रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

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सं. 31] नई दिल्ली, अगस्त 9—अगस्त 15, 2026, शनिवार/ श्रावण 18—श्रावण 24, 1948
No. 31] NEW DELHI, AUGUST 9—AUGUST 15, 2026, SATURDAY/ SHRAVAN 18– SHRAVAN 24, 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)

संचार मंत्रालय
(डाक विभाग)

नई दिल्ली, 22 जून, 2026

का.आ. 1691.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय महाप्रबंधक (वित्त),
डाक लेखा **कार्यालय**,
भोपाल- 462027

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

MINISTRY OF COMMUNICATIONS

(Department of Posts)

New Delhi, the 22nd June, 2026

S.O. 1691.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the General Manager (Finance)
Postal Accounts Office,
Bhopal - 462027

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 22 जुलाई, 2026

का.आ. 1692.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

मुख्य पोस्टमास्टर जनरल का कार्यालय,

जम्मू एवं कश्मीर सर्कल,

श्रीनगर – 190 001,

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd July, 2026

S.O. 1692.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Chief Postmaster General,

Jammu & Kashmir Circle,

Srinagar- 190 001

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 22 जुलाई, 2026

का.आ. 1693.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय पोस्टमास्टर जनरल

बरेली परिक्षेत्र,
बरेली- 243001,

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd July, 2026

S.O. 1693.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Postmaster General,

Bareilly Region,

Bareilly - 243001

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 22 जुलाई, 2026

का.आ. 1694.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय अधीक्षक डाकघर,

शिवपुरी संभाग,

शिवपुरी- 473 551

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd August, 2026

S.O. 1694.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Superintendent of Post Offices

Shivpuri division,

Shivpuri – 473 551

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 25 जुलाई, 2026

का.आ. 1695.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय अधीक्षक डाकघर,

मंडला संभाग,

मंडला - 481 661

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd July, 2026

S.O. 1695.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Superintendent of Post Offices

Mandla division,

Mandla – 481 661

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 22 जुलाई, 2026

का.आ. 1696.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय अधीक्षक डाकघर,

विदिशा संभाग,

विदिशा- 464 001

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd August, 2026

S.O. 1696.— ……. In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Superintendent of Post Offices

Vidisha division,

Vidisha - 464 001

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

नई दिल्ली, 22 जुलाई, 2026

का.आ. 1697.— केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:-

कार्यालय अधीक्षक डाकघर,

सतना संभाग,

सतना – 485 001

[फा. सं. ई-11017-1/2026-रा.भा.]

मनोज कुमार, उप महानिदेशक (प्रशिक्षण/राजभाषा)

New Delhi, the 22nd July, 2026

S.O. 1697.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Superintendent of Post Offices

Satna division,

Satna – 485 001

[F. No. E-11017-1/2026-OL]

Manoj Kumar, Deputy Director General (Training/OL)

श्रम एवं रोजगार मत्रालय

नई दिल्ली, 30 जुलाई, 2026

का.आ. 1698.— औघोगिक विवाद अधिनियम 1947 ;1947 का 14द्ध की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और श्री गिरजा शंकर तिवारील के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय कानपूर के पंचाट (64/2013) प्रकाशित करती है।

[सं0 एल-12012/125/2012-आई आर (बी-II)]

सलोनी, उप निदेशक

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 30th July, 2026

S.O. 1698.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 64/2013*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Kanpur*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and **Shri Girja Shanker Tiwaril.**

[No. L-12012/125/2012-IR(B-II)]

SALONI, Deputy Director

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

ID Case No. 64 of 2013

Present ShriRajendra Prasad Srivastava, H.J.S. (Retd.)

Shri Girja Shanker Tiwaril,

S/o Shri Chhote Lal Tiwari,

C/o Shri O.P. Mathur,

117/K-36, Sarvodaya Nagar,

Kanpur (U.P.)- 208025.

…….Workman

Vs.

(i) The General Manager,

State Bank of India,

MotiMahal, Hazratgaj,

Lucknow.

(ii) The Zonal Manager,

State Bank of India,

Mall Road,

Kanpur (U.P.)

……Management

(JUDGMENT)

(Passed on this 24th day of April, 2026)

As per letter dated 16/05/2013 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-12012/125/2012-IR(B-I) dt.16/05/2013. The dispute under reference relates to:

> *"Whether the action of the management of State Bank of India in terminating the services of Shri Girja Shanker Tiwari S/o Shri Chhote Lal Tiwari workman with effect from 01.05.1988 and not considering his name for reemployment while reemploying others including the recruitment of fresh hands is just fair & legal? If not, to what relief the workman concerned is entitled to?"*

Claimant/workman Girja Shanker Tiwari (hereinafter stated as the claimant) has filed the statement of claim with averments which may be concisely stated as hereunder:

(I) Claimant/applicant was employed under the Zonal Office, State Bank Of India Kanpur in Gwaltoli Branch, Kanpur in subordinate cadre. The service of the applicant was terminated on 01.05.1988 in violation of the provisions of Industrial disputes Act 1947. (Central) After the termination of the service of the applicant new hands have been employed in place of the applicant in violation of Section 25 H of the Industrial Disputes Act 1947.

(II) The action of the employer in terminating the services of the applicant is illegal and is unfair labour practice because the applicant was working on the permanent post, but after termination of the applicant new hands had been employed. This is also against the principles of natural justice.

(III) The employer has done this type of unfair labour practice and illegal work and exploitation i.e. engaging one workman and terminating his service after few days and then again engaging another person and again terminating his services is being done with hundreds of persons. The applicant along with number of such other victimised persons started agitation by staging Dharna, demonstrations etc. against the illegal, unfair and unjust action of the State Bank of India.

(IV) Thereafter, due to protest of the workmen, the State Bank of India decided to hold tests/interview so that regular and permanent appointment may be given to workmen who have already worked in the Bank.

(V) The action of the Bank in holding test/interview was illegal because under the provisions of the Industrial Disputes Act 1947 the applicant was a retrenched employee and he was to be given appointment in the Bank not on the basis of any test/interview. But directly by the Bank as provided under Section 25 H of the Industrial Disputes Act 1947.

(VI) The bank invited applications through advertisements in newspaper for giving permanent appointment in the Bank. The applicant also applied and he appeared in the interview held in August 1991. The applicant passed in the interview The Bank for illmotive and malafide reasons did not give permanent appointment to the applicant. It is submitted that the intention of the Bank was not fair through out and they wanted to get rid, by deceiving, the applicant and other workmen as such instead of giving appointment to the applicant. the Bank kept the name of the applicant in the waiting list. The Bank for malafide reason and unfair labour practice did not inform anything to the applicant nor published the waiting list in the news papers or otherwise. However from the enquiries it came to the knowledge of the applicant that I have passed in the interview and my name was in within 20 of the waiting list for giving permanent appointment in the Bank. It is requested that the Hon'ble Tribunal be pleased to summon the waiting of 1991 from the Bank so that justices may be done.

(VII) Out of aforesaid waiting list of 1991 all most all the candidates have been appointed by the Bank but the Bank has not given appointment to the applicant. This is clearly unfair labour practice and illegal action of the Bank and it is also against the principles of natural justices.

(VIII) The Bank has hided all the information regarding result of interview, serial number in the waiting list, how many persons have been appointed etc. from the workmen so that the workmen may not get employment in the Bank. But it has come to the knowledge that the applicant's name was within 20 in the

said waiting list. The Bank has appointed more than 200 persons who are junior in the list and new hands than applicant. The action of the Bank is illegal and unjust by all means.

(IX) The termination of the applicant is retrenchment as defined in the Industrial Disputes Act 1947. The employer has not paid notice pay and retrenchment compensation. As such the termination of the applicant is illegal and unjust and the applicant is entitled to the reinstatement with continuity of service and full back wages.

(X) After the termination of the applicant so many new hand have been appointed by the Bank. As such the action of the Bank is illegal and unjust and the applicant is entitled to be reinstated with continuity of service and full back wages.

(XI) The name of the applicant was within 20 of the waiting list of 1991. The applicant has not been given appointment but all most all the persons from the said waiting list have been appointed. As such the action of the Bank is illegal and unjust and the applicant is entitled to be reinstated with continuity of service and full back wages.

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

(i) It is essential to mention that to abuse/misuse of the provisions of the I. D. Act 1947[14 of 1947] instant industrial dispute has been raised by the applicant regarding his alleged termination from 01.05.1998, which is not tenable in the eyes of law. On this alone ground case is liable to be dismissed at the very outset by the Hon'ble Tribunal.

(ii) The alleged disengagement being of 1988&23 years have passed since then the industrial dispute cannot be said to have survived & a stale alleged dispute can not be allowed be raised now.

(iii) It is specific to state that to create illegal pressure upon the bank's management, General Manager, Lucknow as well as Zonal Manager, Kanpur have knowingly been made parties by the claimant in the present dispute whereas claimant never worked for a day in both offices. It is made clear that relationship of employer & employee does not exist between the rival parties. In the light of above given facts claim is legally not maintainable & is deserved to be rejected forthwith by the Hon'ble court.

(iv) It is clearly submitted that present case is out of ambit of continuous service as defined in section 25 B of the act because applicant never pleaded before the A.L.C. [C] that he had worked for 240 days at Gwaltoli Branch, Kanpur therefore provisions of section 25 F do not attract in the instant matter.

(v) It is necessary to add that claimant was not engaged in the bank against any post. To enrich our contention it is narrated here that there is a prescribed procedure for appointment in the respondent bank, which is evident from fact that appointment letter was not filed by the applicant along with his claim statement before the Hon'ble Court.

(vi) It is mentioned here that panels of suitable persons were prepared by the selection committee after conducting interviews of eligible persons & list of successful persons was published at notice board of the bank at relevant point of time. It has to be informed that thereafter a settlement on 09.06.95 was entered into between above referred parties before Shri A. Prabhakar Regional Labour Commissioner [Central], Hyderabad that panels of temporary employees & daily wagers will be kept alive upto March 1997 & after lapse of said date claim of persons empanelled is not tenable in the eyes of law as settled by Apex Court as well as various High Court.

(vii) In reply to assertions of paras 12 & 13 of the claim it is submitted here that claimant was never appointed in bank hence question of his alleged retrenchment does not arise. It is submitted that even if the self serving allegation of the claimant is accepted that he has worked and that subsequently during the process of giving chance of absorption, he was invited for interview, the said process of holding interview conducted in terms of settlements constitutes compliance of section 25 H of the I.D. Act as has been held by the Hon'ble Supteme Court in Regional Manager S.B.I. V. Rakesh Kumar Tiwari AIR 2006 S.C. 839. Also even if the self serving statement of the claimant is further accepted that his name was included in the panel of candidates wait listed for appointment against future vacancies but he is not found entitled to get claimed relief in the light of view taken by Hon'ble Apex Court that wait listed candidates can not have a valid claim to any post upon the lapse of the wait list panel.

(viii) In claim statement is mere reiterations. It is clearly submitted that applicant is not entitled to get relief claimed from the hon'ble court. In the light of afore-mentioned true facts claim has no force of law & on the face of given reply case may be turned down by the Hon'ble Tribunal.

After that applicant filed rejoinder against written statement filed by opposite party is read as under:

1. The contents of Para No. 1 of the written statement of the employer is wrong, baseless and against the provision of Law hence are not admitted. In reply it is submitted that the services of the applicant has been illegally and unjustly terminated by the employer. The termination of the applicant is retrenchment. The employer has appointed new hands but has not given chance to the applicant as required under section 25 H of the Industrial Dispute Act 1947. The Labour Law is for the welfare and protection from the exploitation of workmen i.e. weaker section of the society. Therefore the law makers, i.e the Parliament of the country, keeping all these facts and circumstances in mind and past experienced did not mention any time limit for reemployment of retrenched workers in section 25 H of the Industrial Dispute Act 1947. In view of these submissions no one including all courts of the country can and should not impose any time limit for raising such dispute in the name of old cases or belated case. As Such the objection is baseless and misconceived and is liable to be rejected.

2. The contents of Para No. 6 of the written statement of the employer are wrong, baseless and misconceived hence are not admitted. In reply it is submitted that the applicant was engaged against a clear post. The Opposite Party Bank is a very big exploiter, The Opposite party engaged the applicant and after termination engaged another person. Thus the Bank has engaged number of persons. The action of the employer is unfair labour practices, malafide and exploitation of poor workers and action of the employer is to be condemned.

3. The contents of Para No. 12 of the written statement as are stated are not correct hence are not admitted. In reply it is submitted that the settlement at Hyderabad has no concerned or meaning with Kanpur employees. It is also submitted that the applicant was never member of any union or federation as such the agreement signed by the so called union or federation is not binding upon the applicant. This is a fraud done by the Bank to befool the employees who were demanding reinstatement as per law. The citations of the rulings are not mentioned in the para under reply as such no proper comments can be offered on it. However it is submitted that if full facts of the case before the Hon'ble court were submitted the decision must have been in favour of the employees.

Applicant filed some documents which are read as under:

1. Certificate issued by the Employer.

2. Certificate issued by the employer.

3. List of employees employed after my termination.

4. Employer application dated 18.5.1996

5. Proof of agitation, paper cuttings 12.

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

1. Copy of settlement dated 17.11.1987.
2. Copy of settlement dated 27.10.1988.
3. Copy of settlement dated 09.01.1991.
4. Copy of settlement dated 09.06.1995.

Main question in this reference is that Whether the action of the management of State Bank of India terminating the services of Shri Girja Shanker Tiwari S/o Shri Chhote Lal Tiwari workman with effect from 01.05.1988 and not considering his name for reemployment while reemploying others including the recruitment of fresh hands is just fair & legal? If not, to what relief the workman concerned is entitled to?

Applicant said that he was employed in opposite party bank. His service was terminated on 01.05.1988 against the provision of Industrial Dispute Act and against the termination of the service of the applicant new hands have been employed in place of applicant. This is unfair labour practice because applicant was working on the permanent post. Due to protest of workmen, opposite party decided to hold test/interview so that regular and permanent appointment may be given to workmen who have already worked in the Bank. The applicant was a retrenched employee and he was to be given appointment in the Bank not on the basis of any test/interview as provided ID Act. The applicant applied and he appeared in the interview held in August 1991. The applicant passed in the interview but due to illmotive and malafide reasons bank did not give permanent appointment to the applicant. The bank kept the name of the applicant in the waiting list. The bank for malafide reason and unfair labour practice did not inform anything to the applicant nor published the waiting list in the news papers or otherwise.

Against that opposite party said in our written statement that the alleged disengagement being of 1988 and after 23 years the industrial dispute cannot be raised. It is also made clear that relationship of employer and employee does not exist between the rival parties and this case is out of ambit of continuous service as defined in section 25 B of the Act.

The applicant was not engaged in the bank against any post and never appointed in the bank hence the question of his alleged retrenchment does not arise. It is also mentioned here that panels of suitable persons were prepared by the selection committee after conducting interviews of eligible persons and list of successful persons was published at notice board of the bank.

Now the main question is applicant is working on permanent post as stated in para 2 of the our claim statement.

Applicant filed by paper number 10/2 certificate issued by the employer in this certificate the applicant worked in the bank as Temporary Messenger on daily wages from 03.02.1987 to 22.05.1987 for 89 days only. In paper number 10/3 certificate issued by the employer in this certificate the applicant worked in the bank as a casual labour for 89 days from 02.02.1988 to 30.04.1988 and in paper number 10/4 list of employees employed after my termination i.e. Ram Chandra, Ajay Kumar, Rakesh Kumar and Satish Chandra.

To decide above question the documentary/oral evidence of the parties are important.

On perusal of the record it emerged out that the applicant filed an applicant for summoning of documents which are as under:

1. Vouchers of three years relating to newly appointed employees after terminating the service of worker.
2. The result of interview held in 1991 in which applicant had appeared along with its waiting list.
3. Seniority list of sub staff with the date of appointment under SBI Zone Office, Kanpur.
4. Copy of application dated 18.05.1996 filed by employer in ID case no. 03 of 1987.

In rebuttal written objection has been filed by opposite party bank.

On 24.04.2018 this Tribunal has passed an order which is read as under:

> *I have heard parties auth. Representatives on the application of the worker for summoning documents from the management and its objection filed by the management.*
>
> *The reference in the Industrial Dispute is with regard to the termination of the worker and for not considering his name for re-employment while employing others.*
>
> *Worker has requested to summon vouchers of three years relating to newly appointed employees after terminating the service of worker. The prayer cannot be allowed as worker has not named any newly appointed person whose voucher is requested.*
>
> *Worker has also requested to summon the result of the interview held in 1991 in which worker had appeared along with its waiting list. A.R. for the management admitted that the list is available with them.*
>
> *Likewise prayer for summoning seniority list of sub staff with the date of appointment under SBI Zone Office Kanpur cannot be allowed as it is not relevant for the disposal of the case.*
>
> *Worker has also requested to summon copy of application dated 18.05.96 filed by employer in ID case no. 3/87. This prayer of worker cannot be allowed as worker may obtain certificate copy of it and can file in this case.*
>
> *For the reasons given above the application of the worker is partly allowed and the management is directed to file the result of interview held in 1991 along with waiting list as prayed in Para 4 of the application.*

In compliance of the order dated 24.04.2018 passed by this Tribunal, opposite party filed an affidavit along with office order/messenger report with specific contention that result of interview as well as wait list prepared in year 1991 could not be located or traced even after best efforts of concerned staff, as more than 27 years have been lapsed and H.R. section premises, where interviews were conducted, had been transferred on different places in different point of time during the intervening period.

The applicant examined himself as W.W.1 in our chief examination he supported our claim statement, and in para 2 said that after the completion of the all formalities he appointed in sub ordinate cadre for permanent post. Further he said as stated in our claim statement. In our cross-examination he said that I did not issue any letter of protest to SBI Gwaltoli Branch after my termination on 01.05.1988. I was born 01.01.1969, the witness shows his Adhar card, Pan card and Driving License showing his date of birth as 01.01.1969. I was engaged as a casual labour. I can produce original of the said certificate issued by Branch Manager on 31.05.1988. I have not mentioned that I worked for 240 days in preceding Twelve months prior to termination on 01.05.1988. My attendance was not recorded in the attendance register of other SBI staff. My wages were paid through Bankers Cheque. I was not given wages for Sunday and other holidays except for 15th August and 26th January. I have not mentioned that after my termination on 01.05.1988 Ram Chandra, Ajay Kumar and Satish Chandra were engaged. I have not filed any document regarding engagement of those persons by O.P. I did not come across any notification issued for reengagement of terminated workmen by the Bank. No appointment letter was issued to me before my engagement. I did not come across any

news item that post of Messenger in SBI Gwaltoli Branch was lying vacant before my engagement. No call letter for interview was received by me. I did not see the list of successful candidates. I did not file any application form prior to appearing in the interview.

Applicant said in our claim statement in para 2 and in our chief examination of para 2 that applicant was working on permanent post and in our chief examination of para 2 again repeated above. He also said that after complying of all formalities he was appointed but as per his documentary evidence which is filed by applicant as mentioned above ***'the applicant was appointed as temporary messenger for daily wages from 03.02.1987 to 22.05.1987 for 89 days.*** Further as his documentary ***evidence 'he worked as a casual labour for 89 days from 02.02.1988 to 30.04.1988'.***

In our cross-examination as mentioned above he said that I do agree in the certificate dated 31.05.1988 it is stated I was engaged as a casual labour hence applicant admitted that he was engaged as casual labour as shown in his above certificates.

Now as the question of work 240 days applicant, applicant said in our cross-examination of page 2, I have not mentioned that I worked for 240 days in previous twelve months prior to his termination on 01.05.1988. The applicant is not mentioned in his claim statement that he worked for 240 days as he said in our cross-examination above. And other worked concerned the applicant said my attendance was not recorded the attendance register of other SBI staff. My wages were paid through Bankers Cheque. I was not given wages for Sunday and other holidays except for 15th August and 26th January. I have not mentioned that after my termination on 01.05.1988 Ram Chandra, Ajay Kumar, Rakesh Kumar and Satish Chandra were engaged. I have not filed any documents regarding engagement of those persons. Hence applicant is admitted that reengagement of above persons not mentioned in his claim statement. No appointment letter was issued to me before my engagement. No call letter interview was received by me. I did not see the list of successful candidates. I did not file any application form prior to appearing in the interview.

Applicant said in our claim statement as mentioned above that he is working on a permanent post and further he said he was retrenched employee and he also applied and appeared in the interview held in August, 1991 but he have not filed any documents as interview letter. He said he was working on the permanent post but he have no any appointment letter, pay slip etc. which shows that he was permanent employee as stated in his claim statement. He never seen the list of successful candidates.

Opposite party is a nationalised bank there is procedure of appointment in all cadre. After adopting above procedure opposite party bank appoint any person as per criteria.

The applicant said that there is violation of section 25-H of the Act. Section 25-H is said that:

> ***25-H. Re-employment of retrenched workmen****- Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.*

But there is no any evidence that opposite party doing violation of section 25-H of the Act. One side applicant said that he was working on permanent post and he further said he was retrenched employee. He never worked in any calendar year for 240 day as he admitted.

As per the question of benefits of Section 25-B of the Act which is as read as under:

> ***[25-B. Definition of continuous service****- For the purpose of this Chapter-*
>
> *(1) a workmen shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; [25-B. Definition of continuous service*
>
> *(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-*
>
> *(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-*
>
> *(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and*
>
> *(ii) two hundred and forty days, in any other case;*
>
> *(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-*
>
> *(i) ninety-five days, in the case of a workman employed below ground in a mine; and*
>
> *(ii) one hundred and twenty days, in any other case.*

Now the question whether the applicant is employee of opposite party Bank. As per the question of the employer and workman in the ID Act, there is a workman definition in section 2 (s) is read as under:

> *"**workman**" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-*
>
> *(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or*
>
> *(ii) who is employed in the police service or as an officer or other employee of a prison, or*
>
> *(iii) who is employed mainly in a managerial or administrative capacity, or*
>
> *(iv) who, being employed in a supervisory capacity, draws wages exceeding [one thousand rupees] per menses or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.*

And employer definition is given in section 2 (g) is read as under:

> ***"employer"** means-*
>
> *(i) in relation to an industry carried on by or under the authority of any department of '[the Central Government or a State Government] the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;*
>
> *(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;*

In view of the above, the applicant has failed to prove the existence of a valid employer-employee relationship or the completion of 240 days of service. Therefore, the action of the Management in ceasing the engagement of the applicant is held to be just, proper, and legal.

The claim of the applicant is hereby dismissed. The applicant is not entitled to any relief of reinstatement, back wages, or compensation.

Accordingly, the reference is answered in the **negative**. The claimant is not entitled to any relief. A **'Nil'** Award is hereby passed.

Parties are left to bear their respective costs.

Date: 24.04.2026

RAJENDRA PRASAD SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 जून, 2026

का.आ. 1699.— 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 (48/2003) प्रकाशित करती है।

[सं. एल - 12025/01/2026- आई आर (बी-I)-146]

सलोनी, उप निदेशक

New Delhi, the 2nd June, 2026

S.O. 1699.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.48/2003*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2026- IR(B-I)-146]

SALONI, Deputy Director

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. 48/2003

[Old ID No. 4/1999 of Labour Court, Guntur]

Between:

Sri Gollamudi Adam,

S/o Subba Rao,

Old Ponur,

Ward No.25,

Murthy Mahal,

Ponnur. Guntur District. … Petitioner

And

1. The Branch Manager,
   State Bank of India,
   Ponnur Village & Mandalam,
   Guntur District.
2. The Chief General Manager,
   Local Head Office,
   State Bank of India, Koti,
   Bank Street,
   Hyderabad. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Gollamudi Adam, 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 4/1999, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 48/2003.

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 16.07.1988 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 W3, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri K. Chandra Sekhar Goud, 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 Gollamudi Adam, 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 28.7.87 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.W1 is the Service certificate for 1296 days for the period of July 1987 to March, 1997. Ex. W2 is the Copy of representation. Ex. W3 is the acknowledgement of Ex.W2 representation.

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 260 days continuously during the period from April, 1996 to March, 1997, Ex.W1 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.

Month	Working days
April,1996	30
May, 1996	31
June, 1996	09
July, 1996	29
August, 1996	23
September, 1996	30
October, 1996	29
November, 1996	00
December, 1996	06
January, 1997	29
February, 1997	13
March, 1997	31
Total	260

Thus, sum of working days as shown in the above table is 260 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 1296 days continuously during the period from July, 1987 to March, 1997 at Ponnur branch. Ex.W1 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 28.7.1987 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 set aside the termination order dated 1.4.97 of the claimant and direct the Respondents to reinstate the Claimant 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 Gollamudi Adam, 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 Gollamudi Adam	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate dated NIL
Ex.W2:	Photocopy of representation
Ex.W3:	Photocopy of ack.of representation Ex.W2

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 जुलाई, 2026

का.आ. 1700.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 30/2003)** को प्रकाशित करती है,

[सं0.एल.12012/201/2002-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 29th July, 2026

S.O. 1700.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference.I.D.No.30/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the Management of SBI of India and their workmen,

[F. No. L-12012/201/2002 – IR (B-I)]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 9th day of June, 2026

INDUSTRIAL DISPUTE No. 30/2003

Between:

Sri A. Appa Rao,

S/o Ramaiah,

Totacheria,
Munagacheria (P.O.)

Panuganchiproul,

Krishna Distt. ……Petitioner

AND

The Asst. General manager,

State Bank of India,

Zonal Office, RG-II,

Labbipet, Vijayawada – 520 003. … 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-12012/201/2002- IR(B.I) dated 29.1.2003 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

THE SCHEDULE

"Whether the action of the Management of State Bank of India, Vijayawada Zone in terminating the services of Sri A. Appa Rao, Ex.Temporary Messenger, is justified? If not, what relief the workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 30/2003 and notices were issued to the parties concerned.

2. Petitioner has filed his claim statement and as per his claim she has worked for more than 240 days in the Respondent organization during the period from 1.1.1985 to 31.12.1986 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act of law and prayed to reinstate his with all benefits from the date of his actual termination.

3. Respondent has filed the counter wherein he has denied the allegations made in claim statement by the petitioner and contended that Petitioner had not worked for 240 days in 12 months of any calendar year just preceding from date of termination. Therefore, the provision of Sec.25F of I.D. Act, 1947 is not applicable to the Petitioner case and his claim statement is liable to be dismissed.

4. Perused the record. As per provision contained u/s.25F of the Act, the workman has to put in 240 days continuous service just preceding from the date of his termination in a 12 month of a calendar year. But, despite sufficient opportunity petitioner failed to adduce any oral or documentary evidence in support of his claim of 240 days of the service in a calendar year just preceding from the date of his termination. Therefore, the claim of the Petitioner is not substantiated by any oral or documentary evidence. Therefore, 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant and corrected by me on this the 9th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1701.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 43/2003)** को प्रकाशित करती है,

[सं0.एल.39025/01/2026–आई.आर-(बी-II)-83]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1701.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.43/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 83]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 18th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 43/2003

[Old ID No. 30/2000 of Labour Court, Guntur]

Between:

Sri S. Devadas,
S/o Kondaiah,
Parakondapadu village,
Gudluru Mandal,
Prakasam distt.

… Petitioner

And

1. The Chairman,
State Bank of India,
Central office,
Mumbai.

2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.

3. The Zonal Manager,
State Bank of India,
Zonal office,
Tirupathi.

4. The Branch Manager,
State Bank of India,
Kondepi branch.
Prakasam District. …..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri S. Devadas 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 30/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 43/2003.

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 for one year 1986 and has rendered unblemished service spreading over a period of about one year. The Respondent has terminated services of Workman by oral orders with effect from 1986. 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 31.3.1997 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 transfer certificate. Ex.W2 is the income certificate. Ex.W3 is the caste certificate. Ex.W4 is the conduct certificate.

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

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon’ble High Court of A.P.

in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

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

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

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

I. Whether the 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, in terminating the services of Workman Sri S. Devadas, a Messenger with effect from 1986 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 1986without 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 1986without 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., the year 1986.

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

" My service was for total no. of 186 days continuously……

I was not sponsored by employment exchange. ….. It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

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

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

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 1986 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularization. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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. Devadas, Ex. Messenger by way of oral orders w.e.f. 1986 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 18th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri S. Devadas	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of transfer certificate

Ex.W2: Photocopy of income certificate

Ex.W3: Photocopy of caste certificate

Ex.W4: Photocopy of conduct 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 जुलाई, 2026

का.आ. 1702.— औद्योगिक विवाद अधिनियम, 1947 1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या **18/2003**) को प्रकाशित करती है,

[सं0.**एल.39025**/01/2026-**आई.आर-**(बी-**II**)-71]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1702.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.18/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the Management of Satate Bank of India and their workmen,

[F. No. L-39025/01/2026- IR (B-II)- 71]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 10th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 18/2003

[Old ID No. 232/2000 of Labour Court, Guntur]

Between:

Sri D. Ratna Prakash

S/o Vedanayakam,

R/o Vijayawada,

Krishna distt. … Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad-500 095.
3. The Regional Asst. General Manager,
   State Bank of India,
   Zonal Office, Vijayawada Zone,
   Vijayawada.
4. The Branch Manager,
   State Bank of India,
   Governorpet branch,
   Vijayawada
   Krishna district. …..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri D. Ratna Prakash who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 232/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 18/2003.

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 17.2.1988 to November, 1994 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 November, 1994. 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 November, 1994 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 to Ex.W5 are the service certificates. Ex.W6 is the employment card. Ex.W7 is the study certificate. Ex.W8 is the transfer certificate. Ex.W9 is the panel list. Ex.W10 is the interview call letter. Ex.W11 is the stay order. Ex.W12 is the 1992 panel list. Ex.W13 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhara Goud 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, Governorpet branch in terminating the services of Workman Sri D. Ratna Prakash, a Messenger with effect from November, 1994 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 November, 1994. 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 November, 1994."

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 November, 1994 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 November, 1994 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 November, 1994 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 November, 1994 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 November, 1994 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., November, 1994.

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

"I was not sponsored by any employment exchange and 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."

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., November, 1994. 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 November, 1994 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. November, 1994. 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., November, 1994.

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 November, 1994, therefore it was directed to issue suitable instructions not to make temporary appointments from November, 1994. 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 November, 1994 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 am not aware of the settlements between the federation and the Management. …. 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 November, 1994. 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. Ratna Prakash, Ex. Messenger by way of oral orders w.e.f. November, 1994 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 10th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri D. Ratna Prakash	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1 to Ex.W5:	Photocopies of service certificates
Ex.W6:	Photocopy of employment card
Ex.W7:	Photocopy of study certificate
Ex.W8:	Photocopy of transfer certificate
Ex.W9:	Photocopy of panel list
Ex.W10:	Photostat copy of interview call letter
Ex.W11:	Photocopy of stay order
Ex.W12:	Photocopy of 1992 panel list
Ex.W13:	Photocopy of legal notice.

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 जुलाई, 2026

का.आ. 1703.— औद्योगिक विवाद अधिनियम, 1947 1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 69/2003)** को प्रकाशित करती है,

[सं0.एल.39025/01/2026–आई.आर-(बी-II)-88]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1703.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.69/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 88]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 18th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 69/2003

Between:

Sri Surya Prakash Rao,

S/o Papa Rao,

R/o Srinivasa nagar,

Akkaypalem,

Visakhapatnam – 16. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Surya Prakash Rao who worked as Non- 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 Non-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. 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 Non-Messenger from 20.6.86 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 no documents in evidence filed by the Petitioner.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri Surya Prakash 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 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. The witness WW1 in chief examination has stated that he had worked for 61 days in the said branch in the year 1986. Further, witness states, "*It is pertinent to state that I have worked for 261 days during 1986 in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31st March 1997. But as per the chief statement of witness WW1, he had worked continuously for 61 days in the branch in the year 1986. Further, witness has stated that he had worked for 261 days during 1986 in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31st March 1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement is proved by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 31st March 97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 78 days of employment during the crucial period as per settlement whereas the Workman herein worked for 61 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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 Surya Prakash Rao, Ex. Non-Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 18th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Surya Prakash Rao	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1704.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण –सह –श्रम न्यायालय,** हैदराबाद के पंचाट **(सन्दर्भ संख्या 86/2003)** को प्रकाशित करती है,

[सं. एल.39025/01/2026-**आई.आर.**(बी-II)-87]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.86/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 87]

SALONI, Deputy Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 23rd day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 86/2003

Between:

Sri Yeddu Suri Appa Rao

S/o Suri Babu,

Bonangi Post & Village,

Gantyada mandalam,

Viziaanagaram Dist.. 535160. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi. …..Respondent

The Dy.General Manager,

State Bank of India,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Yeddu Suri Appa Rao who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

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 23.5.1986 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 he has not filed documents filed in evidence in support of his claim.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri Yeddu Suri Appa 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 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. The witness WW1 in chief examination has stated that he had worked for 69 days in the said branch in the year 1986-87. Further, witness states, "*I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31st March 1997. But as per the chief statement of witness WW1, he had worked continuously for 69 days in the branch in the year 1986-87. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31st March 1997. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, Petitioner did not file any document in support of his work done with Respondent, or in support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 31st March 97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 168 days of employment during the crucial period as per settlement whereas the Workman herein worked for 69 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him in 1989 panel were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent

management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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 Yeddu Suri Appa Rao, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 June, 2026.

IRFAN QAMAR,Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Yeddu Suri Appa Rao	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1705.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (**सन्दर्भ संख्या 47/2002**)** को प्रकाशित करती है,

[एल.39025/01/2026–आई.आर.(बी–**II**)-74]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1705.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.47/2002) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 74]

SALONI, Deputy Director

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of May, 2026

INDUSTRIAL DISPUTE No. 47/2002

[Old ID No. 28/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Karanam Gowrinaidu,

S/o Adinarayana,

Vizianagaram. … Petitioner

And

The Dy General Manager,

State Bank of India,

Personnel Section,

Zonal office, Region-II,

Visakhapatnam .....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-12012/251/2000-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.139/2000, 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:

THE SCHEDULE

Sri Karanam Gowrinaidu who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India Seeking for reinstatement into service as Messenger/Sweeper suly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID (C) No. 28/2001, as per orders of Central Government vide Lr. No. H-11026/1/2001-IR (C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 47/2002.

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 he joined the service of the Respondent Bank at the workman joined in the services of the Management Institution as Non-Messenger on 1988 to 1997 and rendered unblemished service spreading over a period of about 10 years, and by dint of hard work till his services were 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 W24. 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.W1A is the Service Certificate. Ex. W1B is the Service Certificate dated 21.07.1992. Ex. W2 is the Notification. Ex. W3 is the Interview call letter. Ex. W4 is the Service Certificate dated 12.04.1993. Ex. W5 is the Service Certificate dated 11.05.1993. Ex. W6 is the Service Certificate dated 11.06.1993. Ex. W7 is the Service Certificate dated 7.10.1993. Ex. W8 is the Service Certificate dated 7.12.1993. Ex. W9 is the Service Certificate dated 13.05.1994. Ex. W10 is the Service Certificate dated 18.05.1994. Ex. W11 is the Service Certificate dated2.02.1995. Ex. W12 is the Service Certificate dated 05.12.1994. Ex. W13 is the Service Certificate dated 21.03.1994. Ex. W14 is the Service Certificate dated 13.05.1994. Ex. W15 is the Service Certificate dated 08.01.1994. Ex. W16 is the Service Certificate dated 17.05.1995. Ex. W17 is the Service Certificate dated 02.02.1995. Ex. W18 is the Service Certificate dated 15.03.1996. Ex. W19 is the Service Certificate dated 08.10.1996. Ex. W20 is the Service Certificate dated 23.11.1999. Ex. W21 is the Service Certificate dated

08.11.1996. Ex. W22 is the Service Certificate dated 23.11.1999. Ex. W23 is the letter to Employment exchange by Respondent. Ex. W24 is the Circular letter dated 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, Local Head Office, Hyderabad in terminating the services of Workman Sri G. Anil 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 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 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 1991….. Further, witness states*, " The panel was prepared basing upon the number of days of service, put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the bank 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. Anil 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 11th day of May, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri G. Anil Kumar	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex. W1 to:	
Ex.W2:	Photocopy of Service Certificate
Ex.W3:	Photocopy of employment notification
Ex.W4:	Photocopy of letter to CGM (Per) dated 10.10.1990
Ex.W5:	Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt. 19.8.90
Ex.W6:	Photocopy of the letter from Government of India to Respondent Dt. 30.11.87.

Documents marked for the Respondent

Ex.M1:	Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1706.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह –**श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या **44/2003**) को प्रकाशित करती है,

[सं0. **एल.**39025/01/2026–आई.आर.(बी–II) – 84]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1706.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.44/2003) of the Central Government Industrial 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,

[F. No. L-39025/01/2026- IR (B-II) - 84]

SALONI, Deputy Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 18th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 44/2003

[Old ID No. 243/2000 of Labour Court, Guntur]

Between:

Sri Gujjarlapudi Prakasa Rao ,
S/o Subbaiah,
R/o Rayapudi,
Thulluru Mandal,
Guntur distt.

… Petitioner

And

1. The Chairman,
State Bank of India,
Central office,
Mumbai.
2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.
3. The Regional Asst. General Manager,
State Bank of India,
Zonal Office, Vijayawada Zone,
Vijayawada.
4. The Branch Manager,
State Bank of India,
Post Box No.2 branch,
Vijayawada.
Krishna district. …..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Gujjarlapudi Prakasa Rao 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 243/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 44/2003.

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 26.12.1983 to 28.3.1997 and has rendered unblemished service spreading over a period of about 14 years. The Respondent has terminated services of Workman by oral orders with effect from 28.3.1997. 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 31.3.1997 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. he Management bank has not violated any of the provisions of the terms of the said settlement. hat the very preparation and maintenance of panel is in compliance of the terms agreed under these settlements. hese 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. Ex.W2 is the employment card. Ex.W3 is the transfer certificate. Ex.W4 is the caste certificate. Ex.W5 is the interview call letter. Ex.W6 is the stay order. Ex.W7 is the 1992 panel list. Ex.W8 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud 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, in terminating the services of Workman Sri Gujjarlapudi Prakasa Rao , a Messenger with effect from 28.3.1997 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 28.3.1997 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 28.3.1997 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., the year 28.3.1997 .

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

" My service was for total no. of 186 days continuously……

I was not sponsored by employment exchange. ….. It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

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

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

be continued in the bank work as the very engagement of Workman was subject to availability of work. Therefore, the allegation that the bank has indulged in unfair labour practice is incorrect.

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 28.3.1997 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. *"Prior to my oral appointment there was no notification. I know very well that my appointment as messenger was made in a temporary vacancy."*

..."I used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. .... 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 Workman himself admitted that 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 31.3.1997. 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 Gujjarlapudi Prakasa Rao , Ex. Messenger by way of oral orders w.e.f. 28.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 18th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Gujjarlapudi Prakasa Rao	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service certificate
Ex.W2:	Photocopy of employment card
Ex.W3:	Photocopy of transfer certificate
Ex.W4:	Photocopy of caste certificate
Ex.W5:	Photocopy of interview call letter
Ex.W6:	Photocopy of stay order
Ex.W7:	Photocopy of 1992 panel list
Ex.W8:	Photocopy of legal notice.

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 जुलाई, 2026

का.आ. 1707.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय,** हैदराबाद के पंचाट **(**सन्दर्भ संख्या **70/2003)** को प्रकाशित करती है,

[स. एल.39025/01/2026-**आई.** आर.(बी –II)-78]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.70/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 78]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 18th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 70/2003

Between:

Sri Mutyala Srihari,

S/o Simhachalam,

R/o Narsipatnam, Ralli street,

Visakhapatnam. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Mutyala Srihari who worked as Non- 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 Non-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. 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 Non-Messenger from 1982 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 no documents in evidence filed by the Petitioner.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri Mutyala Srihari, a Non-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. The witness WW1 in chief examination has stated that he had worked for 150 days in the said branch in the year 1987. Further, witness states, "*It is pertinent to state that I have worked for 509 days during 1986 in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31st March 1997. But as per the chief statement of witness WW1, he had worked continuously for 150 days in the branch in the year 1986. Further, witness has stated that he had worked for 150 days during 1986 in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31st March 1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement to prove by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the

Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 31st March 97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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 regardingbinding 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has

categorically stated that, "The last person whose services was regularised has completed 168 days of employment during the crucial period as per settlement whereas the Workman herein worked for 150 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point.Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. MW1states 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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 Mutyala Srihari, Ex. Non-Messenger by way of oral orders w.e.f. 1.4.1997 is justified.

Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 18th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Mutyala Srihari	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1708.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 72/2003)** को प्रकाशित करती है,

[सं. एल.39025/01/2026–आई.आर.(बी–II)-79]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1708.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.72/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 79]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 19th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 72/2003

Between:

Sri K. Lazar,

S/o K. Osrayalu,

Tadepalligudem P.O. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri K. Lazar 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. 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 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 no documents in evidence filed by the Petitioner.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri K. Lazar, 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. The witness WW1 in chief examination has stated that he had worked for 61 days in the said branch in the year 1986. Further, witness states, "*It is pertinent to state that I have worked for 198 days during 1986 in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31st March 1997. But as per the chief statement of witness WW1, he had worked continuously for 61 days in the branch in the year 1986. Further, witness has stated that he had worked for 261 days during 1986 in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31st March 1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement is proved by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1.4. 97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., 1.4.1997. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed days of employment during the crucial period as per settlement whereas the Workman herein worked for 30 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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. Lazar, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 19th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent

WW1: Sri K. Lazar MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1709.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (सन्दर्भ संख्या 80/2003) को प्रकाशित करती है,

[सं. एल.39025/01/2026–आई.आर.(बी–II)-80]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1709.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.80/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 80]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 19th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 80/2003

Between:

Sri G. Srinivas,

S/o G. Venkata Ramana,

Gannavaram, Near Kona Cheruve.

Krishna Distt.. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri G. Srinivas 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. 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 7.7.87 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 no documents in evidence filed by the Petitioner.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri G. Srinivas, a Messenger with effect from 1.4.1997 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 1.4.1997 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 1.4.1997 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., 1.4.1997 . The witness WW1 in chief examination has stated that he had worked for 70 days in the said branch in the year 1988. Further, witness states, "*It is pertinent to state that I have worked for 224 days during 1995 in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 1.4.1997. But as per the chief statement of witness WW1, he had worked continuously for 70 days in the branch in the year 1988. Further, witness has stated that he had worked for 224 days during 1986 in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 1.4.1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement is proved by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1.4.97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., 1.4.1997. 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 1.4.1997 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., 1.4.1997.

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 175 days of employment during the crucial period as per settlement whereas the Workman herein worked for 70 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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. Srinivas, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 19th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri G. Srinivas	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1710.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (सन्दर्भ संख्या 81/2003) को प्रकाशित करती है,

[सं. एल.39025/01/2026-आई.आर.(बी-II) - 81]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1710.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.81/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 81]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 19th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 81/2003

Between:

Sri A. Nara Singa Rao,

S/o Satyanranayana,

D.No.58-1-254,

Ganesh Nagar,

Near NAD Kotha Road,

Visakhapatnam – 530 009. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri A. Nara Singa Rao 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. 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 1.1.86 to 1997, and has rendered unblemished service. 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 no documents in evidence filed by the Petitioner.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-

Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri A. Nara Singa Rao, a Messenger with effect from 1.4.1997 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 1.4.1997 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 1.4.1997 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., 1.4.1997. The witness WW1 in chief examination has stated that he had worked for 74 days in the said branch in the year 1986. Further, witness states, "*It is pertinent to state that I have worked for 1050 days during in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 1.4.1997. But as per the chief statement of witness WW1, he had worked continuously for 74 days in the branch in the year 1988. Further, witness has stated that he had worked for 1050 days in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 1.4.1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement is proved by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1.4.97. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., 1.4.1997. 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 1.4.1997 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., 1.4.1997 .

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 97 days of employment during the crucial period as per settlement whereas the Workman herein worked for 74 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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 A. Nara Singa Rao, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 19th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri A. Nara Singa Rao	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या **71/2003**) को प्रकाशित करती है,

[सं. एल.39025/01/2026–आई.आर.(बी–II)-71]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1711.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.71/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)- 71]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 19th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 71/2003

Between:

Sri G. Ramesh Reddy,

S/o Ram Reddy,

30-1-210/2,

Allipuram South,

Jail Road, Visakhapatnam. … Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri G. Ramesh Reddy 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. 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 1982 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 has filed photostat copies of three documents in evidence which are marked as Ex.W1 to Ex.W3. Details of the documents are given as under:-

Ex.W1 is the service certificate. Ex.W2 is the newspaper notification. Ex.W3 is the panel list.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited 2 documents, marked as Ex.M1 to M2. The details of these documents are as follows:-Ex.M.1 is the working days particulars of workman. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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, in terminating the services of Workman Sri G. Ramesh Reddy, a Messenger with effect from 1.4.1997 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. The witness WW1 in chief examination has stated that he had worked for 90 days in the said branch in the year 1982. Further, witness states, "*It is pertinent to state that I have worked for 500 days during in the bank and for which the service certificates are enclosed. I have been not given more than 200 days in any calendar year inspite of heavy work load and just to avoid us to get regularised. The bank calculations of ½ and 3/4 days are wrong. This squarely an unfair labour practice."* As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 1st April, 1997. But as per the chief statement of witness WW1, he had worked continuously for 90 days in the branch in the year 1982. Further, witness has stated that he had worked for 90 days during 1982 in the bank. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31st March 1997. However, no document in evidence filed by the Petitioner to corroborate the averment of the claim statement to prove by the statement of WW1 or any other witness's evidence. No single certificate of working days was filed by the Petitioner to support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1st April, 1997. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 97 days of employment during the crucial period as per settlement whereas the Workman herein worked for 90 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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. 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. 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.M2 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 and Ex.M2 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. Ramesh Reddy, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 19th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri G. Ramesh Reddy	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of panel list

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing no. of working days of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 27 जुलाई, 2026

का.आ. 1712.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या **96/2003**) को प्रकाशित करती है,

[सं. एल.39025/01/2026–आई.आर.(बी–II)-102]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1712.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No. 96/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-102]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 30th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 96/2003

Between:

Sri K. Prabhakar Rao,

S/o K. Venkaiah,

R/o North Amuluru,

Kavali.Nellore Dist.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street

Hyderabad.

3. The Branch Manager,
State Bank of India,
Kavali, Nellore distt. …..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri K. Prabhakar Rao 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. 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 1982 to March, 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 March, 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 31.3.1997 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 caste certificate. Ex.W2 is the service certificate. Ex.W3 is the transfer certificate. Ex.W4 is another service certificate.

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

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

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

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

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

I. Whether the 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, Kavali branch, in terminating the services of Workman Sri K. Prabhakar Rao, a Messenger with effect from March, 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 March, 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 March, 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., March, 1997.

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

"I was not sponsored by any employment exchange and 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., March, 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 March, 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 March, 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:-

"Prior to my oral appointment in 1987 there was no notification."

..."I used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. .... 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 31.3.1997. 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. Prabhakar Rao, Ex. Messenger by way of oral orders w.e.f. March, 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.

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 30th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Prabhakar Rao	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of caste certificate
Ex.W2:	Photocopy of service certificate
Ex.W3:	Photocopy of transfer certificate
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, 27 जुलाई, 2026

का.आ. 1713.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या **89/2003**) को प्रकाशित करती है,

[सं. एल.39025/01/2026–आई.आर.(बी–II)-103]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1713.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No. 89/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-103]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 24th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 89/2003

Between:

Sri G. Srinivas Rao

S/o G. Nageshwar Rao,

D.No.9/294,

Pampula Cheruvu, Balarampet,

Machilipatnam. ….. Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Vijayawada.

…..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri G. Srinivas Rao 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. 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 20.9.1985 to 1.4.1997, 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 31.3.1997 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 W2. 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 notification.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud 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, in terminating the services of Workman Sri G. Srinivas Rao, a Messenger with effect from 1.4.1997 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 1.4.1997 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 1.4.1997 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., 1.4.1997.

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

" *I am not sponsored by the employment exchange…."*

"I am not a member of any employees federation and I do not know whether the settlements between the federation and the Management will be applicable to me. …. …"I used to work depending upon availability of work in the branch. "Prior to my oral appointment there was no notification."

Further witness states*, "It is true that I did not work continuously for 200 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., 1.4.1997. 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 1.4.1997 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." But the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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. Srinivas Rao, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri G. Srinivas Rao	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of Notification

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 जुलाई, 2026

का.आ. 1714.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – **श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या 97/2003) को प्रकाशित करती है,

[सं. एल. 39025/01/2026–आई.आर.(बी–II)-101]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1714.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No. 97/2003) of the Central Government Industrial 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,

[F. L-39025/01/2026- IR (B-II)-101]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 30th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 97/2003

Between:

Sri Kamalapuram Riazuddin,

S/o K. Abdul Khurdus,

15-846-2, Modampally

Mosque street,

Proddutur,

Cuddapah Dist. … Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India,
   Proddutur distt. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Kamalapuram Riazuddin 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. 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 13.9.1997, 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 13.9.1997. 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 31.3.1997. 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 31.3.1997 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 1.4.1997. 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 service certificate. Ex.W2 is the service certificate. Ex.W3 is the transfer certificate. Ex.W4 is conduct certificate. Ex.W5 is the SSC marks memo. Ex.W6 is the panel list.

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

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

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

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

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

I. Whether the 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, Poddutur branch in terminating the services of Workman Sri Kamalapuram Riazuddin, a Messenger with effect from 13.9.1997 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 13.9.1997 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 13.9.1997 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., 13.9.1997.

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

"I was not sponsored by any employment exchange.."

"I did not work for 240 days continuously in any year."

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., 13.9.1997. 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 13.9.1997 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to

make temporary appointments from 31.3.1997. 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 13.9.1997 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 1.4.1997 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 1.4.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The Petitioner was engaged as a temporary messenger now and then on the oral instructions of the Branch Manager. The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies." Therefore, the Petitioner Workman as per number of working days, failed to fulfil

eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Kamalapuram Riazuddin, Ex. Messenger by way of oral orders w.e.f. 13.9.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 30th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Kamalapuram Riazuddin	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of service certificate
Ex.W3:	Photocopy of transfer certificate
Ex.W4:	Photocopy of conduct certificate
Ex.W5:	Photocopy of SSC marks memo
Ex.W6:	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, 27 जुलाई, 2026

का.आ. 1715.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 103/2003)** को प्रकाशित करती है,

[सं. एल. 39025/01/2026-आई.आर.(बी-II)-99]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1715.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No.103/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-99]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 2nd day of July, 2026

INDUSTRIAL DISPUTE L.C.No.103/2003

Between:

Sri Vinukonda Bala Sundara Rao

S/o Borrayya,

Tadepalli Village and Mandal,

Guntur Distt.

… Petitioner

And

1. The Chief Manager,
State Bank of India,
Personnel Section, Zonal Office,
Labbipet, Vijayawada.

2. The General Manager,
(Personnel)
State Bank of India,
Local Head office, Bank Street
Hyderabad. …..Respondents

Appearances:

For the Petitioner : M/s. Nurulla Baig, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Vinukonda Bala Sundara Rao 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. 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 and worked from 1987 to March, 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 March, 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 31.3.1997 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 notification. Ex.W2 and Ex.W3 are service certificates. Ex.W3 is the panel list. Ex.W4 is circular dt.25.3.1997. Ex.W5 is paper advertisement. Ex.W6 is the 2nd panel list. Ex.W7 is transfer certificate. Ex.W8 is the caste certificate.

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

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

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

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

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

I. Whether the 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, in terminating the services of Workman Sri Vinukonda Bala Sundara Rao, a Messenger with effect from March, 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 March, 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 March, 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., March, 1997.

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

"I was not sponsored by any employment exchange….."

"I did not work continuously for 240 days in any year of my 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., March, 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 March, 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 March, 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not worked for 240 days in any year in his entire temporary service in the bank." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis.

This witness has categorically stated that, "The Petitioner was engaged as a temporary messenger now and then subject to availability of work, to tide over the sub-ordinate staff constraints due to leave vacancies absenteeism and other administrative exigencies." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Vinukonda Bala Sundara Rao, Ex. Messenger by way of oral orders w.e.f. March, 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.

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 2nd day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Vinukonda Bala Sundara Rao	MW1: Sri Rupakula Prakash Babu

Documents marked for the Petitioner

Ex.W1:	Photocopy of notification
Ex.W2 to	
Ex.W3:	Photocopies of service certificates
Ex.W4:	Photocopy of circular dt. 25.3.1997
Ex.W5:	Photocopy of another paper advertisement
Ex.W6:	Photocopy of 2nd panel list
Ex.W7:	Photocopy of transfer certificate
Ex.W8:	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 जुलाई, 2026

का.आ. 1716.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (सन्दर्भ संख्या 114/2003) को प्रकाशित करती है,

[सं. एल. 39025/01/2026-आई.आर.(बी-II)-97]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1716.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No.114/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-97]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 2nd day of July, 2026

INDUSTRIAL DISPUTE L.C.No. 114/2003

Between:

Sri P. Venkata Ravi,

S/o P. Subrahmanyam,

Karodupet Village,

Ulavapadu mandal,

Prakasam Dist. – 523 292.

… Petitioner

And

The Asst. General Manager,

State Bank of India,

Renigunta Road,

Tirupathi. …..Respondent

Appearances:

For the Petitioner : Sri Vijaya Shekar Reddy, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri P. Venkata Ravi 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. 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 1.1.84 to 31.3.1997, 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 31.3.1997. 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 31.3.1997 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 service certificate. Ex.W2 is the interview call letter. Ex.W3 is the panel list. Ex.W4 is the service certificate. Ex.W5 is the transfer certificate. Ex.W6 is the service particulars.

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

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

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

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

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

I. Whether the 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, in terminating the services of Workman Sri P. Venkata Ravi, 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 and 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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:-

"Prior to my oral appointment in 1984 there was no notification."

..."I used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. .... 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 31.3.1997. 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. Venkata Ravi, 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.

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 2nd day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri P. Venkata Ravi	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of panel list
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of transfer certificate
Ex.W6:	Photocopy of service particulars

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 जुलाई, 2026

का.आ. 1717.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(सन्दर्भ संख्या 104/2003)** को प्रकाशित करती है,

[सं. एल. 39025/01/2026–आई.आर.(बी–II)-98]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1717.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No.104/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-98]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 2nd day of July, 2026

INDUSTRIAL DISPUTE L.C.No.104/2003

Between:

Sri Pathuri Thomas

S/o Aseervadam,

R/o Mandadam Post,

Talluru Mandal,

Guntur Distt.

… Petitioner

And

1. The Chief Manager,
   State Bank of India,
   Personnel Section, Zonal Office,
   Labbipet, Vijayawada.
2. The General Manager,
   (Personnel)
   State Bank of India,
   Local Head office, Bank Street
   Hyderabad. …..Respondents

Appearances:

For the Petitioner : M/s. Nurulla Baig, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Pathuri Thomas 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. 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 and worked from 1987 to March, 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 March, 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 31.3.1997 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 notification. Ex.W2 is the interview call letter. Ex.W3 is the panel list. Ex.W4 to Ex.W6 are the service certificates. Ex.W7 is circular dt.25.3.1997. Ex.W8 is paper advertisement. Ex.W9 is the 2nd panel list. Ex.W10 is transfer certificate. Ex.W11 is the caste certificate. Ex.W12 is the registration card. Ex.W13 is the marks memo fo 10th class.

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

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

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

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

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

I. Whether the 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, in terminating the services of Workman Sri Pathuri Thomas, a Messenger with effect from March, 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 March, 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 March, 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., March, 1997.

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

"I was not sponsored by any employment exchange....."

"I did not work continuously for 240 days in any year of my 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., March, 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 March, 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 March, 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not worked for 240 days in any year in his entire temporary service in the bank." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The Petitioner was engaged as a temporary messenger now and then subject to availability of work, to tide over the sub-ordinate staff constraints due to leave vacancies absenteeism and other administrative exigencies." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Pathuri Thomas, Ex. Messenger by way of oral orders w.e.f. March, 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.

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 2nd day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Pathuri Thomas	MW1: Sri Rupakula Prakash Babu

Documents marked for the Petitioner

Ex.W1:	Photocopy of notification
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of panel list
Ex.W4 to Ex.W6:	Photocopies of service certificates
Ex.W7:	Photocopy of circular dt. 25.3.1997
Ex.W8:	Photocopy of another paper advertisement
Ex.W9:	Photocopy of 2nd panel list
Ex.W10:	Photocopy of transfer certificate
Ex.W11:	Photocopy of caste certificate.
Ex.W12:	Photocopy of registration card
Ex.W13:	Photocopy of marks memo of 10th class.

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 जुलाई, 2026

का.आ. 1718.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (सन्दर्भ संख्या 118/2003) को प्रकाशित करती है,

[सं. एल. 39025/01/2026–**आई.आर**.(बी–II)-96]

सलोनी, उप निदेशक

New Delhi, the 27th July, 2026

S.O. 1718.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC.No.118/2003) of the Central Government Industrial 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-39025/01/2026- IR (B-II)-96]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 3rd day of July, 2026

INDUSTRIAL DISPUTE L.C.No.118/2003

Between:

Sri M. Raja Rao,

S/o M.Ch. Koteswra Rao,

Malakpatnam,

Nr. Socsite Rice Mill,30/64 A-1,

Machilipatnam.

… Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office,

Vijayawada. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri M. Raja Rao 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 Respondent s, 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 he joined the service of the Respondent Bank as a messenger in the year 1984 and he worked upto 1.4.1997. Thereby he worked for about 13 years. 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 (Respondent s 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 Respondent s 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 Respondent s 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 W2. 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 notification.

21. Though Respondent has filed counter, but the contention made in the counter is not substantiated by any evidence by the Respondent Management.

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.

24. On the basis of rival pleadings of both the parties and submissions made by the Learned Counsel for Petitioner 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, in terminating the services of Workman Sri M. Raja Rao, a Messenger with effect from 1.4.1997 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 1.4.1997 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 1.4.1997 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. The Petitioner in his chief examination has reiterated the version of the claim statement. This witness WW1was cross examined by the Respondent counsel and in his cross examination witness has stated that he joined as messenger at Bazar branch, Machilipatnam of State Bank of India for the first time without any written appointment order. Further, witness states that during the period 21.12.84 to 1987 he worked for 165 days. Further, witness states that he stopped attending the bank service from 1997, but he was not issued any written order of removal. He did not give any representation to the bank and he has worked as an agricultural labourer. Further, witness states he was not appointed as per the recruitment selection procedure.

Thus, from the above statement of the witness in cross examination it manifests that Workman was not recruited by any selection procedure rather he had worked as a casual Workman who was engaged by the Respondent for the work intermittently for different periods. Thus, the Workman has not completed 240 days of his service in any calendar year just preceding from the date of his termination. Therefore, he has not fulfilled the condition mentioned under section 25 F of the ID Act, hence, the provision of Section 25F is not applicable to his case. Further, witness in his cross examination has admitted that he did not work continuously for 240 days in any branch, in any year and he used to work depending upon the availability of the work in the branch. Thus, in view of the statement of Petitioner witness, he does not fulfill the condition of continuous service of one year as provided under Section 25F

of the Act, therefore, the claim of the Petitioner that he has been terminated from service by the Respondent in violation of the provision of Section 25F of the Act is not maintainable.

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 1.4.1997 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., 1.4.1997.

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 Respondent s 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 Respondent s 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 Respondent s 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 Respondent s, 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. As regard the regularization, the witness has stated that he do not have panel list, he is not a member of any employees federation and he do not know whether the settlements between the management and the federation will be applicable to him. Further, this witness states that, he is not aware of the settlements between the federation and management and also stated that he do not have any knowledge about the agreements speaks of the absorption in permanent position. Thus, from the above statement of the witness it manifests that he failed to prove his claim for regularization in the service of the Respondent.

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. Thus, in view of fore gone discussion and laws laid down by Hon'ble Apex Court as discussed above, the claim of workman of regularization in the employment of Respondent is not substantiated by the evidence of Petitioner, WW1 in his cross examination has admitted that he is not aware of any settlements and he is not having any document to show that any person who worked for less number of days than him was given appointment in the bank and he has no document to show that any of his juniors is continuing in service of the bank as of now. Therefore, the claim of the Petitioner for regularization in the employment of Respondent bank is not tenable. Further, Petitioner failed to produce any document in evidence to establish that any temporary employee junior to him is working in the Respondent bank. Therefore, Petitioner is not entitled for regularization in the service of the Respondent.

This point is answered against the Petitioner Workman and in favour of the Respondent.

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 M. Raja Rao, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 3rd day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Witnesses examined for the

Petitioner	Respondent
WW1: Sri M. Raja Rao	NIL

Documents marked for the Petitioner

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of News paper advertisement/ notification

Documents marked for the Respondent

NIL

नई दिल्ली, 4 अगस्त, 2026

का.आ. 1719.— औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री एम. अय्याला रेड्डी** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (38/2003)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- आई आर (बी-I)-162]

सलोनी, उप निदेशक

New Delhi, the 4th August, 2026

S.O. 1719.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 38/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri M. Ayyala Reddy.**

[No. L-12025/01/2026-IR(B-I)-162]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 12th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 38/2003

[Old ID No. 282/99 of Labour Court, Guntur]

Between:

Sri M. Ayyala Reddy,

S/o Chennaiah,

Machavaram,

Kandukur mandal,

Prakasam distt. ….. Petitioner

And

1. The Chairman,

State Bank of India,

Central office,

Mumbai.

2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.

3. The Branch Manager,
State Bank of India ,
Kandukur branch.

4. The Regional Manager,
State Bank of India,
Zonal Office,
Tirupathi. …..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates

For the Respondent: Sri K. Rathanga Pani Reddy, Advocate

AWARD

Sri M. Ayyala Reddy 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 82her attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 282/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 38 /2003.

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 25.4.1985 to 31.7.98, and has rendered unblemished service spreading over a period of about 2 years. The Respondent has terminated services of Workman by oral orders with effect from 31.7.98. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait-listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 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 31.7.98 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 has filed photocopies of four documents in evidence, which are marked as Ex.W1 to W4. The details of the documents are as under:

Ex.W1 is the transfer certificate. Ex.W2 is the caste certificate. Ex.W3 is the service certificate. Ex.W4 is another service certificate.

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

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of

Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

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

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

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

I. Whether the 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, Kandukuru Main branch in terminating the services of Workman Sri M. Ayyala Reddy, a Messenger with effect from 31.7.98 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 31.7.98. 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 31.7.98."

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 31.7.98 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 31.7.98 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 31.7.98 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 31.7.98 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 31.7.98 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., 31.7.98.

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

" My service was for total no. of 430 days but I have service certificate for 249 days only spread with gaps from time to time for the period from 1985 to 1991 which is Ex.W4…..

I was not sponsored by any employment exchange and I was not issued any appointment order at the time of joining my service. . ….. It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.7.98. 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 31.7.98 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. 31.7.98. 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., 31.7.98.

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 31.7.98, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.7.98. 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 31.7.98 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 18.11.1985 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 1985 (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 31.7.98. 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 M. Ayyala Reddy, Ex. Messenger by way of oral orders w.e.f. 31.7.98 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 12th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri M. Ayyala Reddy	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of transfer certificate
Ex.W2:	Photocopy of caste certificate
Ex.W3:	Photocopy of service certificate
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, 4 अगस्त, 2026

का.आ. 1720.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री टी. नरसिम्हा राव** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (37/2003)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- आई आर (बी-I)-161]
सलोनी, उप निदेशक

New Delhi, the 4th August, 2026

S.O. 1720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 37/2003)** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri T. Narasimha Rao.**

[No. L-12025/01/2026-IR(B-I)-161]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 12th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 37/2003

[Old ID No. 248/2000 of Labour Court, Guntur]

Between:

Sri T. Narasimha Rao,
S/o Akkaiah,
R/o Rajupalem Post and Mandal,
Guntur distt. ….. Petitioner

And

1. The Chairman,
State Bank of India,
Central office,
Mumbai.

2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.

3. The Regional Asst. General Manager,
State Bank of India,
Zonal Office, Vijayawada Zone,
Vijayawada.

4. The Branch Manager,
State Bank of India,
Bellamkonda branch,
Guntur district. …..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri T. Narasimha Rao 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 248/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 37 /2003.

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 1.4.1997, 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 W10. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the service certificate. Ex.W2 is the service certificate. Ex.W3 is the service certificate. Ex.W4 is the employment card. Ex.W5 is the transfer certificate. Ex.W6 is the panel list. Ex.W7 is the interview call letter. Ex.W8 is the stay order. Ex.W9 is the 1992 panel list. Ex.W10 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud 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, Bellamkonda branch, in terminating the services of Workman Sri T. Narasimha Rao, a Messenger with effect from 1.4.1997 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 1.4.1997 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 1.4.1997 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., 1.4.1997 .

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

"I was not sponsored by any employment exchange and 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., 1.4.1997 . 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 1.4.1997 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., 1.4.1997 .

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has

stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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. Narasimha Rao, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 12th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri T. Narasimha Rao	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of service certificate
Ex.W3:	Photocopy of service certificate
Ex.W4:	Photocopy of employment card
Ex.W5:	Photocopy of transfer certificate
Ex.W6:	Photocopy of panel list
Ex.W7:	Photocopy of interview call letter
Ex.W8:	Photocopy of stay order
Ex.W9:	Photocopy of 1992 panel list
Ex.W10:	Photocopy of legal notice

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, 4 अगस्त, 2026

का.आ. 1721.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री कोरागंति रमेश बाबू** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (42/2003)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- आई आर (बी-I)-163]

सलोनी, उप निदेशक

New Delhi, the 4th August, 2026

S.O. 1721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 42/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Koraganti Ramesh Babu.**

[No. L-12025/01/2026-IR(B-I)-163]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 16th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 42/2003

[Old ID No. 247/2000 of Labour Court, Guntur]

Between:

Sri Koraganti Ramesh Babu,
S/o Bhagyamma,
R/o Krishna Nagar,
Tadepalli Mandal,
Guntur distt. ….. Petitioner

And

1. The Chairman,
State Bank of India,
Central office,
Mumbai.
2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.

3. The Regional Asst. General Manager,
State Bank of India,
Zonal Office, Vijayawada Zone,
Vijayawada.
4. The Branch Manager,
State Bank of India,
Governorpet branch,
Vijayawada
Krishna district. …..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Koraganti Ramesh Babu 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 2247/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 42/2003.

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 11.5.84 to 31.3.1997, 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 31.3.1997 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 to Ex.W4 are the service certificates. Ex.W5 is the transfer certificate. Ex.W6 is the caste certificate. Ex.W7 is the X class marks memo. Ex.W8 is the panel list. Ex.W9 is the interview call letter. Ex.W10 is the stay order. Ex.W11 is the 1992 panel list. Ex.W12 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud 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. Ex.M13 is the paper notification.

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, Governorpet branch, in terminating the services of Workman Sri Koraganti Ramesh Babu, a Messenger with effect from 1.4.1997 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 1.4.1997 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 1.4.1997 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., 1.4.1997.

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

"I was not sponsored by any employment exchange and 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., 1.4.1997. 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 1.4.1997 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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:-

"Prior to my oral appointment there was no notification."

..."I used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. .... 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 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 31.3.1997. 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 Koraganti Ramesh Babu, Ex. Messenger by way of oral orders w.e.f. 1.4.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Koraganti Ramesh Babu	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1to

Ex.W4: Photocopies of service certificates

Ex.W5: Photocopy of transfer certificate

Ex.W6: Photocopy of the caste certificate

Ex.W7: Photocopy of X class marks memo

Ex.W8: Photocopy of panel list

Ex.W9: Photocopy of the interview call letter

Ex.W10: Photocopy of stay order

Ex.W11: Photocopy of 1992 panel list

Ex.W12: Photocopy of the legal notice.

Documents marked for the Respondent

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

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

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

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

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 5 अगस्त, 2026

का.आ. 1722.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **आन्ध्रा प्रदेश ग्रामीण विकास बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री एन.एस.कृष्णा मूर्ति** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (9/2020)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- आई आर (बी-I)-164]

सलोनी, उप निदेशक

New Delhi, the 5th August, 2026

S.O. 1722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 9/2020)** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **Andhra Pradesh Grameena Vikas Bank** and their workman **Shri N.S.Krishna Murthy.**

[No. L-12025/01/2026-IR(B-I)-164]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 16th day of July, 2026

INDUSTRIAL DISPUTE No. 9/2020

Between:

Shri N.S.Krishna Murthy,

Flat No.201,

Sri Sai Lendy Vanam,

Opp. Sharada Peetham,

Chinamushdiwada, Pendurthi Mandal,

Vishakapatnam 530051 …...Petitioner

AND

The Chairman,

Andhra Pradesh Grameena Vikas Bank,

D. No.2-5-8/1, Ram Nagar,

Hanmakonda - 560001,

Warangal City & Dist.

Telangana State ...… Respondent

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. 7/1/2020 -B1 dated 19.02.2020 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Pradesh Grameena Vikas Bank, and their workman. The reference is,

SCHEDULE

"Whether the action of the management of AP Grameena Vikas Bank, Warangal in dismissing the services of Shri N.S. Krishna Murthy, Ex. Office Assistant w.e.f. 22.08.2011 is justified? If not, what relief the concerned workman is entitled to?

The reference is numbered in this Tribunal as I.D. No 9/2020 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Despite sufficient opportunity, Petitioner has failed to appear and did not file any claim statement. Hence, a No Claim Award is passed. The reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 16th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 अगस्त, 2026

का.आ. 1723.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स बृंदावन फ़ूड प्रोडक्ट्स; इंडियन रेलवे कैटरिंग एंड टूरिज्म कारपोरेशन लिमिटेड (आईआरसीटीसी)** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्रीमती बी. ज्योति** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (13/2026)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- **आई आर (**बी-I)-165]

सलोनी, उप निदेशक

New Delhi, the 5th August, 2026

S.O. 1723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 13/2026*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **M/s Brandavan Food Products; Indian Railway Catering and Tourism Corporation Ltd (IRCTC)** and their workman **Smt. B. Jyothi**

[No. L-12025/01/2026-IR(B-I)-165]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 15th day of July, 2026

INDUSTRIAL DISPUTE No. 13/2026

Between:

Smt. B. Jyothi,
W/o B. Vijay Kumar,
H.No.12-15-55,
Manikeshwar Nagar, OU Campus,
VTC: Secunderabad, Hyderabad,
Telangana-500007 ……..Petitioner

AND

1. The Proprietor,
   M/s Brandavan Food Products,
   D.No.12-10-412/A, 1st Floor,
   Namalagundu,
   Secunderabad-500061, Telangana.

2. The General Manager,
   Indian Railway Catering and Tourism Corporation Ltd (IRCTC),
   South Central Railway,
   S.D. Road, Secunderabad-500003,
   Telangana ..…. Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. 8/30/2025 -B1 dated 31.07.2025 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Brandavan Food Products, and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of M/s Brandavan Food Products, Contractor under the Principal Employer Indian Railway Catering and Tourism Corporation Ltd (IRCTC), South Central Railway, Secunderabad in terminating the services of the workmen Smt. B. Jyothi and 30 others (List attached) is legal and justified? If not, what relief the workmen are entitled for?"

The reference is numbered in this Tribunal as I.D. No 13/2026 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Despite sufficient opportunity, Petitioner has failed to appear and did not file any claim statement. Hence, a No Claim Award is passed. The reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 15th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 अगस्त, 2026

का.आ. 1724.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री बी. सुब्रमण्यम** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (12/2003)** प्रकाशित करती है।

[सं. एल- 12025/01/2026-आई आर (बी-I)-166]

सलोनी, उप निदेशक

New Delhi, the 5th August, 2026

S.O. 1724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 12/2003)** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri B. Subramanyam.**

[No. L-12025/01/2026-IR(B-I)-166]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 15th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 12/2003

[Old ID No. 274/99 of Labour Court, Guntur]

Between:

Sri B. Subramanyam,
S/o Atchaiah,
C/o Dhanalakshmi Mess,

Addanki.
Prakasam distt. ….. Petitioner
And

1. The Chairman,
State Bank of India,
Central office,
Mumbai.
2. The Chief General Manager,
(Personnel)
State Bank of India,
Bank Street
Hyderabad.

3. The Branch Manager,
State Bank of India ,
Addanki branch.

4. The Regional Manager,
State Bank of India,
Zonal Office,
Tirupathi. …..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri B. Subramanyam 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 82her attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 274/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 12 /2003.

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 10.10.1980 to 6.4.86, 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 6.4.86. 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 6.4.86 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 has filed photocopies of four documents in evidence, which are marked as Ex.W1 to W4. The details of the documents are as under:

Ex.W1 is the transfer certificate. Ex.W2 is the interview letter. Ex.W3 is the service certificate. Ex.W4 is application to the Respondent.

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

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-

Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

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

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

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

I. Whether the 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, Addanki Main branch in terminating the services of Workman Sri B. Subramanyam, a Messenger with effect from 6.4.86 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 6.4.86. 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 6.4.86."

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 6.4.86 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 6.4.86 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 6.4.86 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 6.4.86 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 6.4.86 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., 6.4.86.

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

" My service was for total no. of 197 days spread over with gaps from time to time during the period from 1980 to 1986 .....

I was not sponsored by any employment exchange. ..... It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 6.4.86. 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 6.4.86 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. 6.4.86. 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., 6.4.86.

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 6.4.86, therefore it was directed to issue suitable instructions not to make temporary appointments from 6.4.86. 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 6.4.86 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 18.11.1985 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 1985 (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 6.4.86. 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. Subramanyam, Ex. Messenger by way of oral orders w.e.f. 6.4.86 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 15th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri B. Subramanyam	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of transfer certificate
Ex.W2:	Photocopy of interview letter
Ex.W3:	Photocopy of service certificate
Ex.W4:	Photocopy of application to Management

Documents marked for the Respondent

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non-messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 6 अगस्त, 2026

का.आ. 1725.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री तेलागतोति अक्का राओ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(27/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-167]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 27/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Telagathoti Akka Rao.**

[No. L-12025/01/2026- IR(B-I)-167]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 11th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 27/2003

[Old ID No. 273/99 of Labour Court, Guntur]

Between:

Sri Telagathoti Akka Rao,

S/o Ankaiah,

C/o V.N.S. Talkies,

Addanki. ……. Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.

2. The Chief General Manager,

(Personnel)

State Bank of India,

Head Office,

Hyderabad.

3. The Branch Manager,

State Bank of India,

Addanki branch.

4. The Regional Manager,

State Bank of India,

Zonal Office,

Tirupathi. …..Respondents

Appearances:

For the Petitioner : M/s. M. Srinivasa Rao, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Telagathoti Akka Rao who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 273/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 27/2003.

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 12 years. The Respondent has terminated services of Workman by oral orders with effect from March, 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 March, 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. Ex.W2 is the interview call letter. Ex.W3 is the service certificate. Ex.W4 is the service certificate. Ex.W5 is the transfer certificate. Ex.W6 is the service certificate.

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

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

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

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

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

I. Whether the 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, Addanki main branch in terminating the services of Workman Sri T. Akka Rao, a Messenger with effect from March, 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 March, 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 March, 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 March, 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 March, 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 March, 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 March, 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 March, 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., March, 1997.

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

"I was not sponsored by any employment exchange."

"It is not true to suggest that I never worked for 240 days in a year continuously…"

Further, MW1 in his cross examination has stated in cross examination that, "The Petitioner has not completed 240 days of service in a calendar year."

This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Thus, it is clear from the testimony of WW1 and also MW1 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., March, 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 March, 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. March, 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., March, 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 March, 1997, therefore it was directed to issue suitable instructions not to make temporary appointments from March, 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 March, 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." Further, he has stated that, " the Petitioner was appointed as temporary messenger and Petitioner's services were discontinued whenever their services were not needed." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has stated in cross examination that, "The Petitioner has not completed 240 days of service in a calendar year." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of

working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him in 1989 panel were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 March, 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. Akka Rao, Ex. Messenger by way of oral orders w.e.f. March, 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.

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 11th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri T. Akka Rao	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of caste certificate
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of service certificate
Ex.W4:	Photocopy of Service certificate
Ex.W5:	Photocopy of transfer 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, 8 अगस्त, 2026

का.आ. 1726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय सुरक्षा बल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&सह&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k **38/2022**) को प्रकाशित करती है,,

[सं- एल-22013/01/2026-आईआर(सी.एम-I)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 38/2022*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Indian Security Force** and their workmen,

[No. L-22013/01/2026 – IR (CM-I)]

JAIDEEP YADAV, 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 July, 2026

INDUSTRIAL DISPUTE No. 38/2022

Between:

Smt. Atta Appala Konda,

W/o Atta Appa Rao, D.No.14-21/2,

Donkada, Aganampudi,

Gajuwaka, Visakhapatnam-530046 …...Petitioner

AND

1. M/s Indian Security Force,

   D.No.6-2-27, 27/A & 28/1F-24,

   Unit No.124, 1st Floor,

   Down Town Mall Besides Lotus Hospital,

   Lakdikapul, Hyderabad - 500004.

2. The Director,

   Homi Baba Cancer Hospital & Research Centre,

   Aganampudi (V), Gajuwaka (M),

   Visakhapatnam -530053 .....… Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. 8/7/2022 -B1 dated 11.02.2022 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Indian Security Force Agency, a contractor of Homi Baba Cancer Hospital & Research Centre, Vishakhapatnam, and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s Indian Security Force Agency, a contractor of Homi Baba Cancer Hospital & Research Centre, Visakhapatnam in terminating the services of Smt Atta Appala Konda, Ex-MTS is legal and justified or not? If not, to what relief the workman is entitled to?

The reference is numbered in this Tribunal as I.D. No 38/2022 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Despite sufficient opportunity, Petitioner has failed to appear and did not file any claim statement. Hence, a No Claim Award is passed. The reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 16th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&सह&Je U;k;ky;] हैदराबाद के पंचाट (पहचान संख्या 5/2023) को प्रकाशित करती है,,

[सं- एल-22013/01/2026-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 5/2023*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,,** and their workmen,

[No. L-22013/01/2026 – IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 15th day of July, 2026

INDUSTRIAL DISPUTE LC No.5/2023

Between:

Vadapalli Ramesh babu,

S/o Nagaiah,

R/o: 4-32. Srinagar Colony,

Penagadapa (Rural),

Kothagudem, Telangana-507103 ……Petitioner

AND

1. Singareni Collieries Company Limited,
   Head Office: Kothagudem-507 101,
   Khammam District, Telangana
2. Singareni Collieries Company Limited,
   J.V.R OC-II Sattupalli,
   SCCL Ltd, Khammam.
3. M/s Sushee Hitech Projects Pvt Ltd,
   Jubilee Hills Road No.12,
   Hyderabad-500 034,
   Camp Office: JVR OC-II OB Removal Contractor. ..…Respondents

Appearances:

For the Petitioner: Sri V. Srinivasa Rao, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate (For R1 & R2)

AWARD

Sri Vadapalli Ramesh Babu who worked as Sany Dumper Operator (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 Singareni Collieries Company Limited, Respondents herein to reinstate the petitioner into service with continuity and with all other attendant benefits and pass such other and further order or orders as this Hon'ble court may deem fit and proper.

2. Perused the record. Petitioner has filed the present petition u/s 2A(2) of I.D Act, 1947 to set aside his termination order dated 13.06.2022, and sought reinstatement into the service. Although the Petitioner has filed chief statement of affidavit in evidence but did not turn up for cross examination despite sufficient opportunity. Therefore, evidence was closed. The claim of the Petitioner is not substantiated by evidence, therefore, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K.Phani Gowri, P.A., corrected and signed by me on this the 15th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1728.—,औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&lgk&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k 4/2026) को प्रकाशित करती है,

[सं- एल-22013/01/2026-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 4/2026)** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,** and their workmen,

[No. L-22013/01/2026 – IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5th day of February, 2026

INDUSTRIAL DISPUTE No. 4/2026

Between:

Shri M. David Kumar,

Dr. No. 1-85-17/2, Siri Residency,

APHB Colony, Housing Board,

West Godavari District,

Andhra Pradesh – 534101.

....Petitioner

AND

1. M/s. Kadali Venkateswara Rao Security Agency,
   Rep. By Shri Kadali Venkateswara Rao, Prop,
   D.No.3-105/1, Pandiripuram 7th Lane,
   Chilakaluripeta Town,
   Paladu District, Andhra Pradesh – 522616.
2. Food Corporation of India,
   Represented by Divisional Manager,
   Divisional Office,
   Eluru District, Andhra Pradesh – 534001. …..Respondents

Appearances:

For the Petitioner: None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. 8/34/2025-B1 dated 29.10.2025 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Kadali Venkateswara Rao Security Agency contractor of Food Corporation of India, and their workman. The reference is,

SCHEDULE

1. "Whether the action of the employer M/s. Kadali Venkateswara Rao Security Agency, contractor of Food Corporation of India, Divisional Office, Eluru in terminating the services of the workman Shri M. David Kumar is justified? If not, what relief is the workman entitled? If yes, to what terminal benefits is the workman entitled?
2. Whether the action of the employer M/s. Kadali Venkateswara Rao Security Agency, contractor of Food Corporation of India, Divisional Office, Eluru in discharging or dismissing the workman

amounts to unfair labour practice within the meaning of item 5 of part I of the Fifth Schedule of the Industrial Disputes Act, 1947, if so, to what relief, the workman is entitled to."

The reference is numbered in this Tribunal as I.D. No 4/2026 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Notice issued to the Petitioner was returned with the endorsement "No such person found at the address." Service upon the Petitioner is held to be sufficient. No other address of the Petitioner is available on record. Since the Petitioner has failed to file any claim statement despite sufficient opportunity, a 'No Claim Award' is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 5th day of February, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&lg&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k 1/2020) को प्रकाशित करती है,

[सं- एल-22013/01/2026-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 1/2020)** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,** and their workmen,

[No. L-22013/01/2026 – IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 8th day of July, 2026

INDUSTRIAL DISPUTE No. 1/2020

Between:

Sri Gunda Rajulu, Ex-Coal Filler,

KK5 Incline, SCC Ltd., 2nd Incline Basti,

Asifabad, Adilabad District – 504251 …...Petitioner

AND

The General Manager,

M/s Singreni Collieries Co. Ltd,

Mandamarri Area, Mancherial District ..… Respondent

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. 1/20/2019-B1 dated 24.10.2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Singreni Collieries Co. Ltd and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s Singreni Collieries Co. Ltd, KK-5 Mine in terminating the services of Sri gunda Rajulu, Ex-Coal Filler w.e.f. 26.09.2001 is justified or not. If not, to what relief the workman is entitled to ?"

The reference is numbered in this Tribunal as I.D. No 1/2020 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Notice issued to the Petitioner has been returned unserved with the endorsement, "No such person; address left. Returned to sender." Despite the issuance of notice, the Petitioner has remained absent. In the absence of the claim statement, a No Claim Award is passed. The reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 8th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&sह&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k 116/2018) को प्रकाशित करती है,

[सं- एल-22012/126/2018-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 116/2018)** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,** and their workmen,

[No. L-22012/126/2018 – IR (CM-II)]

JAIDEEP YADAV, 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 July, 2026

INDUSTRIAL DISPUTE No. 116/2018

Between:

Sri Routhu Kanakaiah,

Ex-Badli Filler,

H. No. 21-4-26, Radhagambala Basthi,

Bellampalli (V&M) District,

Mancherial – 504251 .....Petitioner

AND

The General Manager,

M/s Singareni Collieries Co. Ltd.,

Sreerampur Area,

Sreerampur – Dist.

Mancherial - 504303 …… Respondent

Appearances:

For the Petitioner : None

For the Respondent: M/s P.A.V.V.S. Sarma, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/126/2018 – IR(CM-II) dated 22.11.2018 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Singareni Collieries Co. Ltd, and their workman. The reference is,

SCHEDULE

"Whether the action of The General Manager, M/s Singareni Collieries Co. Ltd., Sreerampur area, Manchrial Dist. (TS) in terminating the services of Sri Routhu Kanakaiah, Ex-Badli Filler, RK-6 inc., SCCL, Sreerampur area with effect from 13.10.1998 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No 116/2018 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Despite service of notice and sufficient opportunity didn't filed any claim statement. Petitioner opportunity closed. Petitioner has failed to appear and did not file any claim statement. Hence, in absence of claim statement 'no claim' Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 20th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&sह&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k 73@2015**)** को प्रकाशित करती है,

[सं- एल-22012/39/2015-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 73/2015***)* of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,,** and their workmen,

[No. L-22012/39/2015 – IR (CM-II)]

JAIDEEP YADAV, 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 July, 2026

INDUSTRIAL DISPUTE No. 73/2015

Between:

Sri Md. Rabbani,

S/o M.A. Gani,

H. No. 19-11-128, Shombonipet (unertly, Gate),

Warangal (M) – 506005

Warangal Distt. (Telangana State)

Warangal - .....Petitioner

AND

The General Manager,

M/s Singareni Collieries Company Limited,

Ramagundam – I Area, Godavarikhani – 505209

Karimnagar Distt. (Telangana State).

Karimnagar (Telangana) - …… Respondent

Appearances:

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

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

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/39/2015 (IR(CM-II)) dated 29.07.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Singareni Collieries Company Limited, and their workman. The reference is,

SCHEDULE

Whether the action of the General Manager, M/S. Singareni Collieries Co. Ltd., Ramagundam-1 Area, Godavarikhani, Karimnagar Dist., in terminating the services of Shri Md. Rabbani, Coal Filler, GDK-1 & 3 Inc., SCCL, Ramagundam-I Area, Godavarikhani with the effect from 29/03/2001 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No 73/2015 and notices were issued to the parties concerned.

2. On the date fixed for Petitioner evidence, Petitioner remained absent. Despite sufficient opportunity accorded to the Petitioner, he did not adduce any evidence in support of his claim, opportunity closed. The claim of Petitioner has not been substantiated by any evidence, hence, 'No-Claim' award is passed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 22th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2026

का.आ. 1732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vkS|ksfxd vf/kdj.k&lg&Je U;k;ky;] हैदराबाद के पंचाट (पहचान l[;k 11@2015) को प्रकाशित करती है,

[सं- एल-22012/84/2014-आईआर(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 8th August, 2026

S.O. 1732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 11/2015)** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **SCCL,,** and their workmen,

[No. L-22012/84/2026–IR(CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 2nd day of February, 2026

INDUSTRIAL DISPUTE No. 11/2015

Between:

The President (Sri Bandari Satyanarayana),
Telengana Trade Union Council,

Raj Kumar Complex, Sai Baba Temple Road,
Jaffer nagar, Mancherial -504208.

Adilabad Dist …...Petitioner

AND

The General Manager,

M/s Singreni Collieries Co. Ltd,

Sreerampur Area,

Sreerampur - 504303 ..… Respondent

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/84/2014 (IR(CM-II)) dated 23.01.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Singreni Collieries Co. Ltd and their workman. The reference is,

SCHEDULE

"Whether the action of General Manager, M/s. Singareni Collieries Co. Ltd., Mandamarri Area, Mandamarri, Adilabad Distt. in terminating the services/Disempannelling the service of Sri Karre Thirupathi, Ex- Badly Coal Filler. MK-4 Inc., Mandamarri Area with effect from 09.10.1998 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No 11/2015 and notices were issued to the parties concerned.

2. On the date fixed for appearance and filing of claim statement Petitioner remained absent. Despite service of notice and sufficient opportunity being afforded, the petitioner failed to file any claim statement. It seems petitioner do not want to prosecute his case. Therefore, 'no-claim' award is passed. Reference is ordered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 2nd day of February, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 6 अगस्त, 2026

का.आ. 1733.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री गौड़ापेरी लिंगयाह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(30/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-168]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 30/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Gowdaperi Lingaiah.**

[No. L-12025/01/2026- IR(B-I)-168]

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 June, 2026

INDUSTRIAL DISPUTE L.C.No. 30/2003

[Old ID No. 270/99 of Labour Court, Guntur]

Between:

Sri Gowdaperi Lingaiah,

S/o Adam,

Sundar Nagar,

Pakala Road, S. Konda,

Prakasam distt.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India,
   Kandukur branch.

4. The Regional Manager,

State Bank of India,

Zonal office,

Tirupathi. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Rathanga Pani Reddy, Advocate

AWARD

Sri Gowdaperi Lingaiah 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 270/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 30/2003.

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 December, 1985 to 6.4.86 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 6.4.86. 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 31.3.1997 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 service certificate. Ex.W2 is the caste certificate. Ex.W3 is the transfer certificate.

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

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

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

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

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

I. Whether the 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, Kandukur branch, in terminating the services of Workman Sri Gowdaperi Lingaiah, a Messenger with effect from 6.4.86 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 6.4.86 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 6.4.86 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 service was for total no. of 177 days spread over with gaps from time to time duringthe period from 1986…..

I was not sponsored by employment exchange. ….. It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or

payment in lieu after termination, in contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

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

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 6.4.86 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Gowdaperi Lingaiah, Ex. Messenger by way of oral orders w.e.f. 6.4.86 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 16th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Gowdaperi Lingaiah	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of caste certificate

Ex.W3: Photocopy of transfer certificate

Documents marked for the Respondent

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

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

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

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

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 6 अगस्त, 2026

का.आ. 1734.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री एस. राजा रतनम** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(32/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-169]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 32/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri S. Raja Ratnam.**

[No. L-12025/01/2026- IR (B-I)-169]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 11th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 32/2003

[Old ID No. 249/2000 of Labour Court, Guntur]

Between:

Sri S. Raja Ratnam,

S/o Daniel,

R/o Rayapudi,

Thulluru Mandal,

Guntur District. … Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Regional Asst. General Manager,
   State Bank of India,
   Zonal Office, Vijayawada Zone,
   Vijayawada.
4. The Branch Manager,
   State Bank of India,
   Governorpet branch,
   district. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri S. Raja Ratnam 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 249/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 32/2003.

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 1.1.1997. 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 1.1.1997 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 to Ex.W3 are the service certificates. Ex.W4 is the caste certificate. Ex.W5 is the study certificate. Ex.W6 is the transfer certificate. Ex.W7 is the employment card. Ex.W8 is the interview call letter. Ex.W9 is the stay order. Ex.W10 is the 1992 panel list. Ex.W11 is the Petitioner’s panel list. Ex.W12 is the legal notice to Respondent.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud and this witness has exhibited 13 documents, marked as Ex.M1 to M13. 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. Ex.M13 is the employment notification.

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, Governorpet branch in terminating the services of Workman Sri S. Raja Ratnam, a Messenger with effect from 1.1.1997 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 1.1.1997. 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 1.1.1997."

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 1.1.1997 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 1.1.1997 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 1.1.1997 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 1.1.1997 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 1.1.1997 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., 1.1.1997.

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

"I was not sponsored by any employment exchange and 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., 1.1.1997. 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 1.1.1997 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. 1.1.1997. 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., 1.1.1997.

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 1.1.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 1.1.1997. 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 1.1.1997 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 used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. Further witness states, *"I am not having any evidence to show that any of my juniors are continuing in the service."*

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

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

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 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 1.1.1997. 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. Raja Ratnam, Ex. Messenger by way of oral orders w.e.f. 1.1.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

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 11th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri S. Raja Ratnam	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1 to

Ex.W3:	Photocopies of service certificates
Ex.W4:	Photocopy of caste certificate
Ex.W5:	Photocopy of study certificate
Ex.W6:	Photocopy of transfer certificate
Ex.W7:	Photocopy of employment card
Ex.W8:	Photocopy of interview call letter
Ex.W9:	Photocopy of stay order
Ex.W10:	Photocopy of 1992 panel list
Ex.W11:	Photocopy of Petitioner's panel list
Ex.W12:	Photocopy of legal notice to Respondent.

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
Ex.M13:	Photocopy of employment notification.

नई दिल्ली, 6 अगस्त, 2026

का.आ. 1735.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री के. विजय बाबू** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(33/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-170]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1735.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 33/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri K. Vijaya Babu.**

[No. L-12025/01/2026- IR (B-I)-170]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 11th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 33/2003

[Old ID No. 241/2000 of Labour Court, Guntur]

Between:

Sri K. Vijaya Babu,

S/o O. Joseph,

R/o D.No.12-3-9/2,

Prakash Nagar,

Narasaraopet Town,

Guntur district. …. Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Regional Asst. General Manager,
   State Bank of India,
   Zonal Office, Vijayawada Zone,
   Vijayawada.
4. The Branch Manager,
   State Bank of India,
   Narasaraopet branch(ADB),
   Guntur district. …..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri K. Vijaya Babu who worked as Driver cum 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 Driver cum 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 241/2000, as per orders of Central Government vide Lr. No. H- 11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 33/2003.

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 5.5.1986 to 20.3.1997, 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 March, 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 March, 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 W16. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to Ex.W7 are the service certificates. Ex.W8 is the marks memo. Ex.W9 is the transfer certificate. Ex.W10 is the caste certificate. Ex.W11 is the driving certificate. Ex.W12 is the employment card. Ex.W13 is the interview call letter. Ex.W14 is the stay order. Ex.W15 is the 1992 panel list. Ex.W16 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhar Goud 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, Narasaraopet ADB branch in terminating the services of Workman Sri K. Vijaya Babu, a Messenger with effect from March, 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 March, 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 March, 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 March, 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 March, 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 March, 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 March, 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 March, 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., March, 1997.

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

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

"I did not work continuously for 240 days in any branch in any year."

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., March, 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 March, 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. March, 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., March, 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 March, 1997, therefore it was directed to issue suitable instructions not to make temporary appointments from March, 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 March, 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 filed the panel list." Further, the witness states, "*Prior to my oral appointment there was no notification. I used to work depending upon availability of work in the branch." ....* Further witness states*, "I am not having any evidence to show that any of my juniors are continuing in the service."*

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

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

41. In this context, the perusal of Settlement dated 30.7.1996 reveals that the 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 March, 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. Vijaya Babu, Ex. Messenger by way of oral orders w.e.f. March, 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.

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 11th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Vijaya Babu	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1 to

Ex.W7: Photocopies of service certificates

Ex.W8: Photocopy of marks memo

Ex.W9: Photocopy of transfer certificate

Ex.W10: Photocopy of caste certificate

Ex.W11: Photocopy of driving certificate

Ex.W12: Photocopy of employment card

Ex.W13: Photocopy of interview call letter

Ex.W14: Photocopy of stay order

Ex.W15: Photocopy of 1992 panel list

Ex.W16: Photocopy of legal notice

Documents marked for the Respondent

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

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

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

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

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

Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non-messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 6 अगस्त, 2026

का.आ. 1736.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री ज्योति रोसियह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(34/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-171]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 34/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Jyothi Rosiah.**

[No. L-12025/01/2026- IR (B-I)-171]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 11th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 34/2003

[Old ID No. 283/99 of Labour Court, Guntur]

Between:

Sri Jyothi Rosiah,

S/o Papaiah,

Velamuripadu post,

Addanki Mandal,

Prakasam distt. ….. Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India (ADB),
   Addanki branch.
4. The Regional Manager,
   State Bank of India,
   Zonal Office,
   Tirupathi. …..Respondents

Appearances:

For the Petitioner : Sri S. Prasada Rao, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Jyothi Rosiah 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 283/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 34 /2003.

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 1.1.87 to 31.7.98, 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 31.7.98. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 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 31.7.98 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 interview call letter. Ex.W2 is the service certificate. Ex.W3 is the transfer certificate. Ex.W4 is the community, nativity and birth certificate. Ex.W5 is the service certificate.

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

Ex.M.1 is the Settlement dated 17.11.1987. Ex.M2 is the Settlement dated 16.7.1988. Ex.M3 is the Settlement dated 27.10.1988. Ex.M4 is the Settlement dated 9.1.1991. Ex.M5 is the Minutes of the conciliation proceedings dated 9.6.1995. Ex.M6 is the Settlement dated 30.7.1996. Ex.M7 is the

Memorandum of Understanding dt. 27.2.1997. Ex.M8 is the Particulars of 1989 Messengerial Panel. Ex.M9 is the Particulars of 1989 Non-Messengerial Panel. Ex.M10 is the Particulars of 1992 General Attendant Panel. Ex.M11 is the Judgment of Hon'ble High Court of A.P. in Writ Appeal No.86/98 dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998. Ex.M13 is the paper notification.

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, Addanki in terminating the services of Workman Sri Jyothi Rosiah, a Messenger with effect from 31.7.98 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 31.7.98. 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 31.7.98."

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 31.7.98 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 31.7.98 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 31.7.98 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 31.7.98 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 31.7.98 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., 31.7.98.

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

"I was not sponsored by any employment exchange and 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., 31.7.98. 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 31.7.98 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. 31.7.98. 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., 31.7.98.

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 31.7.98, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.7.98. 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 31.7.98 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:-

"Prior to my oral appointment in 1987 there was no notification."

..."I used to work depending upon availability of work in the branch. I am not aware of the settlements between the federation and the Management. .... 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 31.7.98. 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 Jyothi Rosiah, Ex. Messenger by way of oral orders w.e.f. 31.7.98 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 11th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Jyothi Rosiah	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of interview call letter

Ex.W2: Photocopy of service certificate

Ex.W3: Photocopy of the transfer certificate

Ex.W4: Photocopy of community, nativity and birth 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, 6 अगस्त, 2026

का.आ. 1737.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री माद्दिराला अन्जाइअह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(39/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-173]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 39/2003*)*** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Maddirala Anjaiah.**

[No. L-12025/01/2026- IR (B-I)-173]

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 June, 2026

INDUSTRIAL DISPUTE L.C.No. 39/2003

[Old ID No. 269/99 of Labour Court, Guntur]

Between:

Sri Maddirala Anjaiah,

S/o Samalu,

Takkellapadu,

Naguluppalpadu mandal,

Prakasam distt.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India, A.D.B.,
   Addanki branch.

4. The Regional Manager,

State Bank of India,

Zonal office,

Tirupathi. …..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Maddirala Anjaiah 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 269/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 39/2003.

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 11.5.84 to 31.7.98 and has rendered unblemished service spreading over a period of about 14 years. The Respondent has terminated services of Workman by oral orders with effect from 31.7.98. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

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

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 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 31.3.1997 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. Ex.W2 is the transfer certificate. Ex.W3 is the caste certificate. Ex.W4 is the call letter. Ex.W5 is the service certificate. Ex.W6 is the conduct certificate. Ex.W7 is the nativity certificate.

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

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

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

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

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

I. Whether the 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, Addanki ADB branch, in terminating the services of Workman Sri Maddirala Anjaiah, a Messenger with effect from 31.7.98 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 31.7.98 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 31.7.98 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 service was for total no. of 196 days spread with gaps from time to time for the period from 1984 to 1986 which is Ex.W5…..

I was not sponsored by employment exchange. ….. It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

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

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

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.7.98 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Maddirala Anjaiah, Ex. Messenger by way of oral orders w.e.f. 31.7.98 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 16th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Maddirala Anjaiah	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of transfer certificate
Ex.W3:	Photocopy of caste certificate
Ex.W4:	Photocopy of call letter
Ex.W5:	Photocopy of service certificate
Ex.W6:	Photocopy of conduct certificate
Ex.W7:	Photocopy of nativity 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, 6 अगस्त, 2026

का.आ. 1738.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री येदलूरी मुसलइअह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(40/2003)** प्रकाशित करती है।

[सं- एल-12025/01/2026-आईआर(बी-I)-174]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 40/2003)** of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri Yedluri Musaliah.**

[No. L-12025/01/2026- IR (B-I)-174]

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 June, 2026

INDUSTRIAL DISPUTE L.C.No. 40/2003

[Old ID No. 284/99 of Labour Court, Guntur]

Between:

Sri Yedluri Musaliah,
S/o Mattaiah,
Pokuru branch,
Prakasam distt.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India,
   Pokuru branch.
4. The Regional Manager,
   State Bank of India,
   Zonal office,
   Tirupathi. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Rathanga Pani Reddy, Advocate

AWARD

Sri Yedluri Musaliah 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 284/99, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 40/2003.

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 1.7.75 to 31.7.98 and has rendered unblemished service spreading over a period of about 22 years. The Respondent has terminated services of Workman by oral orders with effect from 31.7.98. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

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

6. Workman submits that there were total five settlements. The settlement dated 17.11.87 is the 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 31.3.1997 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 study record sheet. Ex.W2 is the service certificate. Ex.W3 is the service certificate. Ex.W4 is the community certificate.

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

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

dt.1.5.1998. Ex.M12 is the Judgment of Hon'ble Supreme Court of India in SLP No. 11886-11888 of 1998 dt.10.8.1998.

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

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

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

I. Whether the 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, Pokuru branch, in terminating the services of Workman Sri Yedluri Musaliah, a Messenger with effect from 31.7.98 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 31.7.98 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 31.7.98 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 service was for total no. of 852 days spread with gaps from time to time for the period from 1975 to 1997.....

I was not sponsored by any employment exchange. ..... It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

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

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

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 31.7.98 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 Yedluri Musaliah, Ex. Messenger by way of oral orders w.e.f. 31.7.98 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 16th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Yedluri Musaliah	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of study record sheet

Ex.W2: Photocopy of service certificate

Ex.W3: Photocopy of service certificate

Ex.W4: Photocopy of community 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, 6 अगस्त, 2026

का.आ. 1739.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ़ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकार **श्री नागभूषण सरमा** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (41/2003)** प्रकाशित करती है।

[सं. **एल-**12025/01/2026**-आई आर** (बी.I)-175]

सलोनी, उप निदेशक

New Delhi, the 6th August, 2026

S.O. 1739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 41/2003***)* of the ***Central Government Industrial Tribunal-cum-Labour Court Hyderabad*** as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workman **Sri M. Nagabhushana Sarma.**

[No. L-12025/01/2026-IR(B-I)-175]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**
Presiding Officer

Dated the 16th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 41/2003
[Old ID No. 124/2000 of Labour Court, Guntur]

Between:

Sri M. Nagabhushana Sarma,
S/o Viswanadham,
Cumbum,
Prakasam distt.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Branch Manager,
   State Bank of India,
   Cumbum branch.
4. The Zonal Manager,
   State Bank of India,
   Zonal office,
   Tirupathi.

…..Respondents

Appearances:

For the Petitioner : M/s. S. Prasada Rao, Advocates
Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Rathanga Pani Reddy, Advocate
Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri M. Nagabhushana Sarma 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. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 124/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 41/2003.

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 1.1.86 to 1994 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 1994. 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 31.3.1997 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 service certificate. Ex.W2 is the service certificate. Ex.W3 is the service certificate. Ex.W4 is the transfer certificate. Ex.W5 is the interview call letter.

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

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

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

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

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

I. Whether the 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, in terminating the services of Workman Sri M. Nagabhushana Sarma, a Messenger with effect from 1994 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 31.3.1997. 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 31.3.1997."

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 31.3.1997 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 31.3.1997 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 31.3.1997 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 1994without 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 1994without 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 service was for total no. of 403 days spread over with gaps from time to time during the period from 1980-94.....

I was not sponsored by employment exchange. ..... It is not true to suggest that I never worked for 240 days in a year continuously and I was casual worker I am not entitled for any relief."

Thus, it is clear from the testimony of WW1 that the Workman had not worked for 240 days continuously in any 12 months of a calendar year just preceding from the date of his termination in the Respondent bank. Therefore, Workman failed to establish his plea by his oral and documentary evidence that he had worked for 240 days continuously in calendar year just preceding from the date of his termination i.e., 31.3.1997. Thus, the claim of the Workman that he has been terminated by oral order without issuing notice or payment in lieu after termination, in

contravention of Section 25 F of Industrial Disputes Act, 1947 is not tenable. However the documents filed by the Workman in support of his claim, number of days worked with the Respondent goes to reveal that the Workman had worked intermittently as daily wager depending upon availability of work in branch. Workman did not file any document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

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

31. Thus, in view of the fore gone discussion and contentions made by the Respondent, I find the force in the argument advanced by the Respondent that in the instant matter, Workman was not terminated from service by order dated 1994rather 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. 31.3.1997. 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 31.3.1997, therefore it was directed to issue suitable instructions not to make temporary appointments from 31.3.1997. 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 31.3.1997 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, "The Petitioner has not completed 240 days of service in a calendar year." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, "The temporary messengers and Non-messengers were engaged by the bank in leave vacancies and for administrative exigencies. The Petitioner did not work continuously for 240 days in any year or over a period of 36 months." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, in view of the statement of MW1, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable.

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 31.3.1997. 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 M. Nagabhushana Sarma, Ex. Messenger by way of oral orders w.e.f. 1994 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 16th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri M. Nagabhushana Sarma	MW1: Sri I.S. Appa Rao

Documents marked for the Petitioner

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of service certificate

Ex.W3: Photocopy of service certificate

Ex.W4: Photocopy of transfer certificate

Ex.W5: Photocopy of interview call letter

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, 7 अगस्त, 2026

का.आ. 1740.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पोस्ट ग्रेजुएट इंस्टीट्यूट ऑफ़ मेडिकल एजुकेशन एंड रिसर्च (पीजीआईएमईआर); मेसर्स ओम सिक्योरिटी एंड क्लीनिंग सर्विसेज़** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती पार्वती देवी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 270/2024)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-60-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1740.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 270/2024)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Post Graduate Institute of Medical Education & Research (PGIMER); M/s Om Security & Cleaning Services** and **Smt. Parwati Devi** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-60-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh

(Presided over by Mr. Kamal Kant).

ID No.270/2024

Parwati Devi W/o Sh. Ramlal, R/o House No.1067/0, Badi Karor, Near Church, Naya Gaon, SAS Nagar, Mohali.

-------- Workman

Versus

1. Post Graduate Institute of Medical Education & Research (PGIMER), through its Director, Sector 12, Chandigarh.
2. M/s Om Security & Cleaning Services, through its Proprietor & Manager, Head office E-194, Sector 63, Noida, UP-201307.

   Local Address:- SCO 185, Sector 38C, Chandigarh.

----Respondents

Present:- Sh. Satyavir Singh, AR for workman.

None for respondent no.1 & 2.

Respondent no.2 already ex parte.

Order : 06.02.2026

1. The workman has filed the present claim petition under Section 2A of the Industrial Disputes Act, 1947 (hereinafter called as Act) against her termination dated 07.06.2023 claiming reinstatement with full back wages along with all consequential benefits.
2. The case is taken up in Special Campaign for disposal of pending cases. Today, AR for workman made following statement:-

   "Stated that on the instruction of the workman Smt. Parwati Devi, I withdraw this ID case time being."
3. In view of the statement of AR for workman, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present petition.
4. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1741.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत के नियंत्रक एवं महालेखापरीक्षक; प्रधान महालेखाकार (ऑडिट); महालेखाकार (ए एंड ई)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पीपल मोहम्मद** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 05/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-164-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1741.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 05/2025)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Comptloller & Auditor General of India; Principal Accountant General (Audit); Accountant General (A&E)** and **Shri Pipal Mohammad** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-164-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh
(Present:- Mr. Kamal Kant, PO-cum-Link Officer).

ID No.05/2025

Pipal Mohammad S/o Sh. Kaimdin, aged about 56 R/o village Todar Majra, PO Majatri, Tehsil Kharar, District Mohali-140307.

-------- Workman

Versus

1. Comptloller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi-110002

(Deleted)

2. Principal Accountant General (Audit), Punjab, Plot No.20-21, Sector 17, Chandigarh-160017.
3. Accountant General (A&E), Punjab, Sector 17, Chandigarh-160017.

------Respondents

Present:- Sh. Jagdeep Jaswal, AR for workman.
Sh. Brijesh Mittal, AR for respondent no.1to 3.

AWARD : 28.04.2026

1. Hon'ble High Court of Punjab and Haryana vide order dated 19.05.2025 passed in CWP No.26760 of 2019 titled as Bhag Singh and others versus Comptroller and Auditor General of India and others has referred this matter under Section 10A of the Industrial Disputes Act, 1947 (hereinafter called the Act) to this Tribunal observing that if applicant challenge his termination, the question of limitation shall not be gone into and the Labour Court/Industrial Court shall examine their grievance in terms of Section 10A of the Act by taking dispute directly. It is also made clear that the dismissal of appeal by the Central Administrative Tribunal shall not come in the way. It is under these circumstances, the present petition has been filed by the workman challenging his oral termination dated 02.05.2017.

2. Brief facts of the case, as per claim statement of workman, are that the workman was employed as Casual Labourer by the Respondent No.3 against the regular sanction post w.e.f. 13.08.2003 and has been continuously working till 02.05.2017. Workman worked with the management continuously and completed more than 240 days in the year 2016 and 2017. He has also worked 240 days preceding one year from the date of his termination on 02.05.2017.

3. Workman was engaged on the sanctioned posts through legal process and worked for more than 13 years, but he was not granted temporary status despite of the instructions issued by Government of India dated 01.09.1993 on the ground that the said scheme was only for one time.

4. As per the information received by the workman, still 28 posts of MTS are vacant in the office of respondent No.3 against which, the workman was continuously working. Management outsourced the work of the workman and removed the workman from his work. The respondent No.2 has ordered verbally not to report for work on 02.05.2017, without giving any notice in writing. The workman orally requested the respondents to regularize his services also in accordance with the rules and at par with the other Casual Labourers who has been regularized or given temporary status. But instead of regularizing the services of the workman, the respondent no.1 has outsourced the services through some contractors.

5. Services of workman were dispensed with whereas, his juniors were retained in service, which was in violation of Section 25H of the Act. It is further maintained that no compensation was given to the workman, which is in violation of Section 25F of the Act. Workman was eligible for regularization of his service as 28 posts of MTS are lying vacant in the office of respondent no.3. Workman filed OA No.60/470/2017 dated 02.05.2017 in Hon'ble Central Administrative Tribunal, Chandigarh (hereinafter called as CAT Chandigarh) and vide order dated 03.05.2017, Hon'ble CAT, Chandigarh directed the respondent to allow the workman and others to continue till 12.05.2017. The said OA was finally dismissed on 23.04.2019. Applicant also filed review application, which was also dismissed on 22.08.2019. Workman challenged the said order before the Hon'ble High Court by filing CWP No.26760/2019 and the matter was relegated to this Tribunal by the High Court. Hon'ble Supreme Court in case titled as ***Jaggo V/s Union of India and others (2024 INSC 1034)*** held that termination of casual employees working since long is unfair and they are to be regularized.

6. It is maintained that the work performed by the workman is of perennial in nature. It is prayed that claim of the workman may be allowed and oral termination dated 02.05.2017 may be declared illegal and arbitrary and workman be reinstated back in service and deemed to be in service with all consequential benefits and be also held entitled for full back wages from the date of his termination.

7. Notice of petition was given to the respondents, who filed reply thereof maintaining therein that the workman was engaged as casual worker for performing work on seasonal basis as per need and requirement of work by office of respondent No.2 w.e.f. 13.08.2003 and performed duty for a period of 1563 days. As per office records the payment to casual workers including the workman was being made through Contingent Bill Register (2009-2010) under the Head "Wages' and the name of the workman finds mentioned at Serial No.26 therein. The GOI DOPT OM dated 01.09.1993 providing for temporary status/regularization categorically provided for conferment of temporary status on all casual labourers who were in employment on the date of issue of OM and who have rendered a continuous service of atleast one year i.e. engaged for a period of 240 days. The workman has never completed a period of 240 days. The workman is himself admitting to having been engaged in 13.08.2003 does not get covered under the said scheme which was only for those casual labourers who were in employment on the date of issue of OM i.e. 01.09.1993. Hence, the submissions regarding grant of temporary status to the Workman is misconceived. Moreover, in the previous litigations filed by the Workman before Hon'ble CAT Chandigarh Bench, the said relief of temporary/regularization was never sought/pleaded by the Workman and earlier stage also.

8. The regular post of MTS, if vacant/available, with the department shall be filled up on direct recruitment basis to be conducted by SSC as per provisions of relevant Recruitment Rules. At earlier point of time, in pursuance to advertisement dated 24.09.2011 for filling up the post of MTS on direct recruitment basis, the application of workman belonging to BC Category was duly considered and he was granted all the admissible relaxations of age, period of his engagement as casual labourer etc. However, since he was overage by more than 04 ½ years, even after grant of all admissible relaxation, his application was rejected on account of being overage. The Workman assailed the said rejection of his candidature with respect to direct recruitment by filing OA No.143/CH/2013 decided on 10.02.2014 before Hon'ble CAT Chandigarh which stood dismissed.

9. On the basis of recommendations of 6th CPC to the effect that Govt. is required to outsource certain activities by providing employment in the form of contract labour and the said outsourcing would be discontinued when the regular incumbents joined and the CAG Headquarter office in February-March 2017 had not considered the funds/budget for making payment of wages/disbursement of salary to directly engaged daily wagers. Since there was no scheme for regularization of services except for granting adequate relaxation for the period of his engagement as Casual Labourer w.e.f. 13.08.2003 to 24.10.2011 as well as other admissible relaxations, prior to filling up the post of MTS through direct recruitment, the service of workman could not have been regularized and neither he could have been conferred with temporary status under the scheme being not in employment during 1993.

10. Workman is making contradictory statement in his claim statement. He is contending that his services have been orally terminated w.e.f. 02.05.2017 and further he is also contending that he was replaced by other individuals during 2013-2014. The non-assailing of his replacement by other individuals at the relevant time in 2013-2014 under the relevant provisions of the Act and availing his remedies before Ld. CAT and thereafter, before Hon'ble High Court makes the present claim statement time barred by limitation by calculating the period from 2013-2014 respectively.

11. The workman himself sought discharge from services vide his application dated 01.08.2014. Had the letter dated 01.08.2014 being fabricated document, the workman could have availed his legal remedies to prove the said letter as fabricated one from competent court of law and neither any said contention was raised by him at earlier point of time by making submissions qua the same in cases filed by workman before Hon'ble CAT/High Court of Punjab and Haryana.

12. Further, there is no scheme of regularization in the management department and the available post of MTS shall be filled up on the basis of open competition/direct recruitment to be conducted by SSC strictly in terms of Statutory Recruitment Rules for the post of MTS.

13. Workman has already availed his remedies after his disengagement by filing appropriate cases before Hon'ble CAT Chandigarh Bench as well as Hon'ble Punjab and Haryana High Court and the present claim statement filed by the Workman being misconceived and against the relevant provisions of rules and law, deserves to be dismissed outrightly in the interest of justice.

14. It is added here that AR for respondents moved an application for dropping the name of respondent no.1 from the array of parties for the reasons mentioned in the application and AR for workman gave no objection and application was allowed. However, in this case, all the respondents have jointly filed written statement. Respondent no.1 is the controlling authority of respondent no.2 & 3 and thus was a formal party.

Evidence of workman:-

15. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondents. AR for workman closed the evidence on 15.04.2026.

List of documents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Attendance		Ex.WW1/1
2.	Work report	23.01.2013	Mark A
3.	Letter	17.03.2017	Mark B
4.	Letter	29.03.2017	Mark C
5.	Letter	10.04.2017	Mark D
6.	Letter	13.04.2017	Mark E
7.	Letter	25.04.2017	Mark F
8.	Order of Hon'ble CAT	03.05.2017	Mark G
9.	Order of Hon'ble CAT	23.04.2019	Mark H
10.	Order of Hon'ble High Court	19.05.2025	Mark I
11.	Summary of working days		Mark J

Evidence of respondents:-

16. Respondent no.1& 2 has examined Sh. Varinder Singh Saini, Assistant Account Officer, who tendered into evidence his affidavit MW1/A and has been cross examined by AR for workman. AR for respondents closed the evidence on 21.04.2026.

List of documents of respondents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Details of litigations		Mark A
2.	Order of Hon'ble CAT	10.02.2014	Mark B
3.	Order of Hon'ble CAT	22.08.2019	Mark D

Submissions of workman:-

17. While arguing the case, ld. counsel for workman contended that in this case, workman was engaged as casual labour by the respondent on regular sanctioned post w.e.f. 13.08.2003 and was continuously worked till 02.05.2017 for more than 13 years and was terminated verbally on 02.05.2017. Workman had completed 240 days preceding the year of his termination on 02.05.2017. Against the verbal termination order, workman along with other workmen had gone in Hon'ble CAT, Chandigarh in OA No.60/470/2017 challenging the termination order and had also sought regularization, which was dismissed by the Hon'ble CAT, Chandigarh. Thereafter, workman went in High Court and High Court vide order dated 19.05.2025 has relegated the matter to this Tribunal. He further contended that since this Tribunal has been directed to dispose of the case in terms of Section 10A of the Act. In this case workman had completed 240 days, however, no compensation was given to him and there was violation of Section 25F of the Act.

Submissions of respondents:-

18. On the other hand, ld. counsel for respondents contended that in this case, workman was removed from service due to non sending of wages under wages head by the head office of respondent no.1.Instructions were also received from the Government of India that no direct appointment be made of casual employees and they may be engaged through contractors. Moreover, the workman was gainfully employed after his termination. As per order of Hon'ble High Court dated 19.05.2025 passed in CWP No.26760 of 2019, this Tribunal is not competent to decide this matter. Moreover, the workman was re-engaged on 23.09.2022 on outsourcing basis.

Findings:-

19. I have given due consideration to the arguments advanced by AR for both the parties.

20. The first contention regarding the claimant is that whether he comes within the definition of 'workman' as is defined in Section 2(s) of the Act. I may mention that claimant was working as casual labour as per his claim petition and affidavit submitted before the Tribunal. In plain words the claimant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

21. Thus, Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the claimant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

22. Next question which arises for consideration is whether respondents are an industry. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organised by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. To support this view, reliance can be placed on ***Banglore Water Supply & Sewerage Board (supra)***.

23. In the present case, respondent is a government body and is engaged in systematic activity organized by cooperation between employer and employee (employee being workman in the present case) and is covered under the Act.

24. Further, Hon'ble Supreme Court in case titled as ***Chief Conservator of Forest Versus Jagannath Maruti Kondhare (1996 (2) SCT 164)***, has held that work, which was not be regarded as a part of inalienable of inescapable function of the State and which work can be well undertaken by a private agency does not require an instrumentality of State, such functions of the State fall within the ambit of Industry. Thus, function being done by the respondents cannot be said to be sovereign function of the State and thus for this purpose of industrial dispute, respondents would be termed as industry. Thus, respondents are industries for the purpose they were engaging casual labour and thus functions cannot be said to be sovereign function of State.

25. So far as this argument of Ld. counsel for respondents that this Tribunal is incompetent to entertain the ID case under Section 10A of the Act. In this regard, it is pointed out that High Court vide its order dated 19.05.2025 passed in CWP No.26760 of 2019 has directed as under:-

> If the writ petitioners challenge their termination, question of limitation shall not be gone into, and the Labour Court/Industrial Court shall examine their grievances in terms of Section 10A of the Act, by taking up the dispute directly. If such an application is filed by the petitioners within period of one month, the Labour Court/Industrial Court shall attempt to decide the same expeditiously, preferably within a period of one month from today. It is made clear that the dismissal of appeal by the Central Administrative Tribunal shall not come in their way.

Further, **Section 10A** of the Act read as follows:-

Voluntary reference of disputes to arbitration.—(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

From co-joint reading of Section 10A of the Act and order of High Court dated 19.05.2025, it emerges that High Court has referred this matter for adjudicating as arbitrator with the consent of both the parties. Hence, the application under Section 10A is very much maintainable before this Tribunal.

26. Next question is whether the workman has completed 240 days preceding one year from the date of his termination on 02.05.2017. In this regard, it is pertinent to mention here that the workman has placed on record, vide which he has worked 287 days prior to 02.05.2017 as per attendance register (Ex.WW1/1) and summary of working days (Mark J) for the period May 2016 to May 2017. Even attendance register is on the file. Hence, the workman is able to prove that he has worked for about 287 days preceding one year prior to his termination on 02.05.2017. There is thus violation of Section 25F of the Act, which read as follows:-

***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.

27. Since in this case, applicant is workman as defined under the Act and was removed from service without compliance of the Section 25F of the Act, which provide payment of retrenchment compensation as well as wages in lieu of notice for the period of notice. Thus, due to breach of Section 25F of the Act, workman is entitled for reinstatement. So far as violation of Section 25G and 25H is concerned, no evidence is given by the workman regarding violation of Section 25G and 25H of the Act. Hence, it is deemed that applicant has failed to prove violations of Sections 25G and 25H of the Act.

28. Under these circumstances, the workman is reinstated into service. But so far as back wages are concerned, the workman was working as a labourer in factory of Mohali after his termination from May 2017 till 23.09.2022 and he has been re-engaged by the management on outsource basis after 23.09.2022, hence, he is entitled for 50% back wages for the period May 2017 to 23.09.2022 as he might have been under paid in the factory. However, it is made clear that in view of the instructions of Government of India that no casual employee can be taken directly by the respondents, workman would continue to work with the respondents through contractor till attaining age of his superannuation/retirement, even if contractor is changed as it is specific case of the workman in his application before this Tribunal that work assigned to him is of perennial nature and there is no denial of this fact by the respondents.

29. As regards regularization of workman, no prayer is made by the AR for workman nor it was argued by the AR for workman how the workman was entitled for regularization of his services.

30. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1742.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत के नियंत्रक एवं महालेखापरीक्षक; प्रधान महालेखाकार (ऑडिट); महालेखाकार (ए एंड ई)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री भाग सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 04/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-165-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1742.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 04/2025)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Comptloller & Auditor General of India; Principal Accountant General (Audit); Accountant General (A&E)** and **Shri Bhag Singh** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-165-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh

(Present:- Mr. Kamal Kant, PO-cum-Link Officer).

ID No.04/2025

Bhag Singh S/o Suba Singh, aged about 59 years R/o Village Tole Majra, P.O. Rasanheri, Tehsil Kharar, Mohali-140307.

-------- Workman

Versus

1. Comptloller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi-110002 **(Deleted)**
2. Principal Accountant General (Audit), Punjab, Plot No.20-21, Sector 17, Chandigarh-160017.
3. Accountant General (A&E), Punjab, Sector 17, Chandigarh-160017.

------Respondents

Present:- Sh. Jagdeep Jaswal, AR for workman.

Sh. Barjesh Mittal, AR for respondent no.1 to 3.

Award : 30.04.2026

1. Hon'ble High Court of Punjab and Haryana vide order dated 19.05.2025 passed in CWP No.26760 of 2019 titled as Bhag Singh and others versus Comptroller and Auditor General of India and others has referred this matter under Section 10A of the Industrial Disputes Act, 1947 (hereinafter called the Act) to this Tribunal observing that if applicant challenge his termination, the question of limitation shall not be gone into and the Labour Court/Industrial Court shall examine their grievance in terms of Section 10A of the Act by taking dispute directly. It is also made clear that the dismissal of appeal by the Central Administrative Tribunal shall not come in the way. It is under these circumstances, the present petition has been filed by the workman challenging his oral termination dated 02.05.2017.

2. Brief facts of the case, as per claim statement of workman, are that the workman was appointed through Employment Exchange against the regular sanctioned post by the Respondent No.3 w.e.f. 15.10.1996 and has been continuously working till 25.10.2011. Workman worked with the respondents continuously and completed more than 240 days in the year 2016 and 2017. He has also worked 240 days preceding one year from the date of his termination on 02.05.2017.

3. Workman was engaged on the sanctioned posts through legal process and worked for more than 10 years, but he was not granted temporary status despite of the instructions issued by Government of India dated 01.09.1993 on the ground that the said scheme was only for one time.

4. As per the information received by the workman, still 28 posts of MTS are vacant in the office of respondent No.3 against which, the workman was continuously working. Management outsourced the work of the workman and removed the workman from his work. The respondent No.2 has ordered verbally not to report for work on 02.05.2017, without giving any notice in writing. The workman orally requested the respondents to regularize his services also in accordance with the rules and at par with the other Casual Labourers who has been regularized or given temporary status. But instead of regularizing the services of the workman, the respondent no.1 has outsourced the services through some contractors.

5. Services of workman were dispensed with, whereas, his juniors were retained in service, which was in violation of Section 25H of the Act. It is further maintained that no compensation was given to the workman, which is in violation of Section 25F of the Act. Workman was eligible for regularization of his service as 28 posts of MTS are lying vacant in the office of respondent no.3. Workman filed OA No.60/470/2017 dated 02.05.2017 in Hon'ble Central Administrative Tribunal, Chandigarh (hereinafter called as CAT Chandigarh and vide order dated 03.05.2017, Hon'ble CAT, Chandigarh directed the respondent to allow the workman and others to continue till 12.05.2017. The said OA was finally dismissed on 23.04.2019. Applicant also filed review application, which was also dismissed on 22.08.2019. Workman challenged the said order before the Hon'ble High Court by filing CWP No.26760/2019 and the matter was relegated to this Tribunal by the High Court. Hon'ble Supreme Court in case titled as ***Jaggo V/s Union of India and others (2024 INSC 1034)*** held that termination of casual employees working since long is unfair and they are to be regularized.

6. It is maintained that the work performed by the workman is of perennial in nature. It is prayed that claim of the workman may be allowed and oral termination dated 02.05.2017 may be declared illegal and arbitrary and workman be reinstated back in service and deemed to be in service with all consequential benefits and be also held entitled for full back wages from the date of his termination.

7. Notice of petition was given to the respondents, who filed reply thereof maintaining therein that the workman was engaged as casual worker for performing work on seasonal basis as per need and requirement of work by office of respondent No.3 w.e.f. 15.10.1996 and performed duty for a period of 2789 days upto 25.10.2011 on intermittent basis. As per office records the payment to casual workers including the workman was being made through Contingent Bill Register (2009-2010) under the Head 'Wages' and the name of the workman finds mentioned at Serial No.16 therein. The GOI DOPT OM dated 01.09.1993 providing for temporary status/regularization categorically provided for conferment of temporary status on all casual labourers who were in employment on the date of issue of OM and who have rendered a continuous service of atleast one year i.e. engaged for a period of 240 days. The workman has never completed a period of 240 days. The workman is himself admitting to having been engaged in 1996 does not get covered under the said scheme which was only for those casual labourers who were in employment on the date of issue of OM i.e. 01.09.1993. Hence, the submissions regarding grant of temporary status to the Workman is misconceived. Moreover, in the previous litigations filed by the Workman before Hon'ble CAT Chandigarh Bench, the said relief of temporary/regularization was never sought/pleaded by the Workman and earlier stage also.

8. The regular post of MTS, if vacant/available, with the department shall be filled up on direct recruitment basis to be conducted by SSC as per provisions of relevant Recruitment Rules. At earlier point of time, in pursuance to advertisement dated 24.09.2011 for filling up the post of MTS on direct recruitment basis, the application of workman belonging to General Category was duly considered and he was granted all the admissible relaxations of age, period of his engagement as casual labourer etc. However, since he was overage, even after grant of all admissible relaxation, his application was rejected. The Workman assailed the said rejection of his candidature with respect to direct recruitment by filing OA before Hon'ble CAT Chandigarh which stood dismissed.

9. On the basis of recommendations of 6th CPC to the effect that Govt. is required to outsource certain activities by providing employment in the form of contract labour and the said outsourcing would be discontinued when the regular incumbents joined and the CAG Headquarter office in February-March 2017 had not considered the funds/budget for making payment of wages/disbursement of salary to directly engaged daily wagers. Since there was no scheme for regularization of services except for granting adequate relaxation for the period of his engagement as Casual Labourer w.e.f. 15.10.1996 to 25.10.2011 as well as other admissible relaxations, prior to filling up the post of MTS through direct recruitment, the service of workman could not have been regularized and neither he could have been conferred with temporary status under the scheme being not in employment during 1993.

10. Workman is making contradictory statement in his claim statement. He is contending that his services have been orally terminated w.e.f. 02.05.2017 and further he is also contending that he was replaced by other individuals during 2013-2014. The non-assailing of his replacement by other individuals at the relevant time in 2013-2014 under the relevant provisions of the Act and availing his remedies before Ld. CAT and thereafter, before Hon'ble High Court makes the present claim statement time barred by limitation by calculating the period from 2013-2014 respectively.

11. The workman himself sought discharge from services vide his application dated 01.08.2014. Had the letter dated 01.08.2014 being fabricated document, the workman could have availed his legal remedies to prove the said letter as fabricated one from competent court of law and neither any said contention was raised by him at earlier point of time by making submissions qua the same in cases filed by workman before Hon'ble CAT/High Court of Punjab and Haryana.

12. Further, there is no scheme of regularization in the management department and the available post of MTS shall be filled up on the basis of open competition/direct recruitment to be conducted by SSC strictly in terms of Statutory Recruitment Rules for the post of MTS.

13. Workman has already availed his remedies after his disengagement by filing appropriate cases before Hon'ble CAT Chandigarh Bench as well as Hon'ble Punjab and Haryana High Court and the present claim statement filed by the

Workman being misconceived and against the relevant provisions of rules and law, deserves to be dismissed outrightly in the interest of justice.

14. It is added here that AR for respondents moved an application for dropping the name of respondent no.1 from the array of parties for the reasons mentioned in the application and AR for workman gave no objection and application was allowed. However, in this case, all the respondents have jointly filed written statement. Respondent no.1 is the controlling authority of respondent no.2 & 3 and thus was a formal party.

Evidence of workman:-

15. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondents. AR for workman closed the evidence on 15.04.2026.

List of documents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Attendance record		Ex.WW1/1
2.	Work report	23.01.2013	Mark A
3.	Letter	17.03.2017	Mark B
4.	Letter	29.03.2017	Mark C
5.	Letter	10.04.2017	Mark D
6.	Letter	13.04.2017	Mark E
7.	Letter	25.04.2017	Mark F
8.	Order of Hon'ble CAT	03.05.2017	Mark G
9.	Order of Hon'ble CAT	23.04.2019	Mark H
10.	Order of Hon'ble High Court	19.05.2025	Mark I
11.	Summary of working days		Mark J

Evidence of respondents:-

16. Respondent no.1 & 2 has examined Sh. Varinder Singh Saini, Assistant Account Officer, who tendered into evidence his affidavit MW1/A and has been cross examined by AR for workman. AR for respondents closed the evidence on 21.04.2026.

List of documents of respondents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Details of litigations		Mark A
2.	Order of Hon'ble CAT	09.12.2016	Mark B
3.	Order of Hon'ble CAT	30.07.2018	Mark C
4.	Order of Hon'ble High Court	04.09.2017	Mark D
5.	Hon'ble High Court order	09.09.2022	Mark E
6.	Order of Hon'ble CAT	22.08.2019	Mark G
7.	Work report	23.01.2013	Mark I

Submissions of workman:-

17. While arguing the case, ld. counsel for workman contended that in this case, workman was engaged as casual labour by the respondent on regular sanctioned post w.e.f. 15.10.1996 and was continuously worked till 02.05.2017 for more than 20 years and was terminated verbally on 02.05.2017. Workman had completed 240 days preceding the year of his termination on 02.05.2017. Against the verbal termination order, workman along with other workmen had gone in Hon'ble CAT, Chandigarh in OA No.60/470/2017 challenging the termination order and had also sought regularization, which was dismissed by the Hon'ble CAT, Chandigarh. Thereafter, workman went in High Court and High Court vide order dated 19.05.2025 has relegated the matter to this Tribunal. He further contended that since this Tribunal has been directed to dispose of the case in terms of Section 10A of the Act. In this case workman had completed 240 days, however, no compensation was given to him and there was violation of Section 25F of the Act.

Submissions of respondents:-

18. On the other hand, ld. counsel for respondents contended that in this case, workman was removed from service due to non sending of wages under wages head by the head office of respondent no.1.Instructions were also received from the Government of India that no direct appointment be made of casual employees and they may be engaged through contractors. Moreover, the workman was gainfully employed after his termination. As per order of Hon'ble High Court dated 19.05.2025 passed in CWP No.26760 of 2019, this Tribunal is not competent to decide this matter. Moreover, the workman was re-engaged on 23.09.2022 on outsourcing basis.

Findings:-

19. I have given due consideration to the arguments advanced by AR for both the parties.

20. The first contention regarding the claimant is that whether he comes within the definition of 'workman' as is defined in Section 2(s) of the Act. I may mention that claimant was working as casual labour as per his claim petition and affidavit submitted before the Tribunal. In plain words the claimant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***,has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

21. Thus, Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the claimant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

22. Next question which arises for consideration is whether respondents are an industry. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organised by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. To support this view, reliance can be placed on ***Banglore Water Supply & Sewerage Board (supra)***.

23. In the present case, respondent is a government body and is engaged in systematic activity organized by cooperation between employer and employee (employee being workman in the present case) and is covered under the Act.

24. Further, Hon'ble Supreme Court in case titled as ***Chief Conservator of Forest Versus Jagannath Maruti Kondhare (1996 (2) SCT 164)***, has held that work, which was not be regarded as a part of inalienable of inescapable function of the State and which work can be well undertaken by a private agency does not require an instrumentality of State, such functions of the State fall within the ambit of Industry. Thus, function being done by the respondents cannot be said to be sovereign function of the State and thus for this purpose of industrial dispute, respondents would be termed as industry. Thus, respondents are industries for the purpose they were engaging casual labour and thus functions cannot be said to be sovereign function of State.

25. So far as this argument of Ld. counsel for respondents that this Tribunal is incompetent to entertain the ID case under Section 10A of the Act. In this regard, it is pointed out that High Court vide its order dated 19.05.2025 passed in CWP No.26760 of 2019 has directed as under:-

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Further, **Section 10A** of the Act read as follows:-

> *Voluntary reference of disputes to arbitration.—(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be*

to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

From co-joint reading of Section 10A of the Act and order of High Court dated 19.05.2025, it emerges that High Court has referred this matter for adjudicating as arbitrator with the consent of both the parties. Hence, the application under Section 10A is very much maintainable before this Tribunal.

26. Next question is whether the workman has completed 240 days preceding one year from the date of his termination on 02.05.2017. In this regard, it is pertinent to mention here that the workman has placed on record, vide which he has worked 283 days prior to 02.05.2017 as per attendance register (Ex.WW1/1) and summary of working days (Mark J) for the period May 2016 to May 2017. Even attendance register is on the file. Hence, the workman is able to prove that he has worked for about 283 days preceding one year prior to his termination on 02.05.2017. There is thus violation of Section 25F of the Act, which read as follows:-

> ***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.*

27. Since in this case, applicant is workman as defined under the Act and was removed from service without compliance of the Section 25F of the Act, which provide payment of retrenchment compensation as well as wages in lieu of notice for the period of notice. Thus, due to breach of Section 25F of the Act, workman is entitled for reinstatement. So far as violation of Section 25G and 25H is concerned, no evidence is given by the workman regarding violation of Section 25G and 25H of the Act. Hence, it is deemed that applicant has failed to prove violations of Sections 25G and 25H of the Act.

28. Under these circumstances, the workman is reinstated into service. But so far as back wages are concerned, the workman was working as a labourer after his termination from May 2017 till 23.09.2022 and he has been re-engaged by the respondents on outsource basis after 23.09.2022, hence, he is entitled for 50% back wages for the period May 2017 to 23.09.2022 as he might have been under paid as labourer. However, it is made clear that in view of the instructions of Government of India that no casual employee can be taken directly by the respondents, workman would continue to work with the respondents through contractor till attaining age of his superannuation/retirement, even if contractor is changed as it is specific case of the workman in his application before this Tribunal that work assigned to him is of perennial nature and there is no denial of this fact by the respondents.

29. As regards regularization of workman, no prayer is made by the AR for workman nor it was argued by the AR for workman how the workman was entitled for regularization of his services.

30. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1743.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंस्टिट्यूट ऑफ़ हिमालयन बायोरिसोर्स टेक्नोलॉजी; ओम प्रकाश** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री हरबंस कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.-43/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-167-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1743.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 43/2019)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Institute of Himalayan Bioresource Technology; Om Prakash** and **Shri Harbans Kumar** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-167-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh

(Present:- Mr. Kamal Kant, Presiding Officer).

ID No.43/2019

Harbans Kumar S/o Sh. Prem Chand through R K Singh Parmar, General Secretary Punjab INTUC L-211 Brari PO Partap Nagar, Nangal, Tehsil Nangal, District Rupnagar (Punjab).

-------- Workman

Versus

1. Director Institute of Himalayan Bioresource Technology, (CSIR Complex) Palampur, District Kangra, Himachal Pradesh.
2. Om Parkash (Govt. Contractor) S/o Sh. Dumnoo Ram, R/o VPO Kandral, Tehsil Bajinath, District Kangra, Himachal Pradesh.

------Respondents

Present:- Sh. R P Rana, AR for workman.

Sh. G S Sidhu, AR for respondent no.1.

Respondent no.2 already ex parte.

AWARD : 23.04.2026

1. Workman has filed the present petition/complaint under Section 33 of the Industrial Disputes Act, 1947 (hereinafter called the Act) against his termination by respondent no.1 & 2 on 28.11.2024.
2. The brief facts, related to the case are that the workman was terminated orally by respondents on 28.11.2014 during the pendency of the main reference bearing no.255 of 2013 contravening Section 33 of the Act. It is prayed that termination be set aside and appropriate order be passed.
3. Notice of complaint was given to the respondents.
4. Respondent no.1 filed reply thereof maintaining therein that the workman was never employed by respondent no.1 and no master and servant relation exists between respondent no.1 and the workman. Workman was deployed by respondent no.2 as a part of the man-force for executing the work in terms of the agreement dated 18.07.2013 which expired in July, 2014 and thereafter no further contract was awarded to respondent no.2 nor any man-force has been deployed. The respondent No.2 had been paid the bills submitted by him, in terms of the agreement with him. Termination of service of the workman is on the part of respondent No.2 i.e. contractor. In any case, since the workman was never employed in the service of respondent no.1, the question of violation of any service condition during the pendency of the reference No.255 2013 does not arise against respondent no.1. It is prayed that the application may be rejected against respondent no.1.
5. It is pertinent to mention here that respondent no.2 was proceeded ex parte on 26.02.2020.

Evidence of parties:-

6. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondent no.1. AR for workman closed the evidence on 22.01.2025.
7. List of documents, original exhibited with ID No.85/2015 Bir Singh Vs IHBT, photocopy placed in file:-

Sr. No.	Document	Dated	Exhibit
1.	Bill	24.05.2013	Ex.W-1
2.	Bill	22.03.2021	Ex.W-2
3.	Bill	22.03.2021	Ex.W-3
4.	Bill	22.07.2010	Ex.W-4
5.	Bill	23.03.2007	Ex.W-5
6.	Bill	28.03.2007	Ex.W-6
7.	Bill	07.09.2010	Ex.W-7

8. Respondent no.1 has examined Sh. Shankar Das, Controller of Administration, CSIR-IHBT, Palampur Palampur as RW1, who tendered into evidence his affidavit RW1/A along with documents RW-1/1 and has been cross examined by AR for workman. AR for respondent no.1 closed the evidence on 08.01.2026.

List of documents:-

Sr. No.	Agreement	Dated	Period
1.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	24.05.1996	13.03.1996 to 12.03.1997
2.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	01.09.1997 to 31.08.1998
3.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	15.04.1998 to 14.04.1999
4.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	16.04.1998 to 15.04.1999
5.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.05.1999	01.04.1999 to 31.03.2000
6.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.05.1999	01.05.1999 to 30.04.2000
7.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	28.07.2000	01.07.2000 to 30.06.2001
8.	Agreement with M/s Om Prakash Kapoor (Ex.RW-1/1 Colly)	08.07.2001	16.07.2001 to 15.07.2002
9.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.07.2001	16.07.2001 to 15.07.2002
10.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.07.2001	16.07.2001 to 15.07.2002
11.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
12.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
13.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
14.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
15.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	22.03.2004	12.02.2004 to 11.08.2004

16.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	22.03.2004	12.02.2004 to 11.08.2004
17.	Letter (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
18.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/2)	06.06.2005	06.06.2005 to 05.12.2005
19.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
20.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
21.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
22.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
23.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
24.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
25.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.01.2010	07.01.2010 to 06.01.2012
26.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
27.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
28.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
29.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	09.12.2012	09.12.2012 to 08.12.2014
30.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	19.12.2012	19.12.2012 to 18.12.2014
31.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	19.12.2012	19.12.2012 to 18.12.2014

Submissions of workman:-

9. While arguing the case, AR for workman contended that in this case, reference was pending before this Tribunal bearing ***ID No.255 of 2013 titled as The General Secretary, Institute of Himalayan Bio-Source Technology (CSIR) Shramik Sangh, Palampur, Distt. Kangra versus The Director, Himalayan Bio-source Technology (CSIR)*** regarding regularization of service and accepting all other demands raised by union of workers, of which present workman is also a party. During the pendency of that reference, workman was removed from service orally on 28.11.2014 by respondent no.2 without seeking permission from this Court under Section 33(2)(b) of the Act, which is illegal. Workman would be deemed to be in the service of respondent no.1. He further contended that in this case, respondent no.2 was allotted contract by respondent no.1 for the period 19.12.2012 to 18.12.2014. However, the said period was reduced to 30.11.2014 and the workman was paid salary upto 28.11.2014 and on that date, his services were dispensed with. He thus contended that the workman is liable to be reinstated into service.

Submissions of respondent no.1:-

10. While arguing the case, AR for respondent no.1 contended that IHBT i.e. respondent no.1 being subsidiary of CSIR is not covered under the definition of Industry as defined under the Act. To support this view, he place reliance upon ***Central Institute of Medicinal and Aromatic Plants and others versus Sri Rishi Dev Mishra and other (Writ –C No.1005010 of 2006)***.

11. He further contended that there is no master and servant relation between respondent no.1 and the workman. To support this view, he placed reliance upon ***The Joint Secretary, Central Board of Secondary education and another versus Raj Kumar Mishra and another (SLP (C) No.22030 of 2023***. He further placed reliance upon ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (2022 INSC 1255).*** He further contended that CSIR Service Rules are not applicable to the workman. No appointment letter was given to the workman. He thus contended that the complaint be dismissed.

Findings:-

12. I have given due consideration to the arguments advanced by Sh. R P Rana (AR for workman), Sh. G S Sidhu (AR for respondent no.1).

13. First question which arise for consideration is whether the applicant is workman as defined under Section 2(s) of the Act. To my mind, the claimant is a workman within the definition of Section 2(s) of the Act. In this regard, reliance can be made to the decision in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(s) of the Act which deals with the definition of "workman" has observed as under :

> *"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."*

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(s) of the Act. Thus, nature of appointment or source of appointment is not relevant to be a "workman" within the Act. Since, the workman was engaged on contract basis by respondent no.2 for the work of respondent no.1, thus it would be termed as workman under Section 2(s) of the Act.

14. Next question which arises for consideration is whether respondent no.1 is an industry. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organised by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. Relevant part of judgment of ***Banglore Water Supply & Sewerage Board (supra)*** is reproduced as under:-

> *"Does research involve collaboration between employer and employee? It does. The employer is the institution, the employees are the scientists, para-scientists and other personnel. Is scientific research service? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be plate for and technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services, than discoveries. For instance, the discoveries of Thomas Alva Edison made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded, sound. Unlike most inventors, he did not have to wait to get his reward in heaven; he received, it munificently on this gratified and grateful earth, thanks to conversion of his inventions into, money a plenty. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an Organisation, propelled by systematic activity, modeled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of goods*

and services and wealth. It follows that research institutes, albeit run without profit-motive, are industries."

15. In the present case, respondent no.1 is doing research work and as per RW1 Sh. Shankar Das Rishi, products are sold in the institute for display purposes of the products. He has also admitted that vide Ex.W1 to W7, various products of the institute have been sold to the customers. Thus, respondent no.1 is engaged in systematic activity organized by cooperation between employer and employee (employees being workmen in the present case) for the production or distribution of goods and services to calculated to satisfy human wants. In this regard, it is carrying out research. In addition to this, from the research work, benefits are being driven by respondent no.1 and as per observation of Hon'ble Supreme Court in ***Banglore Water Supply & Sewerage Board (supra),*** respondent no.1 falls under the definition of 'industry' as defined under the Act.

16. So far as argument of AR for respondent no.1 that respondent no.1 being instrumentality of state does not fall under the definition of 'industry'. In this regard, Hon'ble Supreme Court in case titled as ***Chief Conservator of Forest Versus Jagannath Maruti Kondhare (1996 (2) SCT 164)***, has held that work, which was not be regarded as a part of inalienable of inescapable function of the State and which work can be well undertaken by a private agency does not require an instrumentality of State, such functions of the State fall within the ambit of Industry. Thus, function of doing research and other allied works of selling of goods and earning from research cannot be said to be sovereign function of the State and thus for this purpose of industrial dispute, respondents would be termed as industry.

17. Thus, from every angle, respondent no.1 is an industry. Moreover, its employees are not governed by IHBT Rules or CCS Rules, thus it is an industry. In view of the judgment of Hon'ble Supreme Court titled as ***Banglore Water Supply & Sewerage Board (supra),*** decided by Hon'ble Supreme Court, the case law ***Central Institute of Medicinal and Aromatic Plants and others (supra)*** decided by Hon'ble High Court at Allahabad cited by AR for respondent no.1 is not attracted to the facts and circumstances of the present case.

18. It is also added here that as per definition of contractor as given in the Section 2(c) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called as Contract Act), respondent no.2 was supplying contract labour to the respondent no.1. Thus, he would also fall under the definition of contractor. Section 2(c) of the Contract Act is reproduced as under:

"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

19. The workman was doing work i.e. systematic activity for respondent no.1 at the asking of respondent no.2 and there was cooperation between the workman and respondent no.2, which involve substantial commercial element for rendering service to satisfy human wants. Thus, as per ***Banglore Water Supply (supra),*** respondent no.2 would be termed as industry.

20. Next question, which arises for consideration is whether there exists relationship of employer and employee between respondent no.1 and present workman. In this regard, it is pointed out that admittedly in this case, union of workmen has filed ***ID No.255 of 2013 titled as The General Secretary, Institute of Himalayan Bio-Source Technology (CSIR) (supra)***. It is further pointed out that in order to prove relationship of employer and employee i.e. master and servant, the Hon'ble Supreme Court after analyzing the catena of cases has laid down in ***Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,*** two well recognized tests to find out whether the labours are the contract employees of the principal employer are:-

1) Whether the principal employer pays the salary instead of contractor and

2) Whether the principal employer controls and supervise the work of the employees?

In this case, admittedly wages were paid by respondent no.2, however, control was of the respondent no.1. Thus, under these circumstances, it is held that there exist relationship of master and servant between respondent no.1 and workman.

21. Further, in the present case, admittedly respondent no.1 is entering into different contract agreements with respondent no.2 (Ex.RW1/1 Colly as detailed above) by retaining same workmen and thus contracts are sham in view of the observation of Hon'ble Delhi High Court in similar matter in ***Management of CPWD versus Anand Kumar Gautam and ors. (2024:DHC:2757)*** which is as under:

"*Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the*

contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to citizen and not of the contractors. Contractors cannot supply labour to any establishment. In view of the above discussion it becomes quite obvious that the contractors workmen in the instant case have been retained all along and contractors have been changed. So the contractor is only a label of a bottle. This label is changed from time to time but the contents of the bottle always remain the same. The contractors have been changed and the workmen have been retained. Such a system is in-human. The contractors are the direct employees of the respondent/management.

From the foregoing it becomes quite obvious that these two workmen have been working regularly and even without artificial breaks since 1995-96. ***The contract is camouflage. There is direct relation of master and servant between the respondent and the workmen."***

22. Hon'ble Supreme Court in case titled as ***Bhilwara Dugdh Utpadak Sahakari S. Ltd. Versus Vinod Kumar Sharma dead by LRs and others (AIR 2011 Supreme Court 3546)*** has held as under:-

4. In order to avoid their liability under various labour statutes employers are very often resorting to subterfuge by trying to show that their employees are in fact, the employees of a contractor. It is high time that this subterfuge must come to an end.

5. Labour statutes were meant to protect the employees/workmen because it was realized that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees.

23. Thus, from the above observation of Hon'ble Supreme Court, it is clear that respondent no.1 has resorted to subterfuge by trying to show that workman was employee of respondent no.2.

24. Moreover, respondent no.1 entered in various agreements with respondent no.2 (Ex.RW1/1 Colly), which shows that there is practice that the contract for engagement of the employer/labour through contractors changes on the basis of bid of the contractors every year. The contractor may change but the employees/labourers always remain same. The workman was already working with the management when the contract was tendered to the respondent no.2. Neither the workman was engaged by respondent no.2 nor the services of workman were terminated by respondent no.2. It is the respondent no.1 who uses to select/engage and terminate the labour/workman and respondent no.2 has no role in the same. Thus, it shows that the contract was just an eyewash. It is further submitted that contract was allotted to respondent no.2 by respondent no.1 on different years as per Ex.RW1/1 (colly) and sometime to other contractors, meaning thereby the respondent no.1 is controlling authority of the workmen including their engagement, termination etc. and even the wages of workman were also decided by respondent no.1 only and respondent no.2 has no role to play in the same. So, there exist relationship of employees/servant and employer/master between the workmen and respondent no.1. Thus, the judgment ***The Joint Secretary, Central Board of Secondary education and another (supra)*** cited by AR for respondent no.1 is not attracted to the present case as in this case, time and again, same workers were being engaged through contractor and in view of clear cut dictum of Hon'ble Delhi High Court in ***Management of CPWD (supra),*** the aforementioned case law is not attracted.

25. So far as ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (supra)*** relied upon by the AR for respondent no.1 is concerned, facts and circumstances of this case are distinguishable. In the said ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (supra),*** Court has held that that when there are no allegations or findings of sham and bogus contract then the contention of the reinstatement or the absorption of the workman cannot be sustained but the facts of the matter at hand is different from the facts of the case as in the instant case. In this case, workman was working since long and the work was of perennial nature. Thus, it tantamount to unfair labour practice.

26. It is added here that admittedly in this case, workman was discharged by the respondent no.1 & 2 and as per agreement Ex.RW1/1 (colly), contract was awarded to respondent no.2 by respondent no.1 for a period of two years i.e. from 19.12.2012 to 18.12.2014. However, workman was discharged prior to that on 28.11.2014.

27. No prior permission was taken by respondent no.1 & 2 before the discharging the services of workman. Section 33(2)(b) of the Act is very material and the same is reproduced below:-

> *"(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:*
>
> *Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer."*

28. As per aforesaid provision, the workman can be discharged or dismissed after paying one month wages and after getting approval of the competent authority. In this case, no wages for one month was paid nor any permission from competent authority was taken before discharging the workman and consequently, it would be considered that workman was in regular services of the workman. A ***Full Constitutional Bench of Hon'ble Supreme Court*** in case titled as ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. versus Ram Gopal Sharma and others (2002 SCC (L & S) 279)*** has held that failure to make application for approval of the order of discharge or dismissal or withdrawal of such application after making it, held, renders the order of discharge or dismissal void and inoperative.

29. The present application under Section 33A is well maintainable and purpose has also been defined by the Hon'ble Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. (supra)*** case, which read as follows:-

> *Section 33A is available to an employee and is intended to save his time and trouble in as much as he can straightway make a complaint before the very authority, where the industrial dispute is already pending between the parties, challenging the order of approval instead of making efforts to raise an industrial dispute, get a reference and thereafter adjudication. Section 31 speaks of penalty in respect of the offences stated therein. This provision is not intended to give any remedy to an aggrieved employee. It is only to punish the offender. Merely because penal provision is available or a workman has a further remedy under Section 33A to challenge the approval granted, it canoe be said that the order of discharge or dismissal does not become inoperative or invalid unless set aside under Section 33A.*

30. In view of the above discussion, the termination of workman on 28.11.2014 is bad in law and hence is set aside. In this case, both the respondents in connivance with each other have dispensed the services of the workman. Hence, both respondents are liable. The workman is entitled for reinstatement along with full back wages. It is ordered accordingly. The services of the workman would not be discharged/terminated during the pendency of the ID No.255 of 2013, wherein, they have claimed various demands vide charter of demands dated 09.05.2011. However, in case workman has attained the age of retirement, then he would be entitled for full back wages along with other consequential benefits instead of reinstatement in service.

31. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1744.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत के नियंत्रक एवं महालेखापरीक्षक; प्रधान महालेखाकार (ऑडिट); महालेखाकार (ए एंड ई)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री विजय उनियाल** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 09/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-221-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1744.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 09/2025)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Comptloller & Auditor General of India; Principal Accountant General (Audit); Accountant General (A&E)** and **Shri Vijay Uniyal** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-221-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh

(Present:- Mr. Kamal Kant, Presiding Officer).

ID No.09/2025

Vijay Uniyal S/o Sh. P.D. Uniyal, aged 47 years, R/o House No. 1650, Saini Vihar, Phase 3, Distt. Mohali, Baltana-140603.

-------- Workman

Versus

1. Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi-110002.

(Deleted)

2. Principal Accountant General (Audit), Punjab, Plot No.20-21, Sector 17, Chandigarh-160017.
3. Accountant General (A&E), Punjab, Sector 17, Chandigarh-160017.

------Respondents

Present:- Sh. Jagdeep Jaswal, AR for workman.

Sh. Barjesh Mittal, AR for respondent no.1 to 3.

AWARD : 22.04.2026

1. Hon'ble High Court of Punjab and Haryana vide order dated 19.05.2025 passed in CWP No.26760 of 2019 titled as Bhag Singh and others versus Comptroller and Auditor General of India and others has referred this matter under Section 10A of the Industrial Disputes Act, 1947 (hereinafter called the Act) to this Tribunal observing that if applicant challenge his termination, the question of limitation shall not be gone into and the Labour Court/Industrial Court shall examine their grievance in terms of Section 10A of the Act by taking dispute directly. It is also made clear that the dismissal of appeal by the Central Administrative Tribunal shall not come in the way. It is under these circumstances, the present petition has been filed by the workman challenging his oral termination dated 02.05.2017.

2. Brief facts of the case, as per claim statement of workman, are that the workman was employed as Casual Labourer by the Respondent No.3 against the regular sanction post w.e.f. 01.02.2007 and has been continuously working till 02.05.2017. Workman worked with the management continuously and completed more than 240 days in the year 2016 and 2017. He has also worked 240 days preceding one year from the date of his termination on 02.05.2017.

3. Workman was engaged on the sanctioned posts through legal process and worked for more than 10 years, but he was not granted temporary status despite of the instructions issued by Government of India dated 01.09.1993 on the ground that the said scheme was only for one time.

4. As per the information received by the workman, still 28 posts of MTS are vacant in the office of respondent No.3 against which, the workman was continuously working. Management outsourced the work of the workman and removed the workman from his work. The respondent No.2 has ordered verbally not to report for work on 02.05.2017, without giving any notice in writing. The workman orally requested the respondents to regularize his services also in accordance with the rules and at par with the other Casual Labourers who has been regularized or given temporary status. But instead of regularizing the services of the workman, the respondent no.1 has outsourced the services through some contractors.

5. Services of workman were dispensed with whereas, his juniors were retained in service, which was in violation of Section 25H of the Act. It is further maintained that no compensation was given to the workman, which is in

violation of Section 25F of the Act. Workman was eligible for regularization of his service as 28 posts of MTS are lying vacant in the office of respondent no.3. Workman filed OA No.60/470/2017 dated 02.05.2017 in Hon'ble Central Administrative Tribunal, Chandigarh (hereinafter called as CAT Chandigarh) and vide order dated 03.05.2017, Hon'ble CAT, Chandigarh directed the respondent to allow the workman and others to continue till 12.05.2017. The said OA was finally dismissed on 23.04.2019. Applicant also filed review application, which was also dismissed on 22.08.2019. Workman challenged the said order before the Hon'ble High Court by filing CWP No.26760/2019 and the matter was relegated to this Tribunal by the High Court. Hon'ble Supreme Court in case titled as ***Jaggo V/s Union of India and others (2024 INSC 1034)*** held that termination of casual employees working since long is unfair and they are to be regularized.

6. It is maintained that the work performed by the workman is of perennial in nature. It is prayed that claim of the workman may be allowed and oral termination dated 02.05.2017 may be declared illegal and arbitrary and workman be reinstated back in service and deemed to be in service with all consequential benefits and be also held entitled for full back wages from the date of his termination.

7. Notice of petition was given to the respondents, who filed reply thereof maintaining therein that the workman was engaged as casual worker for performing work on seasonal basis as per need and requirement of work by office of respondent No.2 w.e.f. 2007 and performed duty for a period of 918 days upto 25.10.2011 on intermittent basis. As per office records the payment to casual workers including the workman was being made through Contingent Bill Register (2009-2010) under the Head "Wages' and the name of the workman finds mentioned at Serial No.24 therein. The GOI DOPT OM dated 01.09.1993 providing for temporary status/regularization categorically provided for conferment of temporary status on all casual labourers who were in employment on the date of issue of OM and who have rendered a continuous service of at least one year i.e. engaged for a period of 240 days. The workman has never completed a period of 240 days. The workman is himself admitting to having been engaged in 2007 does not get covered under the said scheme which was only for those casual labourers who were in employment on the date of issue of OM i.e. 01.09.1993. Hence, the submissions regarding grant of temporary status to the Workman is misconceived. Moreover, in the previous litigations filed by the Workman before Hon'ble CAT Chandigarh Bench, the said relief of temporary/regularization was never sought/pleaded by the Workman and earlier stage also.

8. The regular post of MTS, if vacant/available, with the department shall be filled up on direct recruitment basis to be conducted by SSC as per provisions of relevant Recruitment Rules. At earlier point of time, in pursuance to advertisement dated 24.09.2011 for filling up the post of MTS on direct recruitment basis, the application of workman belonging to General Category was duly considered and he was granted all the admissible relaxations of age, period of his engagement as casual labourer etc. However, since he was overage by more than 01 year 06 months and 29 days, even after grant of all admissible relaxation, his application was rejected on account of being overage. The Workman assailed the said rejection of his candidature with respect to direct recruitment by filing OA No.154/CH/2013 decided on 10.02.2014 before Hon'ble CAT Chandigarh which stood dismissed.

9. On the basis of recommendations of 6th CPC to the effect that Govt. is required to outsource certain activities by providing employment in the form of contract labour and the said outsourcing would be discontinued when the regular incumbents joined and the CAG Headquarter office in February-March 2017 had not considered the funds/budget for making payment of wages/disbursement of salary to directly engaged daily wagers. Since there was no scheme for regularization of services except for granting adequate relaxation for the period of his engagement as Casual Labourer w.e.f. 01.02.2007 to 25.10.2011 as well as other admissible relaxations, prior to filling up the post of MTS through direct recruitment, the service of workman could not have been regularized and neither he could have been conferred with temporary status under the scheme being not in employment during 1993.

10. Workman is making contradictory statement in his claim statement. He is contending that his services have been orally terminated w.e.f. 02.05.2017 and further he is also contending that he was replaced by other individuals during 2013-2014. The non-assailing of his replacement by other individuals at the relevant time in 2013-2014 under the relevant provisions of the Act and availing his remedies before Ld. CAT and thereafter, before Hon'ble High Court makes the present claim statement time barred by limitation by calculating the period from 2013-2014 respectively.

11. The workman himself sought discharge from services vide his application dated 01.08.2014. Had the letter dated 01.08.2014 being fabricated document, the workman could have availed his legal remedies to prove the said letter as fabricated one from competent court of law and neither any said contention was raised by him at earlier point of time by making submissions qua the same in cases filed by workman before Hon'ble CAT/High Court of Punjab and Haryana.

12. Further, there is no scheme of regularization in the management department and the available post of MTS shall be filled up on the basis of open competition/direct recruitment to be conducted by SSC strictly in terms of Statutory Recruitment Rules for the post of MTS.

13. Workman has already availed his remedies after his disengagement by filing appropriate cases before Hon'ble CAT Chandigarh Bench as well as Hon'ble Punjab and Haryana High Court and the present claim statement filed by the Workman being misconceived and against the relevant provisions of rules and law, deserves to be dismissed outrightly in the interest of justice.

14. It is added here that AR for respondents moved an application for dropping the name of respondent no.1 from the array of parties for the reasons mentioned in the application and AR for workman gave no objection and application was allowed. However, in this case, all the respondents have jointly filed written statement. Respondent no.1 is the controlling authority of respondent no.2 & 3 and thus was a formal party.

Evidence of workman:-

15. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondents. AR for workman closed the evidence on 15.04.2026.

List of documents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Letter		Ex.WW1/1
2.	Work report	23.01.2013	Mark A
3.	Letter	17.03.2017	Mark B
4.	Letter	29.03.2017	Mark C
5.	Letter	10.04.2017	Mark D
6.	Letter	13.04.2017	Mark E
7.	Letter	25.04.2017	Mark F
8.	Order of Hon'ble CAT	03.05.2017	Mark G
9.	Order of Hon'ble High Court	19.05.2025	Mark H
10.	Summary of working days		Mark I

Evidence of respondents:-

16. Respondent no.1 & 2 has examined Sh. Varinder Singh Saini, Assistant Account Officer, who tendered into evidence his affidavit MW1/A and has been cross examined by AR for workman. AR for respondents closed the evidence on 21.04.2026.

List of documents of respondents:-

Sr. No.	Document	Dated	Exhibit/Mark
1.	Details of litigations		Mark A
2.	Order of Hon'ble CAT	10.02.2014	Mark B
3.	Order of Hon'ble CAT	23.04.2019	Mark C
4.	Order of Hon'ble CAT	22.08.2019	Mark D
5.	Work report	23.01.2013	Mark F

Submissions of workman:-

17. While arguing the case, ld. counsel for workman contended that in this case, workman was engaged as casual labour by the respondent on regular sanctioned post w.e.f. 01.02.2007 and was continuously worked till 02.05.2017 for more than 10 years and was terminated verbally on 02.05.2017. Workman had completed 240 days preceding the year of his termination on 02.05.2017. Against the verbal termination order, workman along with other workmen had gone in Hon'ble CAT, Chandigarh in OA No. 60/470/2017 challenging the termination order and had also sought regularization, which was dismissed by the Hon'ble CAT, Chandigarh. Thereafter, workman went in High Court and High Court vide order dated 19.05.2025 has relegated the matter to this Tribunal. He further contended that since this Tribunal has been directed to dispose of the case in terms of Section 10A of the Act. In this case workman had completed 240 days preceding the year of his termination i.e. 02.05.2017, however, no compensation was given to him and there was violation of Section 25F of the Act. Hence, he prayed that workman may be reinstated with back wages and all consequential benefits.

Submissions of respondents:-

18. On the other hand, ld. counsel for respondents contended that in this case, workman was removed from service due to non sending of wages under wages head by the head office of respondent no.1.Instructions were also received from the Government of India that no direct appointment be made of casual employees and they may be engaged through contractors. Moreover, the workman was gainfully employed after his termination. As per order of Hon'ble High Court dated 19.05.2025 passed in CWP No.26760 of 2019, this Tribunal is not competent to decide this matter.

Findings:-

19. I have given due consideration to the arguments advanced by AR for both the parties.

20. The first contention regarding the claimant is that whether he comes within the definition of 'workman' as is defined in Section 2(s) of the Act. I may mention that claimant was working as casual labour as per his claim petition and affidavit submitted before the Tribunal. In plain words the claimant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

21. Thus, Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the claimant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

22. Next question which arises for consideration is whether respondents are an industry. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organised by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. To support this view, reliance can be placed on ***Banglore Water Supply & Sewerage Board (supra)***.

23. In the present case, respondent is a government body and is engaged in systematic activity organized by cooperation between employer and employee (employee being workman in the present case) and is covered under the Act.

24. Further, Hon'ble Supreme Court in case titled as ***Chief Conservator of Forest Versus Jagannath Maruti Kondhare (1996 (2) SCT 164)***, has held that work, which was not be regarded as a part of inalienable of inescapable function of the State and which work can be well undertaken by a private agency does not require an instrumentality of State, such functions of the State fall within the ambit of Industry. Thus, function being done by the respondents cannot be said to be sovereign function of the State and thus for this purpose of industrial dispute, respondent would be termed as industry. Thus, respondents are industries for the purpose they were engaging casual labour and thus functions cannot be said to be sovereign function of State.

25. So far as this argument of Ld. counsel for respondents that this Tribunal is incompetent to entertain the ID case under Section 10A of the Act. In this regard, it is pointed out that High Court vide its order dated 19.05.2025 passed in CWP No.26760 of 2019 has directed as under:-

> If the writ petitioners challenge their termination, question of limitation shall not be gone into, and the Labour Court/Industrial Court shall examine their grievances in terms of Section 10A of the

Act, by taking up the dispute directly. If such an application is filed by the petitioners within period of one month, the Labour Court/Industrial Court shall attempt to decide the same expeditiously, preferably within a period of one month from today. It is made clear that the dismissal of appeal by the Central Administrative Tribunal shall not come in their way.

Further, **Section 10A** of the Act read as follows:-

Voluntary reference of disputes to arbitration.—(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

From co-joint reading of Section 10A of the Act and order of High Court dated 19.05.2025, it emerges that High Court has referred this matter for adjudicating as arbitrator with the consent of both the parties. Hence, the application under Section 10A is very much maintainable before this Tribunal.

26. Next question is whether the workman has completed 240 days preceding one year from the date of his termination on 02.05.2017. In this regard, it is pertinent to mention here that the workman has placed on record, vide which he has worked 270 days prior to 02.05.2017 as per attendance register (Ex.WW1/1) and summary of working days (Mark I) for the period May 2016 to May 2017. Even attendance register is on the file. Hence, the workman is able to prove that he has worked for about 270 days preceding one year prior to his termination on 02.05.2017. There is thus violation of Section 25F of the Act, which read as follows:-

***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.

27. Since in this case, applicant is workman as defined under the Act and was removed from service without compliance of the Section 25F of the Act, which provide payment of retrenchment compensation as well as wages in lieu of notice for the period of notice. Thus, due to breach of Section 25F of the Act, workman is entitled for reinstatement. So far as violation of Section 25G and 25H is concerned, no evidence is given by the workman regarding violation of Section 25G and 25H of the Act. Hence, it is deemed that applicant has failed to prove violations of Sections 25G and 25H of the Act.

28. Under these circumstances, the workman is reinstated into service. But so far as back wages are concerned, workman was though working as labourer on daily wages intermittently as and when available and cannot be said completely gainfully employed. Hence, he is entitled for 70% back wages. However, it is made clear that in view of the instructions of Government of India that no casual employee can be taken directly by the respondents, workman would continue to work with the respondents through contractor till attaining age of his superannuation/retirement, even if contractor is changed as it is specific case of the workman in his application before this Tribunal that work assigned to him is of perennial nature and there is no denial of this fact by the respondents.

29. As regards regularization of workman, no prayer is made by the AR for workman nor it was argued by the AR for workman how the workman was entitled for regularization of his services.

30. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1745.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पावर ग्रिड कॉर्पोरेशन ऑफ़ इंडिया लिमिटेड; बलविंदर कुमार सैनी,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री रिंकू कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.-58/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-219-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1745.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 58/2020)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Power Grid Cooperation of India Ltd; Balwinder Kumar Saini** and **Shri Rinku Kumar** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[F. No. L-42025/07/2026-219-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh
(Presided over by Mr. Kamal Kant).

ID No.58/2020

Rinku Kumar S/o Sh. Suresh Pal R/o Gandhi Nagar, Tehsil Indri, District Karnal (Haryana).

-------- Workman

Versus

1. The General manager, Power Grid Cooperation of India Ltd. 800 KV West North, Interconnector, HVDC Project, House no.561, Sector 2, Near OP Jindal Chowk, Kurukshetra, District Kurukshetra (Haryana)
2. Balwinder Kumar Saini, Government Contractor & Supplier, 50-E, Street No.4, Partap Nagar, Patiala, District Patiala.

----Respondents

Present:- Sh. Ashok Kumar, AR for workman.
Respondent no.1 & 2 already ex parte.

Award : 03.06.2026

1. The workman has filed the present claim statement directly under Section 2A of the Industrial Disputes Act, 1947 (hereinafter called as ID Act) against his termination dated 18.09.2018 claiming reinstatement in service with full back wages, continuity of service and all consequential benefits.
2. Brief facts of the case as per claim statement filed by the workman are that the workman was appointed as Mali (Gardener) for the work of Horticulture maintenance by respondent no.1 through the contractor Arun Tyagi on 22.04.2015 at the monthly wages of Rs.9000/- per month after deduction of ESI and PF etc. Thereafter, the contract of the horticulture maintenance work was awarded to the respondent no.2 from 30.03.2016 to 15.05.2018 for two years and still respondent no.2 is having contract of work of horticulture maintenance with respondent no.1. The workman remained in service till 18.09.2018 and his last wages were Rs.10345/- after deductions. But the respondents paid only Rs.8991/- per month and due to this reason, the workman objected the illegal deduction of salary and he made complaint to the GM and DGM and concerned Incharge JE and they threatened him to terminate his services. Aggrieved by this, the workman along with other workmen made a complaint in writing to the Labour Inspector and Labour Inspector made inspection on the complaint. At this, respondents started to harass the workman ultimately, illegally terminate his services on 18.09.2018 by verbal order. He was not paid minimum wages as fixed by the Central Government from time to time for the post of Mali (gardener) as skilled worker.

3. Aggrieved by order of termination, the workman filed a demand notice with Assistant Labour Commissioner (Central), Labour Department Central Government, Karnal (hereinafter called as ALC Karnal) on 26.09.2018. However, the conciliation proceedings failed and ALC Karnal issued a certificate to enable the workman to approach this Tribunal.

4. The workman along with other workers filed CWP No.35459 of 2019 titled as "Sanjay Kumar and others V/s General Manager, Power Grid Corporation of India Ltd. and another" before the Hon'ble Punjab & Haryana High Court and the same was disposed of with the liberty to approach the Labour Court vide order dated 21.01.2020.

5. No charge sheet or inquiry or any notice before termination of services of the workman was ever served upon the workman. No permission from Government was obtained for termination of services of the workman. Before filing the demand notice, the workman requested many times for reinstatement into service, but all in vain.

6. The workman had worked more than 240 days in a year and his services have been terminated without following the procedure prescribed under Section 25G, 25H and 25F of the Act. Many juniors to the workman have been appointed by the respondents and even fresh appointments have been made by the respondents on low wages, which is unfair labour practice. The workman is not gainfully employed after termination of his services on 18.09.2018.

7. The respondents have not issued any appointment letter, attendance slip, ESI card or any other document. Neither the principal employer i.e. respondent no.1 has obtained license under Section 7 of the Abolition of Labour Contract Act nor the contractor i.e. respondent no.2 is registered under Section 12 with the Central Labour Department. Therefore, mode of payment is a mere camouflage just to deprive the workman from his legal rights regarding regularization of the services with respondent no.1. No record has been maintained by the respondent no.1 or respondent no.2 as per requirement of Section 29 of Contract Act. It is maintained that the termination of workman w.e.f. 18.09.2018 is illegal and it is prayed that the workman may be reinstated in service with full back wages, continuity of service and all consequential benefits.

8. Notice of the claim petition was given to the respondents.

9. Respondent no.1 filed reply to the claim petition maintaining therein that the workman was never appointed by answering respondent. Respondent no.1 had awarded contract to respondent no.2 vide LOA dated 30.03.2016 (Maintenance of Horticulture work around the transit camp at 800 KV HVDC terminal at Kurukshetra) for the duration of two years, further, one year extension and the said contract had expired with efflux of time and no extension was granted. Thereafter, through detailed tendering process, the contract was again awarded to respondent no.2 vide LOA dated 15.05.2018 for another two years with provision of one year extension. The said contract expired in the month of May 2021.

10. There is no employer employee relationship between workman and respondent no.1 as workmen was deployed by contractor as per the provision of Contract and he is employee of the contractor, not of the respondent no.1

11. Respondent no.1 vide letter dated 12.09.2018 addressed to respondent no.2, brought the shortcomings of horticulture work in his attention by specifically pointing out that the manpower engaged/deployed by him i.e. engaged Mali don't have the proper horticulture knowledge and advised respondent no 2 to improve the shortcomings.

12. The services of the workman were never terminated by respondent no.1 and due minimum wages were paid to him as per the relevant provisions of contract in line with applicable laws.

13. The workman was contract labour for respondent no.1 and never remained a direct employee of respondent no.1. Further, the workman was under the direct supervision and control of respondent No.2 and salary to him was being paid by respondent No.2. Therefore, question of violation of Section 25 F, 25 G and 25 H of the Act does not arise qua respondent no.1 as no industrial dispute exists between the workman and respondent no.1.

14. Respondent no.1 has duly registered its establishment u/s 7 of Contract Labour (Regulation and Abolition) Act 1970 and proper records have been maintained as per the statutory requirement of Section 29 of the said Act. Being a central public sector enterprise, respondent no.1 always abides the labour compliance within the time bound manner. It is prayed that the claim statement may be dismissed qua respondent no.1.

15. Respondent no.2 also filed reply thereof maintaining therein that contract for the work "Maintenance of Horticulture work around Transit Camp at 800 KV Terminal, Kurukshetra" for a period of 2 years with a provision of further one year extension, was awarded through tendering process to respondent no.2 by respondent No.1 vide its letter dated 31.03.2016 and the contract period of this work was closed on 15.05.2018. Thereafter new tender bid was opened on 19.04.2018 and further Contract for a period of 2 years with one year extension provision was awarded by respondent no.1 vide its letter dated 15.05.2018 i.e. up to

15.05.2020 and as per the terms of contract, it was extended for one year i.e. till 15.05.2021. Respondent No.2 has no work after the date of expiry of said extension with respondent no.1.

16. Work and conduct of workman was poor and insolent. The workman abdicated his work many a times and in view of this, respondent no.1, whose work was severally affected due to his deplorable and unsatisfactory performance, addressed a letter dated 12.09.2018 to respondent no.2 and thereupon immediately, workman was called to make amends in his duties and do the work in disciplined way, however, workman started misbehaving and threatening. Taking into account the consistent misbehaving and insolent attitude of working, respondent no.2 had no option, except to discontinue the services of workman. His termination was made purely for unsatisfactory performance of duties workman.

17. Due minimum wages were paid to the workman as per the relevant provisions of law and contract. The workman has deliberately approached the Hon'ble High Court just to cause delay and harass respondent no.2, despite the clear and precise direction of conciliation officer on dated 06.12.2018 to approach the Central Government industrial cum Labour Court.

18. The provisions of Contract Act are not applicable to respondent no.2, which mandates the issuance of appointment letter and attendance slip. It is submitted that there is no violation of Section 25F, 25G and 25H of the Act and it is prayed that the claim statement of workman may be dismissed with cost qua respondent no.2.

19. Rejoinder was also filed on behalf of workman rebutting the facts of written statement.

Evidence of parties:-

20. In order to prove his case, workman examined himself as W1 and tendered into evidence his affidavit Ex.W1/A and has been cross examined by the AR for respondent no.1. AR for workman closed the evidence on 23.08.2024.

Documents relied upon by the workman:-

Sr. No.	Document	Date	Ex.
1.	Letter	01.04.2016	W1/1
2.	Detail of manpower	01.04.2016	W1/2
3.	Letter to Govt. Contractor	12.09.2018	W1/3
4.	List of worker submitted by contractor		W1/4
5.	Request by workman	27.04.2019	W1/5
6.	Request by workman to DC Karnal		W1/6
7.	Request to SDM Indri, Karnal	18.09.2018	W1/7
8.	Reply	31.10.2018	W1/8
9.	Reply	31.10.2018	W1/9
10.	Demand Notice	25.04.2019	W1/10
11.	Copy of Postal receipt		W1/11
12.	Certificate issued by respondent no.2	27.08.2018	W1/12

21. It is pertinent to mention here that the respondent no.1 & 2 was proceeded ex parte on 13.10.2025 and the case was fixed for ex parte arguments.

22. I have heard ld. counsel for the workman and given due consideration to the arguments raised by the ld. counsel for workman.

Findings:-

23. The first contention regarding the applicant is that whether applicant comes within the definition of workman as is defined in Section 2(s) of the Act. I may mention that applicant was appointed as Mali (gardner) as per his claim petition and affidavit submitted before the Tribunal. In plain words the applicant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."

24. Thus Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the applicant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

25. The Hon'ble Supreme Court after analyzing the catena of cases has laid down in Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014, two well recognized tests to find out whether the labours are the contract employees of the principal employer are:-

1) Whether the principal employer pays the salary instead of contractor and

2) Whether the principal employer controls and supervise the work of the employees?

26. As regard the payment of salary to the workman, workman in his affidavit has mentioned that his salary was paid by the contractor i.e. respondent no.2. Hence, it emerges that workman was paid salary by the contractor and he was being controlled and supervised by the contractor. Thus, there does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

27. It is also added here that as per definition of contractor as given in the Section 2(c) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called as Contract Act), respondent no.2 was supplying contract labour to the respondent no.1. Thus, respondent no.2 would fall under the definition of contractor. Section 2(c) of the Contract Act is reproduced as under:

"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

28. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organized by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. The workman was doing work i.e. systematic activity for respondent no.1 at the asking of respondent no.2 and there was cooperation between the workman and respondent no.2, which involve substantial commercial element for rendering service to satisfy human wants. Thus, respondent no.2 would be termed as industry.

29. Workman in his affidavit has clearly stated that there was non-compliance of Section 25F, 25G and 25H of the Act. He also stated that he was appointed on 22.04.2015 and was working with respondent no.1 through contractor. He was not given any compensation before terminating his services on 18.09.2018. During the cross examination, workman has stated that he cannot produce the account statement. But he has placed on record certificate issued by respondent no.2, in which it is clearly mentioned that the workman was working with it from 01.04.2016 till 15.05.2018 and the monthly salary of workman was Rs.14,476/- In Thus, workman was employee of respondent no.2. There does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

30. Admittedly, there is non-compliance of Section 25F of the Act by respondent no.2. However, as regards violation of other provisions i.e. Section 25G and 25H of the Act, there is no evidence lead by the workman. Hence, workman is entitled for compensation from respondent no.2.

31. So keeping in view the tenure of service rendered by the workman i.e. more than 3 years and salary given to him during the period of his stay with the contractor and non-compliance of Section 25F of the Act, this Tribunal is of the considered opinion that workman is entitled for compensation.

32. Present workman employed on 22.04.2015 and was terminated on 18.09.2018 (more than 3 years), so he is entitled as per law titled as **Hemant Babruvahan Parchake versus Social Welfare Officer, Somalwar Bhavan, Mount Road, Sadar, Nagpur and others AIR 2021 BOM 1760,** wherein for 18 months, a sum of Rs.25,000/- was granted as compensation, workman is granted for Rs.50,000/-. Respondent no.2 is directed to pay the workman Rs.50,000/- within one month from the date of the notification of the award failing which the respondent no.2 shall further pay interest @6% per annum from the date of award till the date of making payment.

33. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1746.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पावर ग्रिड कॉर्पोरेशन ऑफ़ इंडिया लिमिटेड; बलविंदर कुमार सैनी,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सुनील कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.-56/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-218-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1746.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 56/2020)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Power Grid Cooperation of India Ltd; Balwinder Kumar Saini** and **Shri Sunil Kumar** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-218-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh
(Presided over by Mr. Kamal Kant).

ID No.56/2020

Sunil Kumar S/o Sh. Sardara Ram, R/o Village Gandhi Nagar, Tehsil Indri, District Karnal (Haryana).

-------- Workman

Versus

1. The General manager, Power Grid Cooperation of India Ltd. 800 KV West North, Interconnector, HVDC Project, House No.561, Sector 2, Near OP Jindal Chowk, Kurukshetra, District Kurukshetra (Haryana).

2. Balwinder Kumar Saini, Government Contractor & Supplier, 50-E, Street No.4, Partap Nagar, Patiala, Distt. Patiala.

----Respondents

Present:- Sh. Ashok Kumar, AR for workman.

Respondent no.1 & 2 already ex parte.

AWARD : 03.06.2026

1. The workman has filed the present claim statement directly under Section 2A of the Industrial Disputes Act, 1947 (hereinafter called as ID Act) against his termination dated 18.09.2018 claiming reinstatement in service with full back wages, continuity of service and all consequential benefits.

2. Brief facts of the case as per claim statement filed by the workman are that the workman was appointed as Mali (Gardener) for the work of Horticulture maintenance by respondent no.1 through the contractor Arun Tyagi on 22.04.2015 at the monthly wages of Rs.12000/- per month after deduction of ESI and PF etc. Thereafter, the contract of the horticulture maintenance work was awarded to the respondent no.2 from 30.03.2016 to 15.05.2018 for two years and still respondent no.2 is having contract of work of horticulture maintenance with respondent no.1. The workman remained in service till 18.09.2018 and his last wages were Rs.13031/- after deductions. But the respondents paid only Rs.10300/- per month and due to this reason, the workman objected the illegal deduction of salary and he made complaint to the GM and DGM and concerned incharge JE and they threatened him to terminate his services. Aggrieved by this, the workman along with other workmen made a complaint in writing to the Labour Inspector and Labour Inspector made inspection on the complaint. At this, respondents started to harass the workman ultimately, illegally terminate his services on 18.09.2018 by verbal order. He was not paid minimum wages as fixed by the Central Government from time to time for the post of Mali (gardener) as skilled worker.

3. Aggrieved by order of termination, the workman filed a demand notice with Assistant Labour Commissioner (Central), Labour Department Central Government, Karnal (hereinafter called as ALC Karnal) on 26.09.2018. However, the conciliation proceedings failed and ALC Karnal issued a certificate to enable the workman to approach this Tribunal.

4. The workman along with other workers filed CWP No.35459 of 2019 titled as Sanjay Kumar and others V/s General Manager, Power Grid Corporation of India Ltd. and another before the Hon'ble Punjab & Haryana High Court and the same was dispose of with the liberty to approach the Labour Court vide order dated 21.01.2020.

5. No charge sheet or inquiry or any notice before termination of services of the workman was ever served upon the workman. No permission from Government was obtained for termination of services of the workman. Before filing the demand notice, the workman requested many times for reinstatement into service, but all in vain.

6. The workman had worked more than 240 days in a year and his services have been terminated without following the procedure prescribed under Section 25G, 25H and 25F of the Act. Many juniors to the workman have been appointed by the respondents and even fresh appointments have been made by the respondents on low wages, which is unfair labour practice. The workman is not gainfully employed after termination of his services on 18.09.2018.

7. The respondents have not issued any appointment letter, attendance slip, ESI card or any other document. Neither the principal employer i.e. respondent no.1 has obtained license under Section 7 of the Abolition of Labour Contract Act nor the contractor i.e. respondent no.2 is registered under Section 12 with the Central Labour Department. Therefore, mode of payment is a mere camouflage just to deprive the workman from his legal rights regarding regularization of the services with respondent no.1. No record has been maintained by the respondent no.1 or respondent no.2 as per requirement of Section 29 of Contract Act. It is maintained that the termination of workman w.e.f. 18.09.2018 is illegal and it is prayed that the workman may be reinstated in service with full back wages, continuity of service and all consequential benefits.

8. Notice of the claim petition was given to the respondents.

9. Respondent no.1 filed reply to the claim petition maintaining therein that the workman was never appointed by answering respondent. Respondent no.1 had awarded contract to respondent no.2 vide LOA dated 30.03.2016 (Maintenance of Horticulture work around the transit camp at 800 KV HVDC terminal at Kurukshetra) for the duration of two years, further, one year extension and the said contract had expired with efflux of time and no extension was granted. Thereafter, through detailed tendering process, the contract was again awarded to respondent no.2 vide LOA dated 15.05.2018 for another two years with provision of one year extension. The said contract expired in the month of May 2021.

10. There is no employer employee relationship between workman and respondent no.1 as workmen was deployed by contractor as per the provision of Contract and he is employee of the contractor, not of the respondent no.1

11. Respondent no.1 vide letter dated 12.09.2018 addressed to respondent no.2, brought the shortcoming of horticulture work in his attention by specifically pointing out that the manpower engaged/deployed by him i.e. engaged mali don't have the proper horticulture knowledge and advised respondent no 2 to improve the shortcomings.

12. The services of the workman were never terminated by respondent no.1 and due minimum wages were paid to him as per the relevant provisions of contract in line with applicable laws.

13. The workman was contract labour for respondent no.1 and was never remained a direct employee of respondent no.1. Further, the workman was under the direct supervision and control of respondent No.2 and salary to him was being paid by respondent No.2. Therefore, question of violation of Section 25 F, 25 G and 25 H of the Act does not arise qua respondent no.1 as no industrial dispute exists between the workman and respondent no.1.

14. Respondent no.1 has duly registered its establishment u/s 7 of Contract Labour Regulation and Abolition) Act 1970 and proper records have been maintained as per the statutory requirement of Section 29 of the said Act. Being a central public sector enterprise, respondent no.1 always abides the labour compliance within the time bound manner. It is prayed that the claim statement may be dismissed qua respondent no.1.

15. Respondent no.2 also filed reply thereof maintaining therein that contract for the work "Maintenance of Horticulture work around Transit Camp at 800 KV Terminal, Kurukshetra" for a period of 2 years with a provision of further one year extension, was awarded through tendering process to respondent no.2 by respondent No.1 vide its letter dated 31.03.2016 and the contract period of this work was closed on 15.05.2018. Thereafter new tender bid was opened on 19.04.2018 and further Contract for a period of 2 years with one year extension provision was awarded by respondent no.1 vide its letter dated 15.05.2018 i.e. upto 15.05.2020 and as per the terms of contract, it was extended for one year i.e. till 15.05.2021. Respondent No.2 have no work after the date of expiry of said extension with respondent no.1.

16. Work and conduct of workman was poor and insolent. The workman abdicated his work many a times and in view of this, respondent no.1, whose work was severally affected due to his deplorable and unsatisfactory performance, addressed a letter dated 12.09.2018 to respondent no.2 and thereupon immediately, workman was called to make amends in his duties and do the work in disciplined way, however, workman started misbehaving and threatening. Taking into account the consistent misbehaving and insolent attitude of working, respondent no.2 had no option, except to discontinue the services of workman. His termination was made purely for unsatisfactory performance of duties workman.

17. Due minimum wages were paid to the workman as per the relevant provisions of law and contract. The workman has deliberately approached the Hon'ble High Court just to cause delay and harass respondent no.2, despite the clear and precise direction of conciliation officer on dated 06.12.2018 to approach the Central Government industrial cum labour court.

18. The provisions of Contract Act are not applicable to respondent no.2, which mandates the issuance of appointment letter and attendance slip. It is submitted that there is no violation of Section 25F, 25G and 25H of the Act and it is prayed that the claim statement of workman may be dismissed with cost qua respondent no.2.

19. Rejoinder was also filed on behalf of workman rebutting the facts of written statement.

Evidence of parties:-

20. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondent no.1. AR for workman closed the evidence on 23.08.2024.

Documents relied upon by the workman:-

Sr. No.	Document	Date	Ex.
1.	Letter	01.04.2016	W1/1
2.	Detail of manpower		W1/2
3.	Letter to Govt. Contractor	12.09.2018	W1/3
4.	List of worker submitted by contractor		W1/4
5.	Request by workman	27.04.2019	W1/5

6.	Request by workman to DC Karnal		W1/6
7.	Request to SDM Indri, Karnal	18.09.2018	W1/7
8.	Reply	31.10.2018	W1/8
9.	Reply	31.10.2018	W1/9
10.	Demand Notice	25.04.2019	W1/10
11.	Copy of Postal receipt		W1/11
12.	Certificate issued by respondent no.2	27.07.2018	W1/12

21. It is pertinent to mention here that the respondent no.1 & 2 was proceeded ex parte on 13.10.2025 and the case was fixed for ex parte arguments.

22. I have heard ld. counsel for the workman and given due consideration to the arguments raised by the ld. counsel for workman.

Findings:-

23. The first contention regarding the applicant is that whether applicant comes within the definition of workman as is defined in Section 2(s) of the Act. I may mention that applicant was appointed as Mali (gardner) as per his claim petition and affidavit submitted before the Tribunal. In plain words the applicant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

24. Thus Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the applicant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

25. The Hon'ble Supreme Court after analyzing the catena of cases has laid down in ***Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,*** two well recognized tests to find out whether the labours are the contract employees of the principal employer are:-

1) Whether the principal employer pays the salary instead of contractor and

2) Whether the principal employer controls and supervise the work of the employees?

26. As regard the payment of salary to the workman, workman in his affidavit has mentioned that his salary was paid by the contractor i.e. respondent no.2. Hence, it emerges that workman was paid salary by the contractor and he was being controlled and supervised by the contractor. Thus, there does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

27. It is also added here that as per definition of contractor as given in the Section 2(c) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called as Contract Act), respondent no.2 was

supplying contract labour to the respondent no.1. Thus, respondent no.2 would fall under the definition of contractor. Section 2(c) of the Contract Act is reproduced as under:

> *"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;*

28. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organized by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. The workman was doing work i.e. systematic activity for respondent no.1 at the asking of respondent no.2 and there was cooperation between the workman and respondent no.2, which involve substantial commercial element for rendering service to satisfy human wants. Thus, respondent no.2 would be termed as industry.

29. Workman in his affidavit has clearly stated that there was non-compliance of Section 25F, 25G and 25H of the Act. He also stated that he was appointed on 22.04.2015 and was working with respondent no.1 through contractor. He was not given any compensation before terminating his services on 18.09.2018. During the cross examination, workman has stated that he cannot produce the account statement. But he has placed on record certificate issued by respondent no.2, in which it is clearly mentioned that the workman was working with it from 01.04.2016 till 15.05.2018 and the monthly salary of workman was Rs.14,476/- In Thus, workman was employee of respondent no.2. There does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

30. Admittedly, there is non-compliance of Section 25F of the Act by respondent no.2. However, as regards violation of other provisions i.e. Section 25G and 25H of the Act, there is no evidence lead by the workman. Hence, workman is entitled for compensation from respondent no.2.

31. So keeping in view the tenure of service rendered by the workman i.e. more than 3 years and salary given to him during the period of his stay with the contractor and non-compliance of Section 25F of the Act, this Tribunal is of the considered opinion that workman is entitled for compensation.

32. Present workman employed on 22.04.2015 and was terminated on 18.09.2018 (more than 3 years), so he is entitled as per law titled as **Hemant Babruvahan Parchake versus Social Welfare Officer, Somalwar Bhavan, Mount Road, Sadar, Nagpur and others AIR 2021 BOM 1760**, wherein for 18 months, a sum of Rs.25,000/- was granted as compensation, workman is granted for Rs.50,000/-. Respondent no.2 is directed to pay the workman Rs.50,000/- within one month from the date of the notification of the award failing which the respondent no.2 shall further pay interest @6% per annum from the date of award till the date of making payment.

33. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1747.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पावर ग्रिड कॉर्पोरेशन ऑफ़ इंडिया लिमिटेड; बलविंदर कुमार सैनी, श्री परवीन कुमार** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पुरुषोत्तम सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 54/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-217-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1747.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 54/2020)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Power Grid Cooperation of India Ltd; Balwinder Kumar Saini** and **Shri Parveen Kumar** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-217-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh

(Presided over by Mr. Kamal Kant).

ID No.54/2020

Parveen Kumar S/o Sh. Sardara Ram R/o Gandhi Nagar, Tehsil Indri, District Karnal (Haryana).

-------- Workman

Versus

1. The General manager, Power Grid Cooperation of India Ltd. 800 KV West North, Interconnector, HVDC Project, House no.561, Sector 2, Near OP Jindal Chowk, Kurukshetra, District Kurukshetra (Haryana)
2. Balwinder Kumar Saini, Government Contractor & Supplier, 50-E, Street No.4, Partap Nagar, Patiala, Distt. Patiala.

----Respondents

Present:- Sh. Ashok Kumar, AR for workman.

Respondent no.1 & 2 already ex parte.

AWARD : 03.06.2026

1. The workman has filed the present claim statement directly under Section 2A of the Industrial Disputes Act, 1947 (hereinafter called as ID Act) against his termination dated 18.09.2018 claiming reinstatement in service with full back wages, continuity of service and all consequential benefits.

2. Brief facts of the case as per claim statement filed by the workman are that the workman was appointed as Mali (Gardener) for the work of Horticulture maintenance by respondent no.1 through respondent No. 2 on 01.04.2016 at the monthly wages of Rs.11300/- per month after deduction of ESI and PF etc. Still respondent no.2 is having contract of work of horticulture maintenance with respondent no.1. The workman remained in service till 18.09.2018 and his last wages were Rs.10345/- after deductions. But the respondents paid only Rs.8991/- per month and due to this reason, the workman objected the illegal deduction of salary and he made complaint to the GM and DGM and concerned Incharge JE and they threatened him to terminate his services. Aggrieved by this, the workman along with other workmen made a complaint in writing to the Labour Inspector and Labour Inspector made inspection on the complaint. At this, respondents started to harass the workman ultimately, illegally terminated his services on 18.09.2018 by verbal order. He was not paid minimum wages as fixed by the Central Government from time to time for the post of Mali (gardener) as skilled worker.

3. Aggrieved by order of termination, the workman filed a demand notice with Assistant Labour Commissioner (Central), Labour Department Central Government, Karnal (hereinafter called as ALC Karnal) on 26.09.2018. However, the conciliation proceedings failed and ALC Karnal issued a certificate to enable the workman to approach this Tribunal.

4. The workman along with other workers filed CWP No.35459 of 2019 titled as “Sanjay Kumar and others V/s General Manager, Power Grid Corporation of India Ltd. and another” before the Hon'ble Punjab & Haryana High Court and the same was disposed of with the liberty to approach the Labour Court vide order dated 21.01.2020.

5. No charge sheet or inquiry or any notice before termination of services of the workman was ever served upon the workman. No permission from Government was obtained for termination of services of the workman. Before filing the demand notice, the workman requested many times for reinstatement into service, but all in vain.

6. The workman had worked more than 240 days in a year and his services have been terminated without following the procedure prescribed under Section 25G, 25H and 25F of the Act. Many juniors to the workman have been appointed by the respondents and even fresh appointments have been made by the respondents on low wages, which is unfair labour practice. The workman is not gainfully employed after termination of his services on 18.09.2018.

7. The respondents have not issued any appointment letter, attendance slip, ESI card or any other document. Neither the principal employer i.e., respondent no.1 has obtained license under Section 7 of the Abolition of Labour Contract Act nor the contractor i.e., respondent no.2 is registered under Section 12 with the Central Labour Department. Therefore, mode of payment is a mere camouflage just to deprive the workman from his legal rights regarding regularization of the services with respondent no.1. No record has been maintained by the respondent no.1 or respondent no.2 as per requirement of Section 29 of Contract Act. It is maintained that the termination of workman w.e.f. 18.09.2018 is illegal and it is prayed that the workman may be reinstated in servicewith full back wages, continuity of service and all consequential benefits.

8. Notice of the claim petition was given to the respondents.

9. Respondent no.1 filed reply to the claim petition maintaining therein that the workman was never appointed by answering respondent. Respondent no.1 had awarded contract to respondent no.2 vide LOA dated 30.03.2016 (Maintenance of Horticulture work around the transit camp at 800 KV HVDC terminal at Kurukshetra) for the duration of two years, further, one year extension and the said contract had expired with efflux of time and no extension was granted. Thereafter, through detailed tendering process, the contract was again awarded to respondent no 2 vide LOA dated 15.05.2018 for another two years with provision of one year extension. The said contract expired in the month of May 2021.

10. There is no employer-employee relationship between workman and respondent no.1 as workmen was deployed by contractor as per the provision of Contract and he is employee of the contractor, not of the respondent no.1

11. Respondent no.1 vide letter dated 12.09.2018 addressed to respondent no.2, brought the shortcoming of horticulture work in his attention by specifically pointing out that the manpower engaged/deployed by him i.e. engaged Mali don't have the proper horticulture knowledge and advised respondent no.2 to improve the shortcomings.

12. The services of the workman were never terminated by respondent no.1 and due minimum wages were paid to him as per the relevant provisions of contract in line with applicable laws.

13. The workman was contract labour for respondent no.1 and never remained a direct employee of respondent no.1. Further, the workman was under the direct supervision and control of respondent No.2 and salary to him was being paid by respondent No.2. Therefore, question of violation of Section 25 F, 25 G and 25 H of the Act does not arise qua respondent no.1 as no industrial dispute exists between the workman and respondent no.1.

14. Respondent no.1 has duly registered its establishment u/s 7 of Contract Labour Regulation and Abolition) Act 1970 and proper records have been maintained as per the statutory requirement of Section 29 of the said Act. Being a central public sector enterprise, respondent no.1 always abides the labour compliance within the time bound manner. It is prayed that the claim statement may be dismissed qua respondent no.1.

15. Respondent no.2 also filed reply thereof maintaining therein that contract for the work "Maintenance of Horticulture work around Transit Camp at 800 KV Terminal, Kurukshetra" for a period of 2 years with a provision of further one year extension, was awarded through tendering process to respondent no.2 by respondent No.1 vide its letter dated 31.03.2016 and the contract period of this work was closed on 15.05.2018. Thereafter new tender bid was opened on 19.04.2018 and further Contract for a period of 2 years with one year extension provision was awarded by respondent no.1 vide its letter dated 15.05.2018 i.e. upto 15.05.2020 and as per the terms of contract, it was extended for one year i.e. till 15.05.2021. Respondent No.2 has no work after the date of expiry of said extension with respondent no.1.

16. Work and conduct of workman was poor and insolent. The workman abdicated his work many a times and in view of this, respondent no.1, whose work was severally affected due to his deplorable and unsatisfactory performance, addressed a letter dated 12.09.2018 to respondent no.2 and thereupon immediately, workman was called to make amends in his duties and do the work in disciplined way, however, workman started misbehaving and threatening. Taking into account the consistent misbehaving and insolent attitude of working,respondent no.2 had no option, except to discontinue the services of workman. His termination was made purely for unsatisfactory performance of duties workman.

17. Due minimum wages were paid to the workman as per the relevant provisions of law and contract. The workman has deliberately approached the Hon'ble High Court just to cause delay and harass respondent no.2,

despite the clear and precise direction of conciliation officer on dated 06.12.2018 to approach the Central Government Industrial cum Labour Court.

18. The provisions of Contract Act are not applicable to respondent no.2, which mandates the issuance of appointment letter and attendance slip. It is submitted that there is no violation of Section 25F, 25G and 25H of the Act and it is prayed that the claim statement of workman may be dismissed with cost qua respondent no.2.

19. Rejoinder was also filed on behalf of workman rebutting the facts of written statement.

Evidence of parties:-

20. In order to prove his case, workman examined himself as W1 and tendered into evidence his affidavit Ex.W1/A and has been cross examined by the AR for respondent no.1. AR for workman closed the evidence on 23.08.2024.

Documents relied upon by the workman:-

Sr. No.	Document	Date	Ex.
1.	Letter	01.04.2016	W1/1
2.	Detail of manpower	01.04.2016	W1/2
3.	Letter to Govt. Contractor	12.09.2018	W1/3
4.	List of worker submitted by contractor		W1/4
5.	Request by workman	27.04.2019	W1/5
6.	Request by workman to DC Karnal		W1/6
7.	Request to SDM Indri, Karnal	18.09.2018	W1/7
8.	Reply	31.10.2018	W1/8
9.	Reply	31.10.2018	W1/9
10.	Demand Notice	25.04.2019	W1/10
11.	Copy of Postal receipt		W1/11
12.	Certificate issued by respondent no.2	27.08.2018	W1/12

21. It is pertinent to mention here that the respondent no.1 & 2 was proceeded ex parte on 13.10.2025 and the case was fixed for ex parte arguments.

22. I have heard ld. counsel for the workman and given due consideration to the arguments raised by the ld. counsel for workman.

Findings:-

23. The first contention regarding the applicant is that whether applicant comes within the definition of workman as is defined in Section 2(s) of the Act. I may mention that applicant was appointed as Mali (gardner) as per his claim petition and affidavit submitted before the Tribunal. In plain words the applicant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative duties. While interpreting Section 2(s) Hon'ble Supreme Court in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

24. Thus Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time employee or a person appointed on contract basis. There is nothing in plain language of Section 2(s) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion the applicant herein admittedly falls within the definition of 'workman' under Section 2(s) of the Act.

25. The Hon'ble Supreme Court after analyzing the catena of cases has laid down in Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014, two well recognized tests to find out whether the labours are the contract employees of the principal employer are:-

1) Whether the principal employer pays the salary instead of contractor and

2) Whether the principal employer controls and supervise the work of the employees?

26. As regard the payment of salary to the workman, workman in his affidavit has mentioned that his salary was paid by the contractor i.e. respondent no.2. Hence, it emerges that workman was paid salary by the contractor and he was being controlled and supervised by the contractor. Thus, there does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

27. It is also added here that as per definition of contractor as given in the Section 2(c) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called as Contract Act), respondent no.2 was supplying contract labour to the respondent no.1. Thus, respondent no.2 would fall under the definition of contractor. Section 2(c) of the Contract Act is reproduced as under:

> *"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;*

28. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organized by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. The workman was doing work i.e. systematic activity for respondent no.1 at the asking of respondent no.2 and there was cooperation between the workman and respondent no.2, which involve substantial commercial element for rendering service to satisfy human wants. Thus, respondent no.2 would be termed as industry.

29. Workman in his affidavit has clearly stated that there was non-compliance of Section 25F, 25G and 25H of the Act. He also stated that he was appointed on 22.04.2015 and was working with respondent no.1 through contractor. He was not given any compensation before terminating his services on 18.09.2018. During the cross examination, workman has stated that he cannot produce the account statement. But he has placed on record certificate issued by respondent no.2, in which it is clearly mentioned that the workman was working with it from 01.04.2016 till 15.05.2018 and the monthly salary of workman was Rs.14,476/- In Thus, workman was employee of respondent no.2. There does not exist any relationship of employee and employer between the workman and respondent no.1. However, there exists relation of employee and employer between the workman and respondent no.2.

30. Admittedly, there is non-compliance of Section 25F of the Act by respondent no.2. However, as regards violation of other provisions i.e. Section 25G and 25H of the Act, there is no evidence lead by the workman. Hence, workman is entitled for compensation from respondent no.2.

31. So keeping in view the tenure of service rendered by the workman i.e. more than 3 years and salary given to him during the period of his stay with the contractor and non-compliance of Section 25F of the Act, this Tribunal is of the considered opinion that workman is entitled for compensation.

32. Present workman employed on 22.04.2015 and was terminated on 18.09.2018 (more than 3 years), so he is entitled as per law titled as **Hemant Babruvahan Parchake versus Social Welfare Officer, Somalwar Bhavan, Mount Road, Sadar, Nagpur and others AIR 2021 BOM 1760,** wherein for 18 months, a sum of Rs.25,000/- was granted as compensation, workman is granted for Rs.50,000/-. Respondent no.2 is directed to pay the workman Rs.50,000/- within one month from the date of the notification of the award failing which the respondent no.2 shall further pay interest @6% per annum from the date of award till the date of making payment.

33. Let copy of this award be sent to Central Government for publication as required under Section 17 of the Act.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1748.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंस्टिट्यूट ऑफ़ हिमालयन बायोरिसोर्स टेक्नोलॉजी; ओम प्रकाश** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पुरुषोत्तम सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 44/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-170-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1748.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 44/2019)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Institute of Himalayan Bioresource Technology; Om Prakash** and **Shri Purshotam Singh** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-170-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh
(Present:- Mr. Kamal Kant, Presiding Officer)

ID No.44/2019

Purshotam Singh S/o Sh. Kali Das through R K Singh Parmar, General Secretary Punjab INTUC L-211 Brari PO Partap Nagar, Nangal, Tehsil Nangal, District Rupnagar (Punjab).

-------- Workman

Versus

1. Director Institute of Himalayan Bioresource Technology, (CSIR Complex) Palampur, District Kangra, Himachal Pradesh.
2. Om Parkash (Govt. Contractor) S/o Sh. Dumnoo Ram, R/o VPO Kandral, Tehsil Bajinath, District Kangra, Himachal Pradesh.

------Respondents

Present:- Sh. R P Rana, AR for workman.
Sh. G S Sidhu, AR for respondent no.1.
Respondent no.2 already ex parte.

Award : 23.04.2026

1. Workman has filed the present petition/complaint under Section 33 of the Industrial Disputes Act, 1947 (hereinafter called the Act) against his termination by respondent no.1 & 2 on 28.11.2024.

2. The brief facts, related to the case are that the workman was terminated orally by respondents on 28.11.2014 during the pendency of the main reference bearing no.255 of 2013 contravening Section 33 of the Act. It is prayed that termination be set aside and appropriate order be passed.

3. Notice of complaint was given to the respondents.

4. Respondent no.1 filed reply thereof maintaining therein that the workman was never employed by respondent no.1 and no master and servant relation exists between respondent no.1 and the workman. Workman was deployed by respondent no.2 as a part of the man-force for executing the work in terms of the agreement dated 18.07.2013 which expired in July, 2014 and thereafter no further contract was awarded to respondent no.2 nor any man-force has been deployed. The respondent No.2 had been paid the bills submitted by him, in terms of the agreement with him. Termination of service of the workman is on the part of respondent No.2 i.e. contractor. In any case, since the workman was never employed in the service of respondent no.1, the question of violation of any service condition during the pendency of the reference No.255 2013 does not arise against respondent no.1. It is prayed that the application may be rejected against respondent no.1.

5. It is pertinent to mention here that respondent no.2 was proceeded ex parte on 26.02.2020.

Evidence of parties:-

6. In order to prove his case, workman examined himself as WW1 and tendered into evidence his affidavit Ex.WW1/A and has been cross examined by the AR for respondent no.1. AR for workman closed the evidence on 22.01.2025.

7. List of documents, original exhibited with ID No.85/2015 Bir Singh Vs IHBT, photocopy placed in file:-

Sr. No.	Document	Dated	Exhibit
1.	Bill	24.05.2013	Ex.W-1
2.	Bill	22.03.2021	Ex.W-2
3.	Bill	22.03.2021	Ex.W-3
4.	Bill	22.07.2010	Ex.W-4
5.	Bill	23.03.2007	Ex.W-5
6.	Bill	28.03.2007	Ex.W-6
7.	Bill	07.09.2010	Ex.W-7

8. Respondent no.1 has examined Sh. Shankar Das, Controller of Administration, CSIR-IHBT, Palampur Palampur as RW1, who tendered into evidence his affidavit RW1/A along with documents RW-1/1 and has been cross examined by AR for workman. AR for respondent no.1 closed the evidence on 08.01.2026.

List of documents:-

Sr. No.	Agreement	Dated	Period
1.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	24.05.1996	13.03.1996 to 12.03.1997
2.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	01.09.1997 to 31.08.1998
3.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	15.04.1998 to 14.04.1999
4.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.06.1998	16.04.1998 to 15.04.1999
5.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.05.1999	01.04.1999 to 31.03.2000
6.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	05.05.1999	01.05.1999 to 30.04.2000
7.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	28.07.2000	01.07.2000 to 30.06.2001
8.	Agreement with M/s Om Prakash Kapoor (Ex.RW-1/1 Colly)	08.07.2001	16.07.2001 to 15.07.2002
9.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.07.2001	16.07.2001 to 15.07.2002
10.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.07.2001	16.07.2001 to 15.07.2002
11.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
12.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
13.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
14.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	10.03.2004	10.02.2004 to 09.08.2004
15.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	22.03.2004	12.02.2004 to 11.08.2004

16.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	22.03.2004	12.02.2004 to 11.08.2004
17.	Letter (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
18.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/2)	06.06.2005	06.06.2005 to 05.12.2005
19.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
20.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
21.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	06.06.2005	06.06.2005 to 05.12.2005
22.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
23.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
24.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	16.10.2008	06.10.2008 to 05.10.2009
25.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.01.2010	07.01.2010 to 06.01.2012
26.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
27.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
28.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	07.12.2010	07.12.2010 to 06.12.2012
29.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	09.12.2012	09.12.2012 to 08.12.2014
30.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	19.12.2012	19.12.2012 to 18.12.2014
31.	Agreement with M/s Om Prakash Kapoor (Part of Ex.RW-1/1 Colly)	19.12.2012	19.12.2012 to 18.12.2014

Submissions of workman:-

9. While arguing the case, AR for workman contended that in this case, reference was pending before this Tribunal bearing ***ID No.255 of 2013 titled as The General Secretary, Institute of Himalayan Bio-Source Technology (CSIR) Shramik Sangh, Palampur, Distt. Kangra versus The Director, Himalayan Bio-source Technology (CSIR)*** regarding regularization of service and accepting all other demands raised by union of workers, of which present workman is also a party. During the pendency of that reference, workman was removed from service orally on 28.11.2014 by respondent no.2 without seeking permission from this Court under Section 33(2)(b) of the Act, which is illegal. Workman would be deemed to be in the service of respondent no.1. He further contended that in this case, respondent no.2 was allotted contract by respondent no.1 for the period 19.12.2012 to 18.12.2014. However, the said period was reduced to 30.11.2014 and the workman was paid salary upto 28.11.2014 and on that date, his services were dispensed with. He thus contended that the workman is liable to be reinstated into service.

Submissions of respondent no.1:-

10. While arguing the case, AR for respondent no.1 contended that IHBT i.e. respondent no.1 being subsidiary of CSIR is not covered under the definition of Industry as defined under the Act. To support this view, he place reliance upon ***Central Institute of Medicinal and Aromatic Plants and others versus Sri Rishi Dev Mishra and other (Writ –C No.1005010 of 2006)***.

11. He further contended that there is no master and servant relation between respondent no.1 and the workman. To support this view, he placed reliance upon ***The Joint Secretary, Central Board of Secondary education and another versus Raj Kumar Mishra and another (SLP (C) No.22030 of 2023***. He further placed reliance upon ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (2022 INSC 1255).*** He further contended that CSIR Service Rules are not applicable to the workman. No appointment letter was given to the workman. He thus contended that the complaint be dismissed.

Findings:-

12. I have given due consideration to the arguments advanced by Sh. R P Rana (AR for workman), Sh. G S Sidhu (AR for respondent no.1).

13. First question which arise for consideration is whether the applicant is workman as defined under Section 2(s) of the Act. To my mind, the claimant is a workman within the definition of Section 2(s) of the Act. In this regard, reliance can be made to the decision in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(s) of the Act which deals with the definition of "workman" has observed as under :

> *"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."*

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(s) of the Act. Thus, nature of appointment or source of appointment is not relevant to be a "workman" within the Act. Since, the workman was engaged on contract basis by respondent no.2 for the work of respondent no.1, thus it would be termed as workman under Section 2(s) of the Act.

14. Next question which arises for consideration is whether respondent no.1 is an industry. The Hon'ble Apex Court in the case of ***Banglore Water Supply & Sewerage Board Vs. A. Rajappa 1978(36) FLR 266*** dealt at length with the ambit and scope of expression "industry" as defined in Section 2(j) of the Act, and has laid down triple test for determining whether a particular establishment is industry or not. The triple test is where (a) systematic activity (b) organised by cooperation between employer and employee (the direct and substantial element is commercial (c) for the production or distribution of goods and services to calculated to satisfy human wants and wishes prima facie is an "Industry" in that enterprise. Relevant part of judgment of ***Banglore Water Supply & Sewerage Board (supra)*** is reproduced as under:-

> *"Does research involve collaboration between employer and employee? It does. The employer is the institution, the employees are the scientists, para-scientists and other personnel. Is scientific research service? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be plate for and technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services, than discoveries. For instance, the discoveries of Thomas Alva Edison made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded, sound. Unlike most inventors, he did not have to wait to get his reward in heaven; he received, it munificently on this gratified and grateful earth, thanks to conversion of his inventions into, money a plenty. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an Organisation, propelled by systematic activity, modeled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of goods and services and wealth. It follows that research institutes, albeit run without profit-motive, are industries."*

15. In the present case, respondent no.1 is doing research work and as per RW1 Sh. Shankar Das Rishi, products are sold in the institute for display purposes of the products. He has also admitted that vide Ex.W1 to W7, various products of the institute have been sold to the customers. Thus, respondent no.1 is engaged in systematic activity organized by cooperation between employer and employee (employees being workmen in the present case) for the production or distribution of goods and services to calculated to satisfy human wants. In this regard, it is carrying out research. In addition to this, from the research work, benefits are being driven by respondent no.1 and as per observation of Hon'ble Supreme Court in ***Banglore Water Supply & Sewerage Board (supra),*** respondent no.1 falls under the definition of 'industry' as defined under the Act.

16. So far as argument of AR for respondent no.1 that respondent no.1 being instrumentality of state does not fall under the definition of 'industry'. In this regard, Hon'ble Supreme Court in case titled as ***Chief Conservator of Forest Versus Jagannath Maruti Kondhare (1996 (2) SCT 164)***, has held that work, which

was not be regarded as a part of inalienable of inescapable function of the State and which work can be well undertaken by a private agency does not require an instrumentality of State, such functions of the State fall within the ambit of Industry. Thus, function of doing research and other allied works of selling of goods and earning from research cannot be said to be sovereign function of the State and thus for this purpose of industrial dispute, respondents would be termed as industry.

17. Thus, from every angle, respondent no.1 is an industry. Moreover, its employees are not governed by IHBT Rules or CCS Rules, thus it is an industry. In view of the judgment of Hon'ble Supreme Court titled as ***Banglore Water Supply & Sewerage Board (supra),*** decided by Hon'ble Supreme Court, the case law ***Central Institute of Medicinal and Aromatic Plants and others (supra)*** decided by Hon'ble High Court at Allahabad cited by AR for respondent no.1 is not attracted to the facts and circumstances of the present case.

18. It is also added here that as per definition of contractor as given in the Section 2(c) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called as Contract Act), respondent no.2 was supplying contract labour to the respondent no.1. Thus, he would also fall under the definition of contractor. Section 2(c) of the Contract Act is reproduced as under:

> *"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;*

19. The workman was doing work i.e. systematic activity for respondent no.1 at the asking of respondent no.2 and there was cooperation between the workman and respondent no.2, which involve substantial commercial element for rendering service to satisfy human wants. Thus, as per ***Banglore Water Supply (supra),*** respondent no.2 would be termed as industry.

20. Next question, which arises for consideration is whether there exists relationship of employer and employee between respondent no.1 and present workman. In this regard, it is pointed out that admittedly in this case, union of workmen has filed ***ID No.255 of 2013 titled as The General Secretary, Institute of Himalayan Bio-Source Technology (CSIR) (supra)***, wherein name of the worker appeared at Sr. No.72 of the list of enclosed by union as Annexure P-4. It is further pointed out that in order to prove relationship of employer and employee i.e. master and servant, the Hon'ble Supreme Court after analyzing the catena of cases has laid down in ***Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,*** two well recognized tests to find out whether the labours are the contract employees of the principal employer are:-

> *1) Whether the principal employer pays the salary instead of contractor and*
>
> *2) Whether the principal employer controls and supervise the work of the employees?*

In this case, admittedly wages were paid by respondent no.2, however, control was of the respondent no.1. Thus, under these circumstances, it is held that there exist relationship of master and servant between respondent no.1 and workman.

21. Further, in the present case, admittedly respondent no.1 is entering into different contract agreements with respondent no.2 (Ex.RW1/1 Colly as detailed above) by retaining same workmen and thus contracts are sham in view of the observation of Hon'ble Delhi High Court in similar matter in ***Management of CPWD versus Anand Kumar Gautam and ors. (2024:DHC:2757)*** which is as under:

> "*Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to citizen and not of the contractors. Contractors cannot supply labour to any establishment. In view of the above discussion it becomes quite obvious that the contractors workmen in the instant case have been retained all along and contractors have been changed. So the contractor is only a label of a bottle. This label is changed from time to time but the contents of the bottle always remain the same. The contractors have been changed and the workmen have been retained. Such a system is in-human. The contractors are the direct employees of the respondent/management.*
>
> *From the foregoing it becomes quite obvious that these two workmen have been working regularly and even without artificial breaks since 1995-96.* ***The contract is camouflage. There is direct relation of master and servant between the respondent and the workmen."***

22. Hon'ble Supreme Court in case titled as ***Bhilwara Dugdh Utpadak Sahakari S. Ltd. Versus Vinod Kumar Sharma dead by LRs and others (AIR 2011 Supreme Court 3546)*** has held as under:-

4. In order to avoid their liability under various labour statutes employers are very often resorting to subterfuge by trying to show that their employees are in fact, the employees of a contractor. It is high time that this subterfuge must come to an end.

5. Labour statutes were meant to protect the employees/workmen because it was realized that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees.

23. Thus, from the above observation of Hon'ble Supreme Court, it is clear that respondent no.1 has resorted to subterfuge by trying to show that workman was employee of respondent no.2.

24. Moreover, respondent no.1 entered in various agreements with respondent no.2 (Ex.RW1/1 Colly), which shows that there is practice that the contract for engagement of the employer/labour through contractors changes on the basis of bid of the contractors every year. The contractor may change but the employees/labourers always remain same. The workman was already working with the management when the contract was tendered to the respondent no.2. Neither the workman was engaged by respondent no.2 nor the services of workman were terminated by respondent no.2. It is the respondent no.1 who uses to select/engage and terminate the labour/workman and respondent no.2 has no role in the same. Thus, it shows that the contract was just an eyewash. It is further submitted that contract was allotted to respondent no.2 by respondent no.1 on different years as per Ex.RW1/1 (colly) and sometime to other contractors, meaning thereby the respondent no.1 is controlling authority of the workmen including their engagement, termination etc. and even the wages of workman were also decided by respondent no.1 only and respondent no.2 has no role to play in the same. So, there exist relationship of employees/servant and employer/master between the workmen and respondent no.1. Thus, the judgment ***The Joint Secretary, Central Board of Secondary education and another (supra)*** cited by AR for respondent no.1 is not attracted to the present case as in this case, time and again, same workers were being engaged through contractor and in view of clear cut dictum of Hon'ble Delhi High Court in ***Management of CPWD (supra),*** the aforementioned case law is not attracted.

25. So far as ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (supra)*** relied upon by the AR for respondent no.1 is concerned, facts and circumstances of this case are distinguishable. In the said ***Kirlosker Brothers Ltd. Vs. Ramcharan and others (supra),*** Court has held that that when there are no allegations or findings of sham and bogus contract then the contention of the reinstatement or the absorption of the workman cannot be sustained but the facts of the matter at hand is different from the facts of the case as in the instant case. In this case, workman was working since long and the work was of perennial nature. Thus, it tantamount to unfair labour practice.

26. It is added here that admittedly in this case, workman was discharged by the respondent no.1 & 2 and as per agreement Ex.RW1/1 (colly), contract was awarded to respondent no.2 by respondent no.1 for a period of two years i.e. from 19.12.2012 to 18.12.2014. However, workman was discharged prior to that on 28.11.2014.

27. No prior permission was taken by respondent no.1 & 2 before the discharging the services of workman. Section 33(2)(b) of the Act is very material and the same is reproduced below:-

"(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer."

28. As per aforesaid provision, the workman can be discharged or dismissed after paying one month wages and after getting approval of the competent authority. In this case, no wages for one month was paid nor any permission from competent authority was taken before discharging the workman and consequently, it would be considered that workman was in regular services of the workman. A ***Full Constitutional Bench of Hon'ble Supreme Court*** in case titled as ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. versus Ram Gopal Sharma and others (2002 SCC (L & S) 279)*** has held that failure to make application for approval of the order of discharge or dismissal or withdrawal of such application after making it, held, renders the order of discharge or dismissal void and inoperative.

29. The present application under Section 33A is well maintainable and purpose has also been defined by the Hon'ble Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. (supra)*** case, which read as follows:-

> *Section 33A is available to an employee and is intended to save his time and trouble in as much as he can straightway make a complaint before the very authority, where the industrial dispute is already pending between the parties, challenging the order of approval instead of making efforts to raise an industrial dispute, get a reference and thereafter adjudication. Section 31 speaks of penalty in respect of the offences stated therein. This provision is not intended to give any remedy to an aggrieved employee. It is only to punish the offender. Merely because penal provision is available or a workman has a further remedy under Section 33A to challenge the approval granted, it canoe be said that the order of discharge or dismissal does not become inoperative or invalid unless set aside under Section 33A.*

30. In view of the above discussion, the termination of workman on 28.11.2014 is bad in law and hence is set aside. In this case, both the respondents in connivance with each other have dispensed the services of the workman. Hence, both respondents are liable. The workman is entitled for reinstatement along with full back wages. It is ordered accordingly. The services of the workman would not be discharged/terminated during the pendency of the ID No.255 of 2013, wherein, they have claimed various demands vide charter of demands dated 09.05.2011. However, in case workman has attained the age of retirement, then he would be entitled for full back wages along with other consequential benefits instead of reinstatement in service.

31. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1749.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **साइक्लोप्स सिक्योरिटी एंड एलाइड सर्विसेज़** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनिंदर पाल सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़, पंचाट (रिफरेन्स न.- 15/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं.- एल-42025/07/2026-225-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1749.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 15/2025)** of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Cyclops Security and Allied Services** and **Shri Maninder Pal Singh** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-225-IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh
(Present:-Mr. Kamal Kant, Presiding-cum-Link Officer).

ID No. 15/2025
Registered on:-22.07.2025

Maninder Pal Singh, 2139/2 Sector 45-C Chandigarh, Chandigarh-160047.

-------- Workman

Versus

Cyclops Security and Allied Services, CGHS, Wellness Centre No.1, Sector 45 C, Chandigarh-160047.

----Management

Present:- Sh. R.P. Rana, AR along with workman.

Award :16.07.2026

1. Central Government vide Notification No.8(50)/2024/RCH/C.II Dated 09.07.2025, sub-section (5) of Section 12 read with sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of DG CGHS and AD CGHS Chandigarh & M/s Cyclops Security and Allied Services Pvt. Ltd. in terminating the employment of Shri Maninder Pal Singh w.e.f. 26.09.2024 without following the due process including section 25F, 25G and 25H of ID Act, 1947 is legal and justified? If not, to what relief including reinstatement; back wages and compensation the workman is entitled to?**
>
> **Whether the action of management of DG CGHS and AD CGHS Chandigarh & M/s Cyclops Security and Allied Services Pvt. Ltd. in issuing and implementation of letter/direction vide CGHS HQ letter No.C.18013/04/2022-CGHS-II dated 28.05.2022 and AD/CGHS/Chandigarh/Gen/2024/210 dated 03.09.2024 leading to termination of employment of Shri Maninder Pal Singh without following the provisions of ID Act is legal and justified and constitutes unfair labour practice under Section 25T read with Schedule V of ID Act, 1947?"**

2. This case is fixed for 19.01.2027. However, an application dated 16.07.2026 was moved on behalf of the workman seeking permission to withdraw the present Industrial Dispute. Thereafter, the workman made the following statement:-

> *"I withdraw the present cased and the same may be dismissed as withdrawn."*

3. In view of the application filed on behalf of the Workman, as well as the statement made by the Workman, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present industrial dispute.

4. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding-cum-Link Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1750.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **साइक्लोप्स सिक्योरिटी एंड एलाइड सर्विसेज़** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री विजय कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़, पंचाट (रिफरेन्स न.- 14/2025)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42025/07/2026-224-आईआर(डीयू)]
सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1750.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 14/2025)** of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Cyclops Security and Allied Services** and **Shri Vijay Kumar** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42025/07/2026-224-(IR(DU)]
SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh
(Present:-Mr. Kamal Kant, Presiding-cum-Link Officer).

ID No.14/2025
Registered on:-22.07.2025

Vijay Kumar, 173, New Indira Colony, Manimajra, Chandigarh, Chandigarh-160101, 9888689248.

-------- Workman

Versus

Cyclops Security and Allied Services, CGHS, Wellness Centre No.1, Sector 45 C, Chandigarh-160047.

----Management

Present:- Sh. R.P. Rana, AR along with workman.

Award :16.07.2026

1. Central Government vide Notification No.8(52)/2024/RCH/C.II Dated 09.07.2025, sub-section (5) of Section 12 read with sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of DG CGHS and AD CGHS Chandigarh & M/s Cyclops Security and Allied Services Pvt. Ltd. in terminating the employment of Shri Vijay Kumar w.e.f. 26.09.2024 without following the due process including section 25F, 25G and 25H of ID Act, 1947 is legal and justified? If not, to what relief including reinstatement; back wages and compensation the workman is entitled to?**
>
> **Whether the action of management of DG CGHS and AD CGHS Chandigarh & M/s Cyclops Security and Allied Services Pvt. Ltd. in issuing and implementation of letter/direction vide CGHS HQ letter No.C.18013/04/2022-CGHS-II dated 28.05.2022 and AD/CGHS/Chandigarh/Gen/2024/210 dated 03.09.2024 leading to termination of employment of Shri Vijay Kumar without following the provisions of ID Act is legal and justified and constitutes unfair labour practice under Section 25T read with Schedule V of ID Act, 1947?"**

2. This case is fixed for 19.01.2027. However, an application dated 16.07.2026 was moved on behalf of the workman seeking permission to withdraw the present Industrial Dispute. Thereafter, the workman made the following statement:-

"I withdraw the present cased and the same may be dismissed as withdrawn."

3. In view of the application filed on behalf of the Workman, as well as the statement made by the Workman, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present industrial dispute.

4. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding-cum-Link Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1751.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **कमांडर वर्क्स इंजीनियर न** के प्रबंधतंत्र के संबद्ध नियोजकों और **एमईएस सिविलियन वर्कर्स एंड एम्प्लॉइज यूनिय** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़, पंचाट (रिफरेन्स न.- 01/2022)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.08.2026 को प्राप्त हुआ था।

[सं. एल-42011/181/2021-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1751.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 01/2022)** of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Commander Works Engineer** and **MES Civilian Workers & Employees Union** which was received along with soft copy of the award by the Central Government on 07.08.2026.

[No. L-42011/181/2021-IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh

(Presided over by Mr. Kamal Kant Presiding-cum-Link Officer).

ID No. 01/2022

Registered on:-17.05.2022

MES Civilian Workers & Employees Union Ferozpur, Punjab.

-------- Workmen Union

Versus

Head Quarter, Commander Works Engineer, Ferozepur Cantt. Ferozepur, Punjab-152001.

----Management

Present:- None for Workmen Union.

None for Management (already ex-parte).

Award :29.05.2026

1. Central Government Vide Notification No.L-42011/181/2021(IR(DU)) dated 07.02.2022, Clause (d) of Sub-section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act,1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

> "*Whether the demands raised by MES Civilian Workers & Employees Union Ferozpur (PB) vide letter dated 20.03.2021 to the management of Commander Works Engineer, Ferozpur Cantt. is proper, legal and justified? If yes, to what reliefs the disputant workers are entitled? What directions are necessary in this matter?"*

1. The case is fixed for filing evidence by workmen union. However, no one is turning up on behalf of workmen Union from last two dates. Today also, no one turned up on behalf of workmen Union. The workmen Union has been given sufficient opportunities for filing claim statement, but no one turned up on behalf of workmen union in spite of the opportunities afforded to it for filing evidence, which shows that the workmen union is not interested in adjudication of the matter on merit.

2. Since no one is appearing for the workmen union, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present Industrial Dispute.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding-cum-Link Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 21/2003**) को प्रकाशित करती है,

[सं. **एल.12025/01/2026–आई.आर.**(बी–I)-181]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1752.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.21/2003) of the Central Government Industrial 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)-181]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**
Presiding Officer

Dated the 10th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 21/2003
[Old ID No. 245/2000 of Labour Court, Guntur]

Between:

Sri Sudarshanam Anil
S/o Ananda Rao
R/o Rayapudi,
Thulluru Mandal,
Guntur distt.

… Petitioner

And

1. The Chairman,
   State Bank of India,
   Central office,
   Mumbai.
2. The Chief General Manager,
   (Personnel)
   State Bank of India,
   Bank Street
   Hyderabad.
3. The Regional Asst. General Manager,
   State Bank of India,
   Zonal Office, Vijayawada Zone,
   Vijayawada.
4. The Branch Manager,
   State Bank of India,
   Governorpet branch,
   Vijayawada
   Krishna district.

…..Respondents

Appearances:

For the Petitioner : Sri S. Adinarayana, Advocate
For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Sudarshanam Anil who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court, Guntur for adjudication and later the same has been transferred to this Tribunal bearing ID No. 245/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 21/2003.

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 18.9.84 to September, 1996 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 September, 1996. 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 September, 1996 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 to Ex.W4 are the service certificates. Ex.W5 is the transfer certificate. Ex.W6 is the caste certificate. Ex.W7 is the employment card. Ex.W8 is the interview call letter. Ex.W9 is the stay order. Ex.W10 is the 1992 panel list. Ex.W11 is the legal notice.

21. On the other hand, Respondent has examined witness MW1 Sri K. Chandra Sekhara Goud 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, Vijayawada in terminating the services of Workman Sri Sudarshanam Anil, a Messenger with effect from September, 1996 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 September, 1996. 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 September, 1996."

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 September, 1996 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 September, 1996 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 September, 1996 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 September, 1996 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

September, 1996 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., September, 1996.

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

"I was not sponsored by any employment exchange and 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 continuously 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., September, 1996. 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 September, 1996 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. September, 1996. 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., September, 1996.

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 September, 1996, therefore it was directed to issue suitable instructions not to make temporary appointments from September, 1996. 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 September, 1996 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 am not aware of the settlements between the federation and the Management. .... 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 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 September, 1996. 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 Sudarshanam Anil, Ex. Messenger by way of oral orders w.e.f. September, 1996 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 10th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Sudarshanam Anil	MW1: Sri K. Chandra Sekhar Goud

Documents marked for the Petitioner

Ex.W1 to	
Ex.W4:	Photocopies of service certificates
Ex.W5:	Photocopy of transfer certificate
Ex.W6:	Photocopy of caste certificate
Ex.W7:	Photocopy of employment card
Ex.W8:	Photostat copy of interview call letter
Ex.W9:	Photocopy of stay order
Ex.W10:	Photocopy of 1992 panel list
Ex.W11:	Photocopy of legal notice.

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, 7 अगस्त, 2026

का.आ. 1753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 55/2002**) को प्रकाशित करती है,

[सं. **एल.12025/01/2026–आई.आर.**(बी–I)-180]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (No. LC. 55/2002) of the Central Government Industrial 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)-180]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**
Presiding Officer

Dated the 8th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 55/2002

[Old ITID(C) No. 41/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Thota Srinivasa Rao,
S/o Ramamurthy,
R/o Vizianagaram. …. Petitioner

And

The Dy. General Manager,
State Bank of India,
Personnel section,
Zonal office, Region -II,
Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri K.R. Prabhakar, Advocate

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Thota Srinivasa Rao who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID(C) No. 41/2001, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 55/2002.

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 and worked from 8.4.88 to 31.3.1997, 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 31.3.1997. 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, settlement dated 16.7.88 is 2nd settlement, settlement dated 27.10.88 is the 3rd settlement, then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th settlement. In between there is minutes of conciliation proceedings dated 9.6.95. 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 31.3.1997 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 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 31.3.1997 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, MW1 has proved documents Ex.W5 to Ex.W7. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 and Ex.W4 are the service certificates. Ex.W5 is the letter to CGM (Per) dated 10.10.1990. Ex.W6 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W7 is the letter from Government of India to Respondent dt.30.11.87.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited one document, marked as Ex.M1 i.e., the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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 in terminating the services of Workman Sri Thota Srinivasa 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 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. The witness WW1 in chief examination has stated that he had worked for 254 days in the Respondent organization from 1985 to 1997. As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31.3.1997. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 10 days in the branch during the year 1997. Petitioner had worked vide for 76 days, vide Ex.W3 for 380 days, and vide Ex.W4 for 261 days. Further, Petitioner witness has not adduced any evidence that he had worked for 240

days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31.3.1997. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, the perusal of the document goes to reveal that the certificates allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank from 8.4.1988 to 31.3.1997, do not support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 31.3.1997. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, " He did not complete 240 days of service in any year. In pursuance of settlements between the union and the bank, even though who have not completed 240 days of service in a year, were also empanelled for being considered for appointment in future vacancies." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "Some of the empanelled candidates were appointed on seniority basis and number of days." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that " It is true that no juniors to me were given employment by the bank on regular basis." Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 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. 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. 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.M1 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 contained in Ex.M1 printed book 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 Thota Srinivasa 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.

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 8th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Thota Srinivasa Rao	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1 to:

Ex.W4: Photocopies of Service certificates

Ex.W5: Photocopy of letter to CGM (Per) dated 10.10.1990

Ex.W6: Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90

Ex.W7: Photocopy of the letter from Government of India to Respondent dt.30.11.87.

Documents marked for the Respondent

Ex.M1: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 54/2002**) को प्रकाशित करती है,

[सं. **एल.12025/01/2026–आई.आर.**(बी–I)-179]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.54/2002) of the Central Government Industrial 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)-179]

SALONI, Deputy Director

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 8th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 54/2002

[Old ITID(C) No. 39/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Tompala Somayya,
S/o Surayya,
Bituvada Village,
Veeraghattam mandal,
Srikakulam District. …. Petitioner

And

The Dy. General Manager,
State Bank of India,
Personnel section,
Zonal office, Region -II,
Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri K.R. Prabhakar, Advocate
For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Tompala Somayya who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID(C) No. 39/2001, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 54/2002.

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 and worked from 1.9.1987 to 31.12.1987 and has rendered unblemished service spreading over a period of about 78 days. The Respondent has terminated services of Workman by oral orders with effect from 1.1.1988. 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, settlement dated 16.7.88 is 2nd settlement, settlement dated 27.10.88 is the 3rd settlement, then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th settlement. In between there is minutes of conciliation proceedings dated 9.6.95. 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 1.1.1988 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 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 1.1.1988 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, MW1 has proved documents Ex.W9 to Ex.W11. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to Ex.W7 are the service certificates. Ex.W8 is the employment notification. Ex.W9 is the letter to CGM (Per) dated 10.10.1990. Ex.W10 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W11 is the letter from Government of India to Respondent dt.30.11.87.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited one document, marked as Ex.M1 i.e., the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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 in terminating the services of Workman Sri Tompala Somayya, a Messenger with effect from 1.1.1988 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 1.1.1988 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 1.1.1988 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., 1.1.1988. The witness WW1 in chief examination has stated that he had worked for 78 days in the Respondent organization from 1.9.1987 to 31.12.1987. As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 1.1.1988. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 75 days in the branch during the year 1987. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 1.1.1988. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, the perusal of the documents goes to reveal that the certificates allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank from 1.9.1987 to 1.1.1988, do not support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1.1.1988. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., 1.1.1988. 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 1.1.1988 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., 1.1.1988.

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, " He did not complete 240 days of service in any year. In pursuance of settlements between the union and the bank, even though who have not completed 240 days of service in a year, were also empanelled for being considered for appointment in future vacancies." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "Some of the empanelled candidates were appointed on seniority basis and number of days." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that " It is true that no juniors to me were

given employment by the bank on regular basis." Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 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. 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. 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.M1 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 contained in Ex.M1 printed book 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 Tompala Somayya, Ex. Messenger by way of oral orders w.e.f. 1.1.1988 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 8th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Tompala Somayya	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1 to:

Ex.W7: Photocopies of Service certificates

Ex.W8: Photocopy of employment notification

Ex.W9: Photocopy of letter to CGM (Per) dated 10.10.1990

Ex.W10: Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90

Ex.W11: Photocopy of the letter from Government of India to Respondent dt.30.11.87.

Documents marked for the Respondent

Ex.M1: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण**–सह–**श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 53/2002**) को प्रकाशित करती है,

[सं. **एल.12025**/01/2026-**आई.आर**.(बी-**I**)-178]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (No.LC. 53/2002) of the Central Government Industrial 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)-178]

SALONI, Deputy Director

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 8th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 53/2002

[Old ITID(C) No. 38/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:
Sri Pitani Venkataramu,
S/o Abbaji,
R/o Kakinada. …. Petitioner

And

1. The Chief General Manager,
State Bank of India,
LHO, bank street,
Hyderabad.

2. The Dy. General Manager,
State Bank of India,
Personnel section,
Zonal office, RTC Complex,
2ns floor, Visakhapatnam. …..Respondents

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate
For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Pitani Venkataramu who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID(C) No. 38/2001, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 53/2002.

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 and worked from 1988 to 1989, and has rendered unblemished service spreading over a period of about 2 years. The Respondent has terminated services of Workman by oral orders with effect from April, 1989. 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, settlement dated 16.7.88 is 2nd settlement, settlement dated 27.10.88 is the 3rd settlement, then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th settlement. In between there is minutes of conciliation proceedings dated 9.6.95. 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 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 April, 1989 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. Workman has filed photocopy of document Ex.W1, the service certificate, in support of his claim.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited two documents, marked as Ex.M1 and Ex.M2. Ex.M1 is the statement showing the number of days the Petitioner worked during the relevant period. Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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 in terminating the services of Workman Sri Pitani Venkataramu, a Messenger with effect from April, 1989 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 April, 1989 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 April, 1989 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., April, 1989. The witness WW1 in chief examination has stated that he had worked in the Respondent organization from 1988 to 1989. As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., April, 1989. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 90 days in the branch during the years 1988- 1989. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., April, 1989. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, the perusal of the document goes to reveal that the certificate allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank from November, 1988 to April, 1989, do not support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., April, 1989. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., April, 1989. 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 April, 1989 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., April, 1989.

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, " The workman did not complete 240 days of service in any12 calendar months. The workman was empanelled for being being considered for regularization of service. The empanelment was on the basis of settlement reached between the Management of State Bank of India and the Staff Federation." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that she has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "on the basis of the vacancies available, the services of temporary employees were regularized basing on their length of service upto 31.7.1988." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Therefore, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 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. 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. 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.M1 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 contained in Ex.M1 printed book 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 Pitani Venkataramu, Ex. Messenger by way of oral orders w.e.f. April, 1989 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 8th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Pitani Venkataramu	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1: Service certificate

Documents marked for the Respondent

Ex.M1: Photocopy of service details of Petitioner

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1756.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 56/2002**) को प्रकाशित करती है,

[सं. एल.12025/01/2026-आई.आर.(बी-**I**)-177]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.56/2002) of the Central Government Industrial 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)-177]

SALONI, Deputy Director

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 9th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 56/2002

[Old ITID(C) No. 42/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:
Sri K. Appa Rao,
S/o Hanuman,
D.No.36-95-100,
Kapparanda kancharapalem,
Visakhapatnam – 530 008 …. Petitioner

And

1. The Chief General Manager,
State Bank of India,
Bank Street,
Hyderabad.

2. The Deputy General Manager ,
State Bank of India,
Zonal office,
Visakhapatnam – 530 001. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate
For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri K. Appa Rao who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial

Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID(C) No. 42/2001, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 56/2002.

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 and worked from 8.10.1986 to March, 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 31.3.1997. 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, settlement dated 16.7.88 is 2nd settlement, settlement dated 27.10.88 is the 3rd settlement, then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th settlement. In between there is minutes of conciliation proceedings dated 9.6.95. 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 31.3.1997 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 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 31.3.1997 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. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to Ex.W4 are the service certificates.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited two documents, marked as Ex.M1 and Ex.M2. Ex.M1 is the service details of Petitioner and Ex.M2 is the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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 in terminating the services of Workman Sri K. Appa 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 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. The witness WW1 in chief examination has stated that he had worked for 518 days in the Respondent organization from 1986 to 1997. As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 31.3.1997. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 74 days in the branch during the years 1986. Further, Ex.W2 shows that he had worked for 200 days, Ex.W3 shows that he had worked for 200 days, and Ex.W4 shows that he had worked from 1996 to 1997 for 118 days. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 31.3.1997. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, the perusal of the document goes to reveal that the certificate allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank from 8.10.86 to 31.3.1997, do not support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 31.3.1997. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, " It is not true to say that bank has removed the Workman from service by taking care to see that he did not complete 240 days of the service continuously within a period of 12 months. The engagement of the service of the workmen was need based and there is no continuous availability of leave vacancies for engaging his services." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "The last person whose services was regularised has completed 77 days of employment during the crucial period as per settlement whereas the Workman herein worked for 65.33 days during that period." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that he do not know whether any junior to him were regularised in the services. Further, WW1 states that he do not know particulars of the settlement reached between the management and staff union. Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 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. 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. 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.M1 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 contained in Ex.M2 printed book 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. Appa 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.

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 9th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Appa Rao	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1 to:

Ex.W4: Photocopies of Service certificates

Documents marked for the Respondent

Ex.M1: Photocopy of statement showing working details of Petitioner.

Ex.M2: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण-**सह**-श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 20/2023**) को प्रकाशित करती है,

[सं. **एल.12025**/01/2026-आई.आर.(बी-**I**)-176]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.20/2023) of the Central Government Industrial 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)-176]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**
Presiding Officer

Dated the 15th day of July, 2026

INDUSTRIAL DISPUTE No. 20/2023

Between:

Sri Pulimi Vijaya Bhaskar Reddy,
16-3-234-2, Ramalingapursm, Nellore,
Spsr Nellore,
Andhra Pradesh-524003 .....Petitioner

AND

State Bank of India,
State Bank of India, Town Branch, Nellore,
Spsr Nellore,
Andhra Pradesh-524001 .....Respondent

Appearances:

For the Petitioner : Sri S. Suman, Advocate

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. 7/2/2023-B1 dated 17.03.2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India, Town Branch, Nellore and their workman. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India in terminating the services of Sri Pulimi Vijaya Bhaskar Reddy, Ex-Messenger is legal and justified? If not, what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No 20/2023 and notices were issued to the parties concerned.

2. On the date case is fixed for Petitioner evidence, Petitioner remained absent. Despite sufficient opportunity accorded to the Petitioner, he did not adduce any evidence in support of his claim, opportunity closed. Hence, a No-Claim Award is passed. Reference is answered accordingly.

Typed to my dictation by Smt. K. Phani Gowri, P.A., corrected and signed by me on this the 15th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय**, हैदराबाद के पंचाट (**सन्दर्भ संख्या 50/2002**) को प्रकाशित करती है,

[सं. एल.12025/01/2026–आई.आर.(बी–I)-175]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (.No.LC.50/2002) of the Central Government Industrial 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)-175]

SALONI, Deputy Director

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**
Presiding Officer

Dated the 8th day of June, 2026

INDUSTRIAL DISPUTE L.C.No. 50/2002

[Old ITID(C) No. 32/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Suragana Neelayya,
S/o Appanna,
R/o Vizianagaram. …. Petitioner

And

The Dy. General Manager,
State Bank of India,
Personnel section,
Zonal office, Region -II,
Visakhapatnam. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Suragana Neelayya who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit. Earlier Petitioner has filed this dispute before the Labour Court cum Industrial Tribunal, Visakhapatnam for adjudication and later the same has been transferred to this Tribunal bearing ITID(C) No. 32/2001, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001 and registered, numbered in this Tribunal as LC No. 50/2002.

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 1.7.1975 to 31.7.1988, and 5.10.95 to 31.3.96 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 1.4.1996. 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, settlement dated 16.7.88 is 2nd settlement, settlement dated 27.10.88 is the 3rd settlement, then settlement dated 9.1.91 is 4th settlement and settlement dated 30.7.96 is 5th settlement. In between there is minutes of conciliation proceedings dated 9.6.95. 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 1.4.1996 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 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 1.4.1996 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, MW1 has proved documents Ex.W5 to Ex.W7. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to Ex.W3 are the service certificates. Ex.W4 is the employment notification. Ex.W5 is the letter to CGM (Per) dated 10.10.1990. Ex.W6 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W7 is the letter from Government of India to Respondent dt.30.11.87.

21. On the other hand, Respondent has examined witness MW1 Sri C.R.M. Sastry and this witness has exhibited one document, marked as Ex.M1 i.e., the printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

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 in terminating the services of Workman Sri Suragana Neelayya, a Messenger with effect from 1.4.1996 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 1.4.1996 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 1.4.1996 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., 1.4.1996. The

witness WW1 in chief examination has stated that he had worked for 254 days in the Respondent organization from 1985 to 1996. As per provision contained u/s.25 F read with Sec.25 B of I.D.Act, 1947, the Petitioner has to adduce the evidence of continuous service of 240 days in a calendar year just preceding from the date of his termination i.e., 1.4.1996. But as per the chief statement of witness WW1, vide Ex.W1 and Ex.W2 he had worked continuously for 75 days in the branch during the years 1985- 1988. Further, vide Ex.W3 Petitioner has worked from 5.10.95 to 31.3.96 for 179 days. Further, Petitioner witness has not adduced any evidence that he had worked for 240 days continuously in a calendar year of 12 months just preceding from the date of his termination i.e., 1.4.1996. However, the documents in evidence filed by the Petitioner do not corroborate the averment of the claim statement as these documents are not exhibited or proved by the statement of WW1 or any other witness's evidence. Further, the perusal of the document goes to reveal that the certificate allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank from 1.7.75 to 1.4.1996, do not support the claim of the Petitioner that he had worked for 240 days continuously in a calendar year just preceding from the date of his termination ie., 1.4.1996. Therefore, the claim of the Petitioner that he has been terminated in contravention of provision contained under section 25 F of the Act is not corroborated by his oral or documentary evidence. 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., 1.4.1996. 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 1.4.1996 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., 1.4.1996.

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. Moreover, the Respondent management witness MW1 in chief statement has given the evidence that, " He did not complete 240 days of service in any year. In pursuance of settlements between the union and the bank, even though who have not completed 240 days of service in a year, were also empanelled for being considered for appointment in future vacancies." Although this witness was cross examined by the Petitioner but the above statement of the management witness in chief remained uncontroverted, as the witness MW1 was not cross examined by Petitioner on this point. Therefore, the claim of the Petitioner that he has been removed from service by the management illegally is untenable. Further, witness MW1 in his chief statement has stated that, the workman was engaged in leave vacancies in the bank on Temporary basis. This witness has categorically stated that, "Some of the empanelled candidates were appointed on seniority basis and number of days." This statement of witness MW1 remained uncontroverted as the Petitioner did not cross examine the witness MW1 on this point. Therefore, the Petitioner Workman as per number of working days, failed to fulfil eligibility criteria of working days as required for regularisation. Therefore, he was not given regularisation in the employment of the Respondent. Moreover, the Workman witness WW1 in his cross examination has admitted the fact that " It is true that no juniors to me were given employment by the bank on regular basis." Therefore, in view of the statement of WW1 in cross examination, the claim of the Petitioner that he was refused regularization by the Respondent management illegally, is untenable. 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 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. 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. 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.M1 contains, Memorandum of understanding and statements giving the particulars of 1989 non-messenger panel, statement of 1989 non- messenger panel and 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 contained in Ex.M1 printed book 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 Suragana Neelayya, Ex. Messenger by way of oral orders w.e.f. 1.4.1996 is justified. Hence, the

Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 8th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Suragana Neelayya	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1 to:
Ex.W3: Photocopies of Service certificates
Ex.W4: Photocopy of employment notification
Ex.W5: Photocopy of letter to CGM (Per) dated 10.10.1990
Ex.W6: Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90
Ex.W7: Photocopy of the letter from Government of India to Respondent dt.30.11.87.

Documents marked for the Respondent

Ex.M1: Photocopy of printed book containing settlement between the staff federation and Management for regularization of services of the temporary employees and casual employees.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1759.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **आई आई टी रुड़की** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पूरन सिंह और 45 अन्य** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 21/2012, 22/2012, 23/2012, 24/2012, 25/2012, 26/2012, 47/2012, 48/2012, 50/2012, 80/2012, 81/2012, 82/2012, 83/2012, 84/2012, 98/2012, 99/2012, 100/2012, 101/2012, 102/2012, 103/2012, 104/2012, 105/2012, 106/2012, 107/2012, 120/2012, 126/2012, 127/2012, 133/2012, 139/2012, 140/2012, 144/2012, 145/2012, 146/2012, 147/2012, 148/2012, 149/2012, 150/2012, 151/2012, 152/2012, 154/2012, 165/2012, 169/2012, 170/2012, 171/2012, 173/2012, 21/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/231-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1759.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 21/2012, 22/2012, 23/2012, 24/2012, 25/2012, 26/2012, 47/2012, 48/2012, 50/2012, 80/2012, 81/2012, 82/2012, 83/2012, 84/2012, 98/2012, 99/2012, 100/2012, 101/2012, 102/2012, 103/2012, 104/2012, 105/2012, 106/2012, 107/2012, 120/2012, 126/2012, 127/2012, 133/2012, 139/2012, 140/2012, 144/2012, 145/2012, 146/2012, 147/2012, 148/2012, 149/2012, 150/2012, 151/2012, 152/2012, 154/2012, 165/2012, 169/2012, 170/2012, 171/2012, 173/2012, 21/2013)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **IIT Roorkee** and **Sh. Pooran Singh and 45 Ors.**

[No. L- 42025/07/2026/231-(IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II,

NEW DELHI

I.D. No.21/2012, 22/2012, 23/2012, 24/2012, 25/2012, 26/2012, 47/2012, 48/2012, 50/2012, 80/2012, 81/2012, 82/2012, 83/2012, 84/2012, 98/2012, 99/2012, 100/2012, 101/2012, 102/2012, 103/2012, 104/2012, 105/2012, 106/2012, 107/2012, 120/2012, 126/2012, 127/2012, 133/2012, 139/2012, 140/2012, 144/2012, 145/2012, 146/2012, 147/2012, 148/2012, 149/2012, 150/2012, 151/2012, 152/2012, 154/2012, 165/2012, 169/2012, 170/2012, 171/2012, 173/2012, 21/2013

Sh. Pooran Singh and 45 Ors. vs. I.I.T. Roorkee

1. Pooran Singh (ID No. 21/2012)
2. Sherpal Singh (ID No. 22/2012)
3. Suresh Chand (ID No. 23/2012)
4. Ramesh Kumar (ID No. 24/2012)
5. Yogesh Kumar (ID No. 25/2012)
6. Munesh (ID No. 26/2012)
7. Pravesh Ali (ID No. 47/2012)
8. Rama Kant (ID No. 48/2012)
9. BhupenderNathPandey (ID No. 50/2012)
10. Gurmel Singh (ID No. 80/2012)
11. Sarita Gupta (ID No. 81/2012)
12. Mustafa (ID No. 82/2012)
13. Ram Kumar (ID No. 83/2012)
14. Ajay Pratap Singh (ID No. 84/2012)
15. Dharampal (ID No. 98/2012)
16. SandeepGoel (ID No. 99/2012)
17. Ram Avtar (ID No. 100/2012)
18. Jatin Kumar (ID No. 101/2012)
19. Rajpal Singh (ID No. 102/2012)
20. UshaBarthwal (ID No. 103/2012)
21. Ganesh Singh Negi (ID No. 104/2012)
22. TassubarHussain (ID No. 105/2012)
23. Dinesh Kumar (ID No. 106/2012)
24. Dasi Ram (ID No. 107/2012)
25. SampurnaNand (ID No. 120/2012)
26. Karnpal (ID No. 126/2012)
27. Rameshwar Prasad (ID No. 127/2012)
28. Khalil Ahmed (ID No. 133/2012)
29. Mitra Pal (ID No. 139/2012)
30. Shiv Raj Negi (ID No. 140/2012)
31. Murtaza Ahmed (ID No. 144/2012)
32. Harish Upadhyaya (ID No. 145/2012)
33. Sulekh Chand (ID No. 146/2012)
34. Sunil Pal (ID No. 147/2012)

35. Rafaqat Ali (ID No. 148/2012)
36. Sushila Devi (ID No. 149/2012)
37. Satyapal Singh (ID No. 150/2012)
38. Rajender Kumar (ID No. 151/2012)
39. Ravindra Singh Rana (ID No. 152/2012)
40. Madhu Sharma (ID No. 154/2012)
41. Chandra (ID No. 165/2012)
42. Tasleem (ID No. 169/2012)
43. Amar Singh (ID No. 170/2012)
44. Arvind Kumar (ID No. 171/2012)
45. Rameshwar Mishra (ID No. 173/2012)
46. General Secretary (ID No. 21/2013)

… Applicants/Claimants

Versus

The Registrar,

IIT Roorkee,

Roorkee (Uttarakhand)

… Management/respondent

Counsels:

For Applicant/ Claimant*:*

Sh. Amit Sharma, Ld. AR.

For Management/ Respondent*:*

Sh. SandeepPrabhakar, Sh. Amit Kumar and Sh. Ravi Mishra, Ld. ARs.

Award

11.06.2026

By this composite order, I shall dispose of 46 cases filed by different workmen against the management of IIT Roorkee. In 2012 and 2013, 46 different references were sent to this tribunal by the appropriate authority for adjudication. The claimants' name, their respective posts, years of services rendered (As of 2025), are given below in the table:

S. No.	Name	Post	Year of Engagement	Years of Service (as of 2025)
1	Yogesh Kumar	Sub-station Attendant (Construction)	Nov 1986	39 years
2	Munesh Kumar	Baildar (Construction Division)	Nov 1988	37 years
3	Ramesh Kumar	Unskilled Work Supervisor	Mar 1985	Retired on 31.12.2018
4	Ramakant	Computer Operator (CAO Unit)	Jul 1989	Retired on 31.10.2022
5	Sherpal Singh	Chowkidar (Security Section)	Dec 1989	36 years
6	Pooran Singh	Chowkidar (Students Hostel)	Apr 1989	36 years
7	B.N. Pandey	Work Supervisor	Sep 1986	Retired on 31.12.2021

8	Suresh Chand	Peon (Office of DOSW)	Aug 1989	36 years
9	Dasi Ram	Mason (Construction Division)	Apr 1989	36 years
10	Smt. UshaBarthwal	Telephone Operator	Dec 1991	Retired on 31.07.2020
11	Dharam Pal	Helper (Construction Division)	Aug 1988	37 years
12	SandeepGoyal	Technical Assistant-B (Computer Ctr)	Aug 1993	32 years
13	Ram Avatar	Beldar (Construction Division)	Jan 1981	Retired on 31.10.2023
14	Jatin Kumar	Draftsman (Civil, Construction)	Nov 1986	39 years
15	Raj Pal Singh	Mali (Construction Division)	May 1991	Retired on 31.10.2023
16	Ganesh Singh Negi	Mate (Construction Division)	Jan 1988	37 years
17	TassubarHussain	Pump Operator (Construction Division)	Sep 1983	Retired on 30.06.2023
18	Dinesh Kumar	Helper (Unskilled Daily Wager)	Mar 1988	37 years
19	SampuranNand	Telephone Operator (Unskilled)	Apr 1991	34 years
20	Pravesh Ali	Mate (Unskilled)	Aug 1989	36 years
21	Karan Pal	Carpenter (Construction Division)	Jul 1984	Retired on 31.10.2023
22	Rameshwar Prasad	Beldar (Construction Division)	Jun 1987	38 years
23	Khalil Ahmed	Mali (Unskilled)	Aug 1991	34 years
24	Murtaza	Beldar (Unskilled Daily Wager)	Feb 1989	Retired on 31.12.2018
25	Harish Updhayay	Telephone Operator (Unskilled)	Mar 1979	Retired on 30.09.2018
26	Sulekh Chand	Mali (Unskilled Daily Wager)	Jun 1989	36 years
27	Sunil Pal	Technical Assistant-C	Dec 1992	33 years
28	Rifaqat Ali	Mali/Beldar (Unskilled)	Jun 1989	Passed away on 04.09.2021
29	Sushila Devi	Mali/Beldar (Unskilled)	May 1988	Retired on 30.06.2023
30	Satyapal Singh	Mali/Beldar (Unskilled)	Oct 1987	Retired on 31.12.2021
31	Rajender Kumar	Beldar (Unskilled)	Nov 1985	Passed away on 23.12.2023
32	Ravindra Singh	Technical Assistant-C	Dec 1992	Retired on 30.04.2023
33	Madhu Sharma	Telephone Operator (Unskilled)	Feb 1981	Retired on 30.04.2021
34	Chandra	Beldar (Unskilled)	Jun 1988	37 years
35	Tasleem	Helper (Unskilled)	Aug 1987	38 years
36	Amar Singh Rana	Mali/Beldar (Unskilled)	Apr 1992	33 years
37	Arvind Kumar	Chowkidar (Unskilled)	Dec 1990	35 years
38	Rameshwar Mishra	Chowkidar (Unskilled)	Jul 1993	32 years
39	Mittar Pal	Chowkidar (Unskilled)	May,89	Retired (31.10.2023)
40	Shiv Raj Negi	Peon (Unskilled)	Jul 1989	36 years
41	Gurmel Singh	Helper (Unskilled)	Nov 1987	38 years

42	Sarita Gupta	Work Supervisor (Skilled)	Aug 1989	Retired on 31.12.2016
43	Mustafa	Helper (Unskilled)	May 1987	38 years
44	Ram Kumar	Beldar (Unskilled)	Oct 1988	37 years
45	Ajay Pratap Singh	Technical Assistant-B (Contract)	Jul 1993	32 years
46	Devender S. Verma	Lab Technician (Contract)	Dec 1992	33 years

2. All 46 references contained a similar wording, where the issue for adjudication was whether the action of management of IIT Roorkee in not regularizing the claimants (respective posts), despite their continuous services for (X) years (Refer to the table above for the claimants' post and years of services rendered), is justified? To what relief the workmen are entitled?

3. Pursuant to the notice, the claimants appeared and filed their respective claim statements. They submitted that they were working on different posts such as *Helper, Peon, Beldar, Chowkidar, Mason, Telephone Operator, Pump Operator, Technical Assistant etc.* by the then University of Roorkee, now IIT Roorkee, on muster roll or daily wage basis on various dates between the years 1985 to 2000. Since their respective dates of engagement, the claimants have been rendering services in their respective departments such as DOSW Office, Construction Division, Security Section, Vehicle Section, Engineering department, maintenance, Horticulture Division etc., regularly.

4. The claimants, both individually and collectively, made a number of representations and personal efforts by appearing before the competent authorities seeking regularization of their services. However, despite having rendered continuousservices for more than 30 years, the claimants have never been regularized against permanent posts, depriving them of their rightful service benefits and opportunities for career progression.

5. The respondent institution had proposed a plan known as the *Y-Pool Scheme* for regularization/absorption of the eligible workers whose names were part of the above-mentioned list. However, they were neither consulted nor informed about their inclusion/exclusion from the said Scheme. Consequently, they lost the benefit of regularization due to non-transparency and lack of opportunities, which led to monetary loss and career stagnation.

6. Despite repeated inquiries and efforts by the claimants, they were from time to time verbally assured that the matter regarding the regularization of other Y-Pool employees was being considered by the Board of Governors of IIT Roorkee. Nevertheless, no concrete decision was ever taken with respect to the claimants' cases, which resulted in continued uncertainty and mental harassment to the claimants who have rendered sincere and uninterrupted services over the years.

7. In fact, some of the claimants were issued appreciation letters by the officers of the Institute recognizing their dedicated services. The divisions/departments in which the claimants have been serving are of vital importance to the Institute, and the duties of the claimants are essential to the normal functioning and maintenance of the campus infrastructure and services.

8. The claimants came to know that a few other workers, who were in similar position or even junior to them and not included in the Y-Pool list, were regularized, while the claimants have been overlooked without any reasonable justification. Instead of amicably resolving the matter and recognizing the long-standing contributions of the claimants, the respondent institution advised the claimants on several occasions to raise an industrial dispute in their individual capacities for the redressal of their grievances. Theclaimants, having spent the prime years of their lives in the expectation of regularization, are now facing severe emotional and financial difficulties. Due to the long wait and the advancing age of many claimants, they have missed other employment opportunities and are now finding it difficult to sustain themselves and their dependents amidst rising living costs.

9. Lastly, the claimants prayed to pass an order directing the respondent to place them on regular pay scales, in accordance with their respective posts, qualifications, and long-standing service, from the dates they became eligible. The claimants also prayed for appropriate upgradation as per the career advancement policies applicable to their respective posts, with effect from the dates on which they became entitled to such benefits.

10. In response, the management filed its written statement, submitting that the current industrial disputes involve a total of 46 claimants who were working as daily wage employees in different capacities at the then University of Roorkee, now Indian Institute of Technology, Roorkee (IIT Roorkee). Each of the claimants was put to work on various posts (indicated in the table above), and their services were hired at various points of time, some as far back as 1981, on a purely temporary, casual, and intermittent basis. While being put to work

for the first time, the University of Roorkee was under the administrative control of the Government of Uttar Pradesh. After the establishment of the new state of Uttarakhand in 2000, the institution fell within the purview of the Government of Uttarakhand and later was given the status of an Indian Institute of Technology by way of **the Institutes of Technology (Amendment) Act, 2002,** which placed it within the Ministry of Human Resource Development (MHRD), Government of India.

11. The claimants were working on several temporary tasks being executed by the University from time to time ranging from maintenance and construction activities to research and consulting work, financed either by plan grants or external projects. Their employment was not in accordance with the formal recruitment or selection procedure but was made for addressing immediate operational requirements. They were classified as unskilled, casual workers and were being paid wages on a daily basis. Their jobs had no promise of continuity and was renewable solely on work necessity. In 1993, some contractual and daily wage laborers, including the current claimants, presented demands for regularization of their services. This resulted in a long phase of unrest and agitation, both inside the campus and the local town area of Roorkee that accommodates defence-sensitive installments and army cantonment areas. In view of the worsening situation of law and order, the local administration stepped in and mediated talks between University officials and agitating workers.

12. These talks finally resulted in two Memoranda of Understanding (MoUs) dated 22.11.1994 and 20.02.1996, signed in the presence of the civil administration. The terms of which were as under:

- Such daily wager /contractual workers, who have been registered, would be considered for appointment against vacant posts according to their qualifications and on the basis of their seniority and on the basis of their performance/merit as per its well established recruitment rules, regulations and guidelines.
- The workers would be selected on the basis of advertisements which are issued by the management as per the rules of the establishment.
- Recruitment process of these categorized workers would be carried out on priority basis against the future vacant posts and they will not be retrenched.

13. Accordingly, The MoUs had general understandings between the workers and the University, wherein all registered daily wage/contract workers would be eligible for regular appointments against future vacancies. These appointments would be made strictly as per the University's recruitment rules on the basis of merit, seniority, performance, and required qualifications. The MoUs clearly indicated that the retrenchment of such workers was not to take place and that they were to be accorded priority in appointments to vacancies, based on their eligibility and suitability.

14. In accordance with these agreements, the University of Roorkee made a list of 361 such workers who were enrolled as daily wagers and placed them under what was referred to as the "Y-Pool." All the claimants of the present cases fell within this Y-Pool. Multiple recruitment drives were carried out through public advertisements dated 24.10.1994, 21.11.1994, 13.06.1995, 26.07.1995, 27.08.1996, and 27.03.1997. These recruitment drives were in accordance with institutional regulations and invited applications from Y-Pool workers, amongst others. For the regular vacancies, appointments were done through a stringent process of applications scrutiny, qualification assessment, and interviews carried out by properly constituted Selection Committees. Amongst the total 361 Y-Pool workers, 211 were recruited successfully on regular posts, subject to their eligibility, merit, and performance. But the rest, including the current claimants, were not chosen since they either did not have the mandatory educational qualification or were considered unsuitable during the selection.

15. The management further submits that the MoUs were not binding settlements in the sense of the Industrial Disputes Act, 1947, but mere informal understandings aimed at peaceful resolution of the agitation. Thus, there was no legal or automatic right of regularization to any Y-Pool worker just on the basis of the MoUs. It is also important to observe that the basic academic qualification for Group D entry-level posts in the then University of Roorkee was 8th pass in the case of Peons and Laboratory Attendants and experience with literacy for Mali and Sweeper posts. After its reorganization into IIT Roorkee, the minimum qualifications were updated and for all Group D posts, 10th standard pass with one year of technical training became a requirement. For Group C vacancies like Junior Assistants or Junior Laboratory Assistants, the minimum qualification became Bachelor's Degree or three-year engineering diploma and computer literacy.

16. These new eligibility criteria made all the Y-Pool employees ineligible, since most of them, including the claimants, lacked even the minimum educational qualifications essential for appointment in the said cadres. Incidentally, some of the claimants were 10th standard fail and so were even ineligible for Group D posts. In view of these amended rules and detailed eligibility-based selection process, the claimants were not appointed to any regular positions. However, the administration still kept them on daily wages and even granted welfare

privileges like Provident Fund, Pension, Gratuity, subsidized quarters, revision in daily wages, and use of the Institute's Hospital, benefits not generally extended to strictly casual workers.

17. In the meantime, the Government of Uttar Pradesh issued a blanket prohibition on all non-teaching appointments in government institutions vide orders dated 03.11.1997 and 09.12.1997. The Roorkee University, although eager to make necessary appointments, had to take special permission for any such appointment, and only those considered essential were appointed temporarily. The claimants were, nonetheless, at liberty to apply to these vacancies subject to qualifications. With the creation of the State of Uttarakhand and subsequently the change in the University to IIT Roorkee, these restrictions were continued and tightened under Government of India policy.

18. The Ministry of HRD, Government of India, laid down a policy guideline on all IITs following recommendations of the Expenditure Reforms Commission (ERC), which observed an unsustainable staff ratio of non-faculty to faculty staff in IITs. A decision was made to bring the ratio initially to 1:1.5 and subsequently to 1:1.1. Consequently, all IITs, including IIT Roorkee, were not allowed to appoint non-teaching personnel at will unless the faculty-to-non-faculty ratio was brought first within the allowable range. This policy imposed a serious constraint on any normal recruitment of Group C or Group D staff. As a cost-saving measure, IITs were encouraged to reduce their non-teaching staff strength through special voluntary retirement schemes (SVRS), which IIT Roorkee also considered.

19. In spite of these general limitations, IIT Roorkee was sincere in making efforts to take into account absorption of the last batch of Y-Pool employees. In 2004, an agenda item to that purpose was put before the Board of Governors (BOG) and the Finance Committee. The proposal was, however, rejected by both statutory bodies on grounds of policy limitations and reiterated the central government's guidance on sticking to the fixed faculty-staff ratio. The claimants' continued to work on a contractual, casual, and need-based basis.

20. The management argued that in light of established judicial precedents established by the Hon'ble Supreme Court, specifically in **Secretary, State of Karnataka and Others vs. Umadevi and Others** Citation: (2006) 4 SCC 1; AIR 2006 SC 1806,**Official Liquidator vs. Dayanand and Others** Citation: (2008) 10 SCC 1, **Union of India and Others vs. Vartak Labour Union** Citation: (2011) 4 SCC 200; AIR 2011 SCW 178 , and other binding precedents, there is no legal entitlement to regularization or absorption in government service except when the engagement has been made through an appropriate legal recruitment process. These decisions categorically held that neither long service as a daily wager nor contractual engagement entitles any one to permanent appointment legally. The courts highlighted that recruitment in public institutions had to comply with Articles 14 and 16 of the Constitution, and absorption without due process would constitute illegal backdoor entry and breach of the constitutional obligation.

21. The management raised objections to the maintainability of the current petitions. It submitted that the reference had been made mechanically, without any application of mind, and that the espousal of the dispute by the purported IIT Roorkee Karamchari Union is faulty. There is no proof that the aforesaid union is registered or that it represents a large number of employees of IIT Roorkee. Also, there is nothing to prove that the claimants are even members of the aforesaid union.

22. On the merits of the case, the management simply reiterates that the claimants were given various opportunities to seek regular appointments through public notices made prior and subsequent to the MoUs. Some of the claimants even took their interviews, but were not shortlisted on merit. Some others never stood eligible at all for want of qualifications. The filling of all jobs has been strictly done in terms of sanctioned rules, regulations, and procedures. The claimants were never on the rolls as regular employees and never gone through any formal selection process.

23. In spite of the non-permanent character of their work, the administration has proceeded in good faith by providing statutory and welfare concessions. These actions, however, do not grant them any legal right to absorption. The claimants' continued service is a mere consequence of necessities and does not present any compulsory duty on the institution to regularize their services.

In view of the above averments, the management prayed for dismissal of the claimants' request for regularization.

24. No issue other than the terms of reference was framed in the present cases. However, in certain cases, an additional issue was framed, which reads as under:

> *Whether the dispute has not acquired status of industrial dispute for want of espousal by the union or considerable number of workmen in the establishment of the management?*
>
> This additional issue was framed in the following cases:

I.D. No.	Title
21/2012	Sh. Pooran Singh vs. I.I.T. Roorkee
22/2012	Sh. Sherpal Singh vs. I.I.T. Roorkee
23/2012	Sh. Suresh Chand vs. I.I.T. Roorkee
24/2012	Sh. Ramesh Kumar vs. I.I.T. Roorkee
25/2012	Sh. Yogesh Kumar vs. I.I.T. Roorkee
26/2012	Sh. Munesh vs. I.I.T. Roorkee
48/2012	Sh. Rama Kant vs. I.I.T. Roorkee
120/2012	Sh. SampurnaNand vs. I.I.T. Roorkee
126/2012	Sh. Karnpal vs. I.I.T. Roorkee
127/2012	Sh. Rameshwar Prasad vs. I.I.T. Roorkee
133/2012	Sh. Khalil Ahmed vs. I.I.T. Roorkee
144/2012	Sh. Murtaza Ahmed vs. I.I.T. Roorkee
145/2012	Sh. Harish Upadhyaya vs. I.I.T. Roorkee
152/2012	Sh. Ravindra Singh Rana vs. I.I.T. Roorkee

25 At the outset, this Tribunal considers it appropriate to deal with theissue raised by the Management regarding absence of proper espousal of these cases. The objection of the management is found to be devoid of merit. It is an admitted position that the references in the present matters have been made by the Appropriate Government in exercise of its powers under Section 10(1) of the Industrial Disputes Act, 1947, upon forming an opinion as to the existence of an industrial dispute between the parties. The scope of interference with such a reference is limited, and this Court cannot sit in appeal over the satisfaction of the Appropriate Government unless the reference is ex facie without jurisdiction. In these cases, the disputes have been raised individually by 46 workmen, all of whom are similarly situated and directly affected by the action of the Management. The dispute has been pursued through authorized representatives, and therefore, the requirement of espousal stands duly satisfied. The contention of the management the dispute ought to have been properly espoused is legally untenable, as espousal by a substantial body of affected workmen themselves is sufficient in law. Accordingly, the objection regarding espousal is rejected.

26. The claimants examined themselves as WWs and tendered their respective affidavits in evidence. The affidavits filed by all the claimants are mostly identical materially, other than the changes in names and particular. Through their affidavits, the claimants deposed that they were initially engaged by the erstwhile University of Roorkee, now IIT Roorkee, on their respective posts on muster roll basis and had continued to discharge duties for the management for several years. They stated that they had been performing their duties continuously and to the satisfaction of their superiors and the work performed by them was of a perennial and continuous nature.

27. The claimants further deposed that IIT Roorkee had formulated a scheme for absorption/regularization of Y-Pool workers but they were not extended the benefit of the scheme. According to them, despite rendering long years of service, their services had not been regularized and they had been deprived of the benefits available to regular employees. They also asserted that certain similarly situated workers had been regularized whereas their cases were not considered.

28. The claimants further deposed that they were entitled to regularization on their respective posts, grant of regular pay scales and all consequential service benefits, including arrears and other benefits admissible to regular employees. In support of their case, they relied upon documents exhibited as Ex. WW-1/1(employment certificate duly signed by Chief warden, RajendraBhawan, University of Roorkee) and Ex. WW-1/2 (demand letter).

29. During their cross-examination, the claimants consistently stated that they had been engaged by the erstwhile University of Roorkee on daily wage, contractual or project basis several decades ago and had continued to render services to the management. Most of the claimants admitted that at the time of their initial engagement no public advertisement had been issued, no names had been requisitioned from the

Employment Exchange and no regular selection process had been conducted. However, they stated that they had continued to discharge their services for the management without any interruption for long periods.

30. The claimants admitted that the University of Roorkee, while under the administrative control of the Government of Uttar Pradesh, had engaged a large number of workmen in different departments and projects according to its requirements. Several claimants stated that although they were initially engaged in particular projects, the work given to them continued for years and they continued to work thereafter.

31. The claimants admitted that the management had prepared a Y-Pool including 361 daily wage/contractual workers for consideration against available vacancies. They further admitted that appointments were made from among the Y-Pool workers through a selection process and that 211 persons were ultimately appointed. The claimants also admitted that they too were included in the Y-Pool and had participated in one or more selection processes conducted by the management from time to time.

32. Several claimants deposed that they had applied for posts such as Peon, Mali, Gardner, Lab Attendant, Key Punch Operator, Senior Computer Operator and other equivalent posts under the Y-Pool exercise. Some of them stated that they had appeared in interviews and in some cases, had even been considered in the selection process, though they were not appointed.

33. The claimants further admitted that the University of Roorkee was converted into IIT Roorkee and was placed under the administrative control of the Government of India. Several claimants stated that they were not aware of the later changes in recruitment policies, staffing ratios and eligibility criteria after such conversion. However, some of them deposed that after the formation of IIT Roorkee, many persons working in technical and other positions were regularized and that the management continued to carry out recruitment exercises for various posts.

34. It also emerged from the testimony of the claimants that the management had taken their services over long periods ranging in several cases for more than three decades. The claimants deposed that they continued to receive wages from the management and contributions towards their EPF accounts were regularly deposited. Some of the claimants further admitted that they were getting certain facilities granted by the Institute, including medical facilities available in the Institute hospital andresidential accommodation within the campus. However, the claimants also stated that such facilities were not at par with the benefits available to permanent employees.

35. Few claimants further deposed that they possessed educational qualifications ranging from middle school and matriculation to graduation, post-graduation, diploma and technical qualifications. Some of them stated that they had improved their educational qualifications during the course of their engagement with the management. One of the claimants Sh. Pooran Singh (I.D. no. 21/2012) deposed that he had passed the matriculation examination in the year 2018.

36. The claimants also admitted that conciliation proceedings had been initiated before the labour authorities at Dehradun through trade unions with regard to their grievances. However, they denied the that they were not entitled to regularization or their continued engagement was only on account of the absence of requisite qualifications. Theydeposed that despite serving the management for years, they had not been granted the status of regular employees by the management.

37. The management examined Shri Bane Singh Meena, Assistant Registrar, as MW-1, who tendered his affidavit in evidence. Through his affidavit, MW-1 deposed that the erstwhile University of Roorkee had startedmany temporary and time-bound projects, including construction, research, consultancy and plan grant works, and that daily wage and contractual workers were engaged from time to time to meet the requirements of such projects. According to him, the claimants were engaged on daily wage or contractual basis as per temporary requirements and their contracts were extended from time to time depending upon the need.

38. MW-1 further deposed that in the year 1993, daily wage and contractual workers came up with a demand for regularization of their services. The agitation by these daily wage workers led to building up a volatile and surcharged atmosphere within the precincts of the University campus, as the Roorkee township is under army control and a part of army cantonment, any further escalation in the existing volatile situation could have resulted in a major law and order problem for the entire region. Therefore, discussions were held between the management and the workers, concluding in Memoranda of Understandings (MoU) dated 22.11.1994 and 16.02.1996. He stated that in pursuance of the MoU, a pool of 361 daily wage and contractual workers, known as the *'Y-Pool'*, was prepared and these workers were permitted to participate in selection processes conducted against available vacancies, subject to fulfilment of the prescribed eligibility criteria. He further deposed that 211 out of the 361 Y-Pool workers were eventually selected and appointed against regular posts through the prescribed recruitment process.

39. The witness further stated that the claimants were given opportunities to participate in the selection processes conducted by the management from time to time. Although, some of the claimants applied for various advertised posts, they could not be selected due to their position in the merit list, lack of required qualifications or experience after assessment by the Selection Committees. The witness further deposed that restrictions recruitment had been imposed by the Government of Uttar Pradesh in the year 1997 and similar restrictions continued after the change of the University of Roorkee into IIT Roorkee under the control of the Government of India. He stated that recruitment policy of IIT Roorkee went through changes after it was converted into an IIT, and higher educational qualifications and revised recruitment pro4cess became applicable for appointment on Group 'C' and Group 'D' posts. He further deposed that the Government of India had adopted a policy of reducing the strength of non-teaching staffsin the IITs, and therefore, fresh recruitments were reduced.

40. The witness also stated that a proposal for absorption of the remaining Y-Pool workers was placed before the Finance Committee and Board of Governors; however, the proposal was not approved due to restrictions in recruitment processes and policies of the Government of India. He further deposed that the Y-Pool workers were still granted various benefits, including EPF, gratuity, accommodation, revision of wages and medical facilities available through the Institute Hospital, and were also granted age relaxation for participation in future recruitment examinations.

41. The management relied upon the following documents:

1) Ex. MW-1/1 – Copies of the correspondence related to the BhartiyaKisan Union and with the local civil administration.

2) Ex. MW-1/2 – Copy of Memoranda of Understanding dated 22.11.1994 and 16.02.1996.

3) Ex. MW-1/3 – Copies of the Regulations governing the Selection Process of University of Roorkee and copies of internal advertisements dated 24.10.1994, 21.11.1994, 13.06.1995, 26.07.1995, 27.08.1996 and 27.03.1997 issued for recruitment in the University of Roorkee.

4) Ex. MW-1/4 (Colly.) – Information relating to 211 persons recruited/selected out of 361 Y-Pool workers.

5) Ex. MW-1/5 – Copies of advertisements against which the individual claimant had applied for various posts but could not secure a place in the merit list.

6) Ex. MW-1/6 (Colly.) – Copies of Government Orders/letters dated 03.11.1997 and 02.12.1997 imposing a ban on recruitment of non-teaching posts in the University of Roorkee.

7) Ex. MW-1/7 (Colly.) – Copies of letters dated 08.05.1998 and 04.07.1998 issued by the Government of Uttar Pradesh regarding relaxation of the ban on recruitment in the University of Roorkee.

8) Ex. MW-1/8 (Colly.) – Copy of the Selection Process/Career Progression Scheme approved by the Ministry of Human Resource Development, Government of India, showing the eligibility criteria for recruitment in IIT Roorkee and the policy relating to recruitment restrictions.

9) Ex. MW-1/9 (Colly.) – Copy of BOG Resolution No. BG/07/2007 dated 01.03.2003 and notification dated 22.04.2003 containing guidelines for recruitment of Group ‘B’, ‘C’ and ‘D’ staff in IIT Roorkee.

10) Ex. MW-1/10 – Copy of Memorandum of Understanding dated 27.07.2003 between the Ministry of HRD and IIT Roorkee regarding reduction of academic and non-academic staff ratio, along with copies of letters dated 08.05.2008 and 20.12.2010 issued by the Government of India in this regard.

11) Ex. MW-1/11 – Copy of proposal relating to the Special Voluntary Retirement Scheme (SVRS).

12) Ex. MW-1/12 – Copies of resolutions passed by the Board of Governors and Finance Committee dated 27.01.2004 and 28.01.2004 respectively, whereby the proposal for absorption of Y and Z category workers against vacant entry-level Group ‘C’ and ‘D’ posts was not accepted.

13) Ex. MW-1/13 – Copies of letters relating to grant of age relaxation to Y-Pool workers for participation in recruitment processes in the erstwhile University of Roorkee and IIT Roorkee.

14) Ex. MW-1/14 – Copies of documents relating to grant of facilities such as EPF, gratuity, accommodation, revision of wages and Institute Hospital facilities to the individual claimant, including letter dated 16.07.2012 regarding revision of wages of Y-Pool workers.

15) Ex. MW-1/15 (Colly.) – Documents showing the sanctioned strength of 1733 posts as on June, 2001 and documents relating to freezing of posts by the Board of Governors at the time of mapping after conversion of the University into IIT Roorkee.

16) Ex. MW-1/16 (Colly.) – Copies of documents relating to syndicate-created posts, including statements of posts, appointment letters of certain employees and decisions of the Board of Governors regarding absorption/adjustment of incumbents working against such posts.

17) Ex. MW-1/17 – Copy of the verification form of the individual claimant and copies of the complaint, reply and rejoinder filed before the Assistant Labour Commissioner, Dehradun.

42. The witness was cross-examined at length, where he admitted that:

- He admitted that all the claimants had been working since the period when the Institute was known as the University of Roorkee.
- He further admitted that pursuant to a Memorandum of Understanding (MOU) executed between the management and the workers in the year 1994-95, the services of the workmen did not suffer any break.
- He also admitted that none of the claimants had been issued any appointment letter either by the erstwhile University of Roorkee or by IIT Roorkee.
- According to him, the claimants were initially engaged on muster roll basis.
- He stated that the practice of engagement on muster roll continued till the execution of the MOU.
- He admitted that after the execution of the MOU, the practice of maintaining the workmen on muster roll was discontinued and the workmen were deployed in different departments of the University/Institute.
- It was admitted by him that after the formation of IIT Roorkee, the claimants continued to be paid from the normal grant of the Institute, though not from the salary head of the budget.
- He admitted that a pool of 361 workers, known as the Y-Pool, was created by the management.
- He further admitted that 211 workers out of the said Y-Pool were subsequently absorbed against regular posts.
- The witness also admitted that, apart from the MOU itself, no document had been placed on record to establish that the person signing the MOU on behalf of the workers was duly authorized to represent the present claimants.
- He stated that he could not say, without verifying the records, whether certain contractual workers had been made permanent with the approval of the Board of Governors and whether service benefits had been given to them from the dates of their initial appointments.
- He admitted that some of the workers absorbed from the Y-Pool against regular posts possessed educational qualifications only up to the 5th or 7th standard.
- He admitted that he was not working in the University of Roorkee at the relevant time and had joined IIT Roorkee only on 01.01.2019.

43. I have heard the arguments advanced by the Ld. ARs for both parties and gone through records of these cases. From the pleadings of the parties and evidence adduced on record, it is evident that the claimants were engaged by the Erstwhile University of Roorkee, and were engaged as early as 1979 on their respective posts. In the present cases, it is admitted that the claimants were engaged as daily wagers/ contractual workers as admitted by the claimants in its pleadings and evidence adduced on record. The claimants were working continuously for different periods of time, some dating back to 1979-80. They are being paid minimum in the scale without promotion, and at rates lower than those of regular employees of the management for want of regularization.

44. The claimants did not file written submissions. However, it is clear from the pleadings, the evidence led by them, and the judgments relied upon by them that their main contention is that they had been continuously working with the respondent institution on different posts since the years 1980 to 2000 and

have rendered long and uninterrupted service in various departments of the erstwhile University of Roorkee and afterwards IIT Roorkee.

45. It is further their case that some similarly situated employees and in some cases even junior to them, were regularized, whereas their cases were ignored.

46. The claimants have also argued that they have spent the prime years of their lives in the service of the respondent institution with a legitimate expectation of regularization and that rejection of regularization despite their long years of service is arbitrary and unjustified. Accordingly, they seek regularization on their respective posts along with consequential benefits.

47. In its written submissions, the management stated that it had engaged the claimants as casual daily wage/contract workers on muster roll basis to meet temporary and project-based requirements. It was submitted that the claimants were never appointed against sanctioned regular posts and were not recruited through any prescribed selection process.

48. The management further submitted that after the agitation by daily wage and contractual workers, Memoranda of Understanding dated 22.11.1994 and 16.02.1996 were executed, wherea pool of 361 workers, known as the Y-Pool, was created. It was submitted that the said Memoranda did not planto automatically regularize the claimants and was only meant for consideration of eligible Y-Pool workers for appointment against regular vacancies in accordance with the applicable recruitment rules and selection procedures.

49. It was further submitted that various recruitment processes were conducted by the erstwhile University of Roorkee and that 211 workers from the Y-Pool were appointed against regular posts after being found eligible by the Selection Committees. According to the management, no scheme for regularization was ever framed and appointments against regular posts were made only through the prescribed recruitment process.

50. The management also contended that pursuant to issuance of blanket prohibition on all non-teaching appointments by the Government of Uttar Pradesh and subsequently by the Government of India, fresh recruitments were severely restricted. -

51. The management further submitted that no vacancy existed in the C-MTS category and appointments to the few vacancies arising in other cadres could be made only in accordance with the applicable recruitment rules. It was also contended that several opportunities were given to the Y-Pool workers to participate in recruitment processes, but the claimants were unable to secure appointment through the prescribed selection procedure on account of their position in the merit list, lack of required qualifications or experience

52. The management lastly contended that only continuation in service for a long period does not give any automatic right to regularization and regularization cannot be claimed as a mode of recruitment. It was however submitted that the management had granted various service benefits to Y-Pool workers, including provident fund, gratuity, medical facilities, accommodation, annual increments, leave benefits and age relaxation in recruitment processes.

53. The management has heavily placed reliance upon the judgment of Hon'ble Supreme Court of India dated 10.04.2006 in **State of Karnataka vs. Uma Devi and Ors., Civil Appeal Nos. 3595-3612 of 1999**, wherein it was held that:

> *Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of*

ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

41. It is argued that in a country like India where there is so much poverty and unemployment and there is no equality of bargaining power, the action of the State in not making the employees permanent, would be violative of Article 21 of the Constitution. But the very argument indicates that there are so many waiting for employment and an equal opportunity for competing for employment and it is in that context that the Constitution as one of its basic features, has included Articles 14, 16 and 309 so as to ensure that public employment is given only in a fair and equitable manner by giving all those who are qualified, an opportunity to seek employment. In the guise of upholding rights under Article 21 of the Constitution of India, a set of persons cannot be preferred over a vast majority of people waiting for an opportunity to compete for State employment. The acceptance of the argument on behalf of the respondents would really negate the rights of the others conferred by Article 21 of the Constitution, assuming that we are in a position to hold that the right to employment is also a right coming within the purview of Article 21 of the Constitution. The argument that Article 23 of the Constitution is breached because the employment on daily wages amounts to forced labour, cannot be accepted. After all, the employees accepted the employment at their own volition and with eyes open as to the nature of their employment. The Governments also revised the minimum wages payable from time to time in the light of all relevant circumstances. It also appears to us that importing of these theories to defeat the basic requirement of public employment would defeat the constitutional scheme and the constitutional goal of equality.

54. The management further relied upon the judgment of ***Hari Nandan Prasad & Anr. Vs. Employer I/R to Management of Food Corporation of India &Anr. (2014) 7 SCC 190***, where it was held:

On harmonious reading of the two judgments discussed in detail above, we are of the opinion that when there are posts available, in the absence of any unfair labour practice the Labour Court would not give direction for regularization only because a worker has continued as daily wage worker/adhoc/temporary worker for number of years. Further, if there are no posts available, such a direction for regularization would be impermissible. In the aforesaid circumstances giving of direction to regularize such a person, only on the basis of number of years put in by such a worker as daily wager etc. may amount to backdoor entry into the service which is an anathema to Art.14 of the Constitution. Further, such a direction would not be given when the concerned worker does not meet the eligibility requirement of the post in question as per the Recruitment Rules. However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who haveapproached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise, non-regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Art.14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Art. 14, rather than violating this constitutional provision.

55. Certain guidelines have been enunciated by the Hon'ble Apex court in ***Jaggo vs. Union of India***, 2024 SCC OnLine SC 3826 and **Sh. Vinod Kumar &Ors. Vs. Union of India (arising out of SLP (C) Nos.22241-42 of 2016)**. The facts of the cases in hand squarely covers the above mentioned judgments. In the above said judgments, long, continuous and unblemished services of employees who were directly recruited by the Government, but the management adopted unfair labour practice by employing them for a

long period of time.In *Vinod Kumar &Ors*. v. *Union of India*, it was held that the application of judgment in *Uma Devi* does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their services.

56. In the said judgment, the Apex court held that long, continuous, and unblemished service cannot be disregarded merely because employees were initially appointed on a contractual or part-time basis, especially where their work is perennial, integral, and indispensable to the organization. The Court rejected technical objections relating to qualifications or procedural lapses, and held that outsourcing of identical work further demonstrates its necessity. It clarified that *Uma Devi* was not intended to deny regularisation to long-serving employees performing essential functions, but to prevent illegal appointments, and cautioned against its misuse to defeat legitimate claims. The relevant portion in *Jaggo vs. Union of India*, are reproduced herein below:-

> ***"17.*** *As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed—cleaning, sweeping, dusting, and gardening—does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellants' long-standing satisfactory performance itself attests to their capability to discharge these functions, making rigid insistence on formal educational requirements an unreasonable hurdle.*
>
> ****
>
> ***19.*** *It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.*
>
> ***20.*** *It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar v. Union of India*[5]*, it was held that held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:*
>
> > *"6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).*
> >
> > *7. The judgment in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and*

Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case…"

21. *The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal.**Courts must look beyond the surface labels and consider the realities of employment : continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.***

22. *The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.*

****

24. *The landmark judgment of the United State in the case of Vizcaino v. Microsoft Corporation*[7] *serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.*

25. *It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:*

• ***Misuse of "Temporary" Labels:*** *Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*

• ***Arbitrary Termination:*** *Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

• ***Lack of Career Progression:*** *Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

> *• **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*
>
> *• **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*
>
> ***26.** While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. **However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.***
>
> ***27.** In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."*

57. The supreme court reiterating the principles laid down in Jaggo (supra) again in the case of ***Shripal v. Nagar Nigam, Ghaziabad***, **2025 SCC OnLine SC 221**, held that that employees who have worked continuously and without complaint for long periods in roles that are perennial and essential cannot be arbitrarily terminated or denied regularisation, as such action would be unconstitutional. In such circumstances, the employer cannot rely on technical objections such as absence of a formal selection process, lack of sanctioned posts, or recruitment bans. It further clarifies that *Uma Devi* does not bar regularisation in these cases, particularly where long-standing service reflects a genuine and ongoing need for the work performed. The relevant portion is reproduced herein below: -

> *"13. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of "equal pay for equal work," repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer's direct supervision belie any notion that these were mere short-term casual engagements.*
>
> *14. The Respondent Employer places reliance on Umadevi to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are "illegal" and those*

that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15 It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well- established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement…."

58. So far so the reliance placed by the management in **HariNandanParsad (Supra)** is concerned, that stands nowhere. In the present matters, the posts on which the claimants had been working continuously for decades are admittedly perennial in nature. The management not only absorbed 211 out of 361 Y-pool workmen against regular posts at different points of time by conducting the recruitment processes,and left out the workmen herein for not succeeding in the recruitment test or otherwise not fulfilling the criteria, but also continued to avail their services, meaning thereby that the posts on which they are working are essential in nature.

59. Moreover, it is admitted by the management that in 2004, an agenda item was put before the Board of Governors (BOG) and the Finance Committee for absorption of the last batch of 'Y-pool' employees. However, this proposal was rejected by both statutory bodies on grounds of policy limitations and reiterated the central government's guidance on sticking to the fixed faculty-staff ratio. However, the claimants' association continued to be contractual, casual, and need-based basis.

60. Therefore, in the guise of policy limitations, the workmen cannot be left in limbo because it would amount to discrimination qua them and would be violative of article 14 of the constitution, particularly when initially all 361 'Y-pool' workmen were initially engaged directly without undergoing any recruitment process and most of them were subsequently absorbed by the management.

61. Long experience of work and long association with the department would naturally result in acquisition of expertise in the posts on which the workmen are working. The posts held by the claimants are those of *Helper, Peon, Beldar, Chowkidar, Mason, Telephone Operator, Pump Operator, Technical Assistant, Lab. Technician etc.*Their experience of working on these posts for decades itself is sufficient to meet the standard of the post on which the claimants are working.

Relief

In view of the above discussion, it is held that the action of the management in not regularizing the services of the claimants is unjustified. Accordingly, the claimants who continue to be in service are held entitled to regularization on their respective posts. Now the question arises for consideration is as to from which date the claimants are entitled to be given benefits of regularization. The claimants have made prayer in their claim statements that they be regularized from the dates of their initial appointment by the management on daily wage/contract basis. However, the same cannot be accepted. If their pleas are accepted, the management would not be in a position to engage workers on a daily-wage or contractual basis to meet contingency of work. At least some length of service is required to be rendered by the workmen before they seek regularization.

In the claims in hand, it would be proper if the claimants are ordered to be regularized with effect from the date of reference made by the appropriate government, considering that they have rendered long years of service who spanned for decades and their continuance of service even as of today in some of the cases.

In view of the above, the claimants are entitled to be regularized with effect from the date of reference of the dispute, along with all consequential service benefits.

The claimants who retired during the pendency of the proceedings shall also be entitled to the consequential monetary and retiral benefits arising out of the regularization with effect from the date of reference.

In respect of the claimants who expired during the pendency of the proceedings, the consequential monetary benefits arising from this Award shall be computed with effect from the date of reference and released to their legal heirs in accordance with law.

The management is directed to implement the Award within two months from the date of its publication.A copy of this award be sent to the appropriate government for notification under section 17 of the I.D Act. A copy of this award is also placed in each of the connected files. The file is consigned to record room.

Dated 11.06.2026 ATUL KUMAR GARG , Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1760.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **नेशनल थर्मल पावर कॉर्पोरेशन; मेसर्स यूटिलिटी पावर टेक लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **एनटीपीसी ठेका श्रमिक संघ** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 146/2015)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/228-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1760.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 146/2015)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Thermal Power Corporation; M/s Utility Power Tech Ltd.** and **NTPC Theka Shramik Sangh**.

[No. L- 42025/07/2026/228-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 146/2015
The General Secretary
NTPC Theka Shramik Sangh,
Village- Salarpur Kalan, P.O- Vidyut Nagar, Dadri,
Gautam Buddh Nagar, UP-201008.

VERSUS

1. **The General Manager,**
National Thermal Power Corporation,
Vidyut Nagar, Dadri,
Gautam Buddh Nagar, UP-201008.

2. **M/s Utility Power Tech Ltd.**
National Capital Power Project Premises,
P.O. Vidyut Nagar, District Gautam Budh Nagar,
Dadri (U.P.)-201008.

Also at:
BSES Tower, 5th Floor, A2,
Sector-24, Noida (U.P.)-201301.

AWARD

04.06.2026

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour and Employment, vide its Order No. **L-42011/113/2015-IR (DU)** dated 17.08.2015 has been pleased to refer the following dispute between the employer, that is the Management of National Thermal Power Corporation and their workman for adjudication by this Tribunal, terms of which are as under:

> ***"Whether the given 9 no. of workmen hold valid grounds to be reinstated in the service of NTPC/M/s Utility Powertech Limited and be regularised under NTPC, Dadri looking into the status of the M/s Utility Powertech Limited as a contractor of M/s NTPC Limited? If so, what requisites should be looked into for their regularisation?"***

Upon receiving the reference workmen had filed their claim statement stating they are members of their Trade Union i.e. NTPC Theka Shramik Sangh, situated at Village & Post Office Salarpur Kalan, District Gautam Budh Nagar-201008 since long. They have been working with management no. 1 since 01.01.2010 continuously without any break under its direct control and supervision. They have been working as electric/data entry operator/technician with the management no. 1 for a long period of time. Their service records were neat and clean and there was no complaint of any kind on the part of the claimants. The contractors of management no. 1 are appointed on the basis of license of surveyors. Management no. 1 is large entity and primarily engaged into the business of generating electricity and allied businesses i.e. maintaining power houses, power generating plant and factory, productions, transmission and distributions of electricity on PAN India basis. Management no. 1 has many factories, offices, godowns, power lines, boilers, open spaces, offices etc. It is also an industrial establishment as well as factory under the applicable provisions of law. However, it is not complying with mandatory pre-condition as stipulated under ID Act, 1947, CLRA Act, ESI, EPF, Payment of bonus Act, Shops and Establishment Act, Industrial Employment (standing order Act, 1946), Factories Act etc. They had been continuously working with the management for several years on duties of a regular, perennial, and permanent nature. They were engaged through contractors who were allegedly not duly licensed and the arrangement between the management and the contractors was challenged as a sham and camouflage intended to deny statutory and service benefits to the claimant and similarly situated workers. They further submitted that at the initial stage of their employment, the management got some blank papers, proformas, full and final receipts and blank appointment letter signed from the claimant but did not provide the copies of the blank signed papers to the claimant. They also stated that despite performing duties similar to those performed by regular employees, they were denied equal service conditions, regularization, and wages equivalent to those paid to regular employees. They repeatedly raised grievances regarding unfair labour practices, non-regularisation, and denial of equal pay for equal work. However, their representations were not adequately addressed by the management. They were forced to work beyond 17-18 hours in a day by the management and they were also not provided the safety equipment and for the said reason a lot of workman was met with an accident and lost their life in multiple accident. Due to those accidents, many of the workmen have died or become permanently handicapped. They had been demanding these legal facilities orally from the management on account of the demand, the management kept rancor against the claimants and wanted to terminate the service of the claimants illegally and unjustifiably for demanding these legal benefits. Thereafter, their services have been illegally terminated on 31.12.2014. Claimants had worked for more than 240 days in every calendar year with the management no. 1 without any break since beginning i.e. date of his initial appointment till the date of his termination of services. They had approached their trade union and submitted their demands. Thereafter, the demands were made to the management for redressal of long pending grievances. However, the same were not met by the management and deemed to have been refused. They have gone to the conciliation, but, it was resulted into failure. Hence, they filed their present claim with the prayer to direct the management to settle all the claims of the claimants; reinstate their respective services with full back wages; give the benefits of "equal work for equal pay"; and regularize their services with management no. 1 from the date of their respective initial appointments.

Management no. 1 has filed its written statement. He had stated that there is no relationship of employer and employee or of any other kind between the NTPC Ltd. (Management no. 1) and the claimants. He submitted that NTPC Ltd. is a Government of India enterprise and functioning under the administrative control of Ministry of Power. They have entered into an agreement with M/s Utility Powertech Ltd. i.e. management no. 2 and awarded contract for identified works of the various power stations, projects and offices for consideration. It is submitted by him that management no. 2 i.e. M/s Utility Powertech Ltd. is the principle employer of their contract workers. He submitted that claim of the claimants is liable to be dismissed.

Management no. 2 has filed its written statement stating that answering respondent is a joint venture of NTPC Ltd. and Reliance Infrastructure Ltd. (erstwhile Reliance Energy Ltd.). It is company registered under the Companies Act, 1956, and thus is a separate legal entity with its Board of Directors. They had got work from NTPC Ltd. vide letter dated 20.02.2009 and purchase order no. 4600002368-017-1011. The duration of the service period of the said work order was from 10.11.2008 to 09.02.2009. They submitted that workmen were never their employees or hired directly by them to get the said work done. To get the said work done, services of the contractor **M/s Raj Singh Rana & Co., Village Rasoolpur, Dasna, NTPC, Vidyut Nagar, G.B. Nagar, UP** was availed of M/s Utility Powertech Ltd. (management no. 2). They submitted that Sh. Naresh Bhardwaj, Sh.Vijay Pal, Sh. Avnish Pratap, Sh. Jitender were employed by the contractor M/s Raj Singh Rana & Co. initially and Sh. Birpal and Sh. Ramesh were later hired in addition to the original four by the contractor to complete the said work order. All the payments as per the contract and statutory provisions were made to the workmen by the said contractor, the details of which were supplied to management no. 2 by the contractor, which bear their signature. They submitted that payments were made to the contractor i.e. M/s Raj Singh Rana & Co. by UPL and the said contractor used to make the payments to the workman engaged by it. M/s Utility Powertech Ltd. (management no. 2) has no role to play except to ensure that the statutory payments are made to the said workmen. Hence, he submitted that claim of the claimant s is liable to be dismissed on this ground.

Rejoinder has been filed by the claimants denying the averments made in the written statements of the management no. 1 & 2 and affirmed the facts mentioned in his claim statement.

After completion of the pleadings, vide order dated 12.10.2023, following issues have been framed i.e.-

1. Whether the workman is entitled to relief claimed as per reference? (OPW).
2. If the answer of the issue no. 1 is affirmative, then what relief the claimant is entitled to and from which date?

Now, the matter is listed for workman evidence. Workmen are required to file their affidavits of evidence, but, neither the workmen nor their AR has been appearing from several dates to substantiate their claim.

In these circumstances, when the claimants are not interested in pursuing their case, this tribunal has no other option but to dismiss the claim. Hence, their claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 04.06.2026

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1761.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **जवाहरलाल नेहरू विश्वविद्यालय; जी4एस सिक्योर सॉल्यूशंस (इंडिया) प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री दिनेश कुमार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 262/2022)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/229-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1761.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 262/2022)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Jawaharlal Nehru University; G4S Secure Solutions (India) Pvt. Ltd.** and **Sh. Dinesh Kumar**.

[No. L- 42025/07/2026/229-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 262/2022

Sh. Dinesh Kumar, S/o Sh. Meghraj Singh Dagur,
R/o- Chinayata, Karauli, Rajasthan-322236.

VERSUS

1. **The Vice Chancellor,**
   Jawaharlal Nehru University,
   New Mehrauli Road, New Delhi-110067.

2. **The Chairman/Director/A.R.,**
   G4S Secure Solutions (India) Pvt. Ltd.,
   Reg. Office: C-16, C-Block, Community Centre,
   Janakpuri, New Delhi-110058.

AWARD

01.06.2026

This is an application U/S 2A of the **Industrial Disputes Act (hereinafter referred to as "the Act").** Claimant had stated in his claim statement that he was employed as Guard on dated 07.08.2015 by the management no. 1 through contractor i.e. management no. 2 and his last drawn salary was Rs. 14,100/- p.m. He had been performing his duty with utmost care and diligence and there has never been any complaint against him. Management no. 1 released for wages to management no. 2 each and every months amount Rs. 30,000/- per month as per Central Government Minimum Wages Act. He has been suffering mentally, physically and economically due to the non complete payment of salary released by the managements. He had not been provided legal facilities i.e. earns leave, casual leave, attendance register, overtime, leave book, bonus etc. when he demanded the aforesaid legal facilities, without any rhyme and reason his services have been terminated which is a violation of section 25-F of the I.D. Act. He approached many times to the management's office for his dues, but, management neither paid the payment of workman dues nor taken him back on duty. He had gone to the conciliation which was resulted into failure. Hence, he filed the claim with the prayer that he be reinstated with full back wages.

Management no. 1 has filed its written statement denying the averment made in her claim statement. He submitted that the workman was employed by the management no. 2, who was providing the security services in terms of the contract entered into between the managements and hence there is no employer-employee relationship between the management and the workman. He had stated that claim filed by the claimant is not maintainable and is liable to be dismissed.

Management no. 2 has already been proceeded ex-parte vide order dated 13.03.2023.

Rejoinder has been filed by the claimant denying the averment made in the WS of management no. 1 and affirmed the fact mentioned in his claim statement.

After completion of the pleadings, vide order dated 19.03.2024, following issues have been framed i.e.

1. Whether there exists any employer or employee relationship between M-1 and workman.
2. Whether the service of the workman stand terminated illegally in violation of labour law.
3. Relief, if any.

Now, the matter is listed for workman evidence. Workman has not been appearing since long to substantiate his claim inspite of providing a number of opportunities.

In these circumstances, when the claimant has not been appearing since long to substantiate his claim, it appears that he is not interested in pursuing his case. His claim stands dismissed. Award is passed accordingly. A copy

of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 01.06.2026

ATUL KUMAR GARG, Presiding Officer.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1762.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **चीफ़ पोस्ट मास्टर जनरल, दिल्ली; पोस्ट मास्टर, झिलमिल पोस्ट ऑफ़िस** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कमल कुमार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 207/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/230-आईआर(डीयू)]
सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1762.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 207/2018)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief Post Master General Delhi; Post Master, Jhilmil Post Office** and **Sh. Kamal Kumar**.

[No. L- 42025/07/2026/230-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 207/2018
Sh. Kamal Kumar, S/o Sh. Uday Singh,
Through- Progressive National Labour Union,
205, Pratap Khand, Vishwakarma Nagar,
Delhi-110095.

VERSUS

1. **The Chief Post Master General Delhi,**
   Meghdoot Bhawan, New Delhi-110001.

2. **Post Master, Jhilmil Post Office,**
   Jhilmil Industrial Area, Delhi-110095.

Counsels:
For Applicant/ Claimant*:*
None

For Management/ Respondent*:*
Ms. Seema Grover, Ld. AR

AWARD

12.06.2026

1. Workman has triggered the process for filing the claim petition after obtaining the failure report as required under section 2A of the **Industrial Disputes Act, 1947 (hereinafter referred to as "the Act")**. In his claim petition the workman has stated that he had been working with the respondent at the post of "Postman" w.e.f. 01.04.2014 at the last drawn salary of Rs. 15,000/- per month. He did his job sincerely and honestly and had not given any complaint to the respondent. Respondent without any rhyme and reason has terminated his services on 26.04.2018. Hence, he made prayer that he be reinstated in services with full back wages because he is not able to obtain the job.

2. Respondent herein has filed its written statement countering the submission of the claimant. He has stated that the claimant got the employment with the respondent through agency/contractor as outsourced delivery personnel for delivery of letters/dak. After expiry of the contract with the agency i.e. **M/s G.A. Digital Web Word Pvt. Ltd.** on 31.12.2016, the delivery work was managed by hiring the labour on daily basis as per the work load and requirement by the department till regular appointments were made and paid wages as per the minimum wages prescribed by Delhi Government from time to time.

3. Management had taken the preliminary objections stating that claim of the claimant is not maintainable as the very essence for registering the claim of the claimant under Industrial Dispute Act, 1947 is lacking. The "Industrial Dispute" is defined by Section 2(k) of the Industrial Disputes Act, 1947 as, any dispute or difference between employers and employers, or between employers and workmen, or between workman and workman, which is connected with the employment or non-employment or terms of employment or with the conditions of labour, of any person. The services of the claimant was no more required in view of the recruitment of about 740 regular Postman/Mail guard through open market competitive exam conducted as per relevant recruitment rules; claimant has not made the authorities of the said outsourced agency **M/s G.A Digital Web World Pvt. Ltd.** as party in the present claim for the proper and fair disposal of the case; instant claim is bad in law, without application of mind and in a stereotype manner hence liable to be dismissed; instant claim is not maintainable in view of the judgments passed by the Hon'ble Supreme Court in the case of **State of Karnataka vs. Uma Devi & Ors. [2006 (4) SCC 1],** as the applicant has no cause of action for filing the present claim. Infact, management has denied the master and servant relationship. He submitted that after expiry of the contract with the agencies, claimant himself offered to be engaged on daily wage basis as and when required. Hence, the question of his dis-engagement does not arise. On merit, he has denied the averments of the claimant's claim and submitted that claim is liable to be dismissed.

4. Rejoinder has been filed the rejoinder denying the averments made in the written statement and affirmed the fact mentioned in his claim statement.

5. After completion of the pleadings, vide order dated 26.07.2019, following issues have been framed i.e.-

   (i) Whether the proceeding is maintainable.

   (ii) Whether there exists any employer and employee relationship between management and the workman.

   (iii) Whether the service of the workman was illegally terminated in violation of provisions of Section 25-F of the ID Act.

   (iv) To what relief the workman is entitled to.

6. In order to prove and disprove the issues, both the claimant and the management have examined one witness each. Claimant himself has entered into the witness box and reiterated the facts in his examination in chief as stated by him in his claim statement. He has relied upon three documents i.e.-

   (i) Ex. WW1/1 & Ex. WW1/2: Copy of demand letter dated 23.05.2018 alongwith postal receipts.
   (ii) Ex. WW1/3: Claim filed on 13.06.2018 before the Labour Commissioner (Central).

7. Workman in his cross-examination has admitted that he came to know of the vacancy from 01.01.2014 through one Girish Chand Joshi. He joined the management on 01.04.2014. He also admitted that no advertisement, application form, appointment letter or identity card was issued to him. He stated that no salary slip, PF, ESI, DA, HRA or other services benefits were ever provided to him. He submitted that he never appeared in any such written test. He was getting his remuneration after each 15 days through vouchers. He denied having any knowledge of M/s G.A. Digital Web World Pvt. Ltd. His services were terminated on 04.04.2018.

8. In rebuttal, management has filed the affidavit of evidence of **Sh. Sajid Vishal, Assistant Superintendent** exhibited as **Ex. MW1/A**. He has deposed the facts, stating that Department of Posts had issued tender for providing skilled, semi-skilled and un-skilled man power in PO & RMS Offices of Delhi Circle on different dates and was awarded the contract to **M/s G.A. Digital Web Word Pvt. Ltd.** He further stated that workman was provided by M/s G.A. Digital Web Word Pvt. Ltd. agencies/contractor as outsourced delivery personnel for delivery of letter at Jhilmil Head Post Office, Delhi-110095. On account of filling up of the said posts by making regular appointment, service of the workman was not required. Even after, expiry of the contract with the agency M/s G.A. Digital Web Word Pvt. Ltd. on 31.12.2016, the delivery work was managed by hiring the labour on daily rate basis as per the work load and requirement by the department till regular appointments were made and was paid wages as per the minimum wages prescribed by Delhi Government time to time. He also stated that during the visit by then Postmaster, Jhilmil HO, a

total of 346 undelivered mail was recovered from the Jhilmil Industrial Area on 14.02.2015, which shows extreme delinquency in duty by the claimant. He further said that there was an opportunity to the workman to appear in the competitive exam conducted by Delhi Postal Circle, but, said opportunity has not been availed by the workman. The extended terms and conditions of the tender were expired on dated 31.12.2016. He has relied upon two documents i.e.:

(i) **Ex. MW1/1:**Letter of authorization dated 20.11.2023.

(ii) **Ex. WW1/2:** tender document semi skilled manpower in Delhi Postal Circle by M/s G.A. Digital Web Word Pvt. Ltd. (Colly.)

9. Management's witness in his cross-examination has admitted that workman was not given any appointment letter. He admitted that domestic enquiry was conducted against the claimant by the vigilance team of management.

10. So far so, issues no. 1 & 2 are concerned. The admission of the management that even after the expiry of the contract, he continued take the service of the claimant itself establishes the relationship of employer-employee between them. Though, it is an admitted fact that initially the claimant's services were hired through contractor i.e. **M/s G.A Digital Web World Pvt. Ltd.,** but, later on after expiry of the contract, his services have been continuously availed by the management and the claimant was paid the minimum pay scale.

11. Moreover, the management has taken plea that enquiry was conducted by the vigilance team of the management, but, the management has stated that in the written statement that there exist no relationship of employer and employee, so, how the vigilance team has conducted the enquiry and even continued his service till April, 2018, though, the 346 undelivered mail has been found on 14.02.2015.

12. In the light of aforesaid evidence and admission of the management regarding conducting of the vigilance inquiry, claimant has proved relationship of employer and employee between the management and the workman. Therefore, the objection in this regard regarding the non-existence does not stand anywhere. Therefore, both issues regarding the maintainability of the petition as well as the existence of employer-employee relationship goes against the management and in favour of the workman.

13. Now, come to the issue no. 3 i.e. *"Whether the service of the workman was illegally terminated by the management in violation of provision of Section 25-F of the I.D. Act"*. Claimant's claim is that his services have been terminated illegally on 26.04.2018 after withholding the salary of month of April, 2018.

14. Before dealing with this issue, the texts of Sections 2(oo), 25F, G and H of the Act are required to be reproduced herein:

Section 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

(c) termination of the service of the workman as a result of the on-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]

(d) termination of the service of a workman on the ground of continued ill-health;]

25F. Conditions precedent to retrenchment of workmen: *No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-*

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
(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].
***25G. Procedure for retrenchment**.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*

***25H. Re-employment of retrenched workmen**.—Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 4[to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman] who offer themselves for re-employment shall have preference over other persons.*

15. From the perusal of the above sections, it is apparent that the claimant/workman as defined under section 2(s) has not been given the absolute protection against his retrenchment/termination. Section 2(oo) of the Act defines the word "retrenchment". Clause-(a), (b), (bb) and (c) have been carved out the exception from the definition of the retrenchment. Clause 2 (bb) which has been inserted by the Act 49 of 1984 w.e.f. 18.08.1984 had stated that when the services 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.

16. If the person has not come in any of the category then the claimant who has completed one year of continuous service cannot be retrench without compliance of the condition enumerated in section 25-F of the Act. Section 25-F of the Act infers that the claimants have no absolute right to remain in the employment of the management. The management can discontinue or retrench the workmen who have completed not less than one year of service under the employer if he has given a one month notice in writing indicating the reason for retrenchment and the period of notice has expired or he has paid the wages in lieu of notice period. The second condition is that the retrenchment compensation shall also be paid equivalent to 15-days of average pay for every completed year of continuous service. Besides this, appropriate government shall also be informed regarding the retrenchment.

17. Here, in the present case, it is already established that after expiry of the contract with **M/s G.A Digital Web World Pvt. Ltd.**, the service of the workman was continuously taken by the respondent and he had been paid the monthly remuneration as per minimum wages. So, agreement of **M/s G.A Digital Web World Pvt. Ltd.** has come to an end on 31.12.2016, thereafter, the services has been continued till 25.04.2018. Management's witness has not given any answer why the workman had worked till 25.04.2018 and has not come up for further cross-examination after 10.12.2024, meaning thereby, the assertion of the claimant is true that he had lastly worked on 25.04.2018 with the management.

18. It is settled legal position that the claimant has to prove that he has been continuously working with the respondent for 240 days in a calendar year. Since, management has not brought any evidence contrary to the fact that the workman has not worked for 240 days continuously in a calendar year than this Tribunal has no option except to believe the version of the claimant that he has worked continuously 16.12.2016 to 25.04.2018 directly with the management.

19. Since, it is an admitted case that the management has not made compliance of the provision of Section 25-F of the Act, the termination of the workman is held to be illegal. Hence, issue no. 3 goes against the management and in favour of the workman.

RELIEF

20. Now, the question arises as to what relief is given to the workman. In the present case, workman claimed that he had served with the management from 01.04.2014 to 25.04.2018.Normally, when the termination of the claimant is held to be illegal, reinstatement with full back wages shall be given to the workman. It has been held by the Hon'ble Supreme Court of India in the case titled as **Employers, Management of central P& D Inst. Ltd. vs. Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator.

21. However, in the peculiar circumstances where the management's stand is that 746 posts were recruited through competitive examination and the claimant's services were availed only for stock gap arrangement for delivery of the post, relief of reinstatement with full back wages is not appropriate. Given the circumstances where the workman did the work for four years with the respondent management either through contractor or directly, **a lump sum compensation of Rs. 5,00,000/- (Rupees Five Lac only)** is considered to be an appropriate relief. Hence, management is hereby directed to pay compensation of Rs. 5,00,000/- to the claimant within two months of notification of this award, failing which the management shall also pay interest @ 9% per annum on the aforesaid amount from the date of award until realization. A copy of this award be sent to the appropriate government for notification under section 17 of the Act. The file is consigned to record room.

Date: 12.06.2026 ATUL KUMAR GARG, Presiding Officer.

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1763.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **एन.डी.एम.सी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अशोक कुमार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 25/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42011/169/2012-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1763.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 25/2023)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **N.D.M.C.** and **Sh. Ashok Kumar**.

[No. L- 42011/169/2012-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II,

NEW DELHI

I.D. No. 25/2013

Sh. Ashok Kumar vs. N.D.M.C.

Sh. Ashok Kumar
S/O Late Sh. Bhorey Lal,
R/O F-579, Mangolpuri,
Delhi-110083.

…Applicant/Claimant

Versus

The Director,
N.D.M.C., Palika Kendra, 5th Floor,
New Delhi-110001.

…Management/respondent

Counsels:
For Applicant/ Claimant*:*
Sh. Sunil Kumar, Ld. AR.

For Management/ Respondent*:*
Sh. Raghvendra Upadhyay, Ld. AR.

Award
09.03.2026

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, through the Ministry of Labour and Employment, vide its Order No. L-42011/169/2012-IR(DU) dated 28.02.2013, has been pleased to refer the following dispute between and for adjudication by this Tribunal in the following terms:

"Whether the action of the management of NDMC in not granting compassionate employment to Shri Ashok Kumar S/o Late Shri Bhurey Lal is legal and justified? If not, what relief the workman is entitled to?"

At the outset, it is important to mention here that the present case reflects the misuse of the legalmachineryfor appointment on compassionate grounds.

In pursuance of the reference, the claimant appeared and filed his claim statement. He stated that his father Sh. BhureyLal, who was working with the management, expired on 19.02.2004. Thereafter, the claimant applied for appointment on compassionate grounds. He alleged that although the management had given compassionate appointment to 92 applicants, his claim was rejected without assigning any reasons.

The management granted employment in its Fire Department to **9 persons in 2004, 8 in 2005, 11 in 2006, 15 in 2007, 44 in 2008, 80 in 2009**, and **63 in 2010**. It also granted employment in its Civil Department to **72 persons in 2004, 118 in 2005, 148 in 2006, 138 in 2007, 143 in 2008, 133 in 2009**, and**117 in 2010.**According to him, despite large-scale appointments during the said period, he was denied compassionate appointment. Being aggrieved, he approached the conciliation officer and upon failure of conciliation, the present reference was made to this Tribunal. Therefore, the claimant has filed his claim seeking employment on compassionate grounds in lieu of services rendered by his deceased father.

In response, the management filed a written statement stating that the present claim is a sheer misuse and abuse of the processof law as no right accrues in favour of the claimant as a matter of fundamental right to claim employment under the category of compassionate grounds. In fact, there are certain guidelines drafted by the department as per the DoPT Guidelines and other provisions under which such employments are governed,and the claimant did not fulfill the prescribed eligibility criteria. It was further stated that the present reference has been made in a mechanical and stereotype manner without considering the stand of the management. Hence, the management prayed for dismissal of the present claim.

A rejoinder had also been filed by the claimant where he denied the averments made by the management in its written statement and affirmed the averments in his claim statement.

From the pleadings of the parties, following issues were framed vide order dated 26.11.2013:

1. Whether the action of the management of NDMC in not granting compassionate employment to Shri Ashok Kumar S/o Late Shri Bhurey Lal is legal and justified?

2. If not, what relief the workman is entitled to?"

To prove his case, the claimant examined himself as WW1. He reiterated the facts stated in the claim statement and relied upon the following documents:

1. Minutes of meeting of the committee constituted for examining the cases of appointments on compassionate grounds. (Ex. WW1/1)

2. List of recommended cases of compassionate appointments duly attested by the management. (Ex. WW1/2)

3. List of rejected cases of compassionate appointments duly attested by the management (Ex. WW1/3).

4. List of deferred cases of compassionate appointments duly attested by the management. (Ex. WW1/4).

5. List of daily wagers appointed during 2004. (Ex. WW1/5).

6. Death certificate of the deceased father of the claimant (Mark A).

7. Family details and correspondences with the management regarding compassionate appointment. (Mark B).

During cross-examination, the claimant admitted that he raised the dispute regarding compassionate appointment after 8 years of his father's death. He further admitted that he had no knowledge of the grounds and criteriaconsidered for compassionate appointment. He further deposed that his father passed away leavingbehind four dependents, namely himself, his elder brother, his elder sister and his younger brother. He admitted that his siblings were aware of his claim, however no 'No Objection Certificate' had been filed by them.

In rebuttal, the management also examined one witness, Ms. Meena Kaushal, Deputy Director (Civil and Electrical Establishment). She deposed that the management, while considering and recommending numerous applications of such candidates, follows the guidelines of the DoPT, such as the seniority of the deceased, his age at the time of death, the dependents left behind by him, particularly unmarried daughters, the number of years of service left at the time of death, physical disability of the applicant, etc. She stated that the lists of recommended, rejected, and deferred cases were already on record and had been exhibited by the claimant himself.

During her cross-examination, the witness admitted that the father of the claimant, Sh. Bhurey lal, was working as a Mate in the Civil Engineering department and expired on 19.02.2004. she further admitted that the claimant's application for his appointment on compassionate grounds was rejected as per the policy and guidelines of DoPT after due consideration. She also admitted that the claimant's younger brother, Sh. Sitaram, was receiving pension till attaining the age of 25 years.

During the course of proceedings, some startling facts has been emerged. On 10.03.2025, the management produced the personal file of the claimant. It was revealed that the claimant's younger brother, Sh. Sitaram, was shown to have received pension till 2014 and was shown to be 15 years old at the time of their father's death. However, the personal file containedmultiple affidavits with different date of birth of Sh. Sitaram and other family members. In one affidavit, Sh.Sitaramwas shown to be 22 years old at the time of death of his father.In the application addressed to the secretary, NDMC, seeking appointment on compassionate grounds, the claimant declared his own date of birth as 05.01.1985.The elder brother's date of birth was shown as 11.09.1975, while the younger brother was shown to be born in 1995. The date of birth of her elder sister, Smt. Krishna was shown as 15.05.1971. The affidavit of Sh. Rajinder Kumar dated 07.06.2004 states that his younger brother, Sh. Sitaram, was born on 10.12.1995. Another affidavit of the claimant, Sh. Ashok Kumar, also dated 07.06.2004, shows the date of birth of Smt. Krishna, the claimant's sister, as 10.10.1985. In yet another affidavit of Sh. Rajinder Kumar dated 22.11.2004, he declared his own date of birth as 04.07.1978. In another affidavit, Sh. Sitaramwas shown to have been born on 20.10.1982, while the applicant, Sh. Ashok Kumar, was shown to have been born on 05.07.1979.

Further, the noting on the personal file showed that both Sh. Rajinder Kumar and the claimant Sh. Ashok Kumar were married, whereas Sh. Sitaram was shown as unmarried. The pension record broughts by the management reveal that Sh. Sitaram was shown to be entitled for family pension till he attained the age of 25 years. His date of birth was taken on the basis of a medical examination as 1989. Neither the year 1982 nor 1995was takeninto consideration. Except for a medical certificate furnished by management, nothing is foundrecord to establish his age. There is no document to show whether any x-ray or a bone density test was conductedfor determining his age, and no such report or film in this regard has been placed on record. No reason has been assigned as to why the department deemed it necessary to medically examine Sh. Sitaram to establish his correct age.

The mention of different age of Sh. Sitaram at different places, along with different age of the claimant Sh. Ashok Kumar in their affidavits, makes the claimant's case doubtful. The claimant didn't disclose at any point that he was married or unmarried. At some places, he is shown to have been born in 1979, while at other places, his year of birth is mentioned as 1985, and the noting on record suggests that he was married.

Therefore, it appears that the claimant attempted to secure dual benefits, pension benefits to the younger brother up to the age of 25, despite claiming his year of birth as 1995 or earlier, i.e., 1982, and appointment on compassionate grounds, even though the claimant was already married, asnone of the several affidavits disclose the marital status of the claimant.

Considering the overall facts and circumstances, this Tribunal is of the view that the claimant is not entitled to compassionate appointment. Hence, issue no. 1 is decided against the claimant and in favour of the management. Consequent thereto, issue no. 2 also goes in favor of the management.

In light of the above findings, the reference is answered against the claimant and in favor of the management. Accordingly, the claim of the claimant stands dismissed. A copy of this award be sent to the appropriate government for notification under section 17 of the I.D Act. The case file is consigned to record room.

Dated-09.03.2026

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1764.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **जामिया मिलिया इस्लामिया यूनिवर्सिटी; एमडीईई इगीट्रोनिक्स प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती कुसुम** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 01/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/227-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1764.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 01/2023)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Jamia Millia Islamia University; EMDEE Eigitronics Pvt. Ltd.** and **Smt. Kusum**.

[No. L- 42025/07/2026/227-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 01/2023

Smt. Kusum, W/o Sh. Kali Charan,
R/o- House No. 148, Gali no. 13, Near Govt. Primary School-Mill Hard Colony,
N.I.T. Faridabad, Haryana-121001.

Through- All India General Mazdoor Trade Union,
170, Bal Mukund Khand, Giri Nagar, Kalkaji, New Delhi-110019,

VERSUS

1. The Dy. Vice Chancellor,
   Jamia Millia Islamia University,
   Jamia Nagar, Okhla, New Delhi-110025.

2. **EMDEE Eigitronics Pvt. Ltd.,**
   RZE-06, 02nd Floor, Mahaveer Enclave, Palam Dabri Main Road,
   Sector-01-A, Dwarka, New Delhi-110045.

AWARD
22.12.2025

This is an application **U/S 2A of the Industrial Disputes Act (hereinafter referred to as "the Act")** filed by the claimant stating that she was working with the management as "Safai Karmachari" w.e.f. 01.01.2011 and his last drawn salary was Rs. 14,000/- per month. She had been doing their work with diligently and honestly. Her service records were clean and she had not given any complaint so far. The employers had made the claimant's signs on many blank papers, blank vouchers, blank agreement letters and blank appointment letters at the time of appointment during the service but did not give a copy of the same to the claimant. During the services, management never provided legal facilities like appointment letter, wages slip, leave book, attendance card, annual and festival holidays, ESI & PF etc. When the claimant demanded all the above mentioned legal benefits, the employer immediately became angry and in a spirit of revenge, without paying the earned salary to the workman from 01.08.2019 to 02.09.2019, without prior notice, without any notice charge sheet, without any rhyme and reason, claimant were illegally terminated by the management on 03.09.2019. She had gone to the conciliation officer, but, no result was yielded. Hence, she had filed the present claim with the prayer that she be reinstated with full back wages.

Management no. 1 has filed its WS. They have denied the averment made in the statement of claim. They submitted that she was not engaged directly by the M-1 as her services had been hired through approved outsource agency **M/s. Emdee Digitronics Pvt. Ltd.,** till 31.03.2019 and thereafter, **M/s Sharma Enterprises** had been awarded contract w.e.f. 01.04.2019. Her services had been discontinued due to her unsatisfactory performance report, conveyed by the concerned Provost and the same was informed to her employer i.e. M/s Sharma Enterprises for her discontinuation. They also submitted that claim is liable to be dismissed.

Management no. 2 has already been proceeded ex-parte vide order dated 06.10.2025.

After completion of the pleadings vide order dated 01.04.2025, following issues have been framed i.e.:-

(i) Whether there existed any relationship of employee and employer between the claimant and management no. 1.

(ii) Whether services of claimant had been terminated illegally and in violation of section 25F of Industrial Disputes Act, 1947.

(iii) Relief, if any.

Now, the matter is listed for workman evidence. AR for the workman submitted that workman is not in touch with him since long to substantiate her claim.

In these circumstances, when the claimant is not interested in perusing her case, this Tribunal has no option but to dismiss her claim. Hence, claim stands dismissed. Award is passed accordingly. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. Record of this file is consigned to record room.

Date: 22.12.2025 ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1765.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **एमटीएनएल; स्टेलर डायनेमिक्स प्रा. लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कृपा शंकर शर्मा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 31/2022)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42025/07/2026/226-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1765.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 31/2022)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **MTNL; Stellar Dynamics Pvt. Ltd.** and **Sh. Kripa Shankar Sharma**.

[No. L- 42025/07/2026/-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 31/2022

Sh. Kripa Shankar Sharma, S/o Late Sh. Baij Nath Sharma,
R/o RZB-124-A, Gali No.-07, Gurudwara Road, Mahavir Enclave,
Palam, New Delhi-110045.

VERSUS

1. **MTNL,**
   08, Bhikaji Cama Place, New Delhi-110066.

2. **Stellar Dynamics Pvt. Ltd.,**
C-48, 3rd Floor, Community Center, Industrial Area,
Phase-I, Nariina, New Delhi-110028.

AWARD
12.05.2026

Item No. 02

I.D. No. 31/2022
12th May, 2026

Present:

Sh. Devendra Kumar, Ld. AR alongwith the claimant.
None for the management no. 1. (MTNL)
Sh. Ghanshyam Mishra, Ld. AR for the management no. 2. (Stellar Dyanmics)

On the last date of hearing, after perusing the record, claimant was asked to clarify whether he has completed 240 working days with the management no. 2 in a single year. Ld. Counsel for the claimant submitted that he would produce a chart to clarify the working days of the claimant; however, instead of producing the chart, he has called the workman. He emphasized that it was a fixed term contract for two years and the respondent has terminated the workman illegally.

Record of the present case states that claim was filed by the claimant, stating that he was appointed by the management no. 2 on the post of "Lineman" on 11.08.2020, and his last drawn wages were Rs. 19,864/- per month. It is the management no. 2 who has deputed to workman in the management no. 1. He used to work sincerely; however, management no. 2 had illegally and unjustifiably terminated his services on 31.03.2021 without any rhyme or reason and without paying the earned wages for the month of Jan., Feb., and March, 2021 and without giving any notice or notice pay to him. Hence, he filed the claim.

Both the managements have filed their respective written statements. Issues were framed on 29.08.2022. On the last date of hearing, this Tribunal had noted down that workman has failed to complete the 240 days in a preceding year to his termination.

For ready reference, the provision of Sections 2A, 2(oo) & 25F of the **Industrial Disputes Act, 1947 (hereinafter referred to as "the Act")** are required to be reproduced herein:-

Section 2A:

[2A. Dismissal, etc. of an individual workman to be deemed to be an industrial dispute

[(1)] ***Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]***

[(2)] ***Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the***

Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)].

Section 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 on-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;]

Section 25F:

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-
(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
(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.]

Provision of Section 2A of the Act has been carved out in the year 1967 when the amendment has been made whereby dismissal, retrenchment or termination of an individual workman is deemed to be the industrial dispute. Subsequently, another amendment was made in 2010, whereby the appropriate government was relieved from applying of its minds while making a reference to the Tribunal in cases of discharge, dismissal and retrenchment of the individual workman. The workman may directly file the application after taking the recourse of conciliation upon failure of the conciliation proceedings after 45 days. The next rider is that the application must be filed before the Tribunal within three years from the date of discharge, dismissal, retrenchment or termination.

Section 2(oo) of the Act defines the retrenchment by the employer of the service of a workman for any reason whatsoever. However, five exceptions have been carved out where such termination does not fall within the definition of retrenchment.

Section 25F of the Act imposes certain conditions upon the employer before terminating the employee. The first condition is that the workman shall be given the one month's notice in writing indicating the reasons for retrenchment and the period of notice. The second condition is that 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. The third condition is that the notice in the prescribed manner is served upon the appropriate government. The section 25F begins with the word that "No workman employed in any industry who has been in continuous service for not less than one year under an employer". Meaning thereby- the person can be retrenched without complying the condition (a), (b) & (c), if he has not completed one year of continuous service.

Section 25-B of the Act defines the term "continuous service". Clause-2 of the said section states that 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. Clause-2 of section 25-B of the Act is also required to be reproduced herein-

Clause-2 of Section 25-B of the Act-

(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;

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

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

(i) ninety-five days, in the case of a workman employed below ground in a mine;

(ii) one hundred and twenty days, in any other case.

Explanation.- For the purpose of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

Here, the claimant himself has stated in his claim statement that he worked on the post of "Lineman" with the management no. 2 from 11.08.2020 to 31.03.2021. If the period of work is counted from 11.08.2020, then, the total number of days worked by the claimant with the management no. 2 is less than 240 days. The claimant actually worked only 233 days i.e.:

- 21 days in August, 2020,
- 30 days in Sept, 2020
- 31 days in Oct, 2020,
- 30 days in Nov, 2020,
- 31 days in Dec, 2020,

- 31 days in Jan, 2021,
- 28 days in Feb, 2021 and
- 31 days in March, 2021

In these circumstances, when the workman has not completed 240 days in a calendar year, then, the protection against termination cannot be given. Therefore, the claim of the claimant is not maintainable. Hence, the claim stands dismissed. Award is passed accordingly. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act, 1947. Record of this file is consigned to record room.

ATUL KUMR GARG, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1766.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **मदर डेयरी फ्रूट एंड वेजिटेबल प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **मदर डेयरी फ्रूट एंड वेजिटेबल वर्कर्स एकता यूनियन** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, नई दिल्ली, पंचाट (रिफरेन्स न.- 33/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42011/188/2012-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1766.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 33/2013)** of the **Central Government Industrial Tribunal cum Labour Court-II, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Mother Dairy Fruit & Vegetable Pvt. Ltd.** and **Mother Dairy Fruit & Vegetable Workers Ekta Union**.

[No. L- 42011/188/2012-IR(DU)]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 33/2013

The General Secretary,
Mother Dairy Fruit & Vegetable Workers Ekta Union,
C-70, Indra Enclave,
Delhi-110041.

Versus

The Factory Manager & General Manager,
Mother Dairy Fruit & Vegetable Pvt. Ltd.,
Fruit & Vegetable Unit,
Mangolpuri Industrial Area,
Phase-I, Delhi-110083.

Present: None for the claimants.

Sh. Lalit Bhasin, Ld. AR along with Sh. Rupam Sajjan, & Ms. Vishali (Proxy) for the management.

AWARD

04.08.2025

1. In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour and Employment, vide its Order No. **L-42011/188/2012-IR (DU)** dated 07.03.2013 has been pleased to refer the following dispute between the employer, that is the Management of Mother Dairy Fruit & Vegetable (P) Ltd. and their workman for adjudication by this Tribunal, terms of which are as under:

> ***"Whether the action of the management of M/s Mother Dairy Fruit & Vegetable Pvt. Ltd. Mangolpuri signing settlement with a Union, when as a case to determine majority union is pending before RLC @ New Delhi is fair and justified? If not, what relief the union is entitled for? "***

After receiving the said reference, notices were issued to both the parties. Both the parties have appeared. Claimants have filed their claim statement stating that the above said union is registered union under the Trade Unions Act, Govt. of NCT of Delhi, Department of Labour, 5 Sham Nath Marg, Delhi vide registration no. F10/DRTU/NWD/10/03 and the union is also affiliated with CITU. Their address is owned by National Dairy Development Board, an autonomous body of the Government of India. The strength of the union at present is more than 135 out of the total strength of the employees of the management. The union is its general body meeting of the union held on 20.03.2011, elected a new set of office bearers/executive of the union for the year 2011-12. As per law, the union informed the same to the management vide letter dated 20.04.2011, but vide letter dated 25.04.2011, the management informed to above said union that they are not recognized union of the management. On 29.01.2004, when the last time union elections held in the unit of management and thereafter the management and elected union did not conduct election in the unit. On 01.01.2009, the union Mother Dairy Fruit & Vegetable Employee Union again signed the settlement with the management and they did not conduct the union election. When the Mother Dairy Fruit & Vegetable Workers Ekta Union came to know about this settlement then every time the said union protests against the settlement which held between the Mother Dairy Fruit & Vegetable Employees Union and management. On 11.12.2012, Mother Dairy Fruit & Vegetable Employees Union and management again made settlement without given any information to the other union and when the Mother Dairy Fruit & Vegetable Workers Ekta Union came to know about the said settlement then immediately the Mother Dairy Fruit & Vegetable Workers Ekta Union informed to the Labour Department and objected the said unfair and unjustified settlement. Mother Dairy Fruit & Vegetable Workers Ekta Union is the majority union as it has a membership of more than 75% workers of the management. The action of the management is completely unfair and unjustified in signing settlement with Mother Dairy Fruit & Vegetable Employees Union, when a case to determine majority union is still pending before the R.L.C., New Delhi. They made prayer that an order be passed in favour of the workmen.

2. Management has filed its written statement denying the averment made in the claim statement. He also submitted that claim be dismissed.

3. Claimant has filed the rejoinder denying the averment made in the written statement and affirmed the facts made in their claim statement.

4. After completion of the pleadings vide order dated 18.02.2014, following issues have been framed i.e.:-

(i) Whether the action of the management of M/s Mother Dairy Fruits & Vegetable Pvt. Ltd., Mangolpuri signing settlement with a union, when as a case to determine majority union is pending before RLC @ New Delhi is fair and justified? If so its effect?

(ii) What relief the workman is entitled to?

5. Examination in chief and cross-examination of the claimant has been recorded separately.

6. Examination in chief of the management witness has been concluded. On 19.10.2022, claimant was found absent on repeated calls, therefore, right to cross examine the management witness by the claimant hereby closed.

7. It is the matter of fact that the claimant has not been appearing since long, though, he has been cross-examined. It is further the fact that the management has filed the affidavit of evidence of its witness which remains unchallenged, unrebutted, where he has stated that the claimant's union has no right to

raise the claim regarding his participation in the ongoing settlement between the management and the recognized union. It has been further stated by the management that the claimant union's claim for grant of the status of a protected workman was rejected by Sh. R.K. Meena, Assistant Labour Commissioner (Central), New Delhi vide order dated 01.09.2011 and the writ petition filed by the claimant's union was subsequently dismissed by the Hon'ble High Court of Delhi vide order dated 08.05.2023.

8. In light of the said fact, issue no 1 is decided against the workman and in favour of the management. Accordingly, the claim of the claimant stands dismissed. Reference is answered accordingly. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D. Act, 1947. Record of the case file is consigned to record room.

ATUL KUMAR GARG, Presiding Officer.

Date: 04.08.2025

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1767.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **पूर्वी दिल्ली नगर निगम, नई दिल्ली** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री शेर सिंह** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स न.- 104/2021)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42012/19/2021 -आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1767.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 104/2021)** of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **East Delhi Municipal Corporation, New Delhi** and **Shri Sher Singh**.

[No. L-42012/19/2021-IR(DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1,

NEW DELHI.

ID No.104/2021

Shri Sher Singh S/o Sh. Har Lal (Ex-Safai Karmachari), Through Nagar Nigam Karamchari Sangh, Delhi Pradesh, P-2/624, New Delhi-110086.

…Claimant

Versus

The Commissioner, East Delhi Municipal Corporation, 419, Udyog Sadan, Paptparganj, Industrial Area, Delhi-110092.

…Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-L-42012/19/2021 dated 12.07.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

'Whether Sh. Sher Singh S/o Sh. Har Lal, (Ex-Safai Karamchari) is entitled for reimbursement of his Medical bills to the tune of Rs.1,50,000/- from the management of East Delhi Municipal Corporation, as

raised by Nagar Nigam Karmchari Sangh, Delhi vide letter dated 01.02.2019? If yes, to what relief is Sh. Sher Singh entitled and what directions ar necessary in this regard?'

Sh. Sher Singh Vs. The Commissioner, East Delhi Municipal Corporation.

2. In the endorsement made in reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within fifteen days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. In pursuance to the notices sent, counsel for the claimant appeared some occasions. No claim statement was filed on behalf of workman despite repeated adjournments. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

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, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 05.02.2026 Ajay Kumar Jain, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1768.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **मेसर्स इंडियन रिन्यूएबल एनर्जी डेवलपमेंट एजेंसी लिमिटेड, नई दिल्ली; मेसर्स मनीष कोचर्स सिक्योरिटी एजेंसी, नई दिल्ली** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री शशि कुमार** के बीच औद्योगिक विवाद अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स न.- 185/2024)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42025/07/2026/125 -आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1768.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 185/2024)** of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Indian Renewable Energy Development Agency Ltd., New Delhi; M/s Manish Coacher Security Agency, New Delhi** and **Sh. Shashi Kumar,** workmen.

[No. L-42025/07/2026/125-(IR(DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No.185/2024

Sh. Shashi Kumar S/o Mangeram, Through Delhi Karamchari Sangh, Infront of Kalkaji Bus Depot, Govind Puri, New Delhi-110019.

…Claimant

Versus

1. M/s Indian Renewable Energy Development Agency Ltd.,
August Kranti Bhawan, 3rd Floor, Bhikaji Cama Place,
New Delhi-110066.

2. M/s Manish Coacher Security Agency,
B-11, Harivansh Bhawan, RBCDDA Complex, Nangalraya,
New Delhi-110046.

…Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-ND-25/I-25/2024-IR dated 16.07.2024 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

'Whether the services of the workman Shri Shashi Kumar S/o Late Mangeram, Ex-Security Guard have been terminated illegally and/or unjustifiably by the management of M/s Manish Coacher Security Agency contractor of M/s Indian Renewable Development Agency Ltd. w.e.f. 25.08.2023? If so, then what relief the workman concerned is entitled and what directions are necessary in this respect?'

2. In the endorsement made in reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within fifteen days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. In pursuance to the notices sent, none appeared on behalf of the claimant. No claim statement was filed on behalf of workman despite repeated adjournments. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

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, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 13.04.2026 AJAY KUMAR JAIN, Presiding Officer

नई दिल्ली, 7 अगस्त, 2026

का.आ. 1769.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **चीफ़ पोस्टमास्टर जनरल, नई दिल्ली; मेसर्स जी.ए. डिजिटल वेब वर्ल्ड प्राइवेट लिमिटेड, दिल्ली** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री शैलेंद्र कुमार और अन्य** के बीच औद्योगिक विवाद अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स न.- 244/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-40011/14/2017 -आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 7th August, 2026

S.O. 1769.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 244/2017)** of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Chief Postmaster General, New Delhi; M/s G.A. Digital Web World Private Ltd., Delhi** and **Shri Shailendra Kumar & ors.,** workmen.

[No. L-40011/14/2017-(IR(DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No.244/2017

Shri Shailendra Kumar & ors. Through All India General Mazdoor Union, 170, Bal Mukund Khand, Giri Nagar, Kalkaji, New Delhi-110019.

…Claimant

Versus

1. Chief Postmaster General, Delhi Circle, Meghdoot Bhawan, New Delhi-110001.

2. M/s G.A. Digital Web World Private Ltd., Registered Office No.1, Hargovind Enclave, Vikas Marg Extension, Delhi-110092.

…Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-L-40011/14/2017 (IR(DU)) dated 21.08.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

'Whether the demand of the workmen Sh. Shailendera Kumar and others (mentioned in Annexure-A) for declaring them the permanent workmen of the Department of Posts is legal and/or justified and if so what relief are the workmen entitled to and what directions are necessary in this respect? 2. Whether the workmen Sh. Shailendra Kumar and others (mentioned in Annexure-A) are entitled for wages and others consequential benefits at par with the regular employees of department of Posts doing same and similar work from the date of initial appointment and if so what directions are necessary in this respect?'

Sh. Shailendra Kumar & ors. Vs. Chief Post Master General & anr.

2. In the endorsement made in reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within fifteen days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute.

3. The A/R for the claimant along with claimant Sh. Sheelendra Kumar have recorded their statement separately stating that they want to withdraw the present case which was referred by Central Labour Office for adjudication as the case pertaining to the same relief is pending before the Hon'ble CAT.

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, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 03.02.2026 AJAY KUMAR JAIN, Presiding Officer

नई दिल्ली, 10 अगस्त, 2026

का.आ. 1770.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 1 धनबाद** के पंचाट (48/2005) प्रकाशित करती है।

[सं. एल - 12012/1/2005- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2026

S.O. 1770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 48/2005*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1,Dhanbad* as shown in the Annexure, in the industrial dispute between the management of Bank of India their workmen.

[No. L-12012/1/2005- IR(B-II)]

SALONI, Deputy Director

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. 48/2005

Parties:

Employers in relation to the management of Bank of India, Zonal Office,

Dhanbad

AND

Their Workmen

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

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

For the workmen :- Sri D. Mukherjee, Ld. Advocate

State : Jharkhand. Industry:-Banking

Dated 02/07/2026

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-12012/1/2005-IR(B-II) dated 30/05/2005 has been pleased to refer the following dispute between the employer i.e. management of Bank of India, Zonal Office, Dhanbad and their workman namely Sri Subhas Saw for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Bank of India, Dhanbad Zone, Dhanbad in terminating Sh. Subhas Saw from the services of the Bank in subordinate cadre i.e. as Driver from May, 2004 is justified? If not, to what relief the concerned workman is entitled ?"

2. On perusal of the case record it transpires that previously the present reference was decided in favour of the workman vide order dated 30.03.2015 but when the same was challenged by the management before the Hon'ble High Court of Jharkhand at Ranchi in W.P. (L) No. 4397 of 2015, the Hon'ble Court was pleased to set aside the Award passed by this Tribunal vide order dated 02.07.2019 and the matter was remanded to this Tribunal for taking fresh decision after hearing both sides.

3. The case of the workman as per the written statement filed on his behalf is that the workman Subhas Saw has been working as permanent Driver of Bank of India since 01.11.1991 continuously to the satisfaction of the management. He has been working as Driver and driving vehicles of the Bank for the purpose of business of the bank and management is the owner of aforesaid vehicles. He has been rendering service and producing goods for the benefit of the Bank Management but the management had been paying him wages at the rate of Rs. 1340/- and subsequently Rs. 1700/- from 01.10.1994. The concerned workman represented before the management several times for his proper wages and benefit at par with other employees of the Bank and at the initial stage the petitioner was assured by the management for regularization and wages at par with other employees and he waited on the assurance of the management but unfortunately all of sudden the management terminated the service of the workman on May 2004 by stopping him from duty. The petitioner had put in continuous service from 01.11.1991 to May 2004 and had put in more than 240 days attendance in each calendar year. His service was terminated when he insisted for regularization and proper wages. He was terminated without following the mandatory provision of Section 25-F of the I.D. Act. He represented before the management for illegal and arbitrary termination and seeing no other alternative raised industrial dispute that ended in failure and that ultimately resulted in the present reference. The action of the management in terminating the services of the concerned workman was illegal, arbitrary and against the principle of natural justice as well as against the provision of Section 25-F of the I.D. Act and he prayed to answer the reference in favour of the workman.

4. On the other hand the case of the management as per the written statement cum rejoinder is that the present reference is not legally maintainable. The issued reference for adjudication is vague, indefinite and cannot be adjudicated. Sri Subhas Saw has filed his written statement describing himself as disputant claiming that he was the workman of the Bank. No employer-employee relationship exists between the disputant and the Bank Management. He was never selected by the Bank Selection Committee of the Bank as per the Recruitment Rules of the management. He was never employed as employee of the Bank. As per the Regulation 26 of the Bank of India Service Regulations, 1979 the Bank Officers in Scale IV to VII are allowed to use the Bank Car for personal

purpose for which they require personal driver also and to enable them to engage for personal driver the wages to be paid to the personal drivers are also reimbursed by the Bank at specified level. Such drivers are identified and engaged purely on personal basis without any supervision and control of the Bank and similarly there is no service condition fixed by the Bank for personal driver and therefore there is no employer-employee relationship between the Bank and the said driver at any point of time. The petitioner was engaged by the Bank Officers in their personal capacity from time to time to drive the car provided to them by the Bank for their personal purpose. Such agreement was entirely between the Officer concerned and the petitioner in their personal capacities. The petitioner has worked as personal driver of the Bank Officers for certain period and he is advancing his claims to treat him as an employee of the Bank and is demanding for his absorption in the employment of the company. The petitioner was personal driver in personal capacity, he cannot vest any right or claim on the latter for bank employment. He was neither appointed nor terminated by the Bank from the services of the Bank and therefore the question of adjudication for termination of the services of the petitioner does not arise and he is not entitled to any relief. In rejoinder it has been stated that the petitioner has never worked as permanent driver of the Bank of India and he was never appointed as a driver of the Bank and again it has repeated the facts already stated and denied the stand taken by the workman in his W/S.

5. The petitioner has also filed a separate rejoinder to the W/S of the management in which he has denied all the claim of the management.

6. **Issue**

"Whether the action of the management of Bank of India, Dhanbad Zone, Dhanbad in terminating Sh.Subhas Saw from the services of the Bank in subordinate cadre i.e. as Driver from May, 2004 is justified? If not, to what relief the concerned workman is entitled?"

7. In support of his case the workman has adduced the documents related to his salary from August 1992 to June 1999 and Log Book from June 2003 to April 2006.

8. No oral evidence has been adduced from the side of the workman.

9. On the other hand the management has not adduced any oral or documentary evidence.

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

11. The Ld. Counsel on behalf of the workman has submitted that he had been working as Driver in Bank of India since 01.11.1991 and had been driving vehicles as employee of the management but he was not being paid monthly wages at par with the permanent employees and therefore he raised the issue and being annoyed by the same the management illegally terminated his services w.e.f. May 2004 without issuing any reason and therefore prayed to set aside the termination and reinstate him.

12. On the other hand the Ld. Counsel on behalf of the management has submitted that the petitioner was never appointed by the management as employee of the Bank nor he was ever issued any appointment letter and therefore no employer-employee relationship exists between them. As per the regulation 26 of the Bank of India the Bank Officers in Scale IV to VII were allowed to use Bank's Car for personal purpose and they were also allowed to engage personal driver as per their requirement and the wages to be paid to them by the said officer were to be reimbursed by the bank up to the specified level and so the personal driver of the bank's executive is not the employee of the bank and the present petitioner accordingly is not entitled to any relief in this case and has no right to regularization or reinstatement.

13. On perusal of the documents adduced from the side of the workman though not exhibited it transpires that there are two types of documents, first one is the copy of register of the Log Book from June 2003 to April 2006 of the Bank of India and the second one is the details of salary given to the petitioner Subhas Saw from August 1992 to June 1999 which also bears the signature of the petitioner Subhas Saw after receiving the payment in each and every month and the second set of documents are the copy of Motor Car Log Book from June 2003 to April 2006 and it also contains the name of Subhas Saw with the number of vehicle. This also contains the details of Journey, Kilometers etc.

These documents have not been disputed by the management and in its W/S the management has admitted the employment of Subhas Saw as personal driver of the Bank Executive.

14. In view of the documents as well as the period of engagement of the petitioner Subhas Saw from year 1991 to May 2004 it is established that he has continued his job for quite long period and therefore the relationship of the employer-employee is created between the petitioner and the

management even though he was not issued any appointment letter and the above documents add the authenticity as well as genuineness of the case of the workman and in such circumstances the action of the management of Bank of India , Dhanbad Zone, Dhanbad in terminating Sri Subhas Saw from the services of the Bank in subordinate cadre i.e. as Driver from May, 2004 is held not at all justified and he is entitled to reinstatement by way of relief but as this is year of 2026 and about 2 decades have passed, the direction of reinstatement is not appropriate rather the management is directed to make payment of **Rs. 10 Lakh** as compensation to the workman Subhas Saw 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, 10 अगस्त, 2026

का.आ. 1771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बोकारो थर्मल डिवीज़न के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण -सह- श्रम न्यायालय, धनबाद-I,** के पंचाट (**संदर्भ संख्या 30**/2019) को प्रकाशित करती है,

[सं. एल-20012/62/2019-आईआर (सीएम-I)]

जयदीप यादव , उप निदेशक

New Delhi, the 10th August, 2026

S.O. 1771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 30/2019*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of ***Bokaro Thermal Division*** and **their workmen.**

[No. L-20012/62/2019– IR (CM-I)]

JAIDEEP YADAV, Deputy Director

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. 30/2019

Parties:

Employers in relation to the management of Bokaro Thermal

Division, DVC, Bokaro Thermal, Bokaro

AND

Their Workmen

Present: **ShriSachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :-Sri B.K. Jha, Advocate

For the workmen :-Sri D. Mukherjee, Advocate

State : Jharkhand. Industry:-Coal

Dated 22/07/2026

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-20012/62/2019-IR(CM-I) dated 11/11/2019 has been pleased to refer the following dispute between the employer i.e. management of Bokaro Thermal Division, DVC and their workman through Joint General Secretary, Bahujan Mazdoor Union at Mines Rescue Station, Dhansar, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the supply worker Shri Rajesh Kumar has been unjustifiably denied the seniority in the empanelment list drawn from Contract workers of DVC, BTPS despite working from 1987 in the BTPS, DVC plant? If yes, then what remedies he is entitled to?"

2. The case of the workman as per the written statement filed on his behalf is that the worker concerned was engaged as a Supply worker under a contractor namely M/s S.P. Yadav at the Bokaro Thermal Power Station of Damodar Valley Corporation, Bokaro since February, 1987. On 30.08.1992 and thereafter on 17.09.1993 a memorandum of settlement/tripartite agreement was reached in between the parties duly participated by the management of DVC, The Contractor, DVC Labour Union, Bokaro Thermal and United Contactors' Workers Union, Bokaro memorandum of settlement/tripartite agreement, the Chief Engineer-1, BTPS on 10.09.1998 prepared a panel/seniority list of the contract labourers at BTPS but the name of the concerned worker was not included in the said list. On the date of preparation of panel i.e. on 10.07.1998 the cut off date was 28.02.1997 and the total number of man days till cut off date of the worker comes to total of 2981 days, therefore as per the number of days worked by the worker concerned the position of the worker in the panel list should have been determined at Sl. No. 5. The contractual labourers with less number of man days than that of the worker concerned have been empanelled and subsequently regularized in the service and therefore the worker concerned has right to claim in the seniority list of the panel of workers. The letter dated 19.07.2007 issued by the management is arbitrary, malafide, illegal and contrary to determination as made by them and therefore the worker has suffered the monetary benefits as per settlement dated 30.08.1992 and 17.09.1993 and accordingly the workman is entitled for grant of benefits with retrospective effect. The workman also approached the Regional Labour Commissioner (Central) for deciding the issue and on 12.04.2002 after making enquiry with regard to the claim of the petitioner and going through the detail report of the Assistant Labour Commissioner with regard to the total number of mandays/attendance of the petitioner from 1987 to 2001 at the Operation & Maintenance Department of BTPS made a request to the management concerned to implement the settlement during 30 days and submit the implementation report and at last it was prayed to direct the concerned management to place the name of the concerned workman in the appropriate place i.e. at Serial No. 5 in Seniority list of 1998 as per the seniority retirement by Regional Labour Commissioner on the basis of man days and absorb the worker concerned as regular employee as identical worker with much lesser number of man days and grant all the monetary benefits as per the memorandum of settlement dated 30.08.1992 and 17.09.1993.

3. On the other hand the management has filed its written statement on 28.10.2021 in which it has submitted that the reference is not maintainable either in fact or in law. The panel of seniority of supply workers/labourers was prepared on the basis of directives of Labour Commissioner Bihar in the year 1999 by the committee under the Chairmanship of Dy. Labour Commissioner, State of Bihar, Bokaro Steel City in terms of Tripartite agreement dated 30.08.1992 for payment of extending additional benefit of Rs. 405/- per month by DVC as inability to absorb them. Accordingly two lists one of 594 and another of 95 were prepared and approved by the Director (HRD) wherein name of Shri Rajesh Kumar along with other 3 labourers did not figure in the seniority panel as they were engaged by the contractor to perform job of their Munsi/Supervisor not as a worker. On the basis of non inclusion of their names in the above list additional benefits of Rs. 405/- was not given to them. The seniority of contractor workers was determined as recommended by the committee headed by Dy. Labour Commissioner State of Bihar, Bokaro Steel City in terms of tripartite agreement dated 30.08.1992. So the Regional Labour Commissioner (Central) has no jurisdiction to conciliate Industrial Dispute as such. Rajesh Kumar should have approached for above Industrial Dispute to the appropriate authority under Labour Department i.e. Government of Jharkhand and not RLC (C) as per jurisdiction. The Seniority panel so determined by the committee was published on all the notice board vide letter no. BT/CE/IR(R)-1190 dated 16.03.1998 but Shri Rajesh Kumar failed to represent to DLC, State of jurisdiction and the Chairman of the Committee and so he was not entitled for the above benefits. As per tripartite agreement financial benefit has been given to those who had been

enlisted and not to be given any benefits with retrospective effect to Rajesh Kumar the petitioner. As per letter of RLC (C) dated 16.08.2002 the name of Rajesh Kumar was not included in the seniority list but he falsely mentioned that his name was included. Further the committee was formed in terms and conditions mentioned in the Addl. Director (IR) Letter dated 31.05.2006 and dated 01.02.2007 for consideration of the seniority with the following conditions:

i) An undertaking is to be taken from the individual contractor workers that they will not claim any additional benefit from retrospective effect.

ii) After obtaining the above undertaking the committee was constituted to determine the inter-seniority amongst the four contractor labour including Rajesh Kumar.

iii) After determination of seniority his position was duly fixed at the bottom of the existing list of the contractor labours at BTPS.

iv) The additional benefit was to be given after fixation of seniority.

v) Sri Rajesh Kumar did not furnish undertaking but having been paid additional benefits since 20.05.2006 and his seniority was correctly being placed.

vi) Sri Rajesh kumar was neither party to the settlement dated 30.08.1992 and 12.08.1993 as he did not come within the purview of the workmen his job being of supervisory in nature. He was never workmen under the contractor M/s. S.P. Yadav under BTPS and his total works/mandays worked as a supervisor can not be considered equal to the other workers for considering his seniority so he was excluded.

vii) He was engaged as Munsi/Supervisor to look after supervisor job and preparation of bills of said contractor M/s S.P. Yadav.

viii) RLC (C) is not the competent authority to determine seniority as the Labour Commissioner Bihar Patna was signatory of the Tripartite Agreement dated 24.12.1999. As per the High Court Order in the W.P. No. 101/2001, Hon'ble Court observed that petitioner move to ALC Patna who recommended the case of petitioner but it is found that petitioner approached to the ALC (C) Hazaribagh who was not competent authority as the said agreement was made before the Labour Commissioner Bihar.

(ix) As per enquiry report submitted by Labour Commissioner Hazaribagh it shows that Rajesh Kumar worked since 1997 whereas his letter forwarded dated 26.04.1994 shows that he himself had written that he worked from 1989 and also duly certified by the concerned contractor M/s S.P. Yadav on the body of letter that he has been working since 1989.

(x) Rajesh Kumar was out of the purview of the workmen and not covered by the tripartite agreement to avail any benefit.

(xi) Rajesh Kumar not enlisted as supply worker so payment of benefit of Rs. 500/- per month was discontinued and at last it was prayed to decide the reference in favour of the management of DVC and reject the claim of the petitioner.

4. The case record shows that additional written statement has also been filed on behalf of the workman in which they have stated that Central Government being the appropriate Government u/s 2(a) of the I.D. Act, 1947 has been pleased to refer this present industrial dispute for adjudication. The concerned workman has been working as contractor's labour since 1987 under the Registered Contractor namely M/s. S.P. Yadav at DVC Bokaro Thermal Power Plant in the job of DVC which is perpetual and perennial in nature. The management of DVC at BTPS has few other contractors employed in the job of the Plant and the Management of DVC records and maintains the inter-se seniority list of such contract workers working on the job which is so done so that such supply workers who have been employed for decades together against the permanent job of DVC are permanently regularized under the management of DVC itself on the basis of the number of mandays worked by such workers and they are paid all such monetary and other benefits at par with the workers directly appointed by the DVC having been put on the rolls of the DVC, BTPS. The management of DVC entered into Tripartite Agreement with such Contractor's Workers Union from time to time and has been executing agreements resolving all the disputes. By virtue of Memorandum of Settlement/Tripartite Agreement dated 30.08.1992 and 17.09.1993 between the management of DVC and DVC Labourers' Union Bokaro Thermal and United Contractors' Workers Union, the Chief Engineer-1 BTPS prepared a panel/seniority list of such Contractors' Workers on 10.07.1998 in which the name of the workman concerned namely Rajesh Kumar was not included although he has completed 2981 mandays upto the cut off date 28.02.1997 which is illegal whereas in the seniority position he must have been at Serial No. 6, which has deliberately ignored. It has not

only deprived him of regularization of his service under DVC but has caused heavy monetary loss. The concerned workman approached the management of DVC BTPS by way of writing various letters but nothing was done by the management and being aggrieved by the same the workman filed a Writ before the Hon'ble High Court of Jharkhand, Ranchi in CWJC No. 101 of 2000(R) in which the Hon'ble Court directed the workman to approach the competent authority or to raise an industrial dispute and thereafter the concerned workman again made representation before the management but again nothing was done and thereafter he raised grievance before the Regional Labour Commisioner (Central) Dhanbad in which the management raised baseless objection. The concerned workman prayed before the R.L.C. (Central) Dhanbad or physical verification of mandays of the work performed by the workman and for determination of his seniority on the basis of mandays worked in which the RLC (Central) Dhanbad entrusted the job of spot examination of records maintained by the DVC to the ALC (C) Hazaribagh vide his order dated 16.10.2021 and thereafter the physical verification on their records lying with the management were carried out and the report was submitted dated 25.01.2002 wherein the details of mandays right from the year 1987 to February 1997 for which he worked has been noted. The A.L.C.(C) Hazaribagh has also verified the attendance of the workman from the P.F. and other relevant documents from March, 1997 to December, 1997 and thereafter mandays worked has been verified till 2001 as the management failed to produce the records after February, 1997 and on that basis the R.L.C.(C) Dhanbad directed the management of DVC vide letter dated 12/16.04.2002 certifying the mandays worked by the concerned workman Rajesh Kumar. As the concerned workman was working at O&M Deptt of BTPS regularly from the year 1987 and also meeting the required number of attendance in a year and his name must have been included in that period for the registration as per the Memorandum of Settlement. In such a position the management of DVC initially granted the benefits of the settlement from 30.08.1992 to 17.09.1993 but surprisingly his name could not find place in the panel and the direction of the R.L.C.(C) Dhanbad was not complied by the management. Subsequently the genuine case of the workman was realized by the management and ultimately the Additional Director DVC by his order dated 11th February, 1989 asked the Chief Engineer-1, BTPS to include the name of Rajesh Kumar along with 4 others in the seniority list but the approval to the inclusion was accorded in the year 2006 which is gross injustice on the part of the management of DVC and ultimately it was prayed to hold the action of the management of DVC BTPS is illegal and improper and regularize him with retrospective effect with all the monetary benefits.

5. A rejoinder has also been filed to the additional written statement of the workman by the management in which the management has taken the stand inter-alia that Sri Rajesh Kumar was engaged in Supervisory Job/Munshi and he does not come within the purview of 'Workman' and has denied all the stand taken by the workman in the additional W/S and repeated the stand taken in its W/S.

6. A rejoinder of the workman has also been filed separately to the W/S of the management in which all the points and grounds taken by the management has been denied and the stand taken in its W/S and additional W/S has been repeated.

7. **Issue**

"Whether the supply worker Shri Rajesh Kumar has been unjustifiably denied the seniority in the empanelment list drawn from Contract workers of DVC, BTPS despite working from 1987 in the BTPS, DVC plant? If yes, then what remedies he is entitled to?"

8. In support of his case the workman has examined himself as WW-1. He has also submitted the following documentary evidence:

Exhibit W-1 – Verification of mandays letter dated 25.01.2002 written by the ALC (C) Hazaribagh to RLC (C) Dhanbad

Exhibit W-2 – Letter dated 12/16.04.2002 of RLC (C) Dhanbad to the Chief Engineer-I, BTPS DVC, Bokaro Thermal, Bokaro

Exhibit W-3 – Certificate dated 21.10.1998 issued by M/s. S.P. Yadav

Exhibit W-4 – Pass for contractor labourer

Mark 'X' for Identification – Photocopy of payment register.

9. On the other hand the management has examined MW-1 Tanisha Silvi and MW-2 Partha Sarathi Mukherjee. The management has submitted the following documentary evidence:

Mark 'Y' for Identification – Office Circular dated 27.01.2011

Mark 'Y/1' for Identification – Affidavit of Shiv PujanYadav

Mark 'Y/2' for Identification – Letter dated 06.10.2025 of M/s. S.P. Yadav to the Branch Manager, SBI, BTPS, Bokaro Thermal

Mark 'Y/3' for Identification – Letter dated 29.09.2025 of M/s. S.P. Yadav to the Branch Manager, SBI, BTPS, Bokaro Thermal

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

11. The Ld. Counsel on behalf of the workman has submitted that the concerned workman Rajesh Kumar was working since February, 1987 in DVC as Contract worker continuously for more than 240 days in every year but he has not been given the benefit of the Tripartite Agreement with the management in the year 1992-1993 and in the year 1998 the seniority list that was published does not include his name whereas his name should have been included on Serial No. 5 and he was denied the benefit and raised industrial dispute before the ALC Hazaribagh. Management says that he was working as Supervisor/munshi whereas he has never worked as Supervisor or Munshi. The ALC has also made spot verification of the documents of the management and found that he was working as supply worker. He was also being paid by the management and ultimately it was prayed to allow this case in favour of the workman.

12. oner Rajesh Kumar is the eldest son of the Contractor M/s. S.P. Yadav and he was supervising his work of contract and working as Supervisor/Munshi and that is why the name of Rajesh Kumar was not included in the list of panel of the contractor workman because he is not workman under the definition of section 2(s) of the I.D. Act, 1947. The Tripartite Agreement was prepared on the direction of the Labour Commissioner, Bihar, Patna on 30.08.1997 and therefore the Central Government Regional Labour Commissioner has no jurisdiction and for all these things it was prayed to hold that the workman is not entitled to any relief.

13. On perusal of the oral testimony of WW-1 Rajesh Kumar it appears that as per his affidavit he was working as contract worker since February, 1987 in DVC continuously for more than 240 days in every year but he has not been given the benefit of the Tripartite Agreement with the management in the year 1992-1993 and in the year 1998 the seniority list that was published does not include his name whereas his name should have been included on Serial No. 6 and he was denied the benefit and raised industrial dispute before the ALC Hazaribagh. Management says that he was working as Supervisor whereas he has never worked as Supervisor or Munshi. The ALC has also made spot verification of the documents of the management and found that he was working as workman. He was also being paid by the management and ultimately it was prayed to allow this case in favour of the workman. In cross-examination he has stated that in the panel list of 1998 of the DVC his name was not included and therefore he has filed this case. He had approached the Hon'ble Jharkhand High Court two times for this. In CWJC No. 101/2000 it was directed by the Hon'ble High Court to approach the competent authority and file representation there. As per the same he filed representation before the RLC Dhanbad. He was engaged to work in DVC by the contractor M/s. S.P. Yadav. The Tripartite Agreement was entered into on 03.08.1992 and 17.09.1993 and as per the same Dy. CLC Bokaro is the competent authority.

14. As regards the documentary evidence of the workman, **Exhibit W-1** is the letter dated 25.01.2002 written by the Assistant Labour Commissioner (C) Hazaribagh to the RLC (C) Dhanbad regarding verification of mandays of the work performed as a contract labour in D.V.C. BTPS, Bokaro Thermal vis-à-vis empanelment of the name in the list which reveals that the ALC Hazaribagh visited the BTPS on 22.01.2002 to conduct the verification and assessment of mandays work by Sri Rajesh Kumar under the contractor and the management produced the muster roll and wages sheet from 1987 to 1997 in which the mandays was worked out and the same has been detailed in this letter. It also reveals that after February 1997 to 2001 the workdays done by Rajesh Kumar was assessed from PF Statement and return that has also been detailed therein. **Exhibit W-2**is the letter dated 12/16.04.2002 written by RLC (C) Dhanbad to the Chief Engineer-I, BTPS DVC, Bokaro Thermal, Bokaro regarding empanelment of the workers deployed by the then contractors at BTPS in accordance with the Memorandum of Settlement dated 30.08.1992 and 24.12.1999 and writ petition filed by Sri Rajesh Kumar bearing No. CWJC 101/2000 dated 14.08.2001 and it was enquired into the said matter by ALC(C) Hazaribagh and the detailed report was submitted to this office. The total number of attendance as per the same has been detailed in this letter and accordingly it was requested to implement the said settlements within 30 days from the date of the receipt of this letter and submit the implementation report to this office to take further steps as per provision of I.D. Act, 1947. **Exhibit W-3** is the Certificate dated 21.10.1998 issued by M/s. S.P. Yadav, Proprietor in which it has been certified that Sri Rajesh Kumar son of Sri Shiv Pujan Choudhary of Bokaro Thermal has been working under the contract as a Mazdoor for work in DVC, BTPS 'B' (O&M)

Coal Handling Plant since 16.02.1987. **Exhibit W-4** is the copy of Gate Pass of the contractor labourer in the name of Rajesh Kumar issued by CISF, Government of India, BTPS (DVC) Bokaro which shows that he has the access at the actual place of work and was permitted to go there through this pass. Another document is **Mark 'X' for identification** which is the photo copy of the payment register in the name of the contract Mazdoors in which on Serial No. 4 the name of Rajesh Kumar has been mentioned.

15. Now as regards the evidence of the management, MW-1 Tanisha Silvi, Manager H.R. of BTPS, DVC, Bokaro Thermal, Bokaro has deposed that Rajesh Kumar is the eldest son of the Contractor M/s. S.P. Yadav and he was supervising his work of contract and working as Munshi and that is why the name of Rajesh Kumar was not included in the list of panel of the contractor workman because he is not workman under the definition of section 2(s) of the I.D. Act, 1947. The Tripartite Agreement was prepared on the direction of the Labour Commissioner, Bihar, Patna on 30.08.1997 and therefore the Central Government Regional Labour Commissioner has no jurisdiction and for all these things it was prayed to hold that the workman is not entitled to any relief. She has further stated that she has identified the photo copy of the office circular dated 27.01.2011, photo of notary affidavit of S.P. Yadav dated 13.09.1999, monthly payment sheet dated 06.10.2025 and photo copy of Ex-gratia payment sheet dated 29.09.2025 marked 'Y' to 'Y/3' respectively for identification. In cross-examination she has stated that she has never made the physical verification of the concerned workman. She has not filed any document to show that the concerned workman was working as supervisor. The appropriate government of the DVC is Central Government. The name of the workman was not included in the list of panel because he was working as supervisor.

MW-2 Partha Sarathi Mukherjee is Senior Manager H.R. of BTPS, DVC, Bokaro Thermal, Bokaro and he has stated that Rajesh Kumar was eldest son of contractor M/s. S.P. Yadav and was working as Munshi and Supervising the work of his father. On 30.08.1992 Tripartite Settlement was done on the direction of Labour Commissioner, Patna under the chairmanship of Dy. CLC, Bokaro. On 16.03.1998 the Seniority list of the labourers were published by the management but Rajesh Kumar had not given his written application deliberately to Dy. CLC Bokaro and later on he raised this dispute before the ALC, Hazaribagh which is not valid. All the labourers have given undertaking on the direction of DVC Head Office but Rajesh Kumar had not given the same. Vide notification dated 19.08.2010 the appropriate government became the Central Government and prior to that the ALC, RLC of the Central Government had no right to interfere in the matter of DVC. In cross-examination he has stated that he was appointed in year 2010. He has made supervision of Rajesh Kumar. He has no circular or notification regarding the work of Rajesh Kumar as Munshi. On seeing the letter dated 04.06.2001 the witness says that it may be that in the year 2002 DVC was under the Central Government. This witness has avoided the answer of the question whether he has filed any document before the Court to show that Rajesh Kumar was working as Supervisor.

16. Now as regards the documentary evidence of the management, on perusal of the first document that is **mark 'Y' for identification** it appears that this is an office circular dated 27.01.2011 which reveals that consequent upon the amendment of the Industrial Dispute Act 1947 vide Notification dated 19.08.2010 and 15.09.2010 of the Government of India, Ministry of Labour & Employment, the Central Government would be the Appropriate Government for establishment of the DVC under the I.D. Act. The Second document is **mark 'Y/1' for identification** that is photo copy of the affidavit of S.P. Yadav which reveals that he is also known as Shiv Pujan Choudhary but it has not mentioned anything regarding the concerned workman Rajesh Kumar as the management is claiming that he was working as Supervisor/ Munshi of S.P. Yadav. The third document is **mark 'Y/2' for identification** which is photo copy of letter of Shiv Pujan Yadav to the Branch Manager, SBI, BTPS, Bokaro Thermal regarding the disbursement of monthly payment for the month of September 2025 to different workers from M/s. S.P. Yadav A/c No. 11209875646 and which bears the name of Rajesh Kumar on Serial No. 31 as worker. The fourth document that is **mark 'Y/3' for identification** is photo copy of letter of Shiv Pujan Yadav to the Branch Manager, SBI, BTPS, Bokaro Thermal regarding the disbursement of Ex-gratia payment for the period from 01.04.2024 to 31.03.2025 to different workers from M/s S.P. Yadav A/c No. 11209875646 and this also bears the name of Rajesh Kumar on Serial No. 31 as worker.

17. As regard the contention of the Ld. Counsel on behalf of the management that the petitioner Rajesh Kumar does not come under the purview of definition of the workman as he was working as Supervisor/Munshi of his father contractor M/s. S.P. Yadav and so his name was not included in the empanelment but in support of his contention he has not been able to submit even a single documentary evidence which has also been admitted in Para-27 of the cross-examination of MW-1 Tanisha Silvi and MW-2 Partha Sarathi Mukherjee has avoided the answer of this question in Para-

23 of his cross-examination. On the other hand Exhibit W-1, Exhibit W-2, Exhibit W-3 and Exhibit W-4 go to prove that Rajesh Kumar was working as contract labour in the D.V.C., BTPS, Bokaro Thermal and on verification it was found genuine and these documents also reveal the mandays from 1987 to 1997 and this also reveals regarding the P.F. Statement of Rajesh Kumar. He was also issued a Gate Pass which proves his entry and availability at the place of work as contract worker and the copy of wage register of Rajesh Kumar as well as the others has also been submitted which further corroborates the case of the Rajesh Kumar that he was working as contract labour in D.V.C., BTPS. Not only this, the documents submitted on behalf of the management (Mark 'Y/2 and 'Y/3'for identification) also reveal that Rajesh Kumar was made payment in his account as worker from the account of contractor M/s. S.P. Yadav and therefore, the contention of the Ld. Counsel on behalf of the management that Rajesh Kumar was not working as contract labour is hereby rejected.

18. Now as regard the contention of the Ld. Counsel on behalf of the management that on the basis of directive of the Labour Commissioner, Bihar in the year 1999 by the committee under chairmanship of Dy. Labour Commissioner, State Bihar, Bokaro Steel City in terms of Tripartite Agreement dated 30.08.192 prepared list of empanelment and therefore the appropriate authority in this case is State Government whereas this case has been referred to this Tribunal by the Central Government, is also not acceptable in view of admission of MW-1 in Para-29 of her cross-examination that the appropriate government of the D.V.C. is Central Government and therefore even if the seniority list was prepared on the direction of the Labour Commissioner, Patna, Bihar there is no bar for the workman Rajesh Kumar to raise the industrial dispute before the ALC/RLC (Central).

19. Thus in view of the ALC's spot verification report, provident fund proof, gate pass and payment list of the wages available on the case record this Tribunal is of the opinion that Rajesh Kumar has been able to establish that he has been working as contract labour in D.V.C., BTPS since 1987 therefore it is held that the supply worker Sri Rajesh Kumar has been unjustifiably denied the seniority in the empanelment list drawn from the contract workers of D.V.C., BTPS despite working since 1987 under BTPS D.V.C. Plant and accordingly he is entitled to the inclusion of his name in the seniority list and the management is directed to include his name in the seniority panel and regularize him w.e.f. February, 1987 with all the consequential benefits. 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, 10 अगस्त, 2026

का.आ. 1772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीसीएल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **कन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय**, **धनबाद-I,** के पंचाट **(संदर्भ संख्या 53**/2002) को प्रकाशित करती है,

[सं. एल-20012/1/2002-आईआर (सीएम-I)]

जयदीप यादव, उप निदेशक

New Delhi, the 10th August, 2026

S.O. 1772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 53/2002***)* of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of ***BCCL,*** and **their workmen.**

[No. L-20012/1/2002– IR (CM-I)]

JAIDEEP YADAV, Deputy Director

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. 53/2002

Parties:

Employers in relation to the management of Kusunda Area

of M/s. BCCL, Kusunda, Dhanbad

AND

Their Workmen

Present: **ShriSachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :-Sri S.N. Ghosh, Advocate

For the workmen :-Sri D. Mukherjee, Advocate

State : Jharkhand. Industry:-Coal

Dated 02/07/2026

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-20012/1/2002-IR(C-I) dated 09/05/2002 has been pleased to refer the following dispute between the employer i.e. management of Kusunda Area of M/s. BCCL, Dhanbad and their workman through Vice President, Mine Mazdoor Union, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of M/s BCCL in not regularizing Sri Sushil Kumar Singh as Loading Supervisor/Loading Munshi is fair and justified? If not, to what relief is the concerned workman entitled and from what date?"

2. The case of the workman as per the written statement filed on his behalf is that the concerned workman namely Sri Sushil Kumar Singh is a permanent employee and he was transferred as sampling attendant to Dhansar Colliery in November 1999 and he was directed to report for duty to the Officer Incharge for loading of coal under office order no. BCCL/Dhan/A-6/99/1799 dated 28.11.1999 issued by the Project Officer of Dhansar/Industry Colliery and he was assigned the responsibilities of supervision of over loading/under loading of coal in wagons which was not in consonance with the designation of the loading attendant. In the above capacity of supervising the over loading/under loading of coal he was permanently made to work in the 3rd shift at Dhansar Railway Siding where from the coal is loaded in wagon. The remaining 1st and 2nd shift for the same job, two loading supervisors have been posted. The workman has not been issued any authorization for working as loading clerk/loading supervisor only for the purpose of evading responsibility of the management to regularize the workman on the job he is doing and which will also entitle him for the wages payable to the loading clerk in view of the regular deployment of the workman as loading supervisor/ loading munshi w.e.f. Jan 2001. The action of the management in not regularizing Sri Sushil Kumar Singh as Loading Supervisor/Loading Munshi is not fair and justified particularly in view of the fact that the workman is exclusively managing the 3rd shift and during the same job which his co-worker Sri Y.P. Singh and Kapildeo Singh are doing with 1st& 2nd shift respectively. At last it was prayed to answer the reference in favour of the workman.

3. On the other hand the case of the management as per the written statement cum rejoinder dated 10.12.2002 filed on its behalf is that Sri Sushil Kumar Singh initially was appointed under the Coal Control Organization and subsequently on its closure Sri Singh was transferred and posted at Dhansar Colliery in the month of November 1999. Sri Singh is presently designated as Sampling Attendant in Grade "F" under SLU Grade "E". While he was posted at Dhansar Colliery his existing

designation and scale of pay was that of sampling attendant and hence he has been posted to Dhansar Colliery siding to look after the job of loading of wagons. His job included only to look after loading of wagons which is not the same job as that of loading clerk. It was further submitted that since Sri Singh is a sampling attendant, he was allowed to look after the job of loading of wagon and as such in no way Sri Singh be considered for regularization on the post of loading clerk as the scale of pay as well as the grade of loading clerk differs from the sampling attendant in which the workman is still working without any force by the management. It was further submitted that the workman has claimed his regularization as Loading Supervisor/ Loading Munshi which is not in tune with the actual state of affairs. The workman should either have claimed for regularization as loading supervisor or for regularization as loading Munshi in particular but inspite of that workman has claimed for regularization on the basis of either of which is illegal and ill motivated. He cannot claim regularization as loading supervisor/loading Munshi as his nature of job differs from that of sampling attendant. By way of rejoinder the management has admitted the case of the workman to the extent that he was transferred to Dhansar Colliery in November 1999 and under the office order as mentioned but he has further stated that it is incorrect to say as would be evident in the office order dated 28.11.1999 that he was asked to work as loading supervisor. The management has denied the rest of the stand taken by the workman in different paragraphs of the written statement and lastly prayed that Award be passed that the workman concerned is not entitled to any regularization as claimed.

4. A separate rejoinder has also been filed on behalf of the workman denying all the claims and stands taken by the management in its written statement and repeating the claim of the regularization of the workman.

5. **Issue**

"Whether the action of the management of M/s BCCL in not regularizing Sri Sushil Kumar Singh as Loading Supervisor/Loading Munshi is fair and justified? If not, to what relief is the concerned workman entitled and from what date?"

6. In support of his case the workman has submitted the following documentary evidence:

Exhibit W-1 – Copy of Office Order dated 07.07.2006

Exhibit W-2 – Copy of Office Order dated 13.07.2006

Exhibit W-3 – Copy of Office Order dated 18.07.2006

Exhibit W-4 – Copy of Office Order dated 17.08.2006

Exhibit W-5 – Copy of Office Order dated 17.10.2013

7. On the other hand the management has examined MW-1 Ghanshyam Prasad Sinha in support of his case and submitted following documentary evidence:

Exhibit M-1 – Copy of Office Order dated 28.11.1999

Exhibit M-2 – Copy of Letter dated 14.09.2001 written by Dy. Chief Personnel Manager, Kusunda Area to the ALC (C) Dhanbad in case of non-regularization of the workman Sushil Kumar Singh.

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

9. The Ld. Counsel on behalf of the workman has submitted that the workman Sushil Kumar Singh has been shown as Sampling Attendant in the Office Order dated 28.11.1999 but that is an error which was corrected later on vide office order dated 13.07.2006 and his designation is Sampling Assistant not Sampling Attendant. The management is taking from him the job of supervision of wagon under loading and over loading since 1999 but he has still not been regularized as loading supervisor/loading munshi like that of Sri Y.P. Singh and Kapildeo Singh. His work is of permanent nature and therefore claimed his regularization.

10. On the other hand the Ld. Counsel on behalf of the management has submitted that the workman Sushil Kumar Singh is Sampling Attendant and so he cannot be regularized at the post of loading supervisor/loading munshi because nature of job of both these post are different from each other and prayed to reject the claim of the workman.

11. On perusal of the documentary evidence of the workman i.e. **Exhibit W-1** which is office order dated 07.07.2006 issued by the Dy. Chief Personnel Manager, Kusunda Area it transpires that the workman Sushil Kumar Singh who was previously transferred from Dhansar Colliery to Area Office vide letter dated 03.06.2006 is hereby re-posted at Gondudih Colliery in his existing capacity under Sales & Dispatch Department keeping in view the Ref. Case No. 53 of 2002 and accordingly

he was released from Area Office w.e.f. 10.07.2006 with directive to report for duty to Project Officer/Agent, Gondudih Colliery. **Exhibit W-2** is the Office Order dated 13.07.2006 issued by Dy. Chief Personnel Manager, Kusunda Area and on its perusal it is evident that the designation of the workman Sushil Kumar Singh that has been indicated as Sampling Mazdoor in the Office Order dated 07.07.2006 should be read as Sampling Assistant and thus it is clear that his correct designation is Sampling Assistant and not Sampling Attendant or Mazdoor that has been mentioned in the written statement of both the parties as well as in the Office Order dated 07.07.2006. **Exhibit W-3** is the Office Order dated 18.07.2006 issued by the Project Officer, Gondudih Colliery which shows that Sushil Kumar Singh has now been transferred to Gondudih Colliery in his existing capacity under Sales & Dispatch Department and therefore he is directed to report for his duty to the Manager Gondudih Colliery for further assignment of work. **Exhibit W-4** is the Office Order dated 17.08.2006 and by this order the workman Sushil Kumar Singh, Sampling Assistant and one Sri Satrudhan Singh, Loading Clerk in Gondudih Colliery have been directed to supervise the coal transporting work from the Gondudih Colliery coal stock to the Railway Siding, K.D.S.-2 and maintain the entire record of the same and keep the same. **Exhibit W-5** is the Office Order dated 17.10.2013 issued by the Project Officer, Gondudih Colliery by which the workman Sushil Kumar Singh was attached with Md. Sagir Alam, Sr. Manager (Mining), Gondudih Khas Kusunda Colliery and he will work under his supervision.

12. As regards the evidence of the management, MW-1 Ghanshyam Prasad Sinha who is working as Welfare Inspector at Kusunda Area Office of M/s. BCCL has deposed that the workman was initially appointed in the office of coal controller and on its closure the workman was transferred to Dhansar Colliery siding in the year 1999 vide office order dated 28.11.1999 and his duty was to collect sample from the siding and get it tested from the laboratory. Though he was asked to look after the loading and unloading of wagons at Dhansar Siding as per office order but he could not perform the same and preferred the job of sampling attendant and accordingly he did the same. The salary of the workman is that of the sampling attendant which he was getting while working at the office of the coal controller. The work of sampling attendant is not that of loading munshi/loading supervisor and he is not legally entitled for regularization as such as he was transferred from coal controller office after its closure. In cross-examination he has stated that he cannot say all details of the area that the concerned workman is working in Dhansar Colliery. He has denied the suggestion that the workman is looking after the job of loading supervisor.

13. The documentary evidence of the management i.e. **Exhibit M-1** which is the Office Order dated 28.11.1999 issued by the Project Officer Dhansar/Industry Colliery says that vide office order no. 2849 dated 22.11.1999 of the Dy. Chief Personnel Manager, Kusunda Area, the workman namely Sushil Kumar Singh and 3 others named therein who have been posted in Dhansar shall be doing the work that has been mentioned against their name and designation at Dhansar Siding and they will contact the concerned officer of Dhansar Siding for their work. **Exhibit M-2** is the letter dated 14.09.2001 written by the Dy. Chief Personnel Manager, Kusunda Area to the ALC (C) Dhanbad regarding the industrial dispute for non-regularization of Sri Sushil Kumar Singh and in Paragraph-2 of the same he has admitted that Sushil Kumar Singh has been directed to look after the job of wagon loading at Dhansar Siding inter-alia.

14. Admittedly the concerned workman was appointed initially in the office of coal controller and on its closure he was transferred to Dhansar Colliery siding in the year 1999 vide office order no. 1799 dated 28.11.1999 **(Exhibit M-1)** and at the same time on perusal of **Exhibit W-2** which is office order dated 13.07.2006 issued by Dy. Chief Personnel Manager, Kusunda Area it is clear that his designation was Sampling Assistant though by mistake on several places it has been wrongly mentioned as Sampling Attendant and the Office Order dated 28.11.1999 (Ext.M1) is self-evident that the workman Sushil Kumar Singh was placed to supervise the work of wagon under loading/ over loading and that is why the reference order speaks about the adjudication whether the workman is entitled for regularization on the post of Loading Supervisor/Loading Munshi. Office Order dated 17.08.2006 **(Exhibit W-4)** also makes it clear that after the workman Sushil Kumar Singh was transferred to Gondudih Colliery he was again deputed to supervise the work of coal transporting and maintain the entire record for the same. In Paragraph-2 of the letter dated 14.09.2001 issued by Dy. Chief Personnel Manager, Kusunda Area in the name of ALC (C) Dhanbad **(Exhibit M-2)** also the management has admitted that the workman Sushil Kumar Singh has been directed to look after the job of Wagon Loading at Dhansar Siding and MW 1 has also admitted the same though he further added that but the workman preferred the job of sampling attendant but he has no corroborating documentary evidence of it that he preferred to act as sampling attendant instead of the assigned job of supervision of loading and unloading of wagon so this portion of his oral evidence can not be relied and so all these things go to establish that though the designation of the workman Sushil Kumar Singh was Sampling Assistant, since the year 1999 itself he was doing the work of

supervision of the wagon loading /unloading and as the work of supervision of wagon loading and unloading is perennial and permanent nature of job and the concerned workman is doing this job for such a long time, this Tribunal is of the opinion that he is entitled for regularization as Loading Munshi.

15. Thus on the basis of the above discussion of the facts, circumstances and materials available on the case record this Tribunal finds and holds that the action of the management of M/s. BCCL in not regularizing Sri Sushil Kumar Singh as Loading Supervisor/Loading Munshi is neither fair nor justified and he is entitled to be regularized as Loading Munshi since January 2001. 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, 10 अगस्त, 2026

का.आ. 1773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीसीएल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण**-सह-**श्रम न्यायालय**, **धनबाद-I,** के पंचाट **(संदर्भ संख्या 35**/2009) को प्रकाशित करती है,

[सं. एल-20012**/41/**2009-आईआर (सीएम-I)]

जयदीप यादव, उप निदेशक

New Delhi, the 10th August, 2026

S.O. 1773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 35/2009*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of ***BCCL,*** and **their workmen.**

[No. L-20012/41/2009– IR (CM-I)]

JAIDEEP YADAV, Deputy Director

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. 35/2009

Parties:
Employer in relation to the management of NEE Department, Koyla Bhawan Of M/s. BCCL, Koyla Nagar, Dhanbad
AND
Their Workman

Present: Shri Sachindra Kumar Pandey
Presiding Officer

Appearances:
For the Employers :- Sri N. Nath, O.S. Legal H.Q
For the workman :- None.
State : Jharkhand. Industry:-Coal
Dated 22/07/2026

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-20012/41/2009 -IR(CM-I) dated 29/05/2009 has been pleased to refer the following dispute between the employer i.e. management of NEE Department, Koyla Bhawan of M/s. BCCL, Dhanbad and their workman through Divisional Secretary, Bihar Colliery Kamgar Union, Saraidhella, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"i) Whether the demand of the Bihar Colliery Kamgar Union from the management of NEE Department of M/s. BCCL for correction in the seniority list of EDP personnel, T&S Gr. D working in different areas/reg. stores and HQ office of BCCL and cancellation of promotion given vide letter dated 01.02.2008 is justified and legal?

ii) To what reliefs are the workmen concerned entitled?"

FINAL SENIORITY LIST OF JR. D.E.O./JR. P.V.O. IN TECH. GR. 'D' WORKING IN DIFFERENT COLLIEIRIES AREAS/H.QTRS. OF BCCL.

Sl. No.	Name	Qualification	Date of Apptt.	Date of Entry in Present Grade	Place of Posting
1.	Sri Lalu Yadav	B.A (Hons)	16.2.94	28.10.95	Mohuda Unit (RS Com. Cent.)
2.	Ashok Kr. Shaw	B.Com	15.9.92	21.11.95	RS Lodna Area
3.	Sanjay Kr. Gupta	B.A.	15.9.92	21.11.95	-do-
4.	Pradip Kr. Saw	M.Com	15.9.92	21.11.95	RS Lodna
5.	Biswanath Ghosh	M.Com.	8.1.93	25.11.95	RS Bhowra
6.	Mantosh Banerjee	B.Com.	20.1.92	28.11.95	Lodna Area
7.	Abhijit Bhattacharjee	B.Com(Hons)	29.4.94	28.11.95	RS Bhowra Area
8.	Subir Mazumdar	B.Com	20.11.90	1.12.95	CS Ekra
9.	Rama Shankar Tiwary	B.Com(Hon)	12.9.92	1.12.95	PB Area
10.	Sushil Kr. Soren(ST)	B.A.	9.9.88	1.12.95	RS Kusunda
11.	Murari Singh	B.A.	30.5.90	1.12.95	-do-
12.	Uday Shankar Paul	B.Com	25.12.92	1.12.95	RS C.V.Area
13.	Surendra Kr. Verma	M.A.(Hindi)	23.11.93	1.12.95	RS Lodna Area
14.	Dilip Kumar (SC)	B.Com.LLB	28.9.93	2.12.95	CS Ekra
15.	Abhay Kr. Singh	B.A.	10.2.84	2.12.95	Bhowra R.S
16.	Shib Shankar Ghosh	B.Com	16.3.93	6.12.95	RS Moonidih
17.	Smt. Aruna Sinha	I.A.	25.9.90	8.12.95	Moonidih WJA
18.	Sri A.K.Sinha	I.A.	28.9.93	8.12.95	-do-
19.	Rakesh Kumar	B.A. Pt.-I	23.7.92	8.12.95	Mohuda Unit
20.	S.N.Ahmed Khan	I.A.	21.12.91	8.12.95	Lodna Area
21.	A.K. Mishra	I.Com	10.4.87	8.12.95	RS WJA Moonidih
22.	Vinod Paul	B.Com(Hons)	22.1.93	8.12.95	-do-
23.	Satyadeo Sharma	B.Sc.	02.5.89	9.12.95	RS Kusunda
24.	Sri R.P.Srivastava	B.Sc., MBA	22.9.89	12.12.95	RS Sudamdih
25.	B.K. Srivastava	M.A.	9.2.04	16.12.95	-do-
26.	Trilochan Mahato	B.Com	5.10.90	26.12.95	CV Area
27.	M.K. Mandilwar	M.A.(Hist.& SOCIO) LLB	21.5.92	21.1.96	Kustore Area.
28.	Md. Imtiyaz Ahmad	Pt-I BA	22.2.91	29.1.96	RS Katras Area
29.	Suresh Lal Verma	BA	29.11.90	30.1.96	-do-
30.	Pijush Vagad	B.Com(Hons)	17.3.93	12.2.96	Bastacolla Area.
31.	Ranjeet Kr. Rawani	B.A.	29.11.90	3.5.96	RS Block-II Area.
32.	V.K. Tiwari	B.Com(Hon)	4.6.93	9.9.96	Kustore Area.
33.	D.K. Singh	Matric	19.9.89	9.9.96	PB Area
34.	Smt. Sadhana Devi	I.A.	8.7.93	9.9.96	Bhalgora
35.	Sri Chandra Shekhar Prasad	B.Com LLB	15.9.92	9.9.96	Kustore Area
36.	B.K. Banerjee	B.Sc.(Hons)	7.12.92	9.9.96	-do-
37.	D.K. Gupta	B.A.	3.5.94	9.9.96	Bhalgora
38.	Sailendra Nath Dutta	I.Com	18.5.93	9.9.96	Bastacolla Area
39.	Muneshwar Prasad	B.A.	19.6.93	9.9.96	Kustore Area
40.	Soumendar	I.Sc.	30.6.94	9.9.96	Lodna Area

	Bhattacharjee				
41.	L.H.K.N.Sahdeo	B.Sc.	1993	9.9.96	EDP Koyla Bhawan
42.	Suresh Kr. Mahato	B.Com	5.4.91	9.9.96	Bhalgora
43.	J.P. Das	I.A.	17.1.93	9.9.96	Barora Area
44.	Md. Arman Ansari	B.Sc., P.G. Dip. in Com. Programme	26.6.94	9.9.96	CS Jealgora
45.	Arun Kumar	B.A.(Hons)	2.11.92	9.9.96	Barora Area
46.	Nelesh Kumar	I.Sc.	8.1.94	9.9.96	Bastacolla Area
47.	Sandip Banerjee	B.A.	9.12.91	9.9.96	-do-
48.	Kallol Bhattacharjee	I.Sc.	17.8.89	9.9.96	-do-
49.	Hridyanand Yadav	Matric	12.4.93	9.9.96	Chandodih Colliery
50.	Lakhandeb Rawani	Matric	—	9.9.96	Barora Area
51.	Sri S.K. Singh	I.A.	21.9.93	9.9.96	CS Kusunda
52.	Krishana Kishore Mahato	I.A.	—	9.9.96	Bhalgora
53.	G.C.Napit	I.A.	7.7.92	9.9.96	Barora Area
54.	Narayan Kumhar	I.A.	8.8.90	9.9.96	-do-
55.	Sunil Kumar	I.Sc.	4.11.91	9.9.96	Loyabad
56.	Rajkishore Sahu	B.A.(Hons)	3.6.91	18.6.96	RS Mohuda
57.	Tapan Kr. Chakraborty	B.Sc.	13.9.91	18.6.96	-do-
58.	Kedar Singh	B.Sc.	18.5.93	18.6.97	-do-
59.	Raj Kishore Mishra	B.Sc.	6.3.93	18.6.97	PB Area
60.	Ram Krishna Yadav	MA LLB	15.1.87	18.6.97	-do-
61.	Sachida Nand Pandey	BA(Hons)	15.9.94	18.6.97	CCWO Saraidhella
62.	Someshwar Chattoraj	B.Com	17.12.92	18.6.97	Sijua Area
63.	Mukund Ram	B.A. LLB Pt.I	27.3.93	18.6.97	-do-
64.	Biplab Sen	B.Sc.	16.2.93	18.6.97	RS Katras
65.	Nandlal Mistry	B.Com(Hons)	19.6.92	18.6.97	Sijua Area
66.	Gyanendra Pratap Singh	MA(Soci)	31.1.94	18.6.97	-do-
67.	Syed Md. Akram	B.A.(Hons)& Dip in software Technology	12.7.93	18.6.97	RS Lodna
68.	Pradip Kr.Ghosh	B.Com	21.9.94	18.6.97	Bastacolla Area
69.	Ram Kunwer Ram(SC)	MA(Soci)	27.5.93	18.6.97	Sijua Area
70.	Ram Yatan	MA LLB	6.3.93	18.6.97	Moonidih Area WJ
71.	Bankim Murmu(ST)	B.Com	21.9.91	18.6.97	Sijua Area
72.	Inderdeo Paswan(SC)	MA(Hindi)	28.4.93	18.6.97	-do-
73.	Bharat Kabidas(SC)	B.A.(Hons)	22.7.94	18.6.97	RS Sinidih
74.	Anil Kr. Mahato	B.Com.	13.7.94	18.6.97	Sudamdih
75.	Ram Sewak Bind	B.A.	3.3.90	18.6.97	RS Block-II Area
76.	Gulam Haider	B.A.	1.8.92	18.6.97	Sijua Area
77.	Madan Mohan Mahato	B.Sc.	12.0.91	18.6.97	Sudamdih
78.	Rabindra Prasad	B.Com(Hon)	20.7.94	18.6.97	Sijua Area
79.	Sri Sada Nand Pd. Singh	B.A.	12.2.94	18.6.97	RS Katras
80.	Syid Md. Mazhar Alam	B.Com	27.2.93	18.6.97	Moonidih WJ Area
81.	Mahendra Paswan(SC)	Madayama	18.6.90	18.6.97	P.B.Area
82.	S.K. Bhattacharjee	B.A.	8.6.93	18.6.97	Moonidih WJ Area

83.	Ramanand Ram	B.A.	4.11.92	18.6.97	RS Block-II Area
84.	Kartik Mistry	B.A. (Hons)	31.12.92	18.6.97	-do-
85.	Manoj Kr. Singh	B.Com	2.9.93	18.6.97	Sijua Area
86.	Uttam Kr. Seal	B.A.	14.1.90	18.6.97	Block-II Area
87.	Manoj Kumar	B.Com(Hons)	21.9.91	18.6.97	RS Lodna
88.	Amitav Dey	B.Com.	—	18.6.97	Bhalgora
89.	Sunil Prasad	B.A.	1.12.89	18.6.97	RS Katras
90.	Swapan Kr. Mondal (SC)	B.Sc.	12.12.89	18.6.97	Sijua Area
91.	Satyendra Kumar	B.A.(Hons)	26.2.90	18.6.97	Kusunda Area
92.	Awadh Kishore Jha	B.A.	26.2.90	18.6.97	RS Sinidih
93.	Jagan Shaw	B.A.	23.7.94	18.6.97	RS Katras
94.	Baldeo Prasad	B.Com	20.7.94	18.6.97	-do-
95.	Tarun Sinha	B.A.	9.4.90	18.6.97	PB Area
96.	Rajendra Pd. Pandey	M.A.	13.9.93	18.6.97	PB Area
97.	Tarak Nath Chakraborty	B.Com	24.2.93	18.6.97	-do-
98.	Surya Deo Choudhury(SC)	B.Com(Hons)	15.11.93	18.6.97	-do-
99.	Shiv Shankar Pandey	B.Com	12.2.94	18.6.97	-do-
100.	Tarun Kr. Mukherjee	B.Sc.	23.9.94	18.6.97	RS Bhowra
101.	Kaleshwar Yadav	B.Sc.(Hons) DCO	13.10.92	18.6.97	Moonidih WJA
102.	Ramesh Chand Rawani	B.Com	22.9.92	18.6.97	RS Bastacolla
103.	Krit Kamal Singh	B.Com	24.10.94	18.6.97	Kusunda Area
104.	Rajesh Kr. Sahay	B.Sc.	19.1.95	18.6.97	EDP Deptt. Koyla Bhawan
105.	Dipu Kumar	B.A. Pt. II	16.11.93	18.6.97	RS Block-II Area
106.	Nilanjan Das	B.Sc.(Hons)	18.8.94	18.6.97	Sudamdih
107.	Abhijit Das	I.Sc.	30.12.94	18.6.97	RS Katras
108.	Manoj Kr. Singh	M.Com.	13.12.94	18.6.97	RS Lodna
109.	Smt. Lila Das	Matric	31.12.93	18.6.97	Kustore Area
110.	Smt. Sangita Devi	I.A.	7.9.94	18.6.97	R.S. Lodna Area
111.	Sri Ashok Kr. Srivastav	Matric	1.3.94	18.6.97	RS Barora
112.	Malay Kr. Chakraborty	—	—	18.6.97	RS Mohuda
113.	Manoj Kr. Shaw	B.Com(Hon)	5.1.95	18.6.97	EDP Koyla Bhawan
114.	Devendra Nath Singh	M.A.	2.12.94	18.6.97	Bhalgora Area
115.	Subrata Banerjee	B.Sc.	17.2.96	18.6.97	CV Area
116.	Nand Lal Pandey	—	—	18.6.97	RS Bastacolla Area
117.	Kaushik Chatterjee	I.A. Dip in Comp.	18.8.94	18.6.97	CS Jealgora.
118.	P.P.Choudhury	B.Com.	30.9.94	18.6.97	-do-
119.	Mahadeo Yadav	—	—	18.6.97	Sudamdih
120.	Bipin Kumar	I.Com	8.2.93	18.6.97	Barora Area
121.	Agam Kr. Singh	B.Com(Hons)	10.9.93	18.6.97	Sijua Area
122.	Binod Kr. Pandey	—	—	18.6.97	RS Block-II Area
123.	Ajit Kr. Manjhi	H.S.	23.11.89	18.6.97	-do-
124.	Nakul Mahato	—	—	18.6.97	RS Block-II Area
125.	Aditya Kr. Pandey	Madhyamik(WB)	18.11.87	18.6.97	-do-
126.	Parma Nand Rai	Matric	18.12.87	18.6.97	RS Block-II Area.
127.	Pancham Kr. Gope	B.A.	1.11.94	18.6.97	RS Katras
128.	Kartik Prasad Mahato	Matric	28.12.94	18.6.97	-do-

129.	Hemant Kr. Choudhury	BA(Hons)	4.7.95	31.12.98	Bhewra Area
130.	Amit Kr. Banerjee	B.Sc.	20.5.95	31.12.98	CV Area
131.	Ambika Prasad Singh	B.Sc.	24.8.95	31.12.98	Kusunda Area.
132.	Ritesh Kumar	I.Sc.	28.1.97	31.12.98	Ghanoodih Colly.
133.	Gopal Krishna Pathak	I.Sc.	29.11.94	31.12.98	Kusunda Area
134.	Kalol Chatterjee	B.Sc.(Hon)	17.4.95	31.12.98	Mohuda Store
135.	Jitendra Nath Sharma	MA(LSW)	18.1.96	31.12.98	Lodna Area
136.	Sri Haripado Rewani	B.Com	10.1.96	31.12.98	R.S. Lodna
137.	Md. Aurangjee	B.Com	5.5.95	31.12.98	PB. Area
138.	Miss Uma Rani Dutta	B.A	30.8.95	31.12.98	Bhowra Area
139.	Sri Hari Bahadur	M.Com	19.12.95	31.12.98	Sijua Area
140.	Dhananjay Rai	B.Com	22.3.95	31.12.98	Moonidih Area W.J
141.	Smt. Meeta Sahai	M.A.	8.12.95	31.12.98	Sijua Area
142.	Sri Rana Pratap Mukherjee	B.Com.	18.10.94	31.12.98	Kusunda Area
143.	Surya Mohan Jha	B.Com	25.1.96	31.12.98	RS Lodna
144.	Azmat Alam	I.A.	24.5.95	31.12.98	Bastacolla Area.
145.	Shanti Moy Das	B.Sc.	11.2.95	31.12.98	C.V. Area
146.	Bidya Nand Singh	B.A.(Hons)	20.7.95	31.12.98	Moonidih WJA
147.	Rama Nand Singh	B.A.	21.6.95	31.12.98	WJ Area Moonidih
148.	Sudhir Kr. Singh	B.Sc.	14.1.93	31.12.98	CV Area
149.	Md. Jamal Uddin Khan	B.Com (Hons)	4.1.96	31.12.98	RS Bhowra
150.	Sri Chanchal Chakraborty	Matric Dip in Com.	25.5.95	31.12.98	RS Lodna
151.	Pradip Kr. Chattopadhyay	B.A	22.5.95	31.12.98	Bhowra Area
152.	Ramashis Yadav	M.A.	21.7.95	31.12.98	RS Block-II
153.	Santosh Kumar	B.A. (Hons)	5.6.96	31.12.98	CV Area.
154.	Smt. Sulekha Sengupta	B.A	3.5.94	31.12.98	RS Loyabad
155.	Sri Jaishankar Prasad	B.Sc.	11.4.95	31.12.98	PB. Area
156.	Amresh Mourya	B.A.	9.5.95	31.12.98	WJ Area Moonidih
157.	Miss Manisha Barat	B.A. (Hons)	18.5.95	31.12.98	Kustore Area
158.	Sri Anit Kr. Sinha	B.Com .	17.1.90	29.6.2000	WJ Area Moonidih.
159.	Indra Raj(SC)	BA/B.Ed.	16.3.94	29.6.2000	Katras Area
160.	B.C. Yadav	BA/LLB	1.9.93	29.6.2000	-do-

2. On receiving order no. L-20012/41/2009 -IR(CM-I) dated 29/05/2009 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 35 of 2009 was registered on 22.06.2009 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents and witnesses in support of their claims.

3. After service of notice, both parties appeared previously and filed their authorities, W/S and subsequently rejoinder. It further appears that after 20.04.2017 this case was put up after a long gap on 09.03.2026 and registered notices were issued to both the parties but workman/union failed to appear. However Sri N. Nath, O.S. Legal H.Q. for the management appeared and on 09.07.2026 he filed written notes of argument but workman/union remained absent in spite of regd. notice sent.

4. On perusal of the entire case record it transpires that workman/union never appeared before this Tribunal since 16.11.2016 which shows that he has lost his interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed for non prosecution and a "No Dispute Award" be drawn up in respect of the above reference 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

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