reversed the decision in WA No. 86/1998. The Supreme Court subsequently dismissed SLP Nos. 11886-11888/1998, making the original judgment irrelevant.

13. The Workman (WW1) filed and relied on documents Ex.W1 to W10, including appointment letters, interview letters, and service certificates showing employment across various periods. However, Respondent has failed to controvert the claim and evidence of the Petitioner by adducing any oral or documentary evidence. Therefore, the claim of the Petitioner that he was terminated illegally and in contravention of the provision of Sec.25F is proved.

14. The Workman also cited various judicial precedents which shall be addressed in the relevant portion of this Award.

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri Mekala Nalappa, a Temporary/Messenger with effect from 31.3.1997 is justified?

II. To what relief if any the Workman is entitled for?

Findings:-

17. Issue No.I:- The Workman alleged that 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 illegally. Further, he alleges that he has been terminated from service in violation of provision contained under Section 25 F of I.D. Act, 1947 and same is liable to be set aside.

18. On the other hand, Respondent counsel contended that Workman has not worked continuously for 240 days in any preceding calendar year and reference of the industrial dispute is not maintainable. Before examining the claim of the Workman on merit it would be apposite to have a glance on the relevant provision pertaining to retrenchment of workman under I.D. Act, 1947.

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;"

In view of the definition of retrenchment, perused the record. The Workman claims that he had been terminated from the service of the Respondent in contravention of the provision of ID Act. The case of the Workman does not fall in any exclusive clause of section 2(oo). Therefore, he is included in the category of retrenchment as defined under section 2(oo) of the I.D.Act, 1947.

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;

Thus, in view of the above provision, Workman has to prove that he had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of his termination i.e., 31.3.1997. It is settled law that the initial burden of proof to prove the fact of 240 days of service in the 12 months of a calendar year just preceding from the date of termination, lies upon the Workman and he is duty bound to prove this factum by adducing oral as well as documentary evidence in support of his claim.

As regard burden of proof and calculation of 240 continuous working days, following decisions of Hon'ble Supreme Court are relevant as discussed here under:-

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."

19. Thus, in view of the law laid down by Hon'ble Apex Court as discussed above in respect of calculating the 240 days continuous service by workman as per provision under Section 25-F read with Section 25-B of the I.D. Act, 1947, we have to examine whether Workman herein 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 by his evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined himself as WW1 and in his oral testimony WW1 has stated that he joined the service of Respondent at Dharmavaram Branch, from 1989 to 31.3.1997 for 934 days as a temporary Messenger and worked continuously in that branch depending upon the availability of work and also as per the orders of bank officers till 31.3.1997. WW1 states that the Respondent has not given any advance notice to him before his termination and has not obtained prior permission from central government for his retrenchment and Respondent has not given him any order of termination. Further, WW1 states that he had worked Dharmavaram branch of the Respondent. WW1 further states that Ex.W1 is the service certificate dt. 17.7.91. Ex.W2 is the service certificate dt. 30.11.1996 showing that Petitioner worked for 855 days during 1993 to 1996. Ex.W3 is the service certificate certifying that Petitioner worked for 934 days. Ex.W4 is the letter dt. 28.5.2001 of the Zonal office. Ex.W5 to Ex.W7 are the service certificates showing he worked for 285 days in 1996. Ex.W8 is marks memo of SSC. Ex.W9 is notification. Ex.W10 is the certificate dt. 27.10.93 empanelling the Petitioner with Rol No. 5077.

21. Further WW1 states that he worked for more than 240 days continuously in different spells in one year period of time and he worked for 184 days continuously during the period from April, 1996 to November, 1996, Ex.W2 is the certificate in this regard. Lastly, Petitioner worked for 79 days from December, 1996 to March, 1997, Ex.W3 is the certificate in this regard. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis in the year 1989. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

The workman's working days during 1996-1997 is as follows:-

Month	Working days
April,1996	22
May, 1996	24
June, 1996	00
July, 1996	31
August, 1996	29
September, 1996	26
October, 1996	28
November, 1996	24

December, 1996	25
January, 1997	28
February, 1997	20
March, 1997	06
Total	263

Thus, sum of working days as shown in the above table is 263 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

22. However, Learned Counsel for Respondent bank has contended that the Petitioner has not worked continuously for 240 days in a calendar year with the Respondent and protection from termination is not available to Petitioner as per provision under section 25 F of I.D. Act, 1947. On going oral and documentary evidence available on record it manifest that Respondent had engaged the Petitioner as a temporary messenger in different spells as mentioned in his appointment letter during the total period of about 9 years. We may conclude from the documents filed in evidence on record, that the Respondent has created artificial breaks in the working days of the Petitioner in order to deprive him from completing 240 days of continuous service and in order to defeat social security provision under the I.D. Act, 1947. Moreover, Petitioner has been regularly engaged during the long period of 9 years by the Respondent as a temporary messenger and has created artificial breaks of few days or more in his engagement as employee. The conduct of Respondent in creating artificial breaks in engagement of workers is nothing but unfair labour practice adopted by Respondent in order to deprive the Petitioner from entitlement of any benefits of social security under the provision of I.D. Act, 1947. Thus, it can safely be concluded that Respondent with malafide intention has deliberately created artificial break in the employment of the Petitioner as a temporary messenger.

23. Thus, in view of the fore gone discussion and on going documentary and oral evidence on record I am of the view that the Workman had worked for 240 days continuously in 12 months of calendar year just preceding from the date of his termination i.e., 31.3.1997. Undisputedly, Respondent has not filed any document pertaining to the fact that 3 months notice was issued to the Petitioner as per provision contained under section 25N of the ID Act before termination of Petitioner for service by oral order w.e.f.1.4.1997. Further, there is no evidence on record to the fact that Respondent has paid any amount toward compensation. Therefore, oral termination order of the Petitioner from employment issued by Respondent with effect from 1.4.1997 is in contravention of provision contained under section 25N of the I.D. Act, 1947 and hence not sustainable in the eye of law.

In the case of **Shankar Bhimrao Kadam and others Vs. Tata Mototrs Limited, Bombay High Court in its** decision dated 28.2.2022 in Writ Petition No.5588 of 2017 have held:-

"52. I have independently assessed the entire oral and documentary evidence adduced before the Labour Court in these cases and upon analysis of the same, I have come to a firm conclusion that in hundreds of cases, the present Respondent has created a farcical picture by posing that the work allotted to the temporaries was limited only to the maximum extent of 7 months. As discussed above, the dedicated department for engagement of temporary workers, apparently kept a close watch on the duration of employment of these Petitioners and in a case like Balu Bapuji Shelke, who had put in 232 days in his first round and 238 days in his third round, his service was abruptly intercepted and he was disengaged. He had almost reached the figure of 240 days and was thrown out, after completing 238 days. This indicates that the Respondent-management has created an eye-wash and paper-work with the intention of creating evidence that no worker had completed 240 days. Even in Sunil Pralhad Khomane (supra), the learned judge of this court, after analyzing the entire evidence before him, concluded that the company has apparently misused Section 2(oo)(bb). For the reasons assigned by me and my esteemed brother in Sunil (supra), I find that the said conclusion was justified and in all these cases in hands, Section 2(oo)(bb) will not be applicable. To hold otherwise, would create a mockery of Section 2(oo)(bb).

58. It cannot be ignored from the various rounds of temporary employments of these temporaries that after one disengagement, they used to look forward for the next appointment order. As expected, they used to receive such appointment orders. They used to perform their duties not only till the tenure mentioned in the appointment order was completed, but even upto reaching any duration between 225 days to 238 days in one single stint of temporary employment. None of the temporaries in such cases, ever received an appointment order that a particular temporary would work for 238 days or 236 days, etc. The maximum tenure was an appointment for 7 months. This was not the pattern followed in *Mahindra & Mahindra Ltd., Nagpur* (supra), inasmuch, as it was noticed by this court in the said case that the workers used to work in other factories during their disengagement and had actually approached the Industrial Court after about 9 to 23 years."

Similarly, in the present case Respondent has issued number of appointment letters to engage the Workman for the work in different spells for his employment in its branches. The practice of Respondent management of issuance of the appointment letters in different spells for this engagement of the Petitioner Workman during the whole period for more than 10 years clearly manifest that Respondent management has adopted unfair labour practice in order to deprive the Workman from availing social security benefits accruing to him under the provision of Industrial Disputes Act, 1947.

24. Perused the record. Petitioner witness WW1 in his statement in chief has categorically stated that he had worked for more than 240 days continuously in different spells in a period of one year. He worked for 184 days continuously during the period from April to November, 1996 at Dharmavaram branch. Ex.W2 is the certificate in this regard. Lastly, he worked for 79 days from December, 1996 to March, 1997, Ex.W3 is the certificate in this regard. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1989 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 9 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

Respondent has cited number of decisions of Hon'ble Apex Court and Hon'ble High Courts which are being discussed as hereunder:-

In the case of **Bholaram vs. PO, Labour Court Ambala & ors CWP No.4784/2010** dated 2.6.2011, of Hon'ble High Court of Punjab & Haryana, wherein Hon'ble High Court have held that Petitioner is directed to be reinstated in the service with 50% of back wages.

Further, in the case of **Kuldeep Singh vs. G.M., Instrument Design D & F., DOD, dated 3.12.2010,** the facts of the case are that the Petitioner Kuldeep, the workman was appointed as a Data Entry Operator on daily wages on 8.10.1990 and he worked as such till 28.11.1991 and thereafter on adhoc basis and worked upto 26.5.1992 without any break when his services were terminated by the employer. The Respondent management, according to Petitioner, no notice or compensation in lieu thereof, was given for terminating his services though he had worked for 240 days in the preceding 12 months. In that case Hon'ble Supreme Court have held that the management has terminated the services of the Petitioner workman without complying the provision of Sec.25F of the I.D.Act, 1947 and the said order is illegal, null and void deserves to be set aside, and ordered reinstatement of the Appellant workman with consequential service benefits without back wages within a period of eight weeks.

Further, in the case of **State of Karnataka vs. Uma Devi Civil Appeal No.3595-3612 of 1990 dated 10.4.2006,** therein Constitutional Bench of Hon'ble Supreme Court have held,

"15. We have already indicated the constitutional scheme of public employment in this country, and the executive, or for that matter the Court, in appropriate cases, would have only the right to regularize an appointment made after following the due procedure, even though a non-fundamental element of that process or procedure has not been followed. This right of the executive and that of the court, would not extend to the executive or the court being in a position to direct that an appointment made in clear violation of the constitutional scheme, and the statutory rules made in that behalf, can be treated as permanent or can be directed to be treated as permanent.

…….

44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or

daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Thus, in the above cited decision Hon'ble Apex Court has laid down guidelines for deciding the question of regularization of the services of the employees. Further, as regard other decisions of Hon'ble Court filed by the Petitioner in support of his argument, therein, the Hon'ble Supreme Court has laid down the principle that the termination of the employee in contravention of the provision of Sec.25F of I.D. Act, 1947 is illegal and null and void and liable to be set aside.

Moreover, Hon'ble Supreme Court in the case of **Anoop Sharma vs. Exec. Engineer Public Health Division dated 9.4.2010, Civil Appeal No.3478 of 2010** have held**:-**

"15. In State Bank of India v. N. Sundara Money (supra), the Court emphasised that the workman cannot be retrenched without payment, at the time of retrenchment, compensation computed in terms of *Section 25-F(b)*.

16. The legal position has been beautifully summed up in Pramod Jha v. State of Bihar (supra) in the following words:

"The underlying object of Section 25-F is twofold. Firstly, a retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding retrenchment compensation and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment. Section 25-F nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice; on the contrary, clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment or tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind it would result in nullifying the retrenchment.

17. If the workman is retrenched by an oral order or communication or he is simply asked not to come for duty, the employer will be required to lead tangible and substantive evidence to prove compliance of Clauses (a) and (b) of Section 25-F of the Act."

Thus, in view of the fore gone discussion and principle laid down by the Hon'ble Apex Court as discussed above, we arrive at conclusion that services of workman has been terminated by the Respondent in violation of provision of I.D. Act, 1947 and hence not sustainable in the eye of law.

Therefore, Issue No.I is answered in favour of the Workman and against the Respondent.

25. **Issue No.II:-** In view of the discussion and finding given at Issue No.I, it is established that the Workman had worked for more than 240 days in a calendar year just preceding from the date of termination. Respondent has not issued any notice under Sec.25 N of I.D.Act, 1947 before termination of workman and has not paid any compensation as per provision contained under Sec.25 F of the I.D.Act, 1947. Therefore, the termination of Petitioner from service vide oral order dated 31.3.1997 by the Respondent is in contravention of the provision contained under Section 25-F of the I.D. Act, 1947 and is illegal and not justified and liable to be set aside.

26. Now, let us see whether workman is entitled for reinstatement in the service or for any other relief.

In this context the reference of decision of Hon'ble Supreme Court is relevant. In **Ashok Kumar Sharma Vs. Oberoi flight Services AIR 2010 SCC page 502** Hon'ble Supreme Court have held:-

8. In the case of Sita Ram V. Moti Lal Nehru Farmers Training Institute2 this Court considered the matter thus:

"21. The question, which, however, falls for our consideration is as to whether the Labour Court was justified in awarding reinstatement of the appellants in service.

22. Keeping in view the period during which the services were rendered by the Respondent (sic appellants); the fact that the Respondent had stopped its operation of bee farming, and the services of the appellants were terminated in December 1996, we are of the opinion that it is not a fit case where the appellants could have been directed to be reinstated in service.

23. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of appointment, the period of appointment, the availability of the job, etc. should weigh with the court for determination of such an issue.

24. This Court in a large number of decisions opined that payment of adequate amount of compensation in place of a

direction to be reinstated in service in cases of this nature would subserve the ends of justice. (See Jaipur Development Authority v. Ramsahai [(2006) 11 SCC 684], M.P. Admn. v. Tribhuban [(2007) 9 SCC 748] and Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353])

25. Having regard to the facts and circumstances of this case, we are of the opinion that payment of a sum of Rs. 1,00,000 to each of the appellants, would meet the ends of justice. This appeal is allowed to the aforementioned extent. In the facts and circumstances of this case, there shall be no order as to costs."

9. The afore-referred two decisions of this Court and few more decisions were considered by us in the case of Jagbir JT 2008 (3)SC622 Singh V. Haryana State Agriculture Marketing Board3 albeit in the context of retrenchment of a daily wager in violation of section 25F of Industrial Disputes Act who had worked for more than 240 days in a year and we observed thus:

"7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."

Further, in the case of **State of Himachal Pradesh vs. Suresh Kumar Verma & anr. 1996 AIR 1565, three Judge Bench of Hon'ble Apex Court** have held**:-**

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments shall be made accordingly. From the date of discharging the duties attached to the post the incumbent becomes a member of the services. Appointment on daily wage basis is not an appointment to a post according to the Rules.

It is seen that the project in which the Respondents were engaged had come to an end and that, therefore, they have necessarily been terminated for want of work. The Court cannot give any directions to re-engage them in any other work or appoint them against existing vacancies. Otherwise, the judicial process would become other mode of recruitment de hors the rules.

Mr. Mahabir Singh, learned counsel for the Respondents contended that there was an admission in the counter affidavit filed in the High Court that there were vacancies and that, therefore, the Respondents are entitled to be continued in service. We do not agree with the contention. The vacancies require to be filled up in accordance with the rules and all the candidates who would otherwise eligible are entitled to apply for when recruitment is made and seek consideration of their claims on merit according to the Rules for direct recruitment along with all the eligible candidates. The appointment on daily wages cannot be a conduct pipe for regular appointments which would be a back-door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for Class IV employees recruitment according to rules is a pre-condition. Only work-charged employees who perform the duties of transitory nature are appointed not to a post but are required to perform the work of transitory and urgent nature so long as the work exists. One temporary employee cannot be replaced by another temporary employee."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 9 years i.e., from 1989 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

27. Now question arises how much compensation would meet ends of justice. In view of the circumstances of the case, Workman has served in the service of the Respondent management from 1989 to 1997 in different spells and has also gone under physical and mental agony during long period of litigation for more than 24 years at different levels. In the opinion of the court payment of a sum of Rs.2,00,000/- as lumpsum compensation to the Workman would meet the ends of justice. Therefore, the claim statement is partly allowed.

28. However, the learned counsel for Petitioner has also argued that the Petitioner Workman is entitled for regularization in the employment of the Respondent management on the basis of his empanelment in the waiting list for regularization. Therefore, the Petitioner is entitled for regularization in the service of the management.

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in

the Respondent bank in different spells from 1989 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

"to direct the Management to reinstate and absorb the workman in the service of the bank and grant all incidental and consequential benefits of reinstatement, back wages and continuity of service, etc.,"

Thus, in the absence of any pleading and evidence in support of Petitioner's claim of regularization in the employment of Respondent, the plea in respect of regularization is not maintainable.

In this context I would like to make reference of the decision of Supreme Court in the case of **Ram Sarup Gupta(dead) by LRs v. Bishun Narain Inter College and others 1987 AIR 1242**. In this case Hon'ble Supreme Court have held:-

"It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case setup by it. The object and purpose of pleading is to enable the advisory party to know the case it has to meet. In order to have a fair trial it is imperative that the party should state the essential material facts so that other party may not be taken by surprise."

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri Mekala Nalappa, Temporary Messenger, with effect from 31.3.1997 is held not justified. Therefore, termination order dated 31.3.1997 is hereby set aside. Respondent is directed to pay compensation of Rs.2,00,000/- (Rupees two lakhs) to the workman within two months from the date of receipt of this award. 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 16th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Mekala Nalappa	MW1: NIL

Documents marked for the Petitioner

Ex.W1:	Photocopy of the service certificate dt. 17.7.91
Ex.W2:	Photocopy of the service certificate dt. 30.11.1996 showing that Petitioner worked for 855 days during 1993 to 1996
Ex.W3:	Photocopy of the service certificate certifying that Petitioner worked for 934 days
Ex.W4:	Photocopy of the letter dt. 28.5.2001 of the zonal office
Ex.W5:	Photocopy of service certificate dated 31.3.97
Ex.W6:	Photocopy of service certificate dated 26.11.2002
Ex.W7:	Photocopy of service certificate dated 24.7.2002
Ex.W8:	Photocopy of marks memo of SSC
Ex.W9:	Photocopy of is notification

Ex.W10: Photocopy of the certificate dt. 27.10.93 empanelling the Petitioner with Rol No. 5077.

Documents marked for the Respondent

NIL

नई दिल्ली, 19 मई, 2026

का.आ. 1115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन एल.सी.के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्यागिक अधिकरण – सह – श्रम न्यायालय**, जबलपुर के पंचाट(एलसी/27/2019) को प्रकाशित करती है,

[सं. एल-22013/01/2026-आईआर(सी. एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 19th May, 2026

S.O. 1115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.LC/27/2024*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **N.C.L** and their workmen,

[No. L-22013/01/2026 – IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR [M.P.]

NO. CGIT/LC/ R/27/2024

Present: P.K.Srivastava

H.J.S.(Retd.)

Ashok Mandal,

B, 90, nsc Jayant Singrauli,

Singrauli,

Madhya Pradesh- 486890

Workman

V/s

General Manager, Jhingurda,

Singrauli,

Madhya Pradesh- 486890

Management

(JUDGMENT)

(Passed on this 17th day of February, 2026)

As per letter dated ***23/01/2024*** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under ***Section-10 of Industrial Disputes Act, 1947*** (in short the '***Act'***) as per Notification ***No. SH-1(27)/2023*** dt. ***23/01/2024***. The dispute under reference relates to:-

> ***"Whether the action of the NCL Jhingurda management to terminate the services of Shri Ashok Mandal workmen without conducting proper and just departmental enquiry as per principle of natural justice is correct? If not what relief the workmen is entitled to?"***

According to the workman, he was employed by management. His services were terminated by management i.e., General Manager, NCL vide his order dated 21.06.2010. After three years of his service, he was

issued a charge sheet with allegation that he had obtained appointment on the basis of false and forged caste certificate, which was misconduct in the Certified Standing Order. He did submit his reply and stated that his certificate was genuine and was issued by a Competent Authority. The management conducted a departmental enquiry framed the charges without giving him full opportunity of defense and against basic principles of natural justice. The enquiry officer submitted his enquiry report with his finding against evidence collected during the enquiry by way of ignoring the letter sent by the Joint Collector in Panna in this respect on 08.09.2010. His services were terminated on the basis of enquiry report hence, the whole action of conducting enquiry and passing termination order is unjust, illegal and arbitrary. He challenged this order by way of Writ Petition No. 4314/2014 before Hon'ble High Court of M.P. at Jabalpur. Later on, he withdrew the said writ under permission of Hon'ble High Court on the basis of pursuing remedy before proper forum. Thereafter, he raised a dispute in this respect before concerned Labour Commissioner after failure of conciliation. Hence this Reference.

The workman has prayed that holding the order of termination of his services passed by the disciplinary authority illegal, he be held entitled to be reinstated with all back-wages and benefits.

The case of management is that there was a special drive for appointment from Schedule Tribe Community in the year 2007. The applicant claimed himself to be a member of Schedule Tribe Community and was appointed by management as Technician Electrician Category-III, vide order dated 19.07.2007. It was specifically mentioned in his appointment letter that, in case his documents with respect to his educational qualification, caste certificate/license and declaration found incorrect at enquiry his service could be terminated, he accepted these conditions and joined his service. His caste certificate, issued by Tahsildar Panna on 08.02.1999 was sent to Collector, Panna, for verification. Collector, Panna informed the management after enquiry, vide his letter dated 18.08.2008 that the said certificate dated 08.02.1999 was infact not issued by Tahsildar, Panna and there was no entry in the relevant registers in this respect maintained in the office of Tahsildar. He was issued a charge-sheet for misconduct on 20/22-06-2009, he did file his reply dated 30.06.2009 and denied the allegations. He filed letter of Deputy Collector, Panna dated 29.06.2009, sent by him to the Sub-Divisional Officer (Revenue) directing him to conduct enquiry in this respect and send his report to Deputy Collector, Panna. But, the workman did not produce any report, said to be submitted by the Sub-Divisional Officer (Revenue) to the Deputy Collector of eight months. Hence, enquiry was conducted in which he was given opportunity to defend himself and based on the documents/letter of Collector, Panna which stated that his caste certificate was in fact not issued by Tahsildar as claimed by him, the enquiry officer held him guilty of the misconduct and based on the enquiry report, the workman was terminated by the Competent Authority, after his reply with respect to show cause notice issued on the basis of enquiry report, was found not sufficient.

Vide order dated 27.11.2024, following Issues were framed:-

1) Whether the departmental enquiry conducted is legal and proper?

2) Whether the finding of Enquiry Officer holding the charge proved is correct in law?

3) Whether the punishment awarded is proportionate to the charge proved?

4) Whether the workman is entitled to any relief?

Issue No.1,

This issue was decided as a preliminary issue on the basis of evidence on record, vide order dated 25.11.2025 a departmental enquiry was held vitiated in law, management was granted opportunity to prove the charges before this Tribunal, this order is part of this Award.

Management examined its witness Kamla Prasad Sharma, he proved two documents, no other witness was examined by management in proof of charge.

I have heard argument of Learned Counsel for workman, Mr. Shailesh Mishra and Mr. Amit Kumar Jaiswal, Learned Counsel for management. Parties have filed written submissions also which are part of record. I have gone through written submissions and the record as well.

Issue No. 2

This issue stands amended to the extent whether management had successfully proved the charge before this Tribunal.

The charge against the workman is as follows:-

That he produced his caste certificate dated 08.02.1999 and got appointment on the post of Electrician Category-III in Schedule Tribe quota by way of claiming himself to be a member of Schedule Tribe which was found not genuine hence, committed misconduct under clause 26.1, 26.9 and 26.43 of the Certified Standing Orders which are as follows:-

26.1*:- Theft, fraud or dishonestly with respect to business or property of the employer.*

26.9*:- Furnishing wrong information with respect to name, age, father's name, qualification, etc for seeking employment with the management.*

***26.43**:- Violating the standing orders.*

The management witness, who has been cross-examined by management to prove the charges has proved two documents which are:-

(1) Letter of Collector, Panna M.P., dated 16.06.2011, signed by Collector, Panna, this letter is being reproduced as follows:-

"Please take the trouble to see the referenced letter in which it is written regarding the caste certificate of Shri Ashok Kumar Mandal that information has been sought regarding the contradiction in different letters issued from this office, after the issue of letter no. 597/Shika/ID 3050/2008 dated 11/08/2008, no. 352/General/09 Panna dated 23/3/09 from this office, on the application of applicant Ashok Mandal, the case was re-investigated by letter no. 668 dated 29/6/09 from Sub-Divisional Officer (Revenue) Panna. According to the investigation report received from the Sub-Divisional Officer (Revenue), Panna, letter no. 447 / Complaint / ID 3050/2010 dated 08/09/10 has been issued (photocopy of which is enclosed). With the effect of this letter, the earlier issued letter no. 597 dated 11/08/08 and letter no. 352 dated 23/03/09 automatically become void." (English translation of Hindi text)

(2) The contents of second document proved, which is a letter dated 30.08.2011, signed by Deputy Collector on behalf of Collector Panna, are being reproduced as follows:-

"Please review the referenced letter. Mr. Rajesh Chaudhary of your office appeared in this office. The referenced letter, No. 764/Complaint/ID3050/2011, dated June 16, 2011, was not issued by this office. Please be informed."

Thus, the situation which emerges ***firstly***, there was a report from Collector for the caste certificate was infact not issued by the Tahsildar. ***Secondly***, the letter dated 16.06.2011 issued by Collector that, on re-enquiry it was found that the said certificate was infact issued by the Tahsildar. ***Thirdly***, letter dated 30.08.2011 is issued by Deputy Collector which states that the letter dated 16.06.2011 have infact not been issued by the Office. The management witness who has filed his affidavit and has appeared for cross-examination, states in his cross-examination that he does not recognize the signature of Collector and Deputy Collector, he also cannot tell on the basis of which enquiry these letters have been issued, it was incumbent on management, to prove clearly and specifically that the latest letter issued by the Deputy Collector, as mentioned above. In absence of such evidence, it cannot be held that the management has successfully proved the charges.

Issue No. 2 stands answered accordingly.

Issue No. 3

In light of above discussion and findings, the workmen are held entitled to no relief. The Judgment passed by the Hon'ble High Court, in the case of Deepali Gundu Surwase, is referred hereunder:-

"In the referred case itself, Hon'ble High Court has referred to a judgment of Hon'ble High Court in the case of Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & others (2013)10SCC 324

The relevant paragraphs of the said judgment are being reproduced as follows:

The Supreme Court in the said case has observed as under:-

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

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

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

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful/ illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

Issue No. 3 stands answered accordingly.

Issue No. 4

In light of above, proposition of law, the workman is held entitled to be reinstated with continuity of service and back-wages.

Issue No. 4 stands answered accordingly

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

AWARD

"*Holding the action of the NCL Jhingurda management to terminate the services of Shri Ashok Mandal workman, unjust and illegal, the workman is entitled to be reinstated with back-wages and benefits, deeming him to be in continuous service of the management."*

No order as to cost.

DATE:- 17-02-2026

P.K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 मई, 2026

का.आ. 1116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **कानपुर** के पंचाट (12/2021) प्रकाशित करती है।

[सं. एल-12011/47/2020-आईआर(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 25th May, 2026

S.O. 1116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12011/47/2020- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Present Sri Rajendra Prasad Srivastava (Retd. H.J.S.)

ID 12/2021

F. No. L-12011/47/2020(IR(B-II) Dated: 04.01.2021

BETWEEN

The General Secretary,

Union Bank Employees Union, UP,

C/o 628/M-33, Muari Nagar,

Faizabad Road,

Lucknow-226017.

AND

The Dy. General Manager,

Union Bank of India,

Regional Office, Daudpur, Pt. Harihar Prasad Road,

Gorakhpur.

AWARD

By order F. No. L-12011/47/2020(IR(B-II) Dated: 04.01.2021 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, referred the following dispute to this Tribunal for adjudication:

> *"Whether the demand of Union Bank Employees Union over non regularization of services of part time/casual labours working in various branches of Gorakhpur Region of Union Bank of India (as per list at Annexure-1) as per bipartite settlement dated 25.11.2013 by the management of Union Bank of India is legal and justified? If not, to what relief these workmen concerned are entitled to and from which date?"*

Accordingly, ID case 12/2021 registered before this Tribunal.

During the hearing of the case legal representative of workmen moving an application on 30.04.2024 and requested in the said application:

> *"Your Hon'ble Court is informed that the Union has now decided not to press the above ID No. 12/2021 for further adjudication, due to some technical reason. Accordingly your Hon'ble Court is prayed to please allow the Union not to press the case at this stage due to above reason mentioned."*

Upon that learned counsel of respondent write no objection.

By way of said application workmen representative requested not press above case.

I have heard Shri Rakesh Pandey for the side of applicant/workman and Shri Neeraj Sharma for respondent and gone through the record.

In the light of the circumstances and above application the reference has become infructuous and stands answered accordingly.

Dated: 02.02.2026

RAJENDRA PRASAD SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मई, 2026

का.आ. 1117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.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**, जबलपुर के पंचाट(एलसी/13-A/01/2020) को प्रकाशित करती है,

[सं. एल-22013/01/2026-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 19th May, 2026

S.O. 1117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.LC/13-A/01/2020*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **N.C.L** and their workmen,

[No. L-22013/01/2026 – IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/13-A/01/2020

Present: P.K.Srivastava

H.J.S.(Retd.)

M.P. Tiwari,
S/o Late Shri Ramhit Tiwari,
Aged about 58 years,
Occupation- Crane Operator
Khadia Project N.C.L. Singrauli
and Regional Secretary of Trade Union
Northern Coal Field Ltd.,
Principal Head Quarter (Mini Ratra Company)
Subsidiary of CIL Singrauli (MP)

Workman

Versues

1. **Chairman, Coal India Ltd.**
   Coal Bhawan, Premise No.04,
   MAR, Plot No. AF III, Action area-1A,
   new Town, Rajarhat, Kolkata-700156
2. **C.M.D. Northern Coal Field Ltd.**
   Principal H.Q. Singrauli(MP) 486889
3. **Regional Chief Labour Commissioner (Central)**
   Certifying Officer, 1st Floor,
   Eastern Express Hwy,
   SION, Mumbai, Maharastra- 400022.
4. **Director Personnel N.C.L.**
   Principal H.Q. Singrauli (MP) 486889
5. **Senior Legal Manager**
   Legal Department N.C.L. HQ,
   Singrauli (MP)-486889

Management

(AWARD)

(Passed on this 27th day of February, 2026)

Petition under Section 13-A has been filed by the Union Representative with the case that the Management of N.C.L. is a subsidiary of Coal India. They have issued Standing Order dated 07.08.1991 which are Certified Standing Orders for N.C.L. It does not provide the authorized Competent Authority for issuing the charge sheet for minor punishment and for major punishments. According to this Certified Standing Order G.M./C.G.M. shall be final Disciplinary Authority, hence no person other than the G.M. or C.G.M. can issue charge sheet of punishment orders. Further alleged that, the whole Standing Order is ambiguous and lack clarity. He has prayed that the last part of the Certified Standing Order be explained.

The Case of the Management is that the Certified Standing Orders has been duly certified by the Chief Labour Commissioner. A Writ Petition No. 5829/2012 and 2199/2019 are pending in this matter before the Hon'ble High Court of M.P., hence, since the matter is pending disposal before Hon'ble High Court of M.P., this petition is not maintainable before this Tribunal.

A significant fact of this case is that, after filing the petition, the petitioner side never appeared in this case. I have heard argument of Learned Counsel Mr. Rajneesh Sharma for Management and have gone through the record.

Undisputedly, a Writ Petition is pending with respect to same disputes before Hon'ble High Court hence, it is not proper to proceed or pass any final order in the case in hand because the matter is fully covered in the said Writ Petitions.

Moreover, the petitioner never appeared to press this petition.

In these circumstances, the petition deserves to be dismissed and is dismissed accordingly.

ORDER

Petitions dismissed.

No order as to cost.

DATE:- 27.02.2026

P. K. SRIVASTAVA, Presiding Officer

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